Prefatory fascicle

OFFICIAL RECORDS OF THE GENERAL ASSEMBLY

NINETEENTH SESSION

ANNEXES

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1 DECEMBER 1964 — 1 SEPTEMBER 1965

UNITED NATIONS

New York, 1966

INTRODUCTORY NOTE

The *Official Records of the General Assembly* include the records of the meetings, the annexes to those records and the supplements. The annexes are printed in fascicles, and the present volumes (I and II) contain the annex fascicles of the nineteenth session.

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Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 9

Question of general and complete disarmament: report of the Conference of the Eighteen-Nation Committee on Disarmament*

Question of convening a conference for the purpose of signing a convention on the prohibition of the use of nuclear and thermo-nuclear weapons: report of the Conference of the Eighteen-Nation Committee on Disarmament**

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DOCUMENT A/5731-DC/209[1]

Report of the Conference of the Eighteen-Nation Committee on Disarmament (21 January-17 September 1964)

[*Original text: English and Russian*]
[*22 September 1964*]

1. The Conference of the Eighteen-Nation Committee on Disarmament transmits to the Disarmament Commission and to the General Assembly at its nineteenth session a report on the Committee's deliberation on all questions before it for the period 21 January to 17 September 1964.

2. Representatives of the following States continued their participation in the work of the Committee: Brazil, Bulgaria, Burma, Canada, Czechoslovakia, Ethiopia, India, Italy, Mexico, Nigeria, Poland, Romania, Sweden, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland and United States of America.

I. GENERAL AND COMPLETE DISARMAMENT

3. The Committee has continued its consideration of general and complete disarmament and, in accordance with the agreed agenda (ENDC/1/Add.3),[2] stage I, measures for a treaty on general and complete disarmament regarding nuclear weapon delivery vehicles, conventional armaments and nuclear disarmament, together with appropriate control measures, were discussed. In the course of these discussions, primary consideration continued to be given to a revised draft treaty on general and complete disarmament, submitted by the USSR on 26 November 1962 (ENDC/2/Rev.1),[3] as amended on 4 February 1964 (ENDC/2/Rev.1/Add.1), and to the outline of basic provisions of a treaty on general and complete disarmament in a peaceful world, submitted by the United States on 18 April 1962 (ENDC/30),[4] as amended on 6 August 1962 (ENDC/30/Add.1),[5] 8 August 1962 (ENDC/30/Add.2)[6] and 14 August 1963 (ENDC/30/Add.3).[7]

4. On 14 September 1964, the delegations of Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden and the United Arab Republic presented separate memoranda containing brief résumés of the suggestions and proposals on general and complete disarmament made by each delegation which were discussed during 1964 in the Conference of the Eighteen-Nation Committee on Disarmament (ENDC/144).

[1] Annexes 1 and 2 to this report are not reproduced here. References in parentheses in the text of the report to document symbols in the ENDC/- series are to Conference documents which, except where otherwise stated, are included in annex 1. For the annexes, see *Official Records of the Disarmament Commission, Supplement for January to December 1964*, document DC/209.

[2] See *Official Records of the Disarmament Commission, Supplement for January 1961 to December 1962*, document DC/205, annex 1, sect. B.

[3] Also issued as document A/C.1/867; see *Official Records of the General Assembly, Seventeenth Session, Annexes*, agenda item 90.

[4] See *Official Records of the Disarmament Commission, Supplement for January 1961 to December 1962*, document DC/203, annex 1, sect. F.

[5] *Ibid.*, document DC/205, annex 1, sect. E.

[6] *Ibid.*, sect. F.

[7] *Ibid.*, *Supplement for January to December 1963*, document DC/208, annex 1, sect. H.

II. Measures aimed at lessening international tension, consolidating confidence among States and facilitating general and complete disarmament

5. The Committee, in its efforts to achieve and implement the widest possible agreement at the earliest possible date, continued consideration in its plenary meetings of such measures as could be agreed on prior to, and would facilitate the achievement of, general and complete disarmament.

6. On 21 January 1964, at the 157th meeting, the United States of America submitted a message from Lyndon B. Johnson, President of the United States, to the Conference of the Eighteen-Nation Committee on Disarmament (ENDC/120). On the same day, the United States also submitted to the Committee the text of a letter from the President of the United States to the Chairman of the Council of Ministers of the USSR delivered on 18 January 1964 (ENDC/119).

7. On 19 March 1964, at the 176th meeting, on 16 April 1964, at the 184th meeting, on 25 June 1964, at the 193rd meeting, on 27 August 1964, at the 211th meeting, and on 10 September 1964, at the 215th meeting, the United States made additional proposals elaborating its proposals for a verified freeze on the numbers and characteristics of strategic nuclear vehicles, for a verified cut-off of production of fissionable material for use in nuclear weapons, for a verified destruction of B-47 and TU-16 bombers, and on the non-proliferation of nuclear weapons.

8. On 21 January 1964, at the 157th meeting, the Union of Soviet Socialist Republics submitted replies by N. S. Khrushchev, Chairman of the Council of Ministers of the USSR, to questions put to him by H. Shapiro, Chief Correspondent of the United Press International Agency in Moscow, on 31 December 1963 (ENDC/118).

9. On 28 January 1964, at the 160th meeting, the Union of Soviet Socialist Republics submitted a memorandum of the Government of the USSR on measures for slowing down the armaments race and relaxing international tension (ENDC/123).

10. On 25 June 1964, at the 193rd meeting, on 16 July 1964, at the 199th meeting, and on 13 August 1964, at the 207th meeting, the USSR made additional proposals elaborating respectively on section 3 (Reduction of military budgets), section 8 (Elimination of bomber aircraft) and section 6 (Prevention of the further spread of nuclear weapons) of the memorandum of the Government of the USSR of 28 January 1964.

11. On 13 February 1964, at the 166th meeting, the Brazilian delegation submitted a working paper relating to a draft agreement on the application of savings on military expenditures (ENDC/126).

12. On 26 March 1964, at the 178th meeting, the United Kingdom submitted a paper on observation posts (ENDC/130).

13. On 21 April 1964, at the 185th meeting, the Union of Soviet Socialist Republics submitted a statement by the Chairman of the Council of Ministers of the USSR, announcing that the Soviet Government had decided: (1) to stop at once the construction of two new large atomic reactors for the production of plutonium; (2) to reduce substantially during the next few years the production of uranium-235 for nuclear weapons; (3) to allocate accordingly more fissionable materials for peaceful uses (ENDC/131).

14. On 21 April 1964, at the 185th meeting, the United States of America submitted excerpts from an address by Lyndon B. Johnson, President of the United States, in which he stated that he had ordered a further substantial reduction in the United States production of enriched uranium, to be carried out over a four-year period. When added to previous reductions, this would mean an over-all decrease in the production of plutonium by 20 per cent, and of enriched uranium by 40 per cent (ENDC/132).

15. On 21 April 1964, at the 185th meeting, the representative of the United Kingdom announced that his Government was pursuing a policy along similar lines in this matter.

16. In the communiqué issued at the close of the 185th meeting, the Committee noted "with great satisfaction" the statements by the representatives of the USSR and the United States concerning the announcements on 20 April 1964 by Mr. Khrushchev and Mr. Johnson of steps which their Governments were taking to reduce the production of fissionable materials for weapons purposes, and the statement by the representative of the United Kingdom.

17. On 25 June 1964, at the 193rd meeting, the United States submitted a working paper on inspection of a cut-off in fissionable material (ENDC/134).

18. On 29 July 1964, a list of General Assembly resolutions referring to tasks of the Conference of the Eighteen-Nation Committee on Disarmament, prepared by the Secretariat pursuant to the decision of the Committee at its 202nd meeting, on 28 July 1964, was circulated (ENDC/139). These resolutions, including resolution 1909 (XVIII), on the question of convening a conference for the purpose of signing a convention on the prohibition of the use of nuclear and thermonuclear weapons, and resolution 1910 (XVIII), on the urgent need for suspension of nuclear and thermonuclear tests, were discussed at several plenary meetings.

19. On 6 August 1964, at the 205th meeting, the USSR, the United Kingdom and the United States submitted a joint statement by their Governments on the first anniversary of the signing of the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water (ENDC/140).

20. On 7 August 1964, the Union of Soviet Socialist Republics submitted replies by the Chairman of the Council of Ministers of the USSR to questions put to him by the editorial staff of *Pravda* and *Izvestia* on 4 August 1964 (ENDC/141).

21. On 14 September 1964, the delegations of Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden, and the United Arab Republic presented separate memoranda containing brief résumés of the suggestions and proposals on disarmament and collateral measures made by each delegation that were discussed during 1964 in the Conference of the Eighteen-Nation Committee on Disarmament (ENDC/144).

22. On 14 September 1964, the delegations of Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden and the United Arab Republic submitted a joint memorandum on the question of a treaty banning all nuclear weapon tests (ENDC/145).

23. In general, the questions before the Committee were discussed in a thorough and concrete manner. All the participants in the Committee took an active part in this discussion. Many interesting proposals were put forward.

24. Thus far, the Committee has not reached any specific agreement either on questions of general and complete disarmament or on measures aimed at the lessening of international tension.

25. The Committee expresses the hope that the useful discussions and exchange of views during the period covered by the report will facilitate agreement in its further work.

III. Meetings of the Co-Chairmen

26. During the period covered by this report, the representatives of the United States of America and of the Union of Soviet Socialist Republics, in their capacity as Co-Chairmen of the Eighteen-Nation Committee, held numerous meetings. They discussed and developed the schedule of and procedure for the work of the Conference, general and complete disarmament, and measures aimed at lessening international tension, consolidating confidence among States and facilitating general and complete disarmament.

IV. Procedural arrangements

27. Sixty-one plenary meetings were held between 21 January and 17 September 1964.

28. At an informal meeting on 23 April 1964, the Committee agreed to a recess beginning 28 April 1964, and to a resumption of work in Geneva on 9 June 1964.

29. At its 212th meeting, on 1 September 1964, the Committee decided to adjourn this session of the Conference following its plenary meeting on 17 September 1964. It decided to resume its meetings in Geneva as soon as possible after the termination of the consideration of disarmament at the nineteenth session of the General Assembly, on a date to be decided by the two Co-Chairmen after consultation with the members of the Committee.

V. Conference documents

30. Transmitted as annex 2 to this report is a list of all Conference documents and of the verbatim records of the plenary meetings of the Committee for the period under review.

31. This report is submitted by the Co-Chairmen on behalf of the Conference of the Eighteen-Nation Committee on Disarmament.

17 September 1964

(*Signed*) S. K. Tsarapkin
Union of Soviet Socialist Republics

(*Signed*) William C. Foster
United States of America

DOCUMENT A/5827*

Letter dated 7 December 1964 from the Minister for Foreign Affairs of the Union of Soviet Socialist Republics to the President of the General Assembly

[*Original text: Russian*]
[*7 December 1964*]

Upon the instructions of the Government of the Union of Soviet Socialist Republics, the delegation of the Soviet Union hereby submits for consideration by the General Assembly at its nineteenth session a memorandum by the Soviet Government on measures for the further reduction of international tension and the limitation of the arms race.

I should be grateful if you would arrange for this memorandum to be circulated as a General Assembly document.

(*Signed*) A. Gromyko
Minister for Foreign Affairs of the USSR

Memorandum by the Soviet Government on measures for the further reduction of international tension and the limitation of the arms race

1. It has recently been possible, as a result of the active and persistent struggle carried on by peace-loving States and peoples, to take a number of practical measures to lessen international tension and limit to some extent the scope of the nuclear arms race — to conclude the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, to agree not to launch nuclear weapons into orbit, to begin cutting down the production of fissionable material for military purposes in the USSR, the United States and the United Kingdom, and to make a reduction in the 1964 military budgets of the USSR, the United States and a number of other States.

2. The Soviet Government, being guided in its foreign policy by the principles of peaceful coexistence, is convinced that for the sake of strengthening peace it is essential to move steadily forward in the direction of an improvement in international relations. The first steps should be followed by further agreements limiting the arms race more and more strictly, extending the area of international trust and thus clearing the way for the conclusion of an agreement on the fundamental question, namely, general and complete disarmament.

3. The Soviet Government proposes that agreement should be reached to implement in the very near future the following measures, which would carry States forward a further stage in the struggle for a lasting and inviolable peace.

I. *Reduction of military budgets*

4. The continuing arms race absorbs vast sums of money and imposes a heavy burden on the peoples of the world.

5. The Soviet Government has repeatedly proposed that States should reduce their military budgets, pointing out that this measure would not only lessen the chances of an expansion of the arms race, but would release considerable resources for developing the peaceful branches of countries' economies and raising standards of living. Having set an example by unilaterally reducing its 1964 military budget by 600 million roubles, the Soviet Union proposes to the other big military Powers that an agreement should now be reached to reduce military budgets by 10 to 15 per cent, or some other agreed amount.

* Incorporating document A/5827/Corr.1.

6. The Soviet Government, constantly following a policy of giving every possible support to the developing countries, which are faced with important tasks in strengthening their economies, is favourable towards the idea of using part of the funds saved as a result of the reduction in military budgets for aid to the developing countries. The Soviet Government declares itself ready, if agreement is reached on a reduction of 10 to 15 per cent in States' military budgets, to make provision for part of the resources saved in this way to be used for aid to the developing countries.

7. The Soviet Government also considers it possible to make progress in the reduction of the big Powers' military budgets on a basis of mutual example.

II. *Withdrawal or cut-back of troops stationed in foreign territories*

8. The normalization of international relations is materially impeded by the presence of foreign troops in the territory of other countries. The concentration in Central Europe of large numbers of foreign troops and weapons constitutes a serious obstacle to an improvement in the relations between the States belonging to the North Atlantic Treaty Organization and the States belonging to the Warsaw Treaty Organization. The presence of troops in foreign territories also gives rise to serious complications in other parts of the world.

9. The Soviet Government considers that the best solution, one conducive to an improvement in international relations, would be the conclusion of an agreement on the withdrawal of all troops within their national frontiers, and the Soviet Union is ready for such a settlement of this question if the Western Powers are too. As a first step the Soviet Government proposes that agreement should be reached on a cut-back of troops stationed in foreign territories, having in mind subsequent step-by-step progress to the point where such troops are entirely withdrawn within national frontiers.

10. The Soviet Union is prepared to cut back its troops stationed in the territory of the German Democratic Republic and other European States if the Western Powers will likewise cut back their troops in the Federal Republic of Germany and other countries. This could also be done by way of mutual example.

III. *Dismantling of foreign military bases*

11. Events of recent years confirm the fact that foreign military bases constitute one of the principal sources of international conflicts and tension, fraught with danger for world peace and the development of the countries of Asia, Africa and Latin America towards the consolidation of their national independence. The maintenance or further construction of foreign military bases constitutes a violation of the sovereignty of States and a threat to freedom and international peace. The attempts by a number of States, principally the United States and the United Kingdom, to create new military bases in the Indian Ocean basin, contrary to the clearly expressed will of the peoples of that region, merit resolute condemnation. There can be no possible justification for the preservation or further creation of military bases in dependent territories, where they constitute a tool of colonialism.

12. The Soviet Government considers that many States are justified in demanding the abrogation of inequitable treaties concerning foreign military bases, which violate their sovereignty and contradict the principles of the United Nations Charter. The dismantling of foreign military bases would be a major contribution to the strengthening of world peace and the lessening of international tension. At the same time it would help to strengthen the independence of the young States of Africa, Asia and Latin America, to halt interference in their domestic affairs, to bring to a rapid conclusion the historic process of the liquidation of colonial régimes, and to eradicate colonialism.

IV. *Prevention of the further spread of nuclear weapons*

13. Nuclear weapons harbour monstrous destructive power and their use could inflict incalculable sufferings on the peoples. Since nuclear weapons first made their appearance, the Soviet Union has called — and continues to call — for the unconditional prohibition of these weapons and the destruction of all stocks thereof accumulated by States. The complete destruction of nuclear weapons and of the means of their delivery constitutes the essence of the programme of general and complete disarmament advanced by the Soviet Government.

14. Given that there is as yet no agreement on general and complete disarmament, and that a number of States not having nuclear weapons are showing a desire to possess or gain access to such weapons and a number of nuclear Powers are expressing readiness to grant them such access, there is now a real danger of a further spread of nuclear weapons, which could not but lead to a heightening of international tension and increased danger of nuclear war.

15. The greatest practical danger in this regard is presented by plans for the creation of a NATO multilateral nuclear force, under which it is proposed to give access to nuclear weapons to the Federal Republic of Germany — a State which is calling for revision of the frontiers in Europe established as a result of the Second World War.

16. Considering the dangerous consequences of any further dissemination of nuclear weapons, *inter alia*, through a NATO multilateral nuclear force, the Soviet Government proposes the conclusion of an international agreement on the non-dissemination of nuclear weapons such as would altogether deny the non-nuclear States direct or indirect access to such weapons, either directly or through military alliances.

V. *Prohibition of the use of nuclear weapons*

17. The Soviet Government considers that the conclusion of an international agreement (convention) banning the use of nuclear weapons would be an important step towards the elimination of the threat of nuclear war. The conclusion of such an agreement would lead to the further relaxation of international tension, would be a measure for checking the nuclear arms race, and would be a substantial contribution to the consolidation of confidence in relations among States.

18. As early as 1953 the Soviet Government proposed that, as a first step towards the complete removal of nuclear weapons from national armaments, States should assume a solemn obligation not to use atomic, hydrogen or other weapons of mass destruction. A similar proposal was advanced again by the Soviet Union in 1958. In 1960 in the Ten-Nation Disarmament Committee the Soviet Union, Poland, Bulgaria and

Romania submitted a joint proposal to the effect that States possessing nuclear weapons should solemnly declare that they would refrain from being the first to use such weapons.

19. Now the idea of the prohibition of the use of nuclear weapons has received wide support from the peoples of the world and from most of the States Members of the United Nations. On the initiative of Ethiopia and other African and Asian States and with the support of the socialist countries, the General Assembly adopted in 1961, at its sixteenth session, the well-known Declaration on the prohibition of the use of nuclear and thermo-nuclear weapons [resolution 1653 (XVI)]. Subsequently, within and outside the United Nations there has been a lively campaign to convene an international conference for the signing of a convention on the prohibition of the use of nuclear and thermo-nuclear weapons. In 1964 the question of convening such a conference was also considered at the Conference of the Eighteen-Nation Committee on Disarmament, the majority of whose members spoke in favour of convening it forthwith.

20. The Soviet Government supported and supports the proposal to hold this international conference and favours putting this proposal into effect without delay.

VI. *Establishment of denuclearized zones*

21. The proposals which many States have advanced for the establishment of denuclearized zones in various regions of the world open a path to the effective limitation of the stationing and use of nuclear weapons, which is also of great importance for the elimination of the threat of nuclear war and the limitation of the arms race. These proposals are receiving increasing support from the peoples of the non-nuclear States in view of the growing danger to these States arising out of the policy adopted by some nuclear Powers of stationing nuclear weapons on their territory.

22. In the view of the Soviet Government, the need to establish denuclearized zones is particularly acute and urgent in those regions of the world where substantial quantities of nuclear weapons are concentrated and there is great danger of the outbreak of nuclear conflict. The Soviet Government therefore supports the proposal of the Government of the Polish People's Republic concerning the establishment of a denuclearized zone in Central Europe and has put forward a proposal for transforming the whole Mediterranean region into a denuclearized zone. The Soviet Government also fully supports the proposal of the Polish People's Republic on the freezing of nuclear weapons in Central Europe.

23. The Soviet Government also supports proposals for establishing denuclearized zones in Northern Europe, the Balkans, Africa, the Indian Ocean, the Near and Middle East and other regions of the world.

24. The Soviet Government considers that, in the interests of strengthening peace and barring the spread of nuclear weapons, not only groups of States embracing whole continents or large geographical regions but also more limited groups of States and even individual countries may assume obligations for the establishment of denuclearized zones. Accordingly, the Soviet Government has already declared that it views favourably the decision of the Ceylonese Government to prohibit foreign ships carrying nuclear weapons from entering Ceylonese ports and foreign aircraft carrying nuclear bombs from landing at Ceylonese airfields. It would be a useful contribution to the strengthening of peace if other non-nuclear States would also decide to prohibit the use of their territories, ports and airfields by the nuclear Powers for the stationing of nuclear arms.

25. The Soviet Government is prepared to undertake an obligation to respect the status of all denuclearized zones that may be established, if the same obligation is assumed by the other nuclear Powers.

VII. *Destruction of bombers*

26. One real disarmament measure for limiting the arms race which is undoubtedly ready to be put into practice is the destruction of bombers. This type of weapon, although becoming obsolete, still forms an important part of the arsenal of nuclear weapons delivery vehicles and may be used as a powerful means of conducting offensive war.

27. The Soviet Government is convinced that an agreement on the destruction of bombers could be reached without particular difficulty, if all the parties concerned bring goodwill to the task. The physical destruction — "bonfires of bombers" — would be an important advance in the sphere of disarmament and the reduction of the threat of nuclear war.

28. In an endeavour to facilitate agreement, the Soviet Government is prepared to discuss the phasing of the destruction of bombers in terms of types within an agreed over-all time-limit for the destruction of all bombers.

29. Since some countries that do not possess more sophisticated military equipment need bombers as a means of national defence, the Soviet Government proposes also that a formula be worked out under which the large Powers would be the first to eliminate bombers.

VIII. *Banning of underground nuclear weapon tests*

30. The banning of all nuclear weapon tests without exception and, hence, the actual cessation of the further development of such weapons would promote the consolidation of peace and the limitation of the arms race. The Soviet Union has been and remains a steadfast advocate of the banning of all nuclear weapon tests.

31. The conclusion of the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water established favourable conditions for the final solution of the question of the banning of all nuclear weapon tests. The Soviet Government is also prepared to reach forthwith an agreement on the banning of underground nuclear weapon tests, based on the use of national means of detection for control of the ban.

IX. *Non-aggression pact between the States parties to the North Atlantic Treaty and the States parties to the Waraw Treaty*

32. In Europe, where both world wars began and where at present troops of the two military blocs — NATO and the Warsaw Treaty Organization — are massed in large numbers, peace can be strengthened by uniting the efforts of all the European countries, with the participation of the United States, in the cause of guaranteeing effective European security. An effective and comprehensive system of collective security in Europe would be an alternative to the existence of opposing military alignments of States. The Soviet Government declares its readiness to come to an agree-

ment on the creation of such a collective security system in Europe and, as a first step, proposes the conclusion of a non-aggression pact between the States parties to the North Atlantic Treaty and the States parties to the Warsaw Treaty.

33. The Soviet Government is convinced that the conclusion of a non-aggression pact between the States parties to the North Atlantic Treaty and the States parties to the Warsaw Treaty would substantially improve the whole international situation in Europe and in the world and would promote a significant consolidation of confidence in relations among States. In the opinion of the Soviet Government, the question of the form which the non-aggression pact should take can be settled without great difficulty.

X. *Prevention of surprise attack*

34. With a view to lessening the danger of surprise attack and thus consolidating international confidence, the Soviet Government proposes that agreement should be reached on the simultaneous execution of the following measures: reduction of foreign troops on the territory of European States; renunciation of the policy of stationing nuclear weapons on the territory of the German Democratic Republic and on the territory of the Federal Republic of Germany; stationing of observation posts on the territory of countries belonging to NATO or to the Warsaw Treaty Organization.

35. The establishment of a system of observation posts can prove useful only if it is combined with such practical measures for the lessening of the threat of war as the reduction of foreign troops and the renunciation of the policy of stationing nuclear weapons on the territory of the German Democratic Republic and on the territory of the Federal Republic of Germany. Practical steps to lessen the possibility of the outbreak of a military conflict in Europe and observation posts are, in this case, two complementary parts of a single process—the relaxation of tension in one of the most dangerous regions of the world, where the armed forces of opposing groups are in direct contact.

XI. *Reduction of total forces*

36. The reduction of the total forces of all States always has been and remains an important aim of the Soviet Government's policy on disarmament. The Soviet Union already has made repeated unilateral reductions in its armed forces. At present the Soviet Government considers it possible for agreement to be reached on the reduction of total forces either by the conclusion of appropriate agreements or on the basis of a policy of mutual example, if the Western Powers, for their part, are prepared to take similar practical measures.

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37. In proposing that agreement should be reached on the practical execution of the aforementioned measures, the Soviet Government, of course, proceeds on the premise that, along with the conclusion of agreements providing for physical disarmament measures, an understanding should be reached on mutually acceptable forms of control over the execution of such measures.

38. The Soviet Government appeals to all States to make fresh efforts to reach an understanding on the important and pressing questions of the relaxation of international tension and the limitation of the arms race. The Soviet Government is convinced that the putting into effect of the measures referred to in this memorandum would be a tangible contribution to the consolidation of world peace and would hasten the solution of the problem of general and complete disarmament.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1330th plenary meeting, on 18 February 1965, the General Assembly noted that the report of the Conference of the Eighteen-Nation Committee on Disarmament (A/5731-DC/209) had been received.

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United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 10

International co-operation in the peaceful uses of outer space: report of the Committee on the Peaceful Uses of Outer Space*

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* Item 26 of the provisional agenda.

For the relevant meeting, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings,* 1330th meeting.

Abbreviations

CCIR	International Radio Consultative Committee (of ITU)
CCITT	International Telegraph and Telephone Consultative Committee (of ITU)
COSPAR	Committee of Space Research (of ICSU)
GEOALERT	Meteorological warning message of the World Warning Centre for the IQSY
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
ICSU	International Council of Scientific Unions
IQSY	International Years of the Quiet Sun
ITU	International Telecommunication Union
NASA	National Aeronautics and Space Administration (of the United States of America)
STRATWARM	A WMO scheme for forecasting the time of "rapid warmings" of the middle stratosphere and above and disseminating the forecast.
TERLS	Thumba Equatorial Rocket Launching Station
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organization
WMO	World Meteorological Organization

DOCUMENT A/5779

Letter dated 6 November 1964 from the Permanent Representatives of the Union of Soviet Socialist Republics and the United States of America to the United Nations, addressed to the Secretary-General

[*Original text: English and Russian*]
[*9 November 1964*]

We have the honour to submit documents relating to the second memorandum of understanding to implement the bilateral space agreement of 8 June 1962, for which circulation as a United Nations document was requested on 5 December 1962.[1] The memorandum resulted from a series of meetings between Dr. Hugh Dryden of the National Aeronautics and Space Administration of the United

[1] See *Official Records of the General Assembly, Seventeenth Session, Annexes,* agenda item 27, document A/C.1/880.

States and Academician A. A. Blagonravov of the Academy of Sciences of the Union of Soviet Socialist Republics.

We request that the enclosed documents be circulated to all Members of the United Nations as an official United Nations document.

(*Signed*) Francis T. P. PLIMPTON
Deputy Permanent Representative of the United States of America to the United Nations

(*Signed*) N. FEDORENKO
Permanent Representative of the Union of Soviet Socialist Republics to the United Nations

SECOND MEMORANDUM OF UNDERSTANDING TO IMPLEMENT THE BILATERAL SPACE AGREEMENT OF 8 JUNE 1962 BETWEEN THE ACADEMY OF SCIENCES OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OF THE UNITED STATES OF AMERICA

I. PREAMBLE

The purpose of the present memorandum of understanding is to advance the implementation of the sections of the bilateral space agreement of 8 June 1962[1] dealing with a co-ordinated meteorological satellite programme and a world magnetic survey using satellites.

II. CO-ORDINATED METEOROLOGICAL SATELLITE PROGRAMME

This section of the second memorandum of understanding to implement the bilateral space agreement of 8 June 1962 supplements section 11 of the first memorandum dated 20 March and 24 May 1963,[2] and replaces the appendix attached to that memorandum.

A. *Exchange of conventional meteorological data*

1. Conventional data of equivalent type will be exchanged over the communications link between the World Meteorological Centres in Moscow and in Washington, provisions for the establishment of which have been determined by a separate protocol [*see below*], in accordance with transmission schedules to be agreed by exchange of correspondence between the Chief of the United States Weather Bureau and the Chief of the Hydrometeorological Service of the USSR.

2. The following order of priority shall apply to the transmission of conventional meteorological data:

(*a*) Collectives of upper-air data. Transmissions should be completed within four hours of observation time.

(*b*) Collectives of surface synoptic weather reports. Data available in Washington, within three hours of observation time, for the area of North and Central America and the North Atlantic and North Pacific Oceans, will be transmitted to Moscow. Data available in Moscow, within three hours of observation time, for the areas of Eastern Europe, the USSR, South Asia and the Southern Pacific (WMO Regional Association V), will be transmitted to Washington.

(*c*) In addition, the following charts will be transmitted by facsimile on a "time available" basis:

(i) Forecast contour charts for 1,000 mb, 500 mb, 300 mb and 200 mb, for periods up to 72 hours, if available;

(ii) Vertical motion forecast for a level between 850 mb and 500 mb, or for the levels 850 mb, 700 mb and 500 mb;

(iii) 500 mb vorticity chart;

(iv) Sea-level isobaric five-day forecast;

(v) Thirty-day temperature and precipitation forecast for the continent of the transmitting country;

(vi) Special charts for aviation, such as tropopause chart and significant weather distribution chart.

3. When practicable, charts exchanged will cover the area of the Northern hemisphere. Polar stereographic projections will be used for all chart exchanges. Analysis and prognostic charts having a scale of 1:30,000,000 or 1:40,000,000 will be used. Special charts exchanged on request would be on scales most convenient for the transmitting country.

4. When satellite data become available, they will have first priority, as provided in the first memorandum of understanding. Priorities for conventional data will follow thereafter in the order prescribed above. It is recognized that, due to the experimental nature of satellite programmes, there may be periods when satellite data will not be available at Moscow or Washington and satellite data exchange will be temporarily discontinued.

5. The status of the exchange will be reviewed formally early in 1965, and at six-month intervals thereafter, to ascertain whether the purpose of satellite data exchange has been achieved and to evaluate the usefulness of continued direct exchange. If satellite data do not become mutually available within a reasonable time, the exchange of data over this special link will be discontinued.

III. MAGNETIC FIELD SURVEY THROUGH THE USE OF ARTIFICIAL SATELLITES

A. *Exchange of data*

1. It is agreed that the exchange of magnetic observatory data between the Academy of Sciences of the USSR and NASA provided for and described in section IV, paragraph 6, of the first memorandum of understanding[2] is to be conducted in the volume of data for the years 1964 and 1965, and will be carried out through World Data Centres A and B, located, respectively, in Washington and in Moscow.

2. It is agreed that magnetograms and monthly tables of the following observatories:

USSR	*United States*
Yakutsk	Sitka
Sverdlovsk	College
Irkutsk	Fredericksburg
Odessa	Tucson
Tashkent	San Juan
	Guam

[2] *Ibid.*, *Eighteenth Session, Annexes*, agenda item 28, document A/5482.

for the years 1960-1963 will be transmitted to World Data Centres A and B before the end of 1964.

3. It is agreed that the exchange of magnetic survey data taken without the utilization of satellites, provided for in section IV, paragraph 8, of the first memorandum of understanding[2] will be conducted through World Data Centres A and B, located, respectively, in Washington and in Moscow.

B. *Magnetic mapping*

It is agreed to review the possibility of utilizing satellite measurement results for the composition of a magnetic map for days of slight disturbance and to exchange review results with the other side.

For the National Aeronautics and Space Administration:	*For the Academy of Sciences of the USSR:*
(*Signed*)	(*Signed*)
Hugh L. DRYDEN	A. BLAGONRAVOV

New York, 5 November 1964

PROTOCOL

FOR THE ESTABLISHMENT OF A SPECIAL DIRECT COMMUNICATIONS LINK BETWEEN THE WORLD METEOROLOGICAL CENTRES IN MOSCOW AND WASHINGTON IN ACCORDANCE WITH THE BILATERAL AGREEMENT ON OUTER SPACE DATED 8 JUNE 1962 BETWEEN THE ACADEMY OF SCIENCES OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OF THE UNITED STATES OF AMERICA

1. This Protocol has been prepared to implement the bilateral agreement on outer space, dated 8 June 1962, between the Academy of Sciences of the USSR and the National Aeronautics and Space Administration of the United States,[3] as well as the first memorandum of understanding dated 20 March and 24 May 1963.[4]

2. In anticipation of the availability of meteorological satellite data for exchange by early 1965, it is agreed to establish, in the third quarter of 1964, a duplex twenty-four-hour communications link between Moscow and Washington for transmission of meteorological information. Assuming there are no technical difficulties of any kind, it is agreed that each side will use its own terminal equipment and apparatus and that the telegraph signals will be sent in accordance with International Telegraph Code 2. The communications link and the terminal equipment and apparatus will conform to CCITT standards and will be operated according to an agreed schedule of transmission of photo, facsimile, and telegraph signals.

3. It was agreed that the link would be routed via the following points: Moscow-Warsaw-Berlin-Frankfurt-London-Washington.

4. The principle of equal sharing of costs will be achieved through a method of settlement whereby the sides will pay full costs of the communications link between Washington and Moscow for periods of one month. The American side will pay for the first month after establishment of the link, after which the responsibility for payment of costs will be assumed by the parties alternately for each one-month period.

5. After the link has been determined to be operating satisfactorily, the parties, in a manner to be determined by correspondence, will invite to a meeting the World Meteorological Organization, weather services operating in the territories through which the communications link passes, and any other weather services interested in acquiring access to the communications link on a receive-only basis. Each such weather service will make a proportional contribution to the total expenses of the communications link.

6. This special Protocol may be terminated by either party on sixty days' notice.

For the National Aeronautics and Space Administration:	*For the Academy of Sciences of the USSR:*
(*Signed*)	(*Signed*)
Hugh L. DRYDEN	A. BLAGONRAVOV
(*Signed*)	(*Signed*)
John W. TOWNSEND	A. BADALOV

Geneva, 6 June 1964.

[3] See footnote 1.
[4] See footnote 2.

DOCUMENT A/5785

Report of the Committee on the Peaceful Uses of Outer Space

[*Original text: English*]
[*13 November 1964*]

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I. Introduction

1. The Committee on the Peaceful Uses of Outer Space held its sixth session at United Nations Headquarters, New York, from 26 October to 6 November 1964, under the chairmanship of Mr. Franz Matsch (Austria). Mr. Mihail Haseganu (Romania) served as Vice-Chairman and Mr. Geraldo de Carvalho Silos (Brazil) as Rapporteur.

2. The Committee held eleven meetings, the records of which were circulated as documents A/AC.105/PV.25-35.

3. At is 26th meeting, on 27 October 1964, the Committee adopted the following agenda:

(1) Opening statement by the Chairman.

(2) General debate.

(3) Report of the Scientific and Technical Sub-Committee on the work of its third session (A/AC.105/20 and Add.1) and the reports prepared by the International Telecommunication Union (A/AC.105/L.11) and the World Meteorological Organization (A/AC.105/L.10/Rev.1).

(4) Report of the scientific group established at the request of the Government of India to visit the rocket launching site at Thumba (A/AC/105/17).

(5) Report of the Legal Sub-Committee on the work of its third session (A/AC.105/19 and A/AC.105/21 and Add.1).

(6) Report of the Committee to the General Assembly.

4. In addition to the documents listed in the agenda, the following documents, prepared in accordance with General Assembly resolution 1963 (XVIII) of 13 December 1963 and reviewed by the Scientific and Technical Sub-Committee at its third session, were submitted for the consideration of the Committee:

(*a*) Review of the activities and resources of the United Nations, of its specialized agencies and of other competent international bodies relating to the peaceful uses of outer space (A/AC.155/L.12);

(*b*) Review of national and co-operative international space activities (A/AC.105/L.13);

(*c*) List of sources of available bibliographies and abstracting services covering the scientific and technical results and publications in space and space-related areas (A/AC.105/L.14).

5. Following the opening statement by the Chairman (see annex I), the Committee began its general debate. Statements were made by the representatives of Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Czechoslovakia, France, Hungary, India, Italy, Japan, Lebanon, Mexico, Poland, Romania, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The Committee also heard statements by the representatives of UNESCO, ICAO, WHO, WMO and IAEA, who attended the session as observers. The statements are reported in the records of the 27th to 31st meetings.

6. The Committee considered the remaining items on its agenda at its 32nd to 35th meetings. The Committee adopted its report to the General Assembly at its 35th meeting, on 6 November 1964.

7. The recommendations and decisions of the Committee are set out below under the appropriate headings.

II. Report of the Scientific and Technical Sub-Committee and reports prepared by the International Telecommunication Union and the World Meteorological Organization

8. The third session of the Scientific and Technical Sub-Committee was held at the European Office of the United Nations, Geneva, from 22 May to 5 June 1964, under the chairmanship of Mr. D. F. Martyn (Australia). The records of the Sub-Committee's meetings were circulated as documents A/AC.105/C.1/SR.21-26. The Sub-Committee's report was circulated as document A/AC.105/20 and Add.1.

9. On the completion of its consideration of the report of the Scientific and Technical Sub-Committee and the reports prepared by ITU (A/AC.105/L.11) and WMO (A/AC.105/L.10/Rev.1), the Committee approved the following:

Exchange of information

10. In each of its successive resolutions on international co-operation in the peaceful uses of outer space, the General Assembly has included provisions relating to the exchange and dissemination of information on outer space matters, the most specific being those contained in resolution 1721 (XVI) of 20 December 1961. In resolution 1721 B (XVI), the Assembly,

after affirming its belief that the United Nations should provide a focal point for international co-operation in the peaceful exploration and use of outer space, recommended two measures to promote this objective: the maintenance of a public registry of data furnished to the Committee on the Peaceful Uses of Outer Space by States launching objects into orbit or beyond, and arrangements for "the exchange of such information relating to outer space activities as Governments may supply on a voluntary basis, supplementing but not duplicating existing technical and scientific exchanges". These provisions were amplified by the Scientific and Technical Sub-Committee at its first session in May-June 1962, and the Sub-Committee's recommendations were subsequently endorsed by the Committee and later by the General Assembly in resolution 1802 (XVII) of 14 December 1962. Further recommendations made by the Sub-Committee at its second session in May 1963 were embodied by the Committee in its report to the General Assembly[5] and endorsed by the latter in resolution 1963 (XVIII) of 13 December 1963.

11. In accordance with the recommendations made by the Sub-Committee at its second session, the Secretariat prepared a summary of national and co-operative international space programmes based on the reports furnished in response to General Assembly resolutions 1721 (XVI) and 1802 (XVII) and on information from other reliable sources. The Sub-Committee also had before it a paper on the space activities and resources of the United Nations, the specialized agencies and other competent bodies, as well as a paper giving a list of sources of available bibliographies and abstracting services covering the scientific and technical results and publications in space and space-related areas. The Sub-Committee examined with interest the three working papers prepared by the Secretariat and requested the Secretariat to bring them up to date and correct them where necessary, adding such further information as might be received through the voluntary assistance of Member States and competent international bodies, and to submit the papers, as revised, for consideration by the Committee on the Peaceful Uses of Outer Space. The revised papers (A/AC.105/L.13, A/AC.105/L.12 and A/AC.105/L.14, respectively) were considered by the Committee.

12. The arrangements for the exchange of information so far put into effect have in general been welcomed. Nevertheless, in the light of experience it is clear that a number of steps could be taken to improve the exchange of information on the various aspects of the peaceful uses of outer space.

13. *Recommendations of the Committee*:

A

The Committee on the Peaceful Uses of Outer Space,

Believing that the widest possible dissemination of information concerning the scientific and technical aspects of space exploration is conducive to the peaceful use of outer space,

Requests the Secretary-General to continue to receive from international organizations, including regional bodies, information voluntarily submitted to the United Nations, to submit such information to the Scientific and Technical Sub-Committee, and then to compile such information in a suitable form to make it widely available.

[5] *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 28, documents A/5549 and Add.1.

B

The Committee on the Peaceful Uses of Outer Space,

Desiring that future reviews of national and co-operative international space activities should be such as to familiarize all Members of the United Nations with programmes in the application and use of outer space and with avenues open to Members for participation in this field,

1. *Recommends* that Member States be invited to continue to submit information annually on their activities in the peaceful uses of outer space, including information on programmes of international co-operation, the information to be submitted on a voluntary basis and in the form in which, in the view of the country submitting the information, it is likely to be of the greatest value to the readers for whom it is intended;

2. *Decides* to undertake, in co-operation with the Secretary-General and making full use of the functions and resources of the Secretariat, the preparation of a review every two years of national and co-operative international space activities and a summary providing a consolidated world-wide picture of international co-operation;

3. *Recommends* as guidelines the following subjects for inclusion in the reviews mentioned in paragraph 2 above:

(*a*) National organizations for space research;

(*b*) Manned space flight;

(*c*) Satellite programmes, including scientific satellites, international scientific satellites, meteorological satellites, and communications satellites;

(*d*) Lunar and planetary probes;

(*e*) Sounding rockets;

(*f*) Telemetry and data acquisition facilities;

(*g*) Space-related contributions to such programmes as the International Years of the Quiet Sun and the World Magnetic Survey;

(*h*) International co-operation;

(*i*) Related ground based activities.

C

The Committee on the Peaceful Uses of Outer Space

1. *Invites* Member States conducting space activities to submit voluntarily literature on the goals, tools, results and application of space research and technology of broad interest to Member States for inclusion in the library maintained by the Outer Space Affairs Group of the United Nations Secretariat;

2. *Recommends* that Member States be informed periodically of these acquisitions and their availability and that the library be supplemented periodically with brief, selected bibliographical listings of other new literature in this field.

D

The Committee on the Peaceful Uses of Outer Space

1. *Requests* the Secretary-General, making full use of the functions and resources of the Secretariat and consulting as may be useful with the specialized agencies, to consider what material exists or may be needed to ensure popular understanding of the purposes and potentialities of space activities, the means by which new material might be made available, if required, the forms recommended—possibly a series of pamphlets or a handbook—and an estimate of the costs involved, and to report his conclusions and recommendations to the Committee;

2. *Requests* the Secretary-General, making full use of the functions and resources of the Secretariat, to inquire of the Committee on Space Research (COSPAR) as to the status of its preparation of technical manuals, to consider means by which the publication and distribution of this technical literature might be encouraged, and to report his findings, including specific conclusions and recommendations, to the Committee.

E

The Committee on the Peaceful Uses of Outer Space

Calls the attention of Member States to the availability for research purposes to the scientists of Member States of the data obtained by rockets and satellites which exist in the World Data Centres in Moscow, Washington and Slough, England.

F

The Committee on the Peaceful Uses of Outer Space

Requests the Secretary-General, making full use of the functions and resources of the Secretariat, to compile useful information on space conferences and symposia open to the scientists of Member States and to inform Member States periodically of such opportunities.

G

The Committee on the Peaceful Uses of Outer Space,

In view of General Assembly resolution 1472 (XIV) of 12 December 1959,

Decides to set up a working group composed of all the members of the Committee to examine the desirability, organization and objectives of an international conference or meeting to be held in 1967 on the exploration and peaceful uses of outer space, as well as to make recommendations on the question of the participation in the said meeting of the appropriate international organizations; the working group shall report to the Committee at its next session.

Encouragement of international programmes

14. The importance of the areas of space communications and space meteorology has been recognized in past reports and recommendations of the Committee and its Scientific and Technical Sub-Committee.

15. In the field of space communications, the Committee, on the basis of the recommendations made by the Scientific and Technical Sub-Committee at its second session, reiterated[6] in its report to the General Assembly at its eighteenth session that international space communications should be available for the use of all countries on a global non-discriminatory basis and recommended that all Member States take appropriate steps, using to the fullest extent the possibilities offered by the technical co-operation programmes, to develop and extend terrestrial communications systems in various parts of the world so that all Member States, regardless of the level of their economic, scientific and technological development, would be able to benefit from international space communications. The Committee also invited the specialized agencies and other competent international organizations to assist in the development and extension of such terrestrial systems.

16. In the course of the sixth session, the representative of Argentina informed the Committee that his Government was planning to establish a regional centre under international auspices for research and training in satellite communications systems. The Government of Argentina is envisaging the possibility of submitting a request for assistance in this project to the Special Fund at the appropriate time.

17. The International Telecommunication Union convened an Extraordinary Administrative Radio Conference in October 1963 which allocated radio frequency bands for space radio communications purposes and revised such provisions of the International Radio Regulations as are essential for the effective implementation of its decisions.

18. The General Assembly at its eighteenth session adopted resolution 1963 (XVIII), in which it *inter alia* welcomed the decisions of the Extraordinary Administrative Radio Conference and recognized the potential contribution of communications satellites in the expansion of global telecommunications facilities and the possibilities thus offered for increasing the flow of information and for furthering the objectives of the United Nations and its agencies.

19. In the field of space meteorology, there has been considerable interest in the establishment of the World Weather Watch. The Committee, on the basis of the recommendations of the Sub-Committee at its second session and the reports submitted by WMO, noted that in the programme on the research aspect of meteorological satellites, particular emphasis was placed on the need to establish a World Weather Watch, to develop meteorological observations from ground stations and to undertake research using information from meteorological satellites and conventional meteorological observations, and urged Member States to facilitate the development of extensive international co-operation in the establishment of the World Weather Watch, with particular emphasis on improving the world weather watch system and on the need for improved facilities for the exchange of data from meteorological satellites and conventional meteorological observations.

20. The progress report prepared by WMO pursuant to General Assembly resolution 1963 (XVIII) (A/AC.105/L.10/Rev.1) drew attention to the meteorological programme of the International Years of the Quiet Sun, the implementation of the STRATWARM scheme, the assistance given to all geophysical sciences by the world-wide distribution of GEOALERT messages over the meteorological telecommunications network, and the increased efforts to foster research in the atmospheric sciences, particularly in the upper atmosphere.

21. *Recommendations of the Committee*:

A

SCIENTIFIC AND TECHNICAL

The Committee on the Peaceful Uses of Outer Space,

I

Noting with interest the development of several programmes of scientific and technical interest in the peaceful uses of outer space, such as:

(*a*) The International Years of the Quiet Sun,

(*b*) The International Indian Ocean Expedition,

(*c*) The STRATWARM and other GEOALERT programmes,

(*d*) The selected list of research projects in the field of atmospheric sciences worthy of particular attention as indicated by the Advisory Committee of the World Meteorological Organization,

(*e*) The World Magnetic Survey,

(*f*) International co-operative activities involving the reception of radio beacon transmission and continuous telemetering of signals from certain satellites, where available,

Draws the attention of Member States and of the specialized agencies to these programmes and invites them to assist the international organizations concerned in the development of these programmes and related activities;

II

Noting with satisfaction the statements made at the third session of the Scientific and Technical Sub-Committee by the delegations of the Union of Soviet Socialist Republics and the United States of America on the reaching of a preliminary agreement between the scientists of the two countries to begin work on the joint preparation for publication of a review of achievements in, and prospects for, the development of space biology and medicine,

Further noting with satisfaction that arrangements are being made to obtain the advice of scientists of other countries,

Commends this joint effort, which should prove to be of wide interest to the scientific community.

[6] *Ibid.*, para. 14.

B

APPLICATIONS

The Committee on the Peaceful Uses of Outer Space

I

1. *Notes with appreciation* the progress reports submitted by the World Meteorological Organization (A/AC.105/L.10/Rev.1) and the International Telecommunication Union (A/AC.105/L.11) and requests these organizations to submit progress reports to the Committee in 1965;

2. *Commends* the World Meteorological Organization for the further development of the World Weather Watch concept and its phased programme of action;

3. *Commends* the International Telecommunication Union for the contribution made by it to the successful conduct of peaceful space activities through the effective results of the Extraordinary Administrative Radio Conference of 1963;

4. *Calls to the attention* of Member States the increasing measure of bilateral and multilateral co-operation in space projects which exemplify a way in which Member States prepared to share in the responsibilities involved may join effectively in specific international space programmes; these co-operative projects offer increasing opportunities for Member States to acquire useful information and training for the furtherance of their interests not only in international co-operation, but also in the development of space science and technology itself;

5. *Notes with interest* the growing co-operation between the World Meteorological Organization and the International Civil Aviation Organization on the possible uses of information obtained by meteorological satellites for aeronautical purposes, and encourages Member States and the United Nations agencies concerned to give serious attention to this new field of peaceful space application;

6. *Decides* to consider questions relating to the use of satellites for transmitting radio and television programmes intended for direct reception by the general public after the report of the International Radio Consultative Committee (CCIR) on this subject has been received by the International Telecommunication Union;

7. *Invites* the Secretary-General to call the attention of the Advisory Committee on the Application of Science and Technology to Development to the recommendations of and views expressed by the Committee on the subjects of space meteorology and space telecommunications;

II

Noting that there now exists the possibility of development of new communication techniques for radio navigation and traffic control, both at sea and in the air,

Invites the Scientific and Technical Sub-Committee, in co-operation with the Secretary-General and making full use of the functions and resources of the Secretariat, and consulting as may be useful with the appropriate specialized agencies, to study and submit a report on the possibility of establishing a civil world-wide navigation satellite system on a non-discriminatory basis.

Education and training

22. The value of international co-operation in the field of education and training in space activities and its importance in achieving the common objective, which is to ensure that the exploration and use of outer space should be for the benefit of States, irrespective of their economic and scientific development, have been repeatedly affirmed in recommendations and resolutions of the General Assembly. In its report to the General Assembly at its eighteenth session, the Committee, on the basis of the report of the Scientific and Technical Sub-Committee, suggested[7] the compilation, in co-operation with UNESCO and for circulation to Member States, of reviews of information on facilities for education and training in basic subjects related to the peaceful uses of outer space in universities and other places of learning. The Committee also invited attention to the importance of scholarships, fellowships and other means of technical assistance and invited Member States to give favourable consideration to requests of countries desirous of participating in the peaceful exploration of outer space for appropriate training and technical assistance, on a bilateral basis or on any other basis they saw fit. The General Assembly, in resolution 1963 (XVIII), welcomed the compilation of reviews of information on facilities for education and training in basic subjects related to the peaceful uses of outer space in universities and other places of learning, and also endorsed the invitation of the Committee to Member States to give favourable consideration to requests for appropriate training and technical assistance from countries desirous of participating in the peaceful exploration of outer space.

23. A paper containing a review of information on facilities for education and training in basic subjects related to the peaceful uses of outer space, compiled by the secretariat of the Committee in co-operation with UNESCO, was submitted to the Sub-Committee at its third session and, after revision to bring the information contained as up-to-date as possible, was appended to the Sub-Committee's report (see A/AC.105/20/Add.1).

24. The Sub-Committee further took note of the fact that the question of education and training was also involved in the proposal, dealt with separately in its report, concerning international sounding rocket launching facilities, as the creation and use of these facilities under United Nations sponsorship would contribute to the furtherance of international collaboration in space research and the advancement of human knowledge and to the provision of opportunity for valuable practical training for interested users, as was noted by the General Assembly in resolution 1802 (XVII).

25. *Recommendations of the Committee*:

A

The Committee on the Peaceful Uses of Outer Space,

Taking note of the working paper concerned with training needs submitted by the United Kingdom of Great Britain and Northern Ireland at the second session of the Scientific and Technical Sub-Committee and since revised [*A/AC.105/24*],

Further taking note of the review of information on facilities for education and training in basic subjects related to the peaceful uses of outer space, prepared by the Secretariat in co-operation with the United Nations Educational, Scientific and Cultural Organization and annexed to the Sub-Committee's report on the work of its third session,

Expressing its satisfaction that technical assistance and training are available under the auspices of both the World Meteorological Organization and the International Telecommunication Union for preparing interested Member States for participation in or the use of systems utilizing weather or communications satellites, and desiring to encourage the continuation of these activities,

Further expressing its satisfaction that a considerable number of Member States have supplied material for inclusion in the review of information on facilities for education and training referred to in the second preambular paragraph above,

Requests the Secretary-General, making full use of the functions and resources of the Secretariat, to continue his work in the compilation and updating of necessary material derived from governmental and other reliable sources in order to pro-

[7] *Ibid.*, para. 17.

vide the Sub-Committee at its next session with ample information on facilities for education and training in basic subjects related to the peaceful uses of outer space.

B

The Committee on the Peaceful Uses of Outer Space,

Recognizing the importance of scholarships, fellowships and other training opportunities in appropriate fields related to the exploration and the various peaceful uses of outer space to be put at the disposal of scientists in countries with comparatively limited resources in space research, especially developing countries, in order to enable them to acquire the knowledge and techniques necessary for fruitful participation in research and application in the domain of space exploration,

1. *Invites* Member States desirous of having their nationals take advantage of training to make their specific interests and needs known to the Secretary-General;

2. *Invites* Member States to continue to inform the Secretary-General of facilities for education and training and to include information on the availability of scholarships and fellowships, with specifications of the conditions and details thereof, in appropriate fields related to the exploration and the various peaceful uses of outer space;

3. *Requests* the Secretary-General, when the necessary information and data are available and making full use of the functions and resources of the Secretariat, to make an appropriate dissemination of such information, on a continuing basis.

International sounding rocket launching facilities

26. At its second session, the Scientific and Technical Sub-Committee commended the initiative taken by the Government of India in establishing the equatorial sounding rocket launching site at Thumba and recommended to the Committee the approval of the establishment, at the request of the Government of India, of a group of scientists, drawn from States members of the Committee and familiar with space research activities and facilities, to visit the station when it was fully operative and to advise the Committee on its eligibility for United Nations sponsorship in accordance with the basic principles approved by the Committee in its 1962 report.[8] The Committee endorsed the Sub-Committee's recommendation, and the General Assembly in resolution 1963 (XVIII) welcomed this step.

27. The scientific group visited Thumba in January 1964 and in its report to the Committee (A/AC.105/17) recommended that United Nations sponsorship be granted for the continuing operation of the Thumba international equatorial sounding rocket launching facility.

28. The Sub-Committee took note of the steps reported by the representative of India to establish an advisory panel consisting of scientific representatives of user States by inviting each of the countries which had taken a major interest in creating the facilities at Thumba to nominate one representative. An informal meeting of representatives of France, India, the Union of Soviet Socialist Republics and the United States of America had been held. Discussions were in progress with other States interested in research at the magnetic equator, and it was hoped to enlarge the advisory panel.

29. At its second session, the Sub-Committee, in the light of statements made by various representatives and of informal discussions about the possible value of international sounding rocket launching facilities at equatorial and other appropriate locations, recommended that the Committee on the Peaceful Uses of Outer Space should invite COSPAR to review the geographic distribution of sounding rocket launching facilities and their capabilities on the basis of information about them given on a voluntary basis, and advise the Sub-Committee from time to time on desirable locations and important topics of research, taking into account the need to avoid duplication of effort. The Committee on the Peaceful Uses of Outer Space accepted the recommendations of the Sub-Committee and invited COSPAR to take the necessary action.

30. In the course of the Sub-Committee's third session, the Brazilian delegation indicated the intention of its Government to request, in accordance with General Assembly resolution 1802 (XVII), United Nations sponsorship for the sounding rocket launching facilities that are being established near Natal in the north east of Brazil.

31. *Recommendations of the Committee*:

A

The Committee on the Peaceful Uses of Outer Space,

Recalling General Assembly resolution 1963 (XVIII) of 13 December 1963, which welcomed the decision of the Committee on the Peaceful Uses of Outer Space to undertake the establishment, at the request of the Government of India, of a group of scientists to visit the sounding rocket launching facility at Thumba and to advise the Committee on its eligibility for United Nations sponsorship in accordance with the basic principles endorsed by the General Assembly in resolution 1802 (XVII) of 14 December 1962,

Taking note of the report of the scientific group which visited the rocket launching site at Thumba in January 1964 (A/AC.105/17),

Further taking note of the action by India, reported in the statement before the Scientific and Technical Sub-Committee that, in accordance with General Assembly resolution 1802 (XVII), a scientific advisory panel consisting of representatives of nations involved in a substantial manner in the creation of the Thumba Equatorial Rocket Launching Station (TERLS) has already been constituted by the host State,

1. *Endorses* the recommendation of the scientific group that United Nations, sponsorship be granted for the continuing operation of the Thumba international equatorial sounding rocket launching facility;

2. *Urges* that due attention should be paid by the United Nations, the specialized agencies and Member States to requests received from the host State and endorsed by the scientific advisory panel for assistance to:

(*a*) Undertake measures to increase the utility of TERLS as a place for international collaboration in sounding rocket experimentation;

(*b*) Provide programmes and facilities, including fellowships, at TERLS for training scientists and technicians, especially from countries with comparatively limited resources in space research and from developing countries, in the following activities, to the extent that such training may be effectively utilized at TERLS or elsewhere:

(i) Range operations;

(ii) Payload design, construction and testing;

(iii) Data processing and analysis related to sounding rocket experimentation;

(iv) Ground-based experiments and facilities;

3. *Advises* the host State that, in making the annual reports required of it under General Assembly resolution 1802 (XVII), it may call upon the Secretariat for assistance, if it so wishes.

B

The Committee on the Peaceful Uses of Outer Space,

Recalling its earlier invitation to COSPAR to review the geographic distribution of sounding rocket launching facilities and their capabilities from information about them given on a voluntary basis, and to advise the Scientific and Technical Sub-Committee from time to time on desirable locations and im-

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[8] *Ibid., Seventeenth Session, Annexes,* agenda item 27, document A/5181.

portant topics of research, taking into account the need to avoid duplication of effort,

Renews the above-mentioned invitation.

Potentially harmful effects of space experiments

32. The question of the potentially harmful effects of space experiments has been considered at successive meetings of the Scientific and Technical Sub-Committee and the Committee. In paragraph 18 of its report to the General Assembly at its eighteenth session,[9] the Committee recognized the importance of the problem of preventing potentially harmful interference with peaceful uses of outer space. The Sub-Committee had before it the resolution adopted by the Executive Council of COSPAR in May 1964[10] on the basis of the report of its Consultative Group, in which COSPAR made specific proposals concerning space experiments which might involve potentially harmful effects.

33. *Recommendations of the Committee*:

The Committee on the Peaceful Uses of Outer Space,

Recalling paragraph 18 of its report to the General Assembly at its eighteenth session,[9]

Taking note of paragraph 6 of General Assembly resolution 1962 (XVIII) of 13 December 1963, declaring legal principles governing the activities of States in the exploration and use of outer space,

Recognizing the role and the competence of the COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments,

1. *Takes note* of the resolution adopted by COSPAR at its seventh session, held in May 1964,[10] on the basis of the report of the Consultative Group;

2. *Requests* the Secretary-General to circulate to Member States the resolution of COSPAR, the report of the Consultative Group and its four appendices,[11] all of which are annexed to the present report;

3. *Urges* that all Member States proposing to carry out experiments in space should give full consideration to the problem of possible interference with other peaceful uses of outer space, as well as of possible harmful changes in the natural environment caused by space activities and, where Member States consider it appropriate, should seek a scientific analysis of the qualitative and quantitative aspects of those experiments from the COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments, and should give due consideration to the results of this analysis; this does not preclude other recourse to international consultations as provided for in General Assembly resolution 1962 (XVIII);

4. *Invites* COSPAR to inform the Committee of the results of any analysis carried out by the COSPAR Consultative Group which may be considered by the COSPAR Executive Council to be appropriate for dissemination.

General

34. *Recommendations of the Committee*:

The Committee on the Peaceful Uses of Outer Space

I

1. *Commends* the Secretary-General and particularly the Outer Space Affairs Group of the United Nations Secretariat for their preparation of draft reviews on activities and resources of various international organizations and bodies relating to the peaceful uses of outer space, on national and co-operative international space activities, on bibliographies and abstracting services and on education and training;

2. *Decides*, in co-operation with the Secretary-General and making full use of the functions and resources of the Secretariat, to update and republish the reviews mentioned in paragraph 1 above at least every two years;

II

Desirous of responding to those Member States which are not members of the Committee on the Peaceful Uses of Outer Space and wish to be more fully informed regarding outer space matters and the work of the United Nations and its specialized agencies in this area,

Draws attention to the records of the proceedings of the Committee and of its Scientific and Technical Sub-Committee and to the reports of the specialized agencies, which have been circulated as documents A/AC.105/PV.25-35, A/AC.105/C.1/SR.21-26, A/AC.105/L.11 and A/AC.105/L.10/Rev.1.

III. Reports of the Legal Sub-Committee on the work of its third session

35. The third session of the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space was convened at the European Office of the United Nations, Geneva, on 9 March 1964 under the chairmanship of Mr. Manfred Lachs (Poland). The first part of the session was concluded on 26 March. The second part of the session was convened at United Nations Headquarters, New York, on 5 October and concluded on 23 October 1964. The records of the Sub-Committee meetings were circulated as documents (A/AC.105/C.2/SR.29-40. The reports of the Sub-Committee were circulated as documents A/AC.105/19 and A/AC.105/21 and Add.1.

36. The Sub-Committee's terms of reference were set out in section I of General Assembly resolution 1963 (XVIII), as follows:

"*The General Assembly*,

"...

"1. *Recommends* that consideration should be given to incorporating in international agreement form, in the future as appropriate, legal principles governing the activities of States in the exploration and use of outer space;

"2. *Requests* the Committee on the Peaceful Uses of Outer Space to continue to study and report on legal problems which may arise in the exploration and use of outer space, and in particular to arrange for the prompt preparation of draft international agreements on liability for damage caused by objects launched into outer space and on assistance to and return of astronauts and space vehicles;

"3. *Further requests* the Committee on the Peaceful Uses of Outer Space to report to the General Assembly at its nineteenth session on the results achieved in preparing these two agreements".

37. In its report on the second part of the session, the Sub-Committee noted that preliminary agreement had been reached in an informal working party on the preamble, articles 2 and 3 and paragraphs (1), (3), (4) and (5) of article 6 of a convention on assistance and return,[12] with the exception of the place where article 3, paragraph (2), would appear in the convention. The Sub-Committee noted further that a working group had completed the first reading of the articles of draft agreements on liability for damage caused by objects launched into outer space. The Sub-Committee recommended that further work on the two conventions should be continued at its next session.

[9] *Ibid., Eighteenth Session, Annexes*, agenda item 28, document A/5549.

[10] See annex II.

[11] See annex III.

[12] See A/AC.105/21, annex III.

38. The Committee notes with satisfaction that substantial progress was made in the course of the Sub-Committee's third session, although there was insufficient time to draft the international agreements, and decides that work on the two conventions should be resumed as soon as possible.

IV. Registration

39. In conformity with the provisions of paragraphs 1 and 2 of General Assembly resolution 1721 B (XVI), the Committee has continued to receive information from the USSR and from the United States concerning objects launched into outer space. The information received since the Committee's last report has been placed in the public registry maintained by the Secretary-General in accordance with resolution 1721 B (XVI) and has been circulated in documents A/AC.105/INF.45-82.

ANNEX I

Opening statement by the Chairman, made at the 26th meeting of the Committee, on 27 October 1964

In opening the sixth session of our Committee, I should like to recall the agreement reached at our first session in March 1962, an agreement observed at subsequent sessions, that it would be the aim of all members to conduct the Committee's work in such a way that it would be able to reach agreement in its work without the need to vote. I trust that the members of the Committee will agree to continue this procedure at our present session.

Since our last meeting in November 1963, the organization of the programme of work of the Committee and the sub-committees during the present year in the light of General Assembly resolutions 1962 (XVIII) and 1963 (XVIII) was agreed upon through informal consultations conducted by the officers of the Committee with all other members of the Committee in February and May, and reported in documents A/AC.105/16 and A/AC.105/16/Add.1.[a]

In the past year, the Committee has continued to receive information from the Union of Soviet Socialist Republics and the United States of America concerning objects launched into orbit or beyond for registration by the Secretary-General as provided for in General Assembly resolution 1721B (XVI). The members of the Committee have received the report of the Scientific and Technical Sub-Committee (A/AC.105/20 and Add.1), the report of the scientific group on the visit to the launching site at Thumba (A/AC.105/17), the third report of the International Telecommunication Union (A/AC.105/L.11), the third report of the World Meteorological Organization (A/AC.105/L.10/Rev.1) and, finally, the report of the Legal Sub-Committee (A/AC.105/19 and A/AC.105/21).

The Committee also has before it three working papers prepared by the Secretariat, a summary of national and co-operative international space programmes (A/AC.105/L.13), a report on the space activities and resources of the United Nations, the specialized agencies and other competent bodies (A/AC.105/L.12), and a list of sources of bibliographies and abstracting services covering scientific and technical publications in space-related areas (A/AC.105/L.14). At the request of the Scientific and Technical Sub-Committee, the papers have been up-dated and corrected where necessary, and submitted for consideration by the Committee.

The report of the Scientific and Technical Sub-Committee contains recommendations within the terms of reference established by the resolutions of the General Assembly, and refers to measures to be taken to improve international co-operation and co-ordination in the peaceful exploration and uses of outer space. These recommendations cover five general topics.

[a] Mimeographed documents.

Firstly, with regard to the exchange of information, the Secretary-General would continue to receive information voluntarily submitted by international organizations concerning the scientific and technical aspects of space exploration, and then compile such information in a suitable form to make it widely available. In order to familiarize all Members of the United Nations with programmes in the application and use of outer space and with avenues open to Members for participation in this field, Member States would be invited to continue to submit voluntarily annual information on outer space activities, including information on programmes of international co-operation. This information on national and co-operative international space activities would be published in a biannual review and in a summary which would provide a consolidated, global picture of international co-operation. Member States conducting space activities would be requested to submit voluntarily literature on space research and technology for inclusion in the library maintained by the Outer Space Affairs Group of the Secretariat. Member States would be periodically informed of new acquisitions.

As recommended by the Scientific and Technical Sub-Committee, the Secretary-General would be invited to consider what material exists or may be needed to ensure popular understanding of the purposes and potentialities of space activities, and the means by which new material may be made available—possibly by pamphlets or a handbook—and to report his suggestions to the Sub-Committee.

The Secretary-General would also be requested to consider means by which the publication and distribution of technical manuals prepared by COSPAR might be encouraged.

The Sub-Committee also draws attention to the fact that outer space research data obtained by rockets and satellites are available to scientists of Member States through the World Data Centres in Moscow, Washington and Slough, England. The Secretary-General would also compile information on space conferences and symposia open to scientists of Member States and would inform Member States of such opportunities.

Finally, the Sub-Committee recommends that consideration be given to the usefulness of organizing an international conference in 1967 on the exploration and peaceful uses of outer space.

Secondly, as regards the encouragement of international programmes in the field of space communication, the Scientific and Technical Sub-Committee, under the able chairmanship of Dr. Martyn of Australia, recalled the view stated in our Committee's report to the General Assembly at its eighteenth session that international space communications should be available for the use of all countries on a global and non-discriminatory basis and the recommendation that all Member States take appropriate steps, using to the fullest extent the possibilities offered by the technical co-operation programmes, to develop and extend terrestrial communication systems in various parts of the world so that all Member States, regardless of the level of their economic, scientific and technological development, would be able to benefit from international space communications.

The third progress report of ITU describes the further concrete steps that have been taken by ITU in this field. The Extraordinary Administrative Radio Conference in October-November 1963 allocated radio frequency bands for communications satellites, meteorological satellites, telemetry and tracking, navigation satellites, radio astronomy, space research and space vehicles in distress and for aeronautical purposes. The Plan Committee of ITU has given attention to a preliminary survey of problems arising from world communications satellites with special reference to the development of accurate assessments of global traffic for the short term (until 1968) and the long term (up to 1975). The ITU Administrative Council has been invited to take steps to help the developing countries, in order that these countries may participate effectively in international space communication systems and integrate these systems with their national telecommunication networks.

In the field of space meteorology, emphasis has continued to be placed on the need to establish a world weather watch, to develop meteorological observations from ground stations and to undertake research using information from meteorological satellites and conventional meteorological observations. Member States have been urged to facilitate the development of extensive international co-operation in the establishment of the World Weather Watch, with particular emphasis on improving the world weather watch system and on the need for improved facilities for the exchange of data from meteorological satellites and conventional meteorological observations.

The progress report of WMO draws attention to the fact that information received from weather satellites continued to be made available under arrangements notified by WMO to all countries of the world.

Particularly satisfactory is the assurance given in the WMO report that since the Fourth WMO Congress in 1963 good progress has been made towards the implementation of a phased programme of action for establishing the concept of World Weather Watch as an ultimate world weather service and of related research projects.

The Sub-Committee also mentions the development of several programmes of scientific and technical interest in the peaceful uses of outer space, including the International Years of the Quiet Sun, the International Indian Ocean Expedition, the World Magnetic Survey and others.

The preliminary agreement reached between Soviet and American scientists in May 1964 to begin work on the joint publication of a review of achievements in and prospects for the development of space biology and medicine was noted with satisfaction. The Sub-Committee notes that arrangements are being made to obtain the advice of scientists of other countries on these subjects.

The attention of Member States is called to the increasing measure of bilateral and multilateral co-operation in space projects which exemplify a way in which Member States prepared to share in the responsibilities involved may join effectively in specific international space programmes. These co-operative projects offer increasing opportunities for Member States to acquire useful information and training for the furtherance of their interests not only in international co-operation, but also in the development of space science and technology itself.

Thirdly, as regards education and training, the value of international co-operation in this field has been affirmed in past resolutions of the General Assembly. Many Member States have supplied information on education and training facilities in basic subjects related to peaceful uses of outer space and on the availability of scholarships and training opportunities. The information furnished is reproduced in the addendum to the Sub-Committee's report (A/AC.105/20/Add.1). Similar compilations by the Secretariat are to be disseminated on a continuing basis. Member States are invited to make known their specific interests and their needs in the field of training for their nationals.

Fourthly, concerning international sounding rocket launching facilities, in accordance with General Assembly resolution 1963 (XVIII) a scientific group visited the Thumba equatorial sounding rocket launching site in India and recommended in its report (A/AC.105/17) that this site be granted United Nations sponsorship in conformity with the basic principles endorsed by the General Assembly in resolution 1802 (XVII). The Sub-Committee recommends that the General Assembly endorse the recommendation that United Nations sponsorship be granted for the continuing operation of the Thumba site and that due attention be paid by the United Nations to a request from the host State for assistance to increase the utility of the site as a place for international collaboration in sounding rocket experiments.

I should like also to draw the attention of this Committee to the additional detailed information furnished by the Italian representative in the Scientific and Technical Sub-Committee on the San Marco mobile sea-based launching platform as an interesting example of how a mobile range of the San Marco type can stimulate peaceful scientific relations with developing countries. Information on this co-operation between Italy and Kenya was circulated in document A/AC.105/18.

Fifthly, as regards potentially harmful effects of space experiments, on the basis of a COSPAR report Member States proposing to carry out experiments in outer space should give full consideration to the problem of possible interference with other peaceful uses of outer space as well as of possible harmful changes in the natural environment caused by space activities and should seek a scientific analysis of those experiments from COSPAR's special Consultative Group or by other international consultations. The report of the COSPAR Consultative Group would be circulated to all Member States.

For the first time since the United Nations has been dealing with outer space matters, reference has been made in the Scientific and Technical Sub-Committee's report to a COSPAR resolution—that of 20 May 1964, affirming that the search for extraterrestrial life is an important objective of outer space research [*annex II below*].

As to the work of the Legal Sub-Committee this year, the third session of that Sub-Committee, which was characterized by an atmosphere of co-operation, was held in two parts: one in March in Geneva, the other here in New York in October. After a general debate within the framework of General Assembly resolution 1963 (XVIII), the Legal Sub-Committee and its two working groups concentrated their efforts on the elaboration of a draft international agreement on assistance to and return of astronauts and space vehicles, and on a draft international agreement on liability for damage caused by objects launched into outer space.

With regard to the question of assistance to and return of astronauts and space vehicles, the Sub-Committee had before it three proposals: one by the USSR, one by the United States, and the third submitted jointly by Australia and Canada. In the course of the discussions many amendments were presented. The Sub-Committee did useful work in clarifying the positions involved. It was able to narrow the gap and to reach agreement on several articles of such an international convention. The report of the Legal Sub-Committee reflects the development of this draft agreement.

On the subject of liability for damage caused by objects launched into outer space, the Sub-Committee had before it in Geneva a draft agreement submitted by Hungary, a draft convention submitted by the United States, and a working paper submitted by Belgium. At the second part of its third session in New York the Sub-Committee had before it, in addition to the draft agreement submitted by Hungary, a revised draft convention submitted by the United States and a draft convention submitted by Belgium. What could be called a first reading of the three texts was completed and views were expressed on a number of problems essential to the preparation of a convention on liability. This included such matters as the States which should be made liable for damage caused by space objects; the principle of absolute liability for damage or, in other words, that the party causing the damage should be liable irrespective of whether it or the other party was at fault; the extent of liability where more than one State was determined to be liable for the damage; the question of the period within which claims should be presented; and whether liability should be subject to a limitation in amount or should be unlimited. All these problems are rather complicated and require careful consideration.

The Sub-Committee recommends continuation of its work under the able chairmanship of Professor Lachs of Poland, on the draft agreements on assistance and liability at its next session in 1965, and with the Committee's endorsement this course will be followed.

This résumé would not be complete without mentioning the fact that since the Committee's last session great progress has been achieved in the penetration of outer space. Among other achievements, the first close-up picture of the moon's surface and the recent first flight by three astronauts in one spacecraft were universally recognized as outstanding results.

It is no exaggeration to say that research and exploration of outer space for peaceful uses will have profound effects on the development of the countries and peoples of the world. Man's entry into outer space commands universal interest and marks a new era for mankind.

ANNEX II

Resolution adopted by the Executive Council of the Committee on Space Research (COSPAR) on 20 May 1964

The Committee on Space Research (COSPAR),

Noting with appreciation and interest the extensive work done by the Consultative Group on Potentially Harmful Effects of Space Experiments as expressed by the Group in its report and appendices,[a]

1. *Instructs* its Secretariat to make this report and appendices available to ICSU, the adhering bodies of COSPAR and other interested parties;

2. *Welcomes* the encouraging conclusions of the Consultative Group that harmful contamination of the upper atmosphere on a long-term global basis is unlikely on the present and expected scale of firings of super rockets and the release of experimental seeding. COSPAR urges its adhering organizations to report any major new experiments which may produce harmful contamination. Moreover, it urges them to encourage these scientists to continue studies of the following matters:

(*a*) Evaluation of exchange times between the various regions of the upper atmosphere, especially between 60 and 100 km,

(*b*) Short- and long-term local and zonal effects of rocket contamination in the upper atmosphere,

(*c*) The possibility of any catalytic effects which might trigger chemical and photochemical processes in the upper atmosphere, and

(*d*) Radiation balance in the upper atmosphere and its dependence on changes in composition there;

3. *Welcomes* the conclusion of the Consultative Group that no interference to optical and/or radio astronomy has resulted from the belt of orbiting dipoles launched in May 1963, and recommends to its members that any proposals for future experiments of this sort also be given the benefit of thorough evaluation by the scientific community and notably by the International Astronomical Union, in order to check in advance their harmlessness to other scientific research;

4. *Affirms* that the search for extraterrestrial life is an important objective of space research, that the planet Mars may offer the only feasible opportunity to conduct this search during the foreseeable future, that contamination of this planet would make such a search far more difficult and possibly even prevent for all time an unequivocal result, that all practical steps should be taken to ensure that Mars be not biologically contaminated until such time as this search can have been satisfactorily carried out, and that co-operation in the proper scheduling of experiments and in the use of adequate spacecraft sterilization techniques is required on the part of all deep space probe launching authorities to avoid such contamination:

5. *Accepts,* as tentatively recommended interim objectives, a sterilization level such that the probability of a single viable organism aboard any spacecraft intended for planetary landing or atmospheric penetration would be less than 1×10^{-4}, and a probability limit for accidental planetary impact by unsterilized fly-by or orbiting spacecraft of 3×10^{-5} or less;

6. *Calls attention* to the opinion of its Consultative Group that although less rigorous sterilization techniques are required for lunar landings, because the lunar surface conditions would almost certainly exclude microbial replication, it is desirable that drills designed for deep lunar subsurface boring should be very carefully sterilized to avoid contamination of regions below the surface where a more favourable environment might exist;

7. *Calls* on its members that are concerned with planetary probes to urge the vehicle construction and launching authorities in their countries to try to achieve these sterilization objectives and especially to forgo the launching of planetary atmospheric entry and lander vehicles until such time as the abovementioned level of sterility can be achieved with a high degree of certainty;

8. *Requests* its members concerned with planetary probes to report to COSPAR any disagreement or objections they may have to use of these tentative objectives or to any other aspects of appendix 4 of the Consultative Group report, and expresses the hope that the Consultative Group will arrange continued studies in the area of biological contamination of the moon and planets, taking into account any such reports or comments as may be received;

9. *Authorizes* the Consultative Group, in consultation with the Chairman of Working Group V, to arrange for the convening of an international conference on biological sterilization and sterility testing techniques at any time and place and in co-operation with any other scientific organizations it may deem appropriate, provided it can be assured in advance of substantial participation in the conference by scientists of both the major deep space probe launching authorities.

[a] See annex III.

ANNEX III

Report to the Executive Council of the Committee on Space Research (COSPAR) of the COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments (May 1964)

1. The Consultative Group was formed in January 1963 with the following composition: V. Sarabhai (Chairman), C. G. Heden, H. C. van de Hulst, W. W. Kellogg, G. A. Ratcliffe, G. A. Savenko, V. V. Vitkevitch.

2. The Group was created in response to the following resolution of the Executive Council of COSPAR:

"In order to carry out the responsibility for careful, objective, quantitative studies of space experiments with potentially undesirable effects on scientific activities and observations, which COSPAR has accepted in response to ICSU resolution 10 (1961) (COSPAR Doc./62/11), the Executive Council decides to establish a Consultative Group on Potentially Harmful Effects of Space Experiments, to consist of not more than six broadly competent scientists having among them specialized knowledge of astronomy, radiation physics and chemistry, communications, meteorite penetration and microbiology, to be named by the President of COSPAR.

"It is expected that this Consultative Group will act as a focal point in ICSU for consideration of all questions regarding potentially harmful effects of space experiments on scientific activities and observations, and that in this capacity it would (1) examine in a preliminary way all questions relating to possibly harmful effects of proposed space experiments, including but not restricted to questions referred to it by any of the ICSU Unions; (2) determine whether or not any serious possibility of harmful effects would indeed result from the proposed experiment; (3) in consultation with appropriate Unions, appoint and arrange for convening an *ad hoc* working group or groups to study any expected effects which are considered to be potentially harmful, such working group or groups to include competent scientists in the appropriate specialized disciplines; (4) receive and consider conclusions or recommendations of these *ad hoc* working groups in a timely manner; and (5) prepare final recommendations to the COSPAR Executive Council for its further action.

"Positive or negative recommendations or studies considered appropriate by the Council for dissemination would then be made available to all COSPAR adherents, the ICSU Bureau,

the appropriate Unions of ICSU, and appropriate bodies of the United Nations or its specialized agencies."

3. The Group has met in Paris (March 1963), Warsaw (June 1963), Geneva (February 1964) and Florence (May 1964).

In a preliminary report submitted to COSPAR at Warsaw in June 1963, it was stated that the Group was initially concerning itself with the following topics: (*a*) Pollution of the upper atmosphere; (*b*) Orbiting dipoles; (*c*) Contamination of the moon and planets. The present report gives the current status of the studies on each topic. Appendices incorporate statements by the Group on those topics for which the Group feels it is appropriate to do so at the present time.

4. The Group has approached its task broadly as follows. It has discussed and attempted to identify the scientific questions involved in each problem by studying existing literature. Where the literature has been available in widely scattered sources, as in the problem of contamination of planets, the Group has arranged for a compilation of the literature to facilitate its evaluation.

At times an individual member of the Group has critically examined current scientific information and prepared his own report which has been used for stimulating further comments and discussions.

The Group has then consulted individual scientists and scientific groups. Where discrepancies or divergent opinions have emerged, the Group has attempted to bring together the specialists concerned in order to resolve differences if possible, or at least to evolve a consensus and a clarification for further studies.

In attempting quantitative evaluation of potentially harmful effects the Group has thus relied heavily on the assistance of scientists and scientific organizations.

5. The present status of the studies can be summarized as follows:

(a) *Pollution of the upper atmosphere*

A statement by the Group is enclosed as appendix 1. It gives an evaluation of likely consequences to environmental conditions of the firing of a relatively large number of super rockets per year and of the extensive use of chemical tracers in the upper atmosphere. It also indicates the uncertainties in our present knowledge, and the need for further quantitative studies.

(b) *Orbiting dipoles*

A statement by the Group is enclosed as appendix 2. It represents agreed views of leading specialists in the field providing a basis for quantitative evaluation of the consequences for radio and optical astronomy of a dipole belt of given characteristics.

(c) *Contamination of the moon and planets*

The Group decided at its meeting in February 1964 that a statement as reproduced in appendix 3 be immediately communicated to COSPAR on behalf of the Group. This points out the extreme importance of undertaking, for the time being, only fly-by missions for the study of Mars.

Following the compilation of available literature on the subject, a Panel of the following specialists met in Florence during the COSPAR Symposium in May 1964.

Members: Professor A. Brown, Department of Biology, University of Pennsylvania; Professor A. Dollfus, Astrophysics Section, Paris Observatory; Professor M. Florkin, Biochemical Laboratory, University of Liège; Dr. L. Hall, Bioscience Programmes, NASA; Academician A. A. Imshenetskii, Institute of Microbiology, Academy of Sciences of the USSR; Professor C. Sagan, Harvard College Observatory (*Rapporteur*); Dr. P. H. A. Sneath, British Medical Research Council; Additional Russian member—not present; Professor C. G. Heden (*Convenor*).

The Panel has discussed the standards of sterilization which can be recommended for the protection of possible life on Mars. Its report is enclosed in appendix 4.

The Group has considered the report of the Panel, and in relation to the statement contained in appendix 3 invites special attention to remarks concerning the danger of contamination through accidental landings of fly-by missions and the definitive steps suggested to reduce this danger.

The Group urges continued efforts for the improvement of sterilization techniques and full sharing of information concerning procedures designed to achieve spacecraft with the required level of sterility.

The Group recommends early action to declare Mars a biological preserve to ensure that in the exploration of this planet, considerations of biological research receive priority over others.

The Group recommends the proposal for convening an international conference in early 1965 to consider the technology of sterilization and sterilization testing.

6. In concluding the present report, the Group wishes to thank the scientists and scientific organizations who have made possible the studies which have been undertaken.

Appendix 1

STATEMENT ON UPPER ATMOSPHERIC POLLUTION BY ROCKET EXHAUST AND CHEMICAL INJECTION EXPERIMENTS, BY THE COSPAR CONSULTATIVE GROUP ON POTENTIALLY HARMFUL EFFECTS OF SPACE EXPERIMENTS (FLORENCE, 16 MAY 1964)

1. Interest and concern about the possible effects of space experiments, particularly those involving large rockets or the repeated injection of metallic vapours, on the composition and structure of the Earth's atmosphere had been occasionally expressed before COSPAR decided to set up its Consultative Group on Potentially Harmful Effects of Space Experiments (May 1962). A request to COSPAR by the ICSU Executive Board in October 1962 (resolution EB XIV 27) suggested a study of this topic. However, the publicity given to a report (part of a series) on rocket pollution of the upper atmosphere by J. Pressman, W. Reidy, and W. Lank (Institute of Aerospace Science, January 1963) created a certain amount of public concern. Hence, this problem was selected at once by the Consultative Group as deserving further study.

2. The COSPAR Consultative Group has been instructed by its charter "to arrange for careful quantitative studies" of the problems referred to it, in order that the conclusions of such studies may be available to all concerned. The arrangements in the present case were as follows. Copies of the Pressman report were obtained and W. W. Kellogg, a member of the Consultative Group, was asked to prepare an independent report, reviewing the general question in as quantitative a way as possible. The two reports, which arrived in part at rather different conclusions, were then submitted to a number of experts in the world with a request for criticism and comments. The comments received from twenty experts in six countries (Belgium, Germany, India, Netherlands, United Kingdom, United States of America) were reviewed at a meeting of the Consultative Group in February 1964. A second version of Kellogg's report, taking these comments into account, will be published in an international scientific journal, and reprints will be available from the COSPAR Secretariat.

3. While there was not absolute unanimity in the views of the experts who volunteered comments, the following is believed by the Consultative Group to be a fair consensus of the situation as it is now understood.

There are a variety of ways in which man can alter the conditions in the upper atmosphere, and the degree of such alteration can obviously vary over a wide range. Some such effects are merely detectable, and are probably not "potentially harmful", while there are other changes that cause interference with future experiments or that can be considered as harmful in other ways. In order to discuss the vastly different effects that could be caused by injections of chemicals into the upper atmosphere, it has been convenient to distinguish between four classes of effects, which are:

(*a*) A harmless, short-term and localized alteration of the upper atmosphere that can be readily observed at the ground;

(*b*) A long-term and world-wide alteration of the observable characteristics of the upper atmosphere, but one which causes no identifiable interference or harmful effect;

(*c*) An extensive alteration of the upper atmosphere that interferes with scientific experiments or other human activities;

(*d*) An atmospheric alteration that affects man's environment.

4. It appears that there are many instances where (*a*) has occurred. For example, local effects of the passage of a large rocket through the upper atmosphere can be observed visually, especially at twilight when it may leave a bright trail, and perturbations of the ionosphere by large rockets, detectable by radio means, have been observed repeatedly; none of these more or less localized phenomena have been judged as "harmful". On the other hand, (*b*) has not occurred, with the possible exception of the reported instances where the lithium content of the upper atmosphere may have been affected on a world-wide basis for a few months in 1962 by man-made injections. There has not been an instance of (*c*) as far as chemical injections are concerned, but the world-wide background of some radio-active tracers (tritium, carbon-14 etc.) has been charged by repeated injections, and this has interfered with certain studies of circulation and exchange rates between regions of the atmosphere. Case (*d*) has not occurred and seems most unlikely. The reasons for this opinion are outlined in part in the next paragraphs.

5. In order for the atmosphere to be so changed that the environment of life is affected—case (*d*)—the pollution of the upper atmosphere would surely have to be very extensive, and so we must distinguish between long-term and short-term pollutants, and concentrate on the former. If at a certain injection rate a pollutant builds up a concentration exceeding a specified value in a relevant region, we refer to it as a long-term pollutant. It is obvious that the specified limiting value must differ with different pollutants, and also for the same pollutant with reference to different effects.

A world-wide, long-term change of the background concentration of some atmospheric constituent that would be just detectable might be 10 per cent or less for a relatively well mixed and permanent gas (e.g, CO_2, CH_4), and it might be by a factor of two or three for constituents that vary a great deal naturally (e.g., H_2O, NO, Li). Considering what would be involved in causing a change of the composition of the upper atmosphere above 60 or 70 km, the region above the stratosphere, it is necessary to know what the rate of depletion of a given substance is due to mixing and dissociation (by sunlight and chemical reactions), and also what its natural concentration is. These are only known very approximately, but it seems that on the order of 10^5 to 10^6 tons per year of water vapour or nitric oxide would have to be injected above 60 km to double the amounts of these gases world-wide, and about the same tonnage would be required to add 10 per cent to the carbon dioxide content. (This corresponds approximately to an annual launching of 10^3 to 10^4 Saturn-type rockets, or of the type of Soviet rocket used to put the second Soviet cosmonaut into orbit.) On the other hand, only 2×10^3 to 10^4 kg per year of atomic sodium would have to be injected above 60 km to double this constituent, and only a few tens of kilogrammes of lithium annually would be expected to double its background concentration. These last figures are within the capability of man now, and may (as mentioned above) have already been achieved temporarily in the case of lithium. The larger figures for nitric oxide, carbon dioxide, and water vapour, the main combustion products of rocket fuels, seem unattainable in the foreseeable future.

The Consultative Group is aware of the various dire consequences of contamination that have been cited in certain public pronouncements, and has examined them as far as present knowledge would permit. (Examples of these are: the removal of the ozone layer, thereby permitting far ultraviolet sunlight through to the ground; the removal of the free electrons in the ionosphere by introducing an electron "getter" in large quantities; changing the temperature of the atmosphere by changing the water vapour or carbon dioxide content, etc.) We are unable to identify any physical processes which would produce these consequences. Although it is always possible that there might be other undesirable effects which have not been anticipated, this seems unlikely.

6. The present study, which is based on information in the open literature, while providing some comfort as regards climatological changes which may be induced by the rocket gases in the foreseeable future, indicates the need for early experimental and theoretical studies dealing with the following problems:

(*a*) The evaluation of exchange times between the various regions of the upper atmosphere, especially between 60 and 100 km, where current estimates of diffusion rates differ by two orders of magnitude in extreme cases and by one order of magnitude generally;

(*b*) The short-term local and zonal effects of rocket contamination;

(*c*) Possible catalytic effects which might trigger chemical and photochemical processes as yet unanticipated;

(*d*) Radiation balance in the upper atmosphere and the effects on it of changes in composition there.

In view of the importance of developing a sound scientific capability for accurate predictions of the effects of future space operations and experiments which may involve injecting larger amounts of materials with different chemical and physical characteristics, the Consultative Group suggests that COSPAR urge scientists, particularly those of nations which are active in space exploration with large rockets, to undertake serious quantitative studies which could provide answers to some of these questions in the near future.

7. The present study does not include three contingencies of possible significance to the pollution of the upper atmosphere and which may be realized in the next few years. These are:

(*a*) The use of nuclear-powered rockets and nuclear reactors in satellites;

(*b*) The extensive use of high-flying supersonic transport aircraft;

(*c*) The extensive use of completely disintegrating meteorological rockets.

It is intended that the Consultative Group will examine these contingencies in a preliminary way during the next year, and will arrange for more detailed studies if warranted.

Appendix 2

Statement on belts of orbiting dipoles, by the COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments (Florence, 16 May 1964)

Belts of orbiting dipoles (needles) have been proposed for the use of a telecommunication system between stations at the earth's surface. Two experiments to create a test belt of this nature have come to our knowledge. The first, launched in October 1961, did not dispense separate needles; the second, launched 12 May 1963, went as planned. The first announcement of this plan, about August 1960, created grave concern about the possible interference to be expected in optical astronomy by scattered sunlight and in radio astronomy by scattered signals from radio stations on the earth. The calculation of this interference by a specified belt contains no major uncertain factors. It was soon ascertained that the effects of the specified belt would be hardly measurable and would not cause harmful interference. This has been confirmed by the observations of the actual test belt.

In view of initial uncertainties about the life time and in view of the expressed fear that frequent launchings or far denser belts might be proposed, the problem was held under review by several committees of experts. The most important ones, the "West Ford Committee" of the International Astronomical Union and the "*Ad hoc* West Ford Committee" of the Space Science Board of the National Academy of Sciences

of the United States have now produced their reports with identical conclusions.

The COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments has frequently consulted with members of both committees and is in concurrence with their conclusions. It feels no need, therefore, to repeat these conclusions in detail. The observations and calculations have been published in scientific journals.

As an illustration of the optical effects, we may mention that the scattered sunlight received from the test belt a week after launch was a factor 10 below the brightness of faintest measured parts of galaxies, the study of which forms one of the basic means by which present-day astronomy penetrates the problems of the universe. This margin gets wider as the belt spreads in time.

The possible interference to radio astronomy has been newly evaluated by Findlay and Ryle with a view to the types of radiotelescopes that may come into operation within ten years. Interference equal to 1/10th of the effective limit of detection would be produced with a single 10 kw transmitter illuminating part of a belt with a dipole density 5-10 times that of the 60-day West Ford belt.

Experience has shown that there are reasonably good procedures for calculating in advance the effects of any belts.

The numbers quoted above by way of illustration show that the test belt constituted no interference. However, adding a factor 10 would be significant and a factor 100 might be detrimental to much advanced research in astronomy.

The Consultative Group recommends that any future experiments with this general character be given the benefit of a thorough evaluation by the international scientific community, and notably by the International Astronomical Union, in order to check in advance their harmlessness to other scientific research.

Appendix 3

Statement by the COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments concerning the contamination of planets (Geneva, 1964)

The COSPAR Consultative Group on Potentially Harmful Effects of Space Experiments has considered presently available scientific evaluations of the likely consequences of the biological contamination of Mars. There is consensus of opinion among scientific workers of the extreme importance of not jeopardizing the value of information that can be gained from studies of this planet about many crucial problems of biology and the evolution of life. Realizing that the technology of sterilization has many practical problems, the Group is endeavouring to establish through consultation with competent biologists the limits of permissible contamination of objects that may land on Mars. The Group moreover recommends that early discussions be held between specialists of launching nations to discuss techniques of sterilization and problems of technology involved in launching sterilized payloads. In the meantime, the Group urges those nations who presently have capability of attempting the exploration of Mars, to take steps to organize only fly-by missions for the time being.

Appendix 4

Report of the Panel on Standards for Space Probe Sterilization

At the Florence meeting of COSPAR, the Panel on Standards for Space Probe Sterilization considered data and expressions of expert opinion from a variety of sources. The following statements represent a synthesis of the views of the members of the Panel; it is suggested that they be made the basis of a position paper by COSPAR.

We reaffirm the conviction that exobiology should be a primary objective of activities in the space sciences. This view is justified for the following reasons:

(1) The detection and subsequent investigation of extraterrestrial life has profound scientific significance;

(2) Studies in planetary biology must, in large part, be completed before contamination is effected by unsterilized devices used in physical or geophysical investigations. The successful performance of physical experiments is primarily unaffected by previous biological experiments; because of contamination, the converse may be false;

(3) A study of the prebiological chemistry of a planet which proves to be sterile would nevertheless be of major biological significance.

We believe that space probe sterilization and trajectory control of fly-by spacecraft are essential until further information gives strong indication that such standards could be relaxed without jeopardizing planetary studies. This policy is justified for the following reasons:

(1) A search for extraterrestrial life is essentially a search for materials with the properties of the known organisms on the planet Earth. Therefore all life-detection experiments will be capable of detecting viable terrestrial contaminants. Consequently the introduction of such contaminants (for example, by inadequate spacecraft sterilization) would render it impossible to decide whether positive results of a life-detection experiment are significant or spurious;

(2) Aside from such interference with remote life-detection experiments, biological contamination of a planet may lead to undesirable alterations of the planetary environment from the standpoints of both exobiology and physical studies of planetary surfaces. If the proliferation of terrestrial contaminants—at some time after their introduction—is not excluded, the extensive changes in the planetary environment which are possible as a consequence could inhibit or destroy our opportunity to (*a*) identify and investigate the indigenous biota, (*b*) understand the ecological interactions of the original indigenous biota, and (*c*) investigate the prebiological chemistry of a planet which proves to be sterile.

It is difficult to estimate adequately the period of time which would pass before such undesirable consequences occur. As a simple example of heuristic interest we note that a single viable organism deposited in an environment in which it slowly grows (general time, thirty days) would in the course of eight years produce a population of 10^{27} organisms, a number equal approximately to the bacterial population of the Earth. The calculation assumes zero death rate and no interaction between indigenous planetary organisms and exogenous terrestrial contaminants.

We believe that the scientific desirability of sterility control is absolute; but the degree of sterilization required must be based on our judgements of the risks acceptable so that planetary exploration will not be impossibly difficult. The probability that a single viable organism is aboard any space vehicle intended for planetary impact can then be computed as the solution of a waiting time problem in probability theory. Adopting values for the acceptable risk during approximately a decade of planetary exploration by landing vehicles, and for the biological and spacecraft reliability parameters involved—values which we consider conservative—we conclude that (1) the probability that a single viable organism may be aboard any vehicle intended for planetary landing must be less than 1×10^{-4} and (2) the probability of accidental planetary impact by an unsterilized fly-by or orbiter must be less than 3×10^{-5}, during the interval terminating at the end of the initial period of planetary exploration by landing vehicles (approximately one decade).

We appreciate the considerable technical difficulties involved in realizing these probabilities in practice, but we consider that they are attainable by known means. The probabilities also apply to contamination by spacecraft propulsion and attitude-control systems. The probability of contamination by accidental impact of fly-bys and orbiters can be minimized by (1) initial trajectory control, (2) initial spacecraft sterilization,

or (3) inclusion of programmed or commanded terminal precautionary systems for assuming non-intercept trajectories or for initiating destruction sterilization.

The probabilities given above are obviously subject to future revision as our knowledge of planetary environments, microbial ecology, and spacecraft design improves.

We feel that while our recommendations apply immediately to fly-by, orbiter and lander missions planned for Mars, the same recommendation should apply to any planet which, on the basis of current information, cannot firmly be excluded as a possible abode of extraterrestrial life. The standards of space vehicle sterilization are, we believe, unrelated to the probability of indigenous life on the planet in questions, except in the limiting case that indigenous life and the proliferation of terrestrial contaminants can both be firmly excluded. While there is a sizable probability that the surface temperatures of Venus are too high for either indigenous or exogenous organisms, this conclusion is based on indirect lines of argument. Also, we cannot entirely exclude the possibility of biological contamination of the clouds of Venus. Until unambiguous astronomical information is available, we recommend that Martian standards of sterility control should also apply to Venus. In the case of the Moon, the surface conditions are rigorous enough reliably to exclude biological contamination of the surface. We cannot exclude the possibility that conditions several tens of metres below the lunar surface will permit microbial replication. Such depths, however, are unlikely to be reached unintentionally during lunar landings. Accordingly, we recommend such less rigorous sterilization techniques as biocleanroom assembly and terminal gaseous sterilization of all spacecraft intended for lunar landings; but rigorous sterilization of drills designed for lunar subsurface boring. Our information about the conditions on other planets is insufficient to form a basis for definitive recommendations at this time.

To encourage broader consideration of the diverse means which can be employed to meet these recommended standards of sterility, it is suggested that an international conference be sponsored by COSPAR, possibly in co-operation with one or more other appropriate international scientific groups, to consider the technology of sterilization, and sterilization testing. To implement this suggestion, it will be necessary for COSPAR to endorse the proposed conference and to supply a budget for bringing it about. It is suggested further that the conference be held as soon as feasible, preferably early in 1965.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1330th plenary meeting, on 18 February 1965, the General Assembly noted that the report of the Committee on the Peaceful Uses of Outer Space (A/5785) had been received.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/AC.105/17	Committee on the Peaceful Uses of Outer Space: note by the Secretary-General transmitting the report of the scientific group established at the request of the Government of India to visit the rocket launching site at Thumba	Mimeographed
A/AC.105/18	Letter dated 23 March 1964 from the Permanent Representative of Italy to the United Nations addressed to the Chairman of the Committee on the Peaceful Uses of Outer Space	Ditto
A/AC.105/19	Committee on the Peaceful Uses of Outer Space: report of the Legal Sub-Committee on the work of the first part of its third session	Ditto
A/AC.105/20 and Add.1	Committee on the Peaceful Uses of Outer Space: report of the Scientific and Technical Sub-Committee on the work of its third session	Ditto
A/AC.105/21 and Add.1	Committee on the Peaceful Uses of Outer Space: report of the Legal Sub-Committee on the work of the second part of its third session	Ditto
A/AC.105/22 and Corr.1	Letter dated 27 October 1964 from the Deputy Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General, transmitting a progress report on interim arrangements for a global commercial communications satellite system	Ditto
A/AC.105/24	Note by the Secretary-General transmitting to Member States a paper submitted by the delegation of the United Kingdom of Great Britain and Northern Ireland entitled "Training in the skills needed for the peaceful uses of outer space, with particular reference to the needs of countries with comparatively limited resources in space research"	Ditto
A/AC.105/INF.45-82	Committee on the Peaceful Uses of Outer Space: information furnished in conformity with General Assembly resolution 1721 B (XVI) by States launching objects into orbit or beyond	Ditto
A/AC.105/L.10/Rev.1	Note by the Secretary-General transmitting the revised progress report by the World Meteorological Organization for the period June 1963-April 1964	Ditto. For the report, see *Third Report on the Advancement of Atmospheric Sciences and their Application in the light of Developments in Outer Space* (secretariat of WMO, Geneva, August 1964)
A/AC.105/L.11	Note by the Secretary-General transmitting the third report by the International Telecommunication Union on telecommunication and the peaceful uses of outer space	Mimeographed. For the report, see *Third Report by the International Telecommunication Union on Telecommunication and the Peaceful Uses of Outer Space* (ITU, Geneva 1964) [previously distributed under the symbol E/3890/Add.1]

A/AC.105/L.12	Committee on the Peaceful Uses of Outer Space: review of the activities and resources of the United Nations, of its specialized agencies and of other competent international bodies relating to the peaceful uses of outer space	Mimeographed
A/AC.105/L.13	Committee on the Peaceful Uses of Outer Space: review of national and co-operative international space activities	Ditto
A/AC.105/L.14	Committee on the Peaceful Uses of Outer Space: list of sources of available bibliographies and abstracting services covering the scientific and technical results and publications in space and space related areas	Ditto
A/AC.105/ PV.25-35	Verbatim records of the 25th to 35th meetings of the Committee on the Peaceful Uses of Outer Space (sixth session)	Ditto
A/AC.105/C.1/ SR.21-26	Summary records of the 21st to 26th meetings (third session) of the Scientific and Technical Sub-Committee of the Committee on the Peaceful Uses of Outer Space	Ditto
A/AC.105/C.2/ SR.29-37	Summary records of the 29th to 37th meetings (third session, first part) of the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space	Ditto
A/AC.105/C.2/ SR.38-40	Summary records of the 38th to 40th meetings (third session, second part) of the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space	Ditto

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United Nations
GENERAL ASSEMBLY
Official Records

ANNEXES
NINETEENTH SESSION
NEW YORK, 1964-1965
Annex No. 11

Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*

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Document No.	*Title*	*Page*
A/5700	Twenty-second progress report of the United Nations Conciliation Commission for Palestine (1 November 1963-30 April 1964)	1
A/5712	Report of the Advisory Committee on Administrative and Budgetary Questions	2
Action taken by the General Assembly		**2**
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* Item 30 of the provisional agenda.

For the relevant meetings, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings,* 1327th and 1328th meetings.

DOCUMENT A/5700

Twenty-second progress report of the United Nations Conciliation Commission for Palestine (1 November 1963-30 April 1964)

[*Original text*: *English*]
[*11 May 1964*]

[NOTE BY THE SECRETARY-GENERAL: The twenty-second progress report of the United Nations Conciliation Commission for Palestine has been transmitted by the Chairman of the Commission for communication to the Members of the United Nations in accordance with paragraph 6 of General Assembly resolution 512 (VI) of 26 January 1952.]

1. The United Nations Conciliation Commission for Palestine wishes to report that, as foreshadowed in its twenty-first progress report dated 1 November 1963,[1] its identification and valuation programme has been completed. It has always considered this programme to be an important element relating to the mandate assigned to it by the General Assembly.

2. The Commission has requested its land expert to prepare a working paper[2] containing a detailed description of the work accomplished in connexion with the programme, together with an exposition of the documentary material and basic data the release of which would be impracticable because of their variety and magnitude. This working paper also describes the techniques developed for the purpose of identifying property holdings and determining consistent bases for establishing the values of individual properties.

3. Given the interest expressed in the past in the identification and valuation programme, the Commission believes that the interested parties will consider this working paper as a valuable source of information. The Commission also realizes that such parties would probably wish to make inquiries or comments concerning this document. It has therefore requested the Secretary-General to make available for the necessary period of time the services of Mr. Frank E. Jarvis as the Commission's technical representative for the purpose of receiving and answering inquiries of a technical nature.

4. The Commission's technical representative is prepared to answer inquiries from Member States about the basis of the work and such questions as might lead to clarification of this very complex programme. The Commission will also accept inquiries from individuals and will be prepared to answer these within limitations imposed by staff and budget.

[1] *Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 32, document A/5545.

[2] Document A/AC.25/W.84.

DOCUMENT A/5712

Report of the Advisory Committee on Administrative and Budgetary Questions

[*Original text: English*]
[*19 June 1964*]

1. The Advisory Committee on Administrative and Budgetary Questions has examined the financial reports and accounts of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) for the year ended 31 December 1963 and the related report of the Board of Auditors.[3]

2. The income and expenditure experience in 1963 may be summarized as follows:

	$
Income	
Contributions pledged by Governments	34,444,063
Contributions received from non-governmental sources	771,383
Miscellaneous income	486,089
Less:	
Exchange adjustments	(5,478)
	35,696,057
Expenditure	36,207,078
Surplus of expenditure over income	511,021

3. The excess of expenditure over income ($511,021) has been charged to the Working Capital of the Agency, the balance of which on 31 December 1963 amounted to $20,573,857.

4. With regard to the observations of the Board of Auditors on *ex gratia* payments in paragraph 7 of its report, the Advisory Committee inquired further into the "pensionary benefits" amounting to $6,675.07.[4] It was informed that when UNRWA international staff entered the United Nations Joint Staff Pension Fund as associate participants on 1 January 1961, the Commissioner-General undertook to supplement any death or disability benefit payable by the Pension Fund to the extent that such benefit was less than the benefit that would have been payable had they become associate participants from their date of appointment. The Committee was given to understand that the Commissioner-General proposed to make any such payments on an *ex gratia* basis under UNRWA financial regulation 3.4, which states that: "The Commissioner-General may make such *ex gratia* payments as he deems to be necessary in the interests of the Agency". The Committee was informed that the Commissioner-General had requested the Secretary-General's authorization to give a statutory entitlement basis to the payments, but that it had not as yet been given. Unless and until the Secretary-General has approved the proposed change, any further payments should be shown and justified in the accounts as *ex gratia* payments.

5. The Advisory Committee trusts that the general comment of the Board of Auditors concerning compliance with articles 10.7 and 11.5 of the UNRWA financial regulations will be acted upon.

6. The Committee inquired into the losses mentioned in paragraph 8 of the report of the Board of Auditors. It was informed by the Chairman of the Board that the increase in the figure for losses ($153,698 in 1963 as compared with $107,523 in 1962) was in no way due to a relaxation of controls. The higher figure was attributable mainly to losses on a shipment of flour in circumstances which were not covered by marine insurance.

[3] *Official Records of the General Assembly, Nineteenth Session, Supplement No. 6 B* (A/5806Add.2).
[4] *Ibid.*, p. 23.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1328th plenary meeting, on 10 February 1965, the General Assembly adopted the draft resolution submitted by the President of the General Assembly (A/L.458). For the final text, see resolution 2002 (XIX) below.

Resolution adopted by the General Assembly

2002 (XIX). EXTENSION OF THE MANDATE OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

The General Assembly,

Recalling its resolution 1856 (XVII) of 20 December 1962 by which it extended the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East until 30 June 1965,

Having noted the statement of the Secretary-General at the 1327th plenary meeting of the General Assembly, on 8 February 1965,

Decides to extend the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East for a further year up to 30 June 1966, without prejudice to existing resolutions or to the positions of the interested parties.

1328th plenary meeting,
10 February 1965.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5813	Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (1 July 1963-30 June 1964)	*Official Records of the General Assembly, Nineteenth Session, Supplement No. 13.*
A/L.458	Draft resolution submitted by the President of the General Assembly	Adopted without change. See above "Action taken by the General Assembly", resolution 2002 (XIX). The text of the resolution appears also in *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15.*
A/AC.120/PV.1	Verbatim record of the 1st meeting of the *Ad Hoc* Committee of the General Assembly for the announcement of voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East	Mimeographed.

Printed in U.S.A. 4828—June 1965—2,150

United Nations
GENERAL ASSEMBLY
Official Records

ANNEXES
NINETEENTH SESSION
NEW YORK, 1964-1965
Annex No. 12

The policies of *apartheid* of the Government of the Republic of South Africa:*

(*a*) Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa;

(*b*) Report of the Secretary-General

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A/5692	Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa (23 March 1964)	1
A/5707	Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa (25 May 1964)	27
A/5741	Letter dated 8 October 1964 from the representative of Pakistan to the Secretary-General	46
A/5825 and Add.1	Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa (30 November 1964)	46
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* Item 31 of the provisional agenda.

DOCUMENT A/5692**

Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa

[*Original text: English/French*]
[*25 March 1964*]

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LETTER OF TRANSMITTAL

New York, 23 March 1964

Sir,

I have the honour to transmit to you herewith a report which the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa adopted unanimously, as a matter of urgency, on 23 March 1964.

This report, which is also being submitted to the Security Council, is submitted to the General Assembly pursuant to operative paragraph 5 (*b*) of resolution 1761 (XVII) and operative paragraph 2 of resolution 1978 A (XVIII) and in view of the further grave events in the Republic of South Africa which are aggravating the situation in that country to an exceptional degree.

The Special Committee is convinced that positive, dynamic action by the General Assembly is essential to avert a violent conflict in South Africa which might have serious international consequences and which it is the duty of the United Nations to prevent by employing all the means available to it under the Charter.

** Also issued as S/5621.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) DIALLO Telli
Chairman,
Special Committee on the Policies of apartheid *of the Government of the Republic of South Africa*

His Excellency U Thant,
Secretary-General of the United Nations,
New York

REPORT OF THE SPECIAL COMMITTEE

1. By resolution 1978 A (XVIII) of 16 December 1963, the General Assembly strengthened the terms of reference of the Special Committee and requested it to continue to follow constantly the various aspects of the policies of *apartheid* of the Government of the Republic of South Africa.

2. In accordance with this new mandate, the Special Committee has carefully reviewed the developments since its last report of 13 September 1963.[1] It heard several petitioners[2] and studied a large number of memoranda from individuals and from various organizations. It has also taken note of the recommendations of the Governing Body of the International Labour Office on questions concerning South Africa, as well as various initiatives and decisions taken against the Government of the Republic of South Africa by the World Health Organization, the Food and Agriculture Organization of the United Nations and the Economic Commission for Africa, and finally the resolution adopted by the Council of Foreign Ministers of the Organization of African Unity at its session held at Lagos in February 1964 (see annex III).

3. The Special Committee recalls that, since its last report, the General Assembly has adopted two resolutions—resolution 1881 (XVIII) of 11 October 1963 and resolution 1978 (XVIII) of 16 December 1963—on the policies of *apartheid* of the Government of the Republic of South Africa. On 4 December 1963, the Security Council adopted a resolution on the same question.[3]

4. In these resolutions, the General Assembly and the Security Council called on the South African Government urgently: (*a*) to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights; and (*b*) to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid.* The General Assembly and the Security Council also called on all States to take effective measures and intensify their efforts to dissuade the South African Government from pursuing its policies of *apartheid.* The Special Committee attached great significance to the most encouraging fact that these resolutions were approved unanimously, or almost unanimously,[4] and thus represented the will of all the Member States so effectively that they should not give rise to any hesitancy, on the part of the United Nations or Member States, with regard to their implementation.

5. By its resolution of 4 December 1963, the Security Council established a group of experts to examine methods of resolving the present situation in South Africa through peaceful means and invited the South African Government to avail itself of the assistance of this group. By this step, whole-heartedly supported by the traditional friends of South Africa, the United Nations offered one more opportunity to the South African Government to bring its policies into conformity with its obligations under the United Nations Charter.

6. The Government of the Republic of South Africa, however, has again defied the insistent demands of the competent organs of the United Nations, ignoring its obligations, particularly under Article 25 of the Charter. It rejected any form of co-operation, even with the group of experts established under the Security Council resolution of 4 December 1963.

7. Moreover, the South African Government has vigorously pursued its policies of racial discrimination. It has introduced serious new legislative measures, and taken various administrative actions, to undermine the elementary rights of the non-white people. It has announced new plans which would further undermine the rights of the people of the Mandated Territory of South West Africa, in renewed open defiance of the authority of the United Nations (see annex II).

8. The South African Government, moreover, has intensified its ruthless repression of all political activity in favour of racial equality and the legitimate rights of the non-white people. Thousands of persons have been subjected to severe and brutal punishments and many respected leaders of the people have been charged under arbitrary laws which provide for the death sentence (see annex I).

9. The Special Committee notes with the utmost concern that the actions of the Government of the Republic of South Africa have greatly aggravated the situation in that country and are likely to have disastrous consequences. These actions and the attitude of the South African Government represent an open challenge to the authority of the United Nations, to which the Organization and its Member States must respond forcefully, since otherwise the threat to peace and security in Africa and throughout the world will be gravely increased and the prestige of the United Nations seriously undermined.

10. The Special Committee is giving particular attention to the implementation of effective measures to prevent the military and police build-up in South Africa by an embargo on the shipment of all materials which can directly or indirectly be used for military and police purposes, as recommended in previous reports of the Special Committee and already urged on all States in the resolutions of the General Assembly and the Security Council.

11. The Special Committee is also giving particular attention to the embargo on petroleum and petroleum products which was suggested in the Special Commit-

[1] *Official Records of the General Assembly, Eighteenth Session, Annexes,* addendum to agenda item 30, documents A/5497 and Add.1.

[2] Miss Miriam Makeba was heard at the 26th meeting, on 9 March; Miss Mary Benson at the 28th meeting, on 11 March; Oliver Tambo and Tennyson Makiwane at the 29th meeting, on 12 March 1964.

[3] *Official Records of the Security Council, Eighteenth Year, Supplement for October, November and December 1963,* document S/5471.

[4] South Africa alone voted against General Assembly resolution 1881 (XVIII); South Africa and Portugal alone voted against resolution 1978 (XVIII).

tee's report of 13 September 1963 and urged on all States in General Assembly resolution 1899 (XVIII) of 13 November 1963 on the question of South West Africa.

12. It is also carefully examining the question of international economic sanctions, especially in the fields of investment, trade and transport, recommended in its report of 13 September, as well as in General Assembly resolution 1761 (XVII) of 6 November 1962 and the resolutions adopted at Addis Ababa, Dakar and Lagos by the various organs of the Organization of African Unity.

13. While continuing to review the situation in South Africa and constantly seeking an adequate solution, the Special Committee has reached the conclusion that it is indispensable to make an urgent report to the Security Council and the General Assembly in view of grave new developments in the Republic of South Africa, namely, that some political prisoners opposed to *apartheid* have just received death sentences, others are threatened with the same penalty, and all of them risk being hanged.

14. The Special Committee, being convinced that effective mandatory measures must be taken urgently to meet this grave situation and to prevent irrevocable consequences, recommends, as a first step, that the Security Council should demand that the South African Government should:

(*a*) Refrain from the execution of persons sentenced to death under arbitrary laws providing the death sentence for offences arising from opposition to the Government's racial policies;

(*b*) End immediately trials now proceeding under these arbitrary laws, and grant an amnesty to all political prisoners whose only crime is their opposition to the Government's racial policies;

(*c*) Desist immediately from taking further discriminatory measures;

(*d*) Refrain from all other actions likely to aggravate the present situation.

15. The Special Committee recommends that, unless the South African Government complies within a brief time-limit with the aforementioned minimum, but vital, demands, the Security Council, in conformity with the terms of Chapter VII of the Charter and on the basis of the recommendations of the General Assembly and the Special Committee, should take new mandatory steps to compel the South African Government to comply with the decisions of the Council.

16. The Special Committee considers it essential that the Security Council should set a time-limit for the South African Government to take necessary steps to prevent the situation from becoming disastrous. The Council would, in this way, be making clear its determination to secure compliance, by effective international measures, with that Government's obligations under the resolutions of the Council and the Charter of the United Nations.

17. The Special Committee further recommends that the Security Council should specially request all the main States which maintain close relations with the South African Government, and thus bear an important responsibility in this connexion, to do all in their power, separately and collectively, to oblige the South African Government immediately to comply with the minimum, but vital, demands contained in paragraph 14 above.

18. The Special Committee reaffirms that the willingness of the major trading partners of South Africa, and of other States which maintain close political and economic relations with that country, to implement fully the measures recommended by the General Assembly and the Security Council is the most effective means to dissuade the South African Government from pursuing its policies of *apartheid*. It is essential that these Powers should urgently use all their influence to save the lives of persons facing death in South Africa for their opposition to *apartheid*, to secure an amnesty in conformity with the decisions of the General Assembly and the Security Council, and to induce the South African Government to fulfil its international obligations with a view to resolving peacefully the present grave situation in the Republic of South Africa.

19. Finally, the Special Committee wishes to emphasize again the extreme gravity of the situation in South Africa and the imperative need for effective action in order to prevent a catastrophe in that country. Such action offers the only hope of a peaceful solution to the situation, which is deteriorating daily. The Special Committee believes that mandatory measures are essential to prevent irrevocable consequences and to strengthen the efforts of the United Nations to achieve its objectives, which are to bring about the abandonment of the policies of *apartheid* and to ensure the full enjoyment of human rights and fundamental freedoms by all the inhabitants of South Africa.

20. The Special Committee feels that the Security Council, as a principal organ of the United Nations endowed with effective enforcement powers under the Charter, should assume its decisive responsibilities in connexion with the situation in South Africa. The Special Committee is convinced that positive and dynamic action by the Security Council is essential to prevent a violent conflict in South Africa, which might have serious international consequences and which the United Nations is in duty bound to prevent by every means available to it under the Charter.

21. The Special Committee submits with the present report three annexes providing relevant information to assist the Security Council and the General Assembly in their study of the question:

Annex I. Note on repressive measures against the opponents of the policies of *apartheid* in the Republic of South Africa;

Annex II. Note on developments in South Africa since the Special Committee's report of 13 September 1963 to the General Assembly and the Security Council;

Annex III. Resolution adopted by the Council of Foreign Ministers of the Organization of African Unity at its second regular session held at Lagos, 24-29 February 1964.

ANNEX I

Note on repressive measures against the opponents of the policies of *apartheid* in the Republic of South Africa

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INTRODUCTION

1. The General Assembly and the Security Council have repeatedly recognized that the régime of ruthless repression against the opponents of the policy of *apartheid* in the Republic of South Africa has greatly increased tension in South Africa and, by denying all avenues for peaceful change, aggravated the danger of a violent conflict. They have called for an end to such repression as an essential step towards resolving the present situation in the Republic of South Africa and eliminating the danger to international peace and security.

2. In its resolution of 7 August 1963, the Security Council called on the South African Government "to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*".[1] On 11 October 1963 the General Assembly, with only South Africa voting against, adopted resolution 1881 (XVIII). Noting reports that the South African Government was "arranging the trial of a large number of political prisoners under arbitrary laws prescribing the death sentence" and considering that "such a trial will inevitably lead to a further deterioration in the already explosive situation in South Africa, thereby further disturbing international peace and security", the Assembly called on the South African Government to abandon the trial and "forthwith to grant unconditional release to all political prisoners and to all persons imprisoned, interned, or subjected to other restrictions for having opposed the policy of *apartheid*". On 4 December 1963, the Security Council unanimously reaffirmed its previous resolution and again called on the South African Government "to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*".[2]

3. Despite the unanimous demands of the principal organs of the United Nations, the South African Government has proceeded to employ ever more stringent repressive measures against an increasing number of persons and organizations.

4. The reports of the Special Committee in 1963 gave an account of the mass of repressive legislation in South Africa and its implementation.[3] The present document covers the developments in the period of less than six months since the last report on 13 September 1963.

5. During this period, the Government has made extensive use of section 17 of the General Law Amendment Act, No. 37, 1963 which authorizes it to detain any person without trial for periods of ninety days at a time. Charges of torture of political prisoners have become widespread. The Government has also launched a series of mass trials under the General Law Amendment Act, No. 76, 1962, especially its provisions on "sabotage" which provide for death sentences. These detentions and trials, added to the continued and intensive use of earlier repressive legislation, have caused serious alarm in South Africa and abroad.

6. The extent of repressive measures by the South African Government is indicated by some figures given by the Minister of Justice, Mr. B. J. Vorster, in reply to questions in the House of Assembly on 21 and 24 January 1964. He stated that 3,355 persons had been detained under security legislation in 1963. Of these, 592 persons had been detained without trial under Proclamation R.400 of 1960 which is in force in the Transkei; 594 persons, including two pregnant African women had been detained under the ninety-day detention without trial clause of the General Law Amendment Act, No. 87, 1963.[4] Of the 2,169 others, 1,213 adults and 64 juveniles had been detained under the Suppression of Communism Act, No. 44, 1950; nine adults under the Riotous Assemblies Act of 1956; 500 adults and forty-three juveniles under the Unlawful Organizations Act of 1960; and 285 and fifty-five juveniles under section 21 of the General Law Amendment Act, No. 76, 1962. Of the above 2,169 persons, 722 had been released, 1,447 brought to trial and 922 convicted; 421 had been found not guilty and 104 were awaiting trial. The average period during which these persons had been detained before being brought to trial was forty-eight hours, but the longest period was seven months. The Minister added that as at 24 January 1964, one person was detained under Proclamation R.400,[5] that forty-six persons detained under the ninety-day clause had given evidence for the State after being promised an indemnity from prosecution and that thirty-six of these had received indemnity after giving evidence.[6] Nineteen persons had been placed under "house arrest" since 15 February 1963. On 24 January 1964, twelve persons were under twenty-four hour house arrest and twenty-one under twelve-hour or night house arrest. He also said that two African women were pregnant when they were detained under the ninety-day clause. The first was arrested on 25 June 1963 and charged on 15 November 1963; the other was arrested on 2 August 1963 and charged on 5 September 1963.[8]

7. On 4 February 1964 the Minister of the Interior and of Education, Arts and Science, Senator J. de Klerk, stated in the Senate that 354 cases involving 1,727 persons had been brought to trial in 1963 on charges of sabotage and offences under the Suppression of Communism Act. Of these 1,727 persons, 1,316 had been convicted and 411 acquitted. He added that fifty-six cases involving an unspecified number of persons were awaiting trial. Of the accused, 530 had been remanded in custody for periods in excess of three months before having been brought to trial, and in 129 cases charges had been withdrawn after the accused had been detained for periods exceeding three months.[9]

8. Sentences in all the security trials have been extremely severe. According to the information compiled by the monthly *Forward* (see appendix), covering eighty political trials involving 1,105 persons concluded in 1963, forty persons had been sentenced to death; six to life imprisonment; and 743 to a total of 4,724 years' imprisonment or an average of over six years and four months. Three hundred and fifteen had been acquitted or had the charges withdrawn, while sentence was not passed on one accused.

9. The severity of sentences is particularly striking as a majority of the accused were charged merely with belonging to or furthering the objectives of banned organizations, such as the African National Congress or the Pan-Africanist Congress.

10. A number of executions have been carried out since the adoption of General Assembly resolution 1881 (XVIII). One person was executed on 14 October 1963 and three others on 1 November for alleged offences during the Paarl riot of 22 November 1962; four were executed on 8 November for planning to murder Chief Kaiser Matanzima; four others were executed on 11 February 1964 on charges of sabotage and murder at Queenstown.[10]

11. A serious source of concern is the evidence of secret trials, despite official assertions that trials were open to the public. In September 1963, when seven Africans were sentenced to twenty years' imprisonment each for allegedly receiving military training in Ethiopia, the Press reported that "until sentence was passed, the nature of the charges and the evidence were heard behind locked doors". The accused had not been represented by counsel even though the charges carried the death penalty.[11]

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[1] *Official Records of the Security Council, Eighteenth Year, Supplement for July, August and September 1963*, document S/5386.

[2] *Ibid., Eighteenth Year, Supplement for October, November and December 1963*, document S/5471.

[3] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, documents A/5497 and Add.1.

[4] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, col. 14.

[5] *Ibid.*, 24 January 1964, cols. 263 and 264.

[6] *Ibid.*, col. 235.

[7] *Ibid.*, cols. 264 and 265.

[8] *Ibid.*, col. 268.

[9] *The Senate of the Republic of South Africa, Debates (Official Report)*, 4 February 1964, cols. 418 and 419.

[10] It may be noted, in this connexion, that the laws enacted since 1962 have extended the crimes for which the death sentence may be imposed.

[11] *The Cape Argus*, 1 October 1963.

12. Many of the trials are apparently not reported in the Press.[12] In others, testimony is often taken *in camera*.

13. The large number of acquittals, when the accused were able to obtain counsel or allowed to appeal, seem to indicate that many persons had been convicted owing to their inability to procure legal assistance.[13] Frequently, however, persons acquitted by the courts have been re-arrested under legislation providing for detention without trial.

14. The repressive measures are directed mainly at the leaders and members of the African National Congress and the Pan-Africanist Congress, as well as other organizations opposed to *apartheid* such as the South African Indian Congress, Congress of Democrats, South African Congress of Trade Unions, and the Liberal Party.

15. The prison sentences and other repressive measures indicated above have caused enormous human suffering. Innocent men are imprisoned for long periods and when released find it hard to obtain employment. Charges of ill-treatment and torture of prisoners have frequently been made in the courts and published in the Press. Bans and house arrests have deprived many families of their livelihood or otherwise caused serious distress.[14]

16. Persecution of opponents of *apartheid* does not seem to have stopped resistance. Incidents of sabotage and other forms of protest continue to be reported. *Contact* (13 November 1963) stated, for instance, that a rash of posters appeared in Johannesburg protesting against the recent trials, despite severe legal penalties for persons affixing such posters.

17. Many observers have stated that the intensification of repression has, in fact, increased the danger of a violent conflict. Illustrative is the statement in January 1964 by Dr. Joost de Blank, until recently Anglican Archbishop of Cape Town, that there may be a "blow-up" in South Africa unless the Government changed its policy. He stated: "Repressive legislation leads to more violence and more repressive legislation until such time as it reaches a pitch when it will have to blow."[15]

I. Trials and convictions of opponents of *apartheid*

18. A large number of persons have been tried and convicted under security laws since the adoption of the last report of the Special Committee on 13 September 1963 and General Assembly resolution 1881 (XVIII) on 11 October 1963. The accused include many of the prominent leaders of the non-white organizations and other opponents of *apartheid*. These trials and convictions are briefly reviewed below.

(a) *The Rivonia trial in Pretoria*

19. It may be recalled that General Assembly resolution 1881 (XVIII), referred to above, followed the charging of eleven prominent leaders of the people and other opponents of *apartheid* on 9 October 1963 with sabotage and other offences. Most of the accused had been arrested on 11 July 1963 in a raid on the Goldreich farm in Rivonia and kept under solitary confinement. The indictment alleged that Nelson Mandela, Walter Sisulu, Denis Goldberg, Govan Mbeki, Ahmed Kathrada, Lionel Bernstein, Raymond Mhlaba, James Kantor, Elias Matsoaledi, Andrew Mlangeni and Bob Alexander Hepple had committed 222 acts of sabotage throughout the country against railway, post office and radio installations and the offices of the Bantu Affairs Commissioner between 10 August 1961 and 5 August 1963 in preparation for guerrilla warfare. Two organizations, one variously referred to as the National High Command, the National Executive Committee of the National Liberation Movement and Umkonto we Sizwe, and the legal firm of James Kantor and partners, were also charged. The first seven accused were named as the National High Command and charged as members of an association under the Criminal Procedure Act, No. 56, 1955, in addition to being charged in their personal capacities. James Kantor was listed in his personal capacity and as a partner in an association with Harold Wolpe, absent, allegedly a member of the National High Command.[16]

20. The defendants were accused of acting in concert, conspiring and making common purpose with Vivian Ezra, Arthur Goldreich, Michael Harmel, Percy Hodgson, Joe Slovo, Harold Strachan, Harold Wolpe, Moses Kotane, Oliver Tambo, Tennyson Makiwana, John Joseph Marks, Johannes Modise, Dume Nokwe, James Radebe, Robert Resha, the Communist Party of South Africa and the African National Congress in committing acts of sabotage as defined by the General Law Amendment Act, No. 76, 1962.

21. The second count alleged conspiracy to perform and the performance of acts which were calculated to further the achievement of one or more or all the objects of communism as defined in the Suppression of Communism Act.

22. The third count, under the Criminal Law Amendment Act, No. 8, 1953, alleged that the accused had conspired to organize a campaign against some of the laws of the Republic, or seek their repeal or modification, or the limitation of their application.

23. On 30 October 1963 Justice Quartus de Wet upheld defence objections, quashed the indictment as "fatally defective" and reprimanded the prosecutor for lack of specific allegations against the accused. He said it was most improper, when the accused asked for particulars of the charges, to tell them that this was a matter they knew all about.

24. Ten of the accused were immediately re-arrested.[17] (Prior to the quashing of the indictment, charges were withdrawn against Mr. B. A. Hepple, who, it was announced, would serve as a State witness.)[18]

25. A new indictment was served on 12 November 1963 on the ten prisoners charging two counts of sabotage and two other counts. The indictment alleged that the accused, in their individual capacities and as members of the organizations listed in the previous indictment, all conspired with the Communist Party of South Africa, the African National Congress and Umkonto we Sizwe to commit 193 acts of sabotage. It listed twenty-six other members of the alleged conspiracy, one dead and twenty-five in exile.

26. The first count of sabotage alleged that the accused, between 27 June 1962 and 11 July 1963, recruited people for instruction and training, both within and outside South Africa,

[12] Mr. O. A. S. Maree, a prosecutor in the Johannesburg Regional Court, stated on 30 September 1963 that there had been only two prosecutors to handle 360 political trials in the previous six months. The Press had reported only a small fraction of that number (*Contact* (Cape Town), 24 January 1964).

[13] Concern has been expressed in South Africa over the announcement that a bill would be introduced at the current session of Parliament to prohibit listed Communists from practising at the Bar. Particularly in view of the wide definition of communism, this law may make it difficult for many of the accused to obtain counsel.

Mr. John Arnold, Q.C., who visited South Africa on behalf of the International Commission of Jurists, stated at a press conference on 16 December 1963 that three of about twenty African attorneys in the country, all active in defending accused persons in security cases, had been prevented from practising by imprisonment and bans.

[14] The South African Press recenty printed the story of Hubert Makuto of Wattville Location, Johannesburg, who, because his movements had been restricted, could not visit his six-months-old son who died in a hospital two miles away. (*Sunday Times* (Johannesburg), 19 January 1964).

[15] *Spotlight on South Africa* (Dar es Salaam), 25 January 1964.

[16] Harold Wolpe, an attorney, was arrested and placed under ninety-day detention on 17 June 1963. He escaped from police headquarters, Johannesburg, on 11 August 1963 and subsequently from South Africa. On 23 September 1963 he was granted temporary permission to remain in the United Kingdom.

[17] The prisoners were denied bail, except for James Kantor who was granted bail of R10,000 on 20 December 1963 after two previous applications. Bail for Mr. Kantor was cancelled on 17 February 1964.

[18] Hepple subsequently fled South Africa and stated in Dar es Salaam that he had escaped "because I am not prepared to testify for the State in a political prosecution of this kind" (*The Star* (Johannesburg), weekly edition, 30 November 1963).

in the manufacture and use of explosives for the purpose of committing acts of violence and destruction; and that they instructed 200-300 persons in the act of warfare, including guerrilla warfare, for the purpose of causing a violent revolution in South Africa. These acts, the indictment alleged, enabled the accused to injure, damage, destroy or render useless the health or safety of the public, the maintenance of law and order, the supply and distribution of light, power or fuel, postal, telephone or telegraph services or installations, the free movement of traffic, and the property of other persons or the State.

27. The second count of sabotage alleged similar acts and stated that the accused procured persons to assist military units of foreign countries when invading South Africa and to commit acts of participation in a violent revolution.

28. The third count alleged that such acts were calculated to further the achievement of one or more of the objects of Communism. The fourth count alleged that the accused solicited, accepted, received and paid out money to various persons to enable or assist them to commit sabotage.[19]

29. When the trial began on 25 November, defence lawyers asked that the indictment be quashed because of a "want of particularity" which, they stated, made it "no better than the previous ones". Justice de Wet dismissed the motion and denied the request of defence counsel for a two months' postponement to allow preparation of the defence. He allowed only six days.[20]

30. When the trial reopened on 3 December 1963, the prosecutor stated that the State would present evidence that the accused had plotted to commit sabotage, violence and destruction as a prelude to guerrilla warfare, armed invasion of South Africa and the violent overthrow of the Government in a war of liberation planned for 1963. The plot was the work of the African National Congress which, by the latter half of 1961, had decided on a policy of violence, and for that purpose formed a military wing, Umkonto we Sizwe. The headquarters of the organization were at Lilliesleaf Farm, Rivonia, the home of Arthur Goldreich. The leaders, the prosecutor alleged, adopted the "M-plan" (Mandela plan) in which a central authority at Rivonia controlled regional and sub-regional committees throughout South Africa.

31. He said the National High Command intended to produce or obtain within six months 210,000 hand grenades, 48,000 anti-personnel mines, 1,500 time devices, 144 tons of ammonium nitrate, 21.6 tons of aluminium powder and 15 tons of black powder. Also to be manufactured were petrol bombs, pipe bombs, syringe bombs, thermite bombs and bottle bombs, known as Molotov cocktails.

32. The prosecutor alleged that for the manufacture of explosives, arms and weapons, Denis Goldberg had bought a 7½ acre property at Krugersdorp in June 1963. He added that Percy Hodgson and Harold Strachan (in exile) toured the country to teach and train men to be placed in charge of local "technical committees" to manufacture and use the explosives.

33. The next step, he said, was to recruit young men for training in sabotage and guerrilla warfare, especially outside South Africa. The prosecutor said that Elias Matsoaledi and Andrew Mlangeni had played a prominent part in the recruiting campaign.[21]

34. He alleged that the firm of James Kantor and partners had acted as a "conduit pipe" for the receipt and disbursement of funds to further the campaign by which the accused planned to overthrow the Government.[22]

35. The prosecutor said that sabotage began in August 1961. "The whole purpose of this, the first stage of their campaign, was to produce chaos, disorder and turmoil, and so pave the way for the second stage." The second stage was the plotting and waging of guerrilla warfare "for which purpose the accused once again fully and thoroughly prepared themselves by studying in great detail the tactics of guerrilla warfare as waged in Algeria, China, Cuba and other countries". Thousands of guerrilla units were to be deployed throughout the country to "accentuate a state of chaos, disorder and turmoil and so facilitate acts of assistance to military units of foreign countries when invading South Africa. They were promised military and financial aid from several African States and even by countries across the seas". The final stage of the second phase would come when the Government had been brought to its knees and the accused could set up a provisional revolutionary Government to take over the country.

36. The prosecutor stated that selected documents and the oral testimony of 200 witnesses would be presented, all of which would reveal that "the present year—1963—was to be the year of their liberation from the so-called yoke of the white man's domination".

37. The charges were put to each of the accused. Mandela said: "The Government should be in the dock. I plead not guilty." Sisulu said: "The Government is responsible for what has happened in this country. I plead not guilty." The Judge intervened and declared: "I do not want any political speeches." The other accused, however, made similar short statements.

38. Some of the developments in the trial, indicating the extraordinary methods employed by the Government, are briefly noted below.

39. The second witness, Miss Edith Kogane, housemaid to Goldreich, stated under cross-examination that she had been detained since 11 July 1963 and told by police interrogators on 8 October that she would soon be released if police were satisfied with her answers.[23]

40. The prosecutor stated that the next witness, Thomas Mashifane, a former employee on the farm, and several other witnesses were being detained in ninety-day detention as protective custody. He added: "I am sure if we release Thomas (Mashifane), he won't be here Monday."

41. Mashifane alleged that he had been assaulted and beaten by the police during the interrogation. He said he was still suffering the effect in his right ear and a top front tooth was loose. On 5 December the Judge ordered the prosecutor to investigate the allegation. Later in the day, however, the prosecutor reported that Mashifane had requested that the allegation be dropped. Mashifane told the Judge that his treatment did not alter his evidence, though "when a person is being 'killed', then he can't speak as he would have wanted to speak if he had not been suffering pain". The matter was dropped.[24]

42. A principal witness for the prosecution, Mr. X, gave five days of testimony from 10 December 1963 against most of the accused. Evidence was given *in camera* and the witness was unidentified as the prosecutor claimed that he was in mortal danger. Mr. X had been warned that he could be regarded as an accomplice to the National High Command but if he gave evidence properly he would be free from prosecution.

43. Mr. X said that he had joined the African National Congress in 1957, the South African Congress of Trade Unions in 1960 and the Communist Party in 1961. He claimed that he had blown up a power pylon, an electric light standard and a municipal office, and had stolen dynamite.[25] As a saboteur he acted on instructions of the Durban Regional Command which was in turn instructed by the National High Command at Rivonia.

44. Mr. X testified that a campaign of violence throughout the country was planned to begin on 16 December 1961 to signal a change in the policy of the African National Congress from non-violence to violence. The targets in the Durban area were the municipal Bantu registration offices, the Bantu Commissioner's Office and the Coloured Affairs Office. The bombs

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[19] *The Star* (Johannesburg), weekly edition, 16 November 1963; *The Star* (Johannesburg), 26 November 1963.

[20] *The Star* (Johannesburg), 25-27 November 1963.

[21] *The Star* (Johannesburg), 3 December 1963.

[22] *The Cape Times,* 7 December 1963.

[23] *The Star* (Johannesburg), 3 December 1963.

[24] *Ibid.*, 5 December 1963; *New Republic* (Washington), 28 December 1963.

[25] *The Star* (Johannesburg), weekly edition, 14 December 1963.

used had been wrapped in Christmas wrapping to prevent police detection.[26]

45. Mr. X claimed that he had supplied the bomb which blew up the Bantu Administration offices and had himself successfully bombed power pylons and an electric light standard. He added that he had carried out and sponsored numerous acts of sabotage at the instance of the High Command.[27]

46. He said he became disillusioned with Umkonto on 13 August 1963, when he had been arrested and detained without trial under the ninety-day clause of the General Law Amendment Act, No. 37, 1963 and had decided to tell everything to the police immediately. He ended his evidence denying that he had been threatened or tortured by police.[28]

47. An unidentified Coloured witness, Mr. Y, who had been under detention without trial from May to September 1963, said he liked being detained. He testified that he had been a lecturer at a camp for training young non-whites as guerrillas at Mamre, Cape Province, and that Denis Goldberg, an accused, and Looksmart Solwandle Ngudle, who had been found dead by hanging while under detention without trial, had been the Commandant and Sergeant respectively.[29]

48. On cross-examination, Mr. Y said he had decided, towards the end of his ninety-day detention, to tell the truth because he preferred a long prison term to indefinite detention without trial. He was still in custody but had been told that he would be released after he had given evidence.

49. Another witness was English Mashiloane, a cousin of Elias Matsoaledi, an accused, who testified that his house had been used as an assembly point for recruits on their way to training bases. He said he had already been locked up for six months and had no idea when he would be released. He thought that he too was an accused person and was on trial as well. The prosecutor announced that he was being held in protective custody and was not regarded as an accomplice. After discussion with the prosecutor, the Judge informed the witness that if he gave satisfactory evidence he would be released. Mashiloane was asked: "At first you denied you knew anything about soldiers and dynamite and that sort of thing. What made you change your mind?" "Gaol", he replied.[30]

50. Another witness, Essop Ahmed Suliman, a taxi operator, testified that he had taken African recruits to the Bechuanaland border for military training abroad. He admitted that he had been detained for sixty-five days before police had taken a preliminary statement from him, then had been kept in custody a further fifty-five days before police agreed to take the final portion of his statement which took only a few minutes to give. He stated that he had not been threatened with assault by police on his arrest on 10 June 1963, but that when he did not tell the truth to the policeman who arrested him, the latter had said: "Do you know that with one punch I can knock you down?"

51. On 14 January 1964, Caswell Nboxele, a twenty-one-year-old African, testified that he had been invited to a "Christmas picnic" in 1962 but had found himself at a guerrilla training camp at Mamre, where there were about thirty men under the direction of Denis Goldberg and Looksmart Ngudle. Asked about the lectures, Nboxele said: "I wasn't listening. I had come for a picnic."[31]

52. Harry Bambane, who was serving a two-year sentence for leaving South Africa without a passport, testified that he had been recruited in early 1963 by a friend to go to school in Tanganyika, and had travelled to Livingstone, Northern Rhodesia, with some other persons under false names. The group, then thirty-seven persons, had been told on the way that they were to receive military training in Tanganyika. They had been arrested in Livingstone and handed over to the South African police.[32]

53. A third unidentified witness, Mr. Z, testified on 22 January 1964 that he had lost thirty pounds while under detention, but had received excellent food at all times. He stated that he had been aware that if he did not make a statement to the police, he could be held for successive periods of ninety days for the rest of his life.[33]

54. When asked why he was giving evidence against the organization he had served since 1951, Mr. Z said that senior officials of the ANC had been arrested before him and had apparently made statements to the police. As identifying other persons these officials had thus indicated that others should "talk" also, he felt he could not be described as a traitor.[34]

55. On 4 March 1964 Justice Quartus de Wet acquitted James Kantor on the ground that there was no case against him. The case against the remaining nine defendants was adjourned until 7 April 1964.[35]

(b) *Trial of Neville Alexander and others in Cape Town*

56. Ten Coloureds and one African were charged in the Cape division of the Supreme Court on 1 November 1963 with a plot to overthrow the Government by violent revolution, guerrilla warfare and sabotage. The accused are: Neville Alexander, Miss Dorothy Alexander, Fikile Bam, Lionel Davis, Miss Dulcie September, Miss Doris van der Heyden, Leslie van der Heyden, Miss Elizabeth van der Heyden, the Rev. Don Davis, Marcus Solomons and Gordon Hendricks. The principal charge alleged that the accused committed sabotage by means of a conspiracy to commit certain wrongful acts between 1 April 1962 and 12 July 1963. The second charge alleged that they committed sabotage by inciting, instigating, commanding, advising or encouraging other persons to commit wrongful and wilful acts. Two further charges alleged that they contravened the Suppression of Communism Act by supporting or advocating support of a doctrine which aimed at bringing about a political, social or economic change in South Africa by promoting disturbance or disorder, and with being members of the Yu Chi Chen Club known as the National Liberation Front.[36]

57. The trial began on 4 November 1963. On 8 November, the Judge dismissed the defence application that the indictment be quashed as "vague, embarrassing and calculated to prejudice".[37] The accused were refused bail.

58. The first witness, Police Lt. S. I. Sauerman, stated on 8 November 1963 that he had arrested Alexander on 12 July 1963 on finding certain documents in his possession. Between 8 and 16 November, the prosecution read "more than fifty documents" to the court as evidence of sabotage, including: Mao Tse-tung, *Strategic Problems of the Anti-Japanese Guerilla War;*[38] V. I. Lenin, *The Paris Commune,*[39] and issues of *Liberation,* alleged organ of the National Liberation Front.[40]

[26] *The Cape Times,* 11-12 December 1963.
[27] *Ibid.,* 13-14 December 1963.
[28] *The Star* (Johannesburg), weekly edition, 21 December 1963. Under cross-examination on 15 January 1964, Mr. X said that he had joined the African National Congress because it had been "struggling" for something that was right and for the aspirations of the black people", and that its objects could be attained only through violence. However, he had come to realize while undergoing detention that the decision to adopt a policy of violence has been wrong, and that the leaders were Communists. Asked by defence counsel why his evidence differed from his evidence-in-chief, he said that his mind had become tired since serving ninety-day detention (*The Cape Times,* 16 January 1964; Reuters, 15 January 1964.
[29] *The Cape Times,* 18 December 1963.
[30] *The Star* (Johannesburg), weekly edition, 21 December 1963.
[31] *The Cape Times,* 14-15 January 1964; Reuters, 14 January 1964.
[32] *The Star* (Johannesburg), weekly edition, 18 January 1964.
[33] *The Cape Times,* 23 January 1964.
[34] *Ibid.,* 30 January 1964.
[35] *The New York Times,* 5 March 1964.
[36] Reuters, 5 November 1963.
[37] *Ibid.,* 8 November 1963.
[38] Peking, Foreign Languages Press, 1954.
[39] New York, International Publishers, 1934.
[40] *The Cape Times,* 9-16 November 1963.

59. On 18 November, Harold van Rooyen testified that Don Davis, an accused, "gave me a book on guerrilla warfare .. He said I must read it so I would know what to do when the time came to stand up for our rights". Under cross-examination, van Rooyen said that all Coloured people spoke about standing up for their rights.

60. Andrew Pitt testified that Davis gave him a book on guerrilla warfare: "He said I must read it so I would know what to do when the time came to stand up for our rights. I read only the heading and then burnt it." Counsel for the defence asked: "You spoke to Davis about laws of the land and discussed dissatisfaction among the Coloured people against certain laws?" The witness stated: "Yes, such as *apartheid,* job reservation, ninety-day detention clause, immorality laws and lots of others. Davis said we must be ready for the day when we would stand up for our rights." Defence asked: "Many Coloured people say these things?" The witness said: "Everybody says it."[41]

61. On 19 November 1963, two witnesses described alleged preparations for an attack on South African Whites in January 1964 by a "Coloured" army. One witness was a Coloured policeman, Constable Jacobus Kotzee, disguised as an insurance agent, the other a paid police informer, Cecil Dempster.[42] On 21 November, the Judge reprimanded Dempster after he admitted he had not told the truth in evidence because the police had instructed him to "keep secret" certain facts.[43]

62. On 24 November, Reginald Francke, a State witness and an alleged accomplice, refused to give evidence despite the assurance of the Judge that if he answered questions to the satisfaction of the court he would be granted an indemnity.[44] Francke testified, however, on 26 November and subsequent days. He described an NLF cell which held weekly meetings at Neville Alexander's home and included four of the accused. He stated that NLF was a military organization which planned to take over South Africa using guerrilla warfare and violent methods. He admitted that police had promised to release him from ninety-day detention as soon as he had made a satisfactory statement.

63. Brian Landers, a student at the Western Cape University College, testified that when he approached Neville Alexander for a bursary to study overseas, he was introduced to the NLF. Alexander had stated it was "a new group to fight to liberate the oppressed peoples—the non-whites... The name of the organization was the NLF, whose letters were taken from the Algerian FLN".[45]

64. Three State witnesses refused to give evidence on 2 December 1963. These included Cyril Jacobs, who refused despite the Judge's warning that he was regarded as an accomplice but would be "absolutely free" if he gave evidence. On 3 December, Miss Dorothy Adams broke into tears and refused to give evidence against the accused.[46]

65. On 10 December, Marcus Solomons, an accused primary school teacher, stated that he had been hit in the face five times, kneed in the stomach about seven times and then painfully sat on by a Detective-Sergeant, while under ninety-day detention.[47]

66. The trial adjourned on 12 December 1963 and resumed on 3 February 1964 when the prosecution presented technical evidence on the use of a certain typewriter to type documents. The rest of the month of February was set aside for the presentation of the defence case.[48]

67. On 5 February 1964 the defence said the "basis of a fair trial" might have collapsed:

"While the accused were being held at Robben Island . . . it was impossible to take instructions by word of mouth and I asked the accused to prepare statements. These statements were read by an agent of the State—the prison warder —and signed by him as being read. The law says that the agent of the State must be within sight but not sound of a legal adviser taking instructions from his client. Our submission is that these statements should have been treated as a word of mouth statement... If this is so then a basis of a fair trial collapses...This is a grave irregularity calculated to cause serious prejudice to the accused... Furthermore... it is an irregularity that cannot be remedied."

68. On 6 February the defence informed the Judge it would apply for a special entry into the trial record concerning the alleged breach of privilege. The Judge said he saw no need for it to be recorded.[49]

69. The defence closed its case on 24 February 1964.[50]

(c) *The Pietermaritzburg trial*

70. In Pietermaritzburg nineteen defendants were accused on 12 November 1963 of twenty-seven acts of sabotage, including the blowing up of railway lines, several houses of persons accused of collaborating with the Government, telephone poles, signal boxes and the printing works of *Die Nataller,* an Afrikaans magazine, in Durban.[51] The nineteen defendants—ten Africans and nine Indians—had been detained in June, July and August. Soon after being charged, they went on a five-day hunger strike to protest a Government ban which prohibited one of their attorneys, Roley Arenstein of Durban, from attending the trial.[52]

71. An alleged accomplice of the accused gave evidence for the State and described the organization of Umkonto we Sizwe in the Durban area and some of its sabotage activities. Under cross-examination, he stated that he felt no moral guilt for the part he had played and could not disagree with Umkonto. He had been arrested on 3 August 1963. His wife had been detained earlier in an attempt to get hold of him. He had denied knowledge of Umkonto after his arrest but later changed his mind when he thought of his parents and children.[53]

72. On 28 February 1964, Billy Nair and Cernick Ndhlovu were each sentenced to twenty years' imprisonment. N. Barbenia was sentenced to sixteen years' imprisonment; Ebrahim Ismail to fifteen years; and Kisten Moonsammy and George Naicker to fourteen years each. One of the accused was sentenced to twelve years' imprisonment, five to ten years each, five to eight years each, and one to five years. Leave to appeal was granted to eight of the eighteen persons convicted.[54]

(d) *Other trials*

73. A list of trials concluded in 1963 of persons for belonging to organizations opposed to *apartheid* or for actions arising from such opposition is appended. The more recent among the numerous trials, since 9 September 1963, are briefly indicated below.

74. The list shows that political trials and convictions have increased since the Special Committee reported to the eighteenth session of the General Assembly on the deterioration of the situation.

75. On 9 September 1963 in Port Elizabeth, fourteen Africans were found guilty of being office-bearers or mem-

[41] *Ibid.,* 19 November 1963.

[42] *Ibid.,* 20 November 1963.

[43] *Ibid.,* 22 November 1963.

[44] *Ibid.,* 25 November 1963.

[45] *Ibid.,* 27-29 November 1963.

[46] *Ibid.,* 3-4 December 1963; on 17 December three witnesses who refused to give evidence were charged with sabotage (*ibid.,* 18 December 1963).

[47] *Ibid.,* 11 December 1963; *Spotlight on South Africa* (Dar es Salaam), 10 January 1964.

[48] *The Cape Times,* 4 February 1964.

[49] *Ibid.,* 6-7 February 1964.

[50] *Ibid.,* 25 February 1964.

[51] The accused are Ebrahim Ismail, Girja Singh, N. Barbenia, Billy Nair, K. Doorsammy, Kisten Moonsammy, George Naicker, R. Kistensammy, Siva Pillay, Cernick Ndhlovu, Riot Mkawnazi, Alfred Duma, M. Mapumalo, Bennet Nkosi, Z. Mdhlalose, Mathews Meyiwa, Joshua Zulu, M. D. Mkize and David Ndawonde. (*Spotlight on South Africa* (Dar es Salaam), 10 January 1964).

[52] Reuters, 12 November 1963.

[53] Dispatches of *The Natal Mercury,* condensed in *Spotlight on South Africa* (Dar es Salaam), 3 January 1964.

[54] *The Star* (Johannesburg), 28 February 1964.

bers of the banned African National Congress and sentenced to eighteen to twenty-four months' imprisonment each.[55]

76. On 10 September 1963 in Cape Town, two Africans were sentenced to three years' imprisonment for promoting the aims of the banned Pan-Africanist Congress.[56]

77. On 13 September 1963 in Cape Town, two African women were found guilty of membership in the Pan-Africanist Congress and sentenced to eighteen months' imprisonment. Four African men were also found guilty of the same offence and sentenced to three years' imprisonment.[57]

78. On 16 September 1963 in Umtata, forty-eight Africans were sentenced to a total of 116 years' imprisonment after being found guilty on a number of charges, including membership in the Pan-Africanist Congress. Forty of the accused were sentenced to two years' imprisonment, two to three years, and six to five years on charges of continuing to be members of the PAC after it had been banned, soliciting subscriptions and furthering the activities of the PAC.[58]

79. On 17 September 1963 in Bellville, twenty-three Africans were sentenced to three years' imprisonment on charges of sabotage. They were found guilty of belonging to the Pan-Africanist Congress or Poqo.[59]

80. On 1 October 1963 seven Africans were each sentenced to twenty years' imprisonment after a secret trial by the Transvaal Supreme Court. They were found guilty of undergoing military training in Ethiopia on behalf of the African National Congress.[60]

81. On 1 October 1963 in Johannesburg, four Africans, allegedly members of the Pan-Africanist Congress, were sentenced to death. Richard Matsapahae, Josia Mocumi, Thomas Molathlegi and Petrus Mtshole were found guilty of murdering Johannes Mokoena, an African Special Branch detective, on 18 March 1963.[61]

82. On 7 October 1963 in Pretoria, seventy-four Africans were charged with unspecified acts of sabotage. The Judge prohibited publication of the names of the accused, many of whom were reported to be juveniles.[62]

83. On 9 October 1963 in Grahamstown, Hector Ntshanyana was sentenced to twenty-five years' imprisonment on charges of sabotage in connexion with an attack on the King William's Town police station on 8 April 1963. Two others were each sentenced to twenty years' imprisonment, four to twelve years, and three to eight years.[63]

84. On 15 October 1963 in Johannesburg, the Rev. Arthur Blaxall, a seventy-two year-old retired Anglican minister, was found guilty on two counts of aiding banned organizations and two of possessing banned publications. He had pleaded guilty to charges of taking part in the activities of the Pan-Africanist Congress and the African National Congress, administering funds for the Pan-Africanist Congress and arranging secret meetings between Potlako Leballo and other persons. The Minister of Justice suspended his sentence.[64]

85. On 15 October 1963 in Johannesburg, Leon Michael Kreel and his wife, Maureen Kreel, were charged with harbouring Arthur Goldreich and Harold Wolpe following their escape from Johannesburg police headquarters on 11 August 1963, and with contravening the Suppression of Communism Act, No. 44, 1950.[65]

86. On 22 October 1963 in Johannesburg, Dr. Hilliard Festenstein, a research pathologist, was charged with furthering the aims of communism and possessing banned publications.[66] On 28 January 1964, he was sentenced to fifteen months' imprisonment and fined R300, for allegedly taking part in a banned organization, the South African Communist Party, and possessing banned literature. He was granted bail of R3,000, pending appeal.[67] (Dr. Festenstein was among the seventeen persons arrested on 11 July 1963 at Rivonia.)

87. On 15 October 1963 in Cape Town, Advocate Ntuli was sentenced to two years' imprisonment on charges on membership in Poqo and of recruiting other members. The Judge stated the action of the accused "amounts to high treason".[68]

88. On 25 October 1963 in Wynberg, Basil Februarie, 20, and Neville Andrews, 18, both Coloured, were found guilty of malicious damage to property by painting anti-Government slogans on roads and factory walls. Sentence was postponed.[69]

89. Also in October in Umtata, thirty-one African men were each sentenced to two and one-half years' imprisonment on charges of being office-bearers or members of the Pan-Africanist Congress.[70]

90. On 4 November 1963 in Port Elizabeth, seventy-seven persons were brought to trial on charges of sabotage. The prosecution maintained that there were *prima facie* cases against all the accused of membership in the Spear of the Nation. Several defendants were charged with murdering a State witness in Port Elizabeth. Bail was refused.[71]

91. On 6 November 1963 in Grahamstown, twenty-six Africans were charged with sabotage, murdering a State witness, furthering the aims of the banned African National Congress, and possession of weapons.[72]

92. On 7 November 1963 in Butterworth, seventeen Africans were found guilty of sabotage and three contraventions of the Suppression of Communism Act. They were sentenced to six to twenty years' imprisonment for allegedly gathering in the bush at Duncan Village on 8 April 1963 and planning armed insurrection, arson and murder of Whites, and with various other activities involving a banned organization. Application for leave to appeal was refused.[73]

93. On 7 November 1963 in Bellville, Elijah Loza was charged with offences under the Suppression of Communism Act. He had been detained since 11 May 1963 under the ninety-day detention provision.[74]

94. On 8 November 1963 in Cape Town, three Coloureds were charged with sabotage.

95. On 9 November 1963 in Cape Town, an African and a Coloured were charged with sabotage.[75]

96. On 13 November 1963 in East London, fifty-one men and one woman were charged with sabotage and furthering the aims of a banned organization.[76]

97. On 18 November 1963 in Butterworth, eight Africans were sentenced to terms of imprisonment ranging from seven to fourteen years, on charges rising out of an alleged plan by Poqo to murder the Whites of East London in April 1963. Two of the accused were acquitted for lack of evidence. Leave to appeal was refused.[77]

98. On 20 November 1963 in Cape Town, two Coloureds were charged with sabotage on 20 November 1963.[78]

99. On 21 November 1963 in Goodwood, thirty-one Africans were charged with being members of Poqo and planning to attack Whites.[79]

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[55] *The Cape Times,* 10 September 1963.
[56] *The Star* (Johannesburg), 10 September 1963.
[57] *The Cape Times,* 14 September 1963.
[58] *Ibid.,* 17 September 1963.
[59] *Ibid.,* 18 September 1963.
[60] Reuters, 1 October 1963.
[61] *The Cape Times,* 2 October 1963.
[62] *The Star* (Johannesburg), weekly edition, 12 October 1963.
[63] *The Cape Times,* 10 October 1963.
[64] Reuters, 15 October 1963; *The Star* (Johannesburg), weekly edition, 12 and 19 October 1963.
[65] *The Cape Times,* 16 October 1963.
[66] Reuters, 22 October 1963.
[67] *The Cape Times,* 29 January 1964.
[68] Ibid., 16 October 1963.
[69] *Ibid.,* 26 October 1963.
[70] *The Star* (Johannesburg), weekly edition, 12 October 1963.
[71] *The Cape Times,* 5 November 1963.
[72] *Forward* (Johannesburg), December 1963.
[73] *The Cape Times,* 8-9 November 1963.
[74] *Ibid.,* 8 November 1963.
[75] *Ibid.,* 5 December 1963.
[76] *Ibid.,* 15 November 1963.
[77] *Ibid.,* 19 November 1963.
[78] *Ibid.,* 5 December 1963.
[79] *Ibid.,* 22 November 1963.

100. On 28 November 1963 in Bellville, twenty-one Africans were charged with contravening the Suppression of Communism Act.[80]

101. On 1 December 1963 in Butterworth, eighteen Africans were found guilty of public violence and two of culpable homicide. All the accused pleaded guilty. They were sentenced to seven to eight years' imprisonment each on charges arising from the death of a police assistant in Kanywa Location, Engcobo, when Africans had attacked police who were arresting a suspect.[81]

102. On 4 December in Cape Town, Cardiff Marney, Coloured, was charged with sabotage.[82]

103. On 6 December 1963 in Bellville, eleven Africans were charged with contravening the Suppression of Communism Act. Bail was refused.[83]

104. On 9 December in Pretoria, the conviction and sentence of Sulliman Nathie, secretary of the Transvaal Indian Congress, to twelve months' imprisonment for incitement were upheld.[84]

105. On 10 December 1963 in Port Alfred, Jackson Mdinga and Fundile Msutwana were sentenced to seven years' and six years' imprisonment on charges of sabotage for cutting twenty-five telephone lines on 15 February 1963.

106. On 10 December 1963 in Goodwood, Leo Vehilo Tikolo was sentenced to eighteen months' imprisonment for saying that if a volunteer were needed to assassinate the Prime Minister, Mr. H. F. Verwoerd, he would be the first to volunteer.[85]

107. On 10 December 1963 in Johannesburg, Dennis V. Brutus, President of the South African Non-Racial Olympic Committee, was charged with attending a meeting in defiance of a banning order, failing to report to police, leaving the district of Johannesburg, leaving South Africa without a valid passport and escaping from custody.[86] He was sentenced on 10 January 1964 to eighteen months' imprisonment.[87] Brutus, a poet and former school teacher, had fled from South Africa after having been banned under the Suppression of Communism Act, and was granted political asylum in Swaziland. On his way to a session of the International Olympic Committee in Baden-Baden on a British passport, he had been arrested in Mozambique by Portuguese police and returned to South Africa. He had been shot and seriously wounded by the police in Johannesburg on 18 September 1963 while allegedly attempting to escape them.[88]

108. On 17 December 1963 in Durban, George Mbele, former organizing secretary of the African National Congress and a ninety-day detainee from 10 May to 4 November 1963, and Stephen Dlamini were sentenced to nine months' imprisonment on being found guilty of issuing a pamphlet with intent to cause hostility between the races.[89]

109. On 18 December 1963 in Port Elizabeth, three Africans were sentenced to twelve, eight and three years' imprisonment, on charges of sabotage for allegedly burning down the shop of the official representative of Chief Kaiser Matanzima in New Brighton in September 1962.[90]

110. On 19 December 1963 in Krugersdorp, Jordan Zuma was sentenced to four years' imprisonment for attempted murder of a policeman, possession of a weapon and ammunition, and escaping from custody.[91]

111. Also in December in Grahamstown, Jackson Mdinga and Fundile Msutwana were sentenced to seven and six years respectively on a charge of cutting telephone wires on the night of 15 February 1963.[92]

112. In December in Cape Town, eight Africans were charged with sabotage.[93]

113. On 5 January 1964 in Cape Town, Randolph Vigne, banned former official of the Liberal Party, was charged with contravening Proclamation R.400 of 1960.[94]

114. On 10 January 1964 in Port Alfred, Charlie January and William Mtwalo were sentenced to twenty years' imprisonment on charges of sabotage for cutting telephone wires at the Bantu Administration Office in New Brighton Township.[95]

115. On 11 January 1964 in Cape Town, the State withdrew sabotage charges against Ernest Gabriel and seven other men, after they had been in gaol for several months.[96]

116. On 22 January 1964 in Port Alfred, Jacob Sikundla was sentenced to twenty years' imprisonment on charges of sabotage, including two acts of arson, cutting a telephone wire and making or possessing twenty-three chemical or incendiary bombs.[97]

117. On 24 January 1964 in Port Elizabeth, Wilson Bekwayo was sentenced to five years' imprisonment for possessing chemical bombs. Two witnesses testified that they had carried bombs to his house and that he had not appeared to be surprised at their arrival with the bombs.[98]

118. Also in January 1964, seventeen Africans were sentenced in Butterworth, to a total of 202 years' imprisonment on charges of sabotage and offences under the Supression of Communism Act, No. 44, 1950; a second group of twenty Africans were sentenced to seven and eight years' imprisonment each on charges of public violence and culpable homicide; and a third group of ten Africans were sentenced to seven to fourteen years' imprisonment on charges of sabotage. In Pretoria, nineteen Africans were charged with conspiring to recruit Africains for military training outside South Africa. In Bellville, ten Africans were charged with offences under the Suppression of Communism Act, No. 44, 1950. In Port Elizabeth, fifty-five Africans were charged with sabotage. In Graaff Reinet, twenty Africans were charged with sabotage. In Port Elizabeth, twenty-six Africans were charged with political offences.[99]

119. Also in January 1964 in Durban, twenty-five Africans were charged with being members of and furthering the objects of the banned African National Congress. The Rev. Gladstone Ntlabati, a Methodist minister, was allowed bail of R300. The other accused were refused bail.[100]

120. On 3 February 1964, three Africans, Martin Ramogadi, Alios Manci and Izak Tlale, were charged in the Rand Supreme Court on allegations of having recruited persons, or being themselves recruited, for training outside the Republic to further the objects of the African National Congress.[101]

121. On 10 February 1964, fourteen Africans were sentenced to three years' imprisonment on charges of belonging to the Pan-Africanist Congress.[102]

122. On 20 February 1964, in Potchefstroom, seven Africans were sentenced to a total of sixteen years' imprisonment on charges of being members of the Pan-Africanist Congress.[103]

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[80] *Ibid.*, 29 November 1963.
[81] *Ibid.*, 2 December 1963.
[82] *Ibid.*, 5 December 1963.
[83] *Ibid.*, 7 December 1963.
[84] *Ibid.*, 10 December 1963.
[85] *Ibid.*, 11 December 1963.
[86] Reuters, 10 December 1963.
[87] *The Cape Times*, 11 January 1964.
[88] Reuters, 19 September 1963.
[89] *The Cape Times*, 18 December 1963.
[90] *Ibid.*, 19 December 1963.
[91] *Ibid.*, 20 December 1963.
[92] *Spotlight on South Africa* (Dar es Salaam), 10 January 1964.
[93] *The Cape Times*, 31 December 1963.
[94] *Ibid.*, 6 January 1964.
[95] *Ibid.*, 11 January 1964.
[96] *Ibid.*, 11 January 1964.
[97] *Ibid.*, 23 January 1964.
[98] *Ibid.*, 25 January 1964.
[99] *Forward* (Johannesburg), January 1964.
[100] *The World* (Johannesburg), 24 January 1964, quoted in *Spotlight on South Africa* (Dar es Salaam), 14 February 1964.
[101] *The Cape Times*, 4 February 1964.
[102] Agence France Presse, 10 February 1964.
[103] *Ibid.*, 20 February 1964.

123. On 21 February 1964 in Cape Town, four Whites were charged with contravening the Suppression of Communism Act.[104]

124. On 27 February 1964 in Cape Town, the State informed the Supreme Court that forty to forty-five persons would be brought to trial on charges of sabotage or contravening the Suppression of Communism Act, No. 44, 1950, before 15 April 1964.[105]

125. In March 1964 in Port Elizabeth, Vuyisile Mini, Wilson Khayinga and Z. Mkaba were sentenced to death.[106]

II. Detention without trial

126. A significant feature of repression in the past year was the widespread use of powers obtained by the Government in new legislation to detain persons indefinitely without trial. Hundreds of persons of all races have thus been detained, frequently in solitary confinement for extended periods, for their active opposition to the policy of *apartheid* or even suspicion that they might have knowledge of the commission of illegal acts. The principal provisions used by the South African Government in this regard are Proclamation R.400 of 1960, and section 4 and section 17 of the General Law Amendment Act, No. 37, 1963.

127. Proclamation R.400 of 1960, which remains in force in the Transkei, provides that any non-commissioned officer of the South African Police or Defence Force may arrest without warrant any person for interrogation concerning any offence, or intention to commit an offence, under any law in force in South Africa. The arrested person may be detained indefinitely. He is not allowed to consult with a legal adviser without the consent of the Minister of Bantu Administration and Development. The Minister of Justice stated on 24 January 1964 that 592 persons had been detained under this provision in 1963.[107]

128. On 22 February 1964, Dr. Pascal Ngcane, son-in-law of Chief Albert Luthuli, father of four small children and the only doctor of medicine practising in Clermont, was detained without trial under Proclamation R.400.[108]

129. Section 4 of the General Law Amendment Act, No. 37, 1963 provides that persons serving a term of imprisonment may be detained indefinitely on completion of their sentence.[109] Robert Mangaliso Sobukwe, President of the Pan-Africanist Congress, has been so detained since 2 May 1963 after completing a three-year term of imprisonment in connexion with the Sharpeville incidents of 1960.

130. Section 17 of the General Law Amendment Act. No. 37, 1963 provides for the arrest and detention of persons without warrant and without trial for periods of ninety days at a time.[110] The Minister of Justice stated on 21 January 1964 that 594 persons had been detained under this section in 1963.[111] Of the 594 persons, 361 had been charged with:

"(*a*) Sabotage and conspiracy to commit sabotage;

"(*b*) Furthering the achievements of a banned organization;

"(*c*) Becoming or remaining a member and furthering the activities of a banned organization;

"(*d*) Attempting to leave the Republic of South Africa without the necessary documents;

"(*e*) Possession of explosives."

He added that as at 21 January, there were forty-one persons under detention, of whom twenty-one had been detained since the beginning of the year. The others had apparently been charged in courts or released.[112]

131. On 5 February police headquarters announced the further arrest of twenty persons between 27 January and 5 February.[113]

132. The Minister of Justice stated in the House of Assembly on 25 February 1964 that seventy persons were under ninety-day detention. He added that a further eighteen persons had been released since 21 January 1964.[114]

133. On 3 March police announced the arrest of fourteen Africans for ninety-day detention in Johannesburg. On the same day police raided the home of a Mrs. Nelson Mandela in Orlando West and arrested Oscar Somana, a relative of Nelson Mandela, for ninety-day detention.[115]

134. The Government has indicated that persons could be indefinitely detained, on orders for ninety days at a time. On 9 October 1963, the Cape Supreme Court ruled that a person detained without trial for ninety days could be re-arrested immediately after completing the initial period, as there was no provision granting immunity from indefinite detention.[116]

135. On 6 November 1963, the Minister of Justice stated in response to the appeal of the leader of the United Party that the case of Elijah Loza who had been detained for a third term of ninety days be considered, that a third period of detention, or any number of such periods, could well be justified in principle.[117] A number of persons are now undergoing detention for a third or fourth term of ninety days.

136. Many of the prisoners have been charged in courts after long periods of detention. The release of others appears to depend on their giving of evidence against persons accused of sabotage to the satisfaction of the police.[118]

[104] *The Cape Times,* 21 February 1964.

[105] *Ibid.,* 28 February 1964.

[106] See A/AC.115/L.61.

[107] Republic of South Africa, *House of Assembly Debates (Hansard),* 24 January 1964, col. 263.

[108] *The Sunday Times* (Johannesburg), 8 March 1964.

[109] Section 4 states *inter alia:* "... the Minister [of Justice] may, if he is satisfied that any person serving any sentence of imprisonment ... is likely to advocate, advise, defend or encourage the achievement of any of the objects of communism, ... prohibit such person from absenting himself, after serving such sentence, from any place or area which is or is within a prison ... and the person to whom the notice applies shall ... be detained in custody in such place or area for such period as the notice may be in force."

[110] Section 17 states *inter alia:* "(1) ... any commissioned officer ... may ... without warrant arrest ... any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), or the offence of sabotage, or who in his opinion is in possession of any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connexion with the commission of or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested."

[111] He had stated on 8 November 1963 that "at least 544 persons" had been detained under section 17, of whom 275 had been charged, sixty-one were due to be charged, 151 had been released after answering questions, five had escaped and one had died in prison. Fifty-one detainees were still being interrogated and their release depended on whether they co-operated with police. (*The Star* (Johannesburg), weekly edition, 9 November 1963.)

[112] Republic of South Africa, *House of Assembly Debates, (Hansard),* 21 January 1964, cols. 14 and 15.

[113] *The Cape Times,* 6 February 1964.

[114] *The Star* (Johannesburg), weekly edition, 29 February 1964.

[115] *Ibid.,* 7 March 1964.

[116] The Court dismissed an appeal for a writ of *habeas corpus* on behalf of Elijah Loza, a trade union leader of Cape Town, who was not released on the completion of an initial period of ninety days' detention on 8 August 1963. (*The Cape Times,* 10 October 1963.)

[117] *The Cape Times,* 6-7 November 1963.

[118] On 28 January 1964 Police Lieut. D. J. Swanepoel told the Court in the Rivonia trial that the ninety-day detention clause was a "mighty weapon in the hands of the police" and that he would not release a detained person if he believed the person had not divulged all information at his disposal. (*The Cape Times,* 29 January 1964.)

137. Detainees are normally allowed only one hour of exercise daily. The provision in the Criminal Code which prohibits subjection of criminal prisoners to more than two days of solitary confinement a week does not apply to ninety-day detainees.

138. On 13 November 1963 the Cape Supreme Court, acting on an appeal by Albert L. Sachs, ordered that the prisoner should have a "reasonable supply" of books and writing materials and should be given a reasonable amount of exercise each day. The Judge states: "There can be no doubt that the effect of solitary confinement for all but one hour for exercise a day, and the deprivation of reading matter and writing materials, constitutes a punishment." Captain D. J. Rossouw of the Security Branch claimed that the conditions of imprisonment of Sachs were adequate. He submitted that a ninety-day detainee had no rights, and the only limitation on the discretion of the security officers was that the health of the detainee must be unimpaired on his release.[119] The Government announced that it intended to appeal against the court order.[120]

139. The operation of the ninety-day detention clause has led to strong criticism and concern in South Africa and abroad.

140. Former Chief Justice Senator H. A. Fagan stated that indefinite detention was as abhorrent as physical third-degree methods.[121]

141. Mr. Hamilton Russell, a former United Party Member of Parliament who resigned in protest against the General Law Amendment Act, No. 37, 1963, called for a militant public protest against the clause and charged that detainees had been subjected to various forms of torture, including electric shocks, prolonged submersion in cold water and "gas mask" treatment.[122]

142. The national Congress of the United Party unanimously demanded in November 1963 that the ninety-day detention clause be dropped during the 1964 parliamentary session.[123] Sir de Villiers Graaff, leader of the United Party, urged a full investigation into the application of the measure.[124]

143. On 18 November 1963, two Cape Town psychiatrists stated in reference to prolonged detention in solitary confinement: "Pressure put on people in solitary confinement is a form of brainwashing. We know from experiments that people deprived of outside stimuli can become disordered, indeed quite psychotic... He would get to the state where he would believe or say anything."[125]

144. Major Fred van Niekerk of the Pretoria Criminal Investigation Division stated on 27 November 1963, at the inquest on the death of Looksmart Solwandle Ngudle, that after one to three days in solitary confinement, prisoners showed signs of bewilderment, discouragement and attempts to fraternize; after three to ten days' confinement they showed signs of gradual compliance and between ten days and three weeks a tendency to automatic behaviour. Later, he stated, detainees experienced hallucinations and had difficulty in distinguishing between truth and fiction. After months of detention, prisoners were depressed frequently to the point of suicide.[126]

[119] *The Star* (Johannesburg), weekly edition, 16 November 1963.

[120] Reuters, 14 November 1963. On 25 November 1963 police refused to accept three books (*Digestive Troubles, Carmen*, and *Italian Grammar—simplified*) handed in for a ninety-day detainee, Uriah Maleka, by his wife. (*The Cape Times*, 27 November 1963.)

[121] *The Cape Times*, 7 November 1963.

[122] *The Star* (Johannesburg), 26 November 1963; *Rand Daily Mail*, 26 November 1963.

[123] In terms of the General Law Amendment Act, No. 37, 1963, the ninety-day detention provision expires on 30 June 1964, but can be extended for one-year periods by proclamation of the State President in the *Government Gazette*.

[124] *The Star* (Johannesburg), weekly edition, 23 and 30 November 1963.

[125] *The Cape Times*, 19 November 1963.

[126] *Ibid.*, 28 November 1963.

145. On 20 December 1963, sixty medical specialists, psychiatrists and psychologists sent an appeal to the Minister of Justice for the abolition of solitary confinement under the ninety-day detention clause. The appeal described detention in solitary confinement as inhuman and unjustifiable and declared:

"As the time approaches for reappraisal of the 90-day detention clause, we, as medical specialists, psychiatrists and psychologists, consider it our duty to draw the attention of the Government and the public to the possible serious consequences of this form of detention on the mental condition of the detainees.

"The psychiatric study of political prisoners subjected to periods of solitary confinement in various countries indicates that this experience is associated with intense distress and impairment of certain mental functions. Numerous experimental studies support this evidence.

"We submit that the exposure of individuals to acute suffering and mental impairment for indefinite periods of time is no less abhorrent than physical torture. Whatever view may be held about the need for preventive detention in certain circles, no cause can justify the injury whether physical or mental, of persons who have not been found guilty of an offence by the Courts.

"We feel, therefore, that the present system of detention in solitary confinement is inhuman and unjustifiable and we appeal for its abolition."[127]

146. The utilization of detainees, kept for long periods under solitary confinement, as State witnesses in trials for alleged sabotage has caused serious concern. In the Cape Town trial of Neville Alexander and others, on 7 February 1964, Dr. Jane E. Bain of the Department of Psychiatry, Groote Schuur Hospital, said that persons kept in isolation were extremely unlikely to make reliable statements. Such persons were highly susceptible to suggestion, were apt to change their views, and tried to please the persons they came into contact with. She said she was treating one former detainee and had interviewed four others.[128]

147. Professor Kurt Danziger, head of the Department of Psychology at the University of Cape Town, stated at the same trial on 10 February 1964: "The intellectual function which seems to suffer is the capacity for reasoning time and time again." He said another effect of isolation was that it tended to lead to hyper-suggestibility. "I would say that a statement obtained from people under these conditions would be tantamount to one obtained under duress."[129]

148. Two ninety-day detainees in Cape Town, T. Tsotso and M. Msingizane, were placed under observation and care at the Valkenberg Mental Hospital after being committed there through a magistrate on the advice of two doctors.[130] The Minister of Justice stated on 21 January 1964 that five ninety-day detainees had been committed to mental institutions.[131]

149. On 3 January 1964 the Minister of Justice described as "all nonsense" charges that ninety-day solitary confinement amounted to physical torture. In reference to the statement of sixty medical experts, he stated that "not a single incident of torture" had been proven or demonstrated and that no complaints had been lodged against the law.[132] He told the House of Assembly that every allegation of ill-treatment had been or was being investigated. "So far there has not been a single proven case."[133]

[127] *The Star* (Johannesburg), weekly edition, 21 December 1963.

[128] *The Cape Times*, 8 February 1964. Dr. James McGregor, acting head of the Department of Neurology, University of Cape Town, also gave evidence in regard to false confessions obtained from persons in solitary confinement.

[129] *The Cape Times*, 11 February 1964.

[130] *Ibid.*, 19 November 1963.

[131] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, col. 22.

[132] *The Star* (Johannesburg), weekly edition, 4 January 1964.

[133] *South African Digest* (Pretoria), 30 January 1964.

150. The Prime Minister, Mr. H. F. Verwoerd, also rejected the statement of the medical experts, and said:

"They are simply a group of people who are willing to allow themselves to be used to achieve a political object. In other words, it is nothing more or less than an attempt by a certain smaller group, which do belong to certain professions, it is true, to intervene politically but who do not act as experts but as laymen in politics. . . . I say it is a political act . . . Their professions must not be dragged in where it is nothing else than an attempt to make political propaganda in connexion with any matter. Here is an attempt . . . to attack the Government. It is therefore not a purely professional diagnosis which we shall allow to influence our judgement."[134]

151. In January 1964, the Minister of Justice stated that the ninety-day detention clause would be renewed for a second year and would remain in effect while there was a chance it might be needed in any contingency. He added: "Although we are on top of the situation—and have been for some time—one never knows what might crop up." [135]

152. The Minister claimed that the provision had helped South Africa in 1963 to meet the most serious threat that had ever confronted it. It was not necessary, he said, for anyone to remain in detention for ninety days or even for a single day. Anyone taken into custody in terms of that provision could be released immediately if he was prepared to reply to questions. He was satisfied that in every case people detained were in possession of information required. He added that no fewer than 213 of the 594 persons detained in 1963 had been willing to give information.[136]

III. Allegations of torture of prisoners

153. The concern that has been evoked in South Africa and abroad by the widespread detentions and the condition of prisoners has been heightened by numerous charges of ill-treatment and torture of such persons in the past few months, despite denials by the South African authorities. A number of witnesses and accused have charged in the courts, as indicated earlier, that they had been subjected to threats, assaults and torture. Copies of affidavits by persons subjected to such treatment have been published in the Press in London and New York, and communicated to the Special Committee.

154. Some evidence of torture was presented at the inquest on the death of Looksmart Solwandle Ngudle, a leading member of the African National Congress, who had been detained under the ninety-day detention clause on 19 August 1963 and was found dead by hanging in his cell on 5 September 1963. Police refused to allow his body to be sent home for burial or to be visited by his mother. His body was buried without examination. Counsel for the family secured an inquest into allegations that he had been tortured and killed by police.

155. On 26 November 1963, counsel for Mrs. Ngudle, Vernon Berrange, stated that twenty witnesses had told him of being subjected to "gross brutalities" to make them talk. They were told to undress, made to jump up and down and when exhausted, manacled in a squatting position with a stick under their knees, blindfolded and given electric shocks until they were, in some cases, unconscious.[137] On 28 November 1963 Isaac Tlale, a Johannesburg businessman who had undergone detention with Ngudle, testified at the inquest that he "went off his head" after being subjected to electric shocks and "had to be put into a straitjacket."[138] He described how he had been handcuffed and subjected to electric shocks while a bag had been tied over his head until he had lost consciousness twice.[139]

156. Vernon Berrange, counsel for Mrs. Ngudle, walked out of the inquest on 11 February 1964 when the evidence on which his submissions of torture had been based was disallowed.[140]

157. Advocate Bob Hepple, one of the original accused in the Rivonia trial, stated in an interview in Dar es Salaam:

"The evidence is overwhelming that the 90-day detention law provides a cover for protracted mental and physical torture.

"I personally eye-witnessed the horrifying effects of such detention on a particular detainee. One night during September or October I was awakened in Pretoria prison by screams emanating from the African section, which continued throughout the night. The next morning I heard the screaming man being pushed along the corridor into the hospital yard. Looking out of my cell window I saw an African man, Z . . . , a 90-day detainee being held by two warders, his arms twisted behind his back. He was frothing at the mouth and his eyes had the wide, vacant stare of the berserk. A few weeks later he was still in the hospital yard wearing a straitjacket. His screams by then had degenerated into whimpers which were met by blows from the warder in charge of him.

"In a number of cases African detainees had been subjected to brutal assaults and electric shock treatment.

"I saw a witness in the 'Rivonia' trial, who is being held in custody, still limping three months after he had been assaulted in order to force a statement from him. One of the 'Rivonia' accused still bears deep bruise marks from an assault on him by the police during August. Electric shock treatment was also applied to the sensitive parts of his body.

"Those who are inside the South African gaols were tremendously heartened by the United Nations resolution calling for the release of political prisoners and for an end to the sabotage trial. They place tremendous hope on the effects of world-wide pressure on the Verwoerd government." [141]

158. A few of the numerous other charges of ill-treatment of detainees may be noted.

159. Eleven detainees released from Pretoria Central Prison in November 1963 made sworn affidavits alleging torture and assault by police while in custody under ninety-day detention. The Commissioner of Police described the affidavits as "utter nonsense . . . spread deliberately by neo-communists."[142]

160. On 28 November 1963 in Bellville, complaints of assault by the police were made by six African prisoners in court as they were charged with sabotage.[143]

161. On 4 December 1963, a State witness at the sabotage trial in Pietermaritzburg testified that police had assaulted him, threatened him with death if he refused to answer certain questions, threatened to detain his mother and cause his brother to be dismissed from his job, and placed him in a cold cell where he contracted double pneumonia. The witness was arrested immediately.[144]

162. Arthur Goldreich, a former ninety-day detainee who had escaped, told the Press that Abdulhia Jassat, another former ninety-day detainee who had escaped with him, had been beaten by twenty Special Branch policemen until he had collapsed. Goldreich added:

"They put a wet sack around his head and tied the cords at his neck till he blacked out. After reviving him, they made him stand on one leg, holding a stone above his head while they stuck pins into his raised leg. The soles of his feet were then beaten with batons, and electrodes were placed on the toes with the current flowing. Finally they held him by the ankles out of a window 40 feet above the street in trying to get a confession." [145]

[134] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, col. 89.

[135] *The Star* (Johannesburg), weekly edition, 18 January 1964.

[136] Republic of South Africa, *House of Assembly Debates (Hansard)*, 22 January 1964, cols. 101-105.

[137] *The Cape Times*, 27 November 1963.

[138] *Ibid.*, 29 November 1963.

[139] *Contact* (Cape Town), 13 December 1963.

[140] *The Cape Times*, 12 February 1964.

[141] *Spotlight on South Africa* (Dar es Salaam), 6 December 1963.

[142] *The Cape Times*, 4 November 1963.

[143] *Ibid.*, 29 November 1963.

[144] *Ibid.*, 5 December 1963.

[145] *Sunday Express* (Johannesburg), 12 January 1964, quoted in *Spotlight on South Africa* (Dar es Salaam), 21 January 1964. Jassat had been detained on 20 May 1963 and Goldreich

163. South African police have repeatedly denied all allegations of torture and assault of prisoners. The Minister of Justice stated in the House of Assembly on 22 January 1964: "We have no facts whatsoever before us; we have no shred of evidence before us about people who were tortured." He rejected a proposal by the leader of the Opposition that a judicial commission be established to investigate allegations of torture.[146]

164. On 31 January 1964 he stated in the House of Assembly that forty-nine complaints by prisoners held under ninety-day detention alleging torture or assault by police had been received and that all complaints had been found by police to be without substance.[147]

165. The statements of the Minister of Justice, however, are in contradiction with evidence given in South African courts. On 13 March 1964, for instance, a police officer accused of murdering an African prisoner and assaulting another at the Bultfontein police station, testified at his trial: "I don't think there is a police station in the country that does not use violence during questioning."

166. Another accused police officer stated that the purpose of trussing a prisoner so that he was helpless, blindfolding him and giving him electric shocks was that he might believe he was being attacked by a *Tikoloshe*, an evil. He stated that tying a plastic bag around a prisoner's head "is common in investigations". He added that the methods used at the Bultfontein police station were all used elsewhere.[148]

IV. Other repressive measures

167. The detentions, trials and ill-treatment described above are supplementary to the application of other measures of repression and intimidation of opponents of *apartheid* described in earlier reports.

168. Banning orders, house arrests, banishment and threats continue. During the period under review, banning orders have been served on a number of persons, including Jordan Ngubane, National Vice-President of the Liberal Party; Hammington Majija, Chairman of the Cape branch of the Liberal Party; Mrs. Adelaide Hain, Secretary of the Pretoria branch of the Liberal Party; E. V. Mohamed, former Private Secretary to Chief Luthuli and former member of the Liberal Party's National Committee; Hyacinth Bhengu, National Vice-President of the Liberal Party; D. L. Evans, another leader of the Liberal Party; Timothy Mbuzo, former Territorial Secretary of the African National Congress in the Transkei; Yusuf Cachalia, an Indian leader, and his wife Amina; Solomon Nathie, General Secretary of the Transvaal Indian Congress; M. Lekato and J. Makaringa, African trade union leaders.

169. House arrest orders were served on Mrs. Jacqueline Arenstein, Mrs. Mary Turok, Paul Joseph, Morametso Lekoto, John Gaetsewe and Malek Rasool.

170. Victims of these arbitrary orders continue to be persecuted for minor infringements. Miss S. B. Brown was convicted in October for contravening the Suppression of Communism Act by changing her place of residence or employment without giving notice to the police and sentenced to imprisonment for one year, conditionally suspended.[149] Peter D. Hjul was taken to court on the charge of violating the ban on attending gatherings by playing snooker with his brother.[150] R. A. Arenstein, Durban attorney, who had been ordered to report to police daily between noon and 2 p.m., had to serve seven days in gaol in November for being late on two occasions.[151] Miss G. E. Jewell was taken to court for communicating with another banned person, her fiancé, who was in prison.[152]

171. The Government seems to have sought to silence and paralyse more and more organizations and groups by restrictive orders and intimidation. The Liberal Party has come under severe attack, as indicated by the bans listed above. The Government had already banned Randolph Vigne, the Party's National Chairman; Peter Hjul, Chairman of the Cape Division and editor of *Contact*; and Terence Beard, Vice-Chairman of the Cape Division. The Security branch raided the home of four leaders of the Liberal Party on 21 October 1963. In February 1964, the Chief Magistrate of Johannesburg warned Mrs. Elizabeth Lewin, a member of the Party's national executive, to desist from activities "calculated to further the aims of Communism".[153] Alan Paton, National President of the Liberal Party, declared in a public statement: "It is clear that the Government does not intend to ban the Party but means to weaken it by banning its leading members." [154]

172. Another organization which has come under attack is the National Union of South African Students, a multiracial organization. The Security branch raided its Cape Town office on 21 October 1963.[155]

173. Intimidation has been widened to include religious groups. In November 1963, Mr. E. H. Louw, then Minister for Foreign Affairs, warned ministers of religion not to interfere in political controversy. He said that the Anglican Bishop of Johannesburg, who had criticized repressive legislation, would "do well to remember what happened to Bishop Reeves" (he was deported in 1960).[156]

174. On 16 March 1964 the Minister of Justice, Mr. B. J. Vorster, threatened "certain individual members" of the English-language Press that action might have to be taken against them.[157]

175. The denial of due process in South Africa and its consequences were described in the annual report to the Civil Rights League, Cape Town, by its chairman, Leo Marquard, as early as 9 September 1963:

"The peaceful and orderly conduct of society depends on just laws openly administered and it is in this respect that the condition of the Republic of South Africa is parlous. We shall have to wait till Parliament reassembles for further official information, but it is even now clear that close on 100 Africans have been banished to places far distant from their homes; that about 20 South Africans are under house arrest; that many hundreds of all races have been banned; that about 300 South African citizens have been imprisoned under the 90-day law; and that in none of these cases has the law been openly administered. There have been no warrants for arrest, no charges framed for the accused to meet in open court where witnesses can be cross-examined.

"In the numerous 'Poqo' prosecutions, where arrest is properly made on warrant, it is clear that many people are arrested before adequate investigation has been made. Cases are constantly remanded and no bail is allowed. Thus, recently in Cape Town, 41 Africans who had been in gaol for more than four months on a charge of belonging to an unlawful organisation, were released without any evidence being led against them. In another case in Cape Town, 43 out of 57 men arrested were finally acquitted or discharged without a case being made against them. Similar examples can be quoted from other parts of the country...

"What makes the situation in South Africa so serious is that the gross disregard for the rule of law communicates itself from the rulers to the ruled. When a majority in

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on 11 July 1963. They escaped from Johannesburg police headquarters on 11 August and subsequently fled from South Africa.

[146] Republic of South Africa, *House of Assembly Debates (Hansard)*, 22 January 1964, cols. 99-106.

[147] *Cape Times*, 1 February 1964. On 18 February 1964 the Minister of Justice stated that police and prison staff had assaulted 120 prisoners in 1963. (Republic of South Africa, *House of Assembly Debates (Hansard)*, 18 February 1964, col. 1511.)

[148] *The Observer* (London), 15 March 1964.

[149] *The Cape Times*, 14 October 1963.

[150] He was sentenced to six months' imprisonment. The sentence was suspended and set aside on appeal.

[151] *The Natal Mercury* (Durban), 23 November 1963.

[152] She was sentenced to two years, but the sentence was set aside on appeal.

[153] *Contact* (Cape Town), 14 February 1964.

[154] *Ibid.*, 14 February 1964.

[155] *The Cape Times*, 22 October 1963.

[156] *Southern Africa* (London), 8 November 1963.

[157] *The Times* (London), 17 March 1964.

Parliament, at the request of responsible Ministers, passes laws that deprive people of their rights and liberties, not by due legal process but by administrative discretion, it will not be long before the majority of the population comes to regard the administration of justice as a method of oppression rather than as an instrument for the orderly and peaceful conduct of society..."[158]

[158] *Forward* (Johannesburg), October 1963.

Appendix

POLITICAL TRIALS AND CONVICTIONS IN 1963*

Number of accused	*Place of trial*	*Charges*	*Date of verdict*	*Sentences*
6	Grahamstown	Sabotage	20 January	3 to 20 years each 1 to 12 years 2 acquitted
3	Port Elizabeth	Sabotage	21 February	1 to 15 years 2 acquitted
22	Queenstown	Sabotage	5 March	1 to death 1 to 20 years 20 to 15 years
20	Paarl	Sabotage	20 March	18 to 12 years 2 acquitted
20	Queenstown	Sabotage	22 March	2 to death 1 to 25 years 17 to 20 years each
4	Grahamstown	Sabotage	23 April	1 to 12 years 2 to 8 years each 1 acquitted
1	Cape Town	Sabotage	24 April	15 years
57	Cape Town	Belonging to and furthering the aims of a banned organization	30 April	4 to 2½ years 3 to 1½ years 7 to 1 year (9 months suspended) 20 charges withdrawn 23 acquitted
3	Johannesburg	Sabotage	13 May	10 years each
9	Cradock	Belonging to a banned organization (ANC)	13 May	3 years each
4	Cradock	Belonging to a banned organization (PAC)	16 May	3 years each
8	Butterworth	Conspiracy to murder	21 May	4 to 7 years each 1 to 5 years 3 acquitted
21	Paarl	Sabotage	22 May	3 to death 5 to 18 years each 8 to 12 years each 5 acquitted
1	Cape Town	Sabotage	24 May	12 years
2	Graaff Reinet	Furthering the aims of a banned organization (PAC)	25 May	3 years each
2	Bloemfontein	Belonging to a banned organization (PAC)	27 May	1½ years each
24	Engcobo	Belonging to a banned organization (PAC)	31 May	5 to 3 years each 7 to 2 years each 12 acquitted
18	Komgha	Belonging to and furthering the aims of a banned organization (PAC)	2 June	3 to 6 years each 3 to 5 years each 10 to 2 years each 2 acquitted
3	Uitenhage	Sabotage	3 June	15 years each
3	Grahamstown	Sabotage	4 June	15 years each
16	Paarl	Sabotage	5 June	8 years
2	Cape Town	Murder	10 June	Death
6	Graaff Reinet	Belonging to a banned organization (PAC)	10 June	4 to 3 years each 2 to 1½ years each
4	Paarl	Murder	11 June	Death
1	Paarl	Murder	12 June	Death
9	Butterworth	Belonging to a banned organization (PAC)	20 June	5 to 3 years each 4 to 2 years each

* *Forward* (Johannesburg), September, October and November 1963; February 1964.

Appendix (continued)

Number of accused	Place of trial	Charges	Date of verdict	Sentences
8	Johannesburg	Plotting to possess explosives and weapons	21 June	1 to 20 years 1 to 15 years 3 to 12 years each 2 to 10 years each 1 to 7 years
13	Paarl	Belonging to a banned organization (PAC)	22 June	3 years each
20	Butterworth	Belonging to a banned organization (PAC)	24 June	12 to 3 years each 7 to 2 years each 1 acquitted
14	Pretoria	Sabotage	25 June	3 to life imprisonment 4 to 12 years each 2 to 10 years each 1 to 5 years 4 charges withdrawn
30	Paarl	Belonging to a banned organization (PAC)	26 June	9 to 3 years each 21 acquitted
16	Umtata	Belonging to and furthering the aims of a banned organization (PAC)	27 June	2 to 3 years each 3 to 2 years each 11 acquitted
25	Graaff Reinet	Belonging to and furthering the aims of a banned organization (PAC)	28 June	8 to 3 years each 10 to 2½ years each 7 acquitted
16	Pretoria	Sabotage	2 July	2 to life imprisonment 1 to 15 years 3 to 10 years each 2 to 8 years each 6 to 5 years each 2 acquitted
19	Paarl	Belonging to a banned organization (PAC)	11 July	16 to 3 years each 3 acquitted
14	Pretoria	Sabotage	12 July	1 to life imprisonment 6 to 15 years each 5 to 10 years each 2 acquitted
1	Durban	Belonging to and furthering the aims of a banned organization (PAC)	18 July	4 years
32	Cape Town	Belonging to a banned organization	19 July	23 to 3 years 6 charges withdrawn 3 acquitted
1	Durban	Belonging to and furthering the aims of a banned organization (PAC)	19 July	4½ years
11	Goodwood	Belonging to a banned organization (PAC)	20 July	1 to 3 years 10 acquitted
20	Paarl	Belonging to a banned organization (PAC)	24 July	19 to 3 years each 1 acquitted
16	Worcester	Belonging to a banned organization (PAC)	25 July	5 to 3 years each 3 to 2 years each 8 acquitted
9	Johannesburg	Belonging to and furthering the aims of a banned organization (PAC)	25 July	3 to 6 years each 4 to 5 years each 1 to 4 years 1 to 1½ years
20	Johannesburg	Belonging to and furthering the aims of a banned organization (PAC)	26 July	9 to 6 years each 9 to 5 years each 2 to 2 years each
1	Paarl	Belonging to and furthering the aims of a banned organization (PAC)	31 July	6 years
45	Durban	Furthering the aims of a banned organization (PAC)	1 August	All acquitted
6	Alice	Belonging to a banned organization	1 August	2 to 2½ years 3 to 2 years 1 to 1½ years

Appendix (continued)

Number of accused	*Place of trial*	*Charges*	*Date of verdict*	*Sentences*
1	Alice	Belonging to a banned organization	1 August	1½ years
3	Pretoria	Sabotage	6 August	1 to 9 years 2 to 6 years each
3	Johannesburg	Sabotage	7 August	2 to 6 years 1 to 9 years
1	East London	Belonging to and furthering the aims of a banned organization	9 August	6 years
23	Kokstad	Murder (Bashee Bridge murders, 5 February)	10 August	Death
19	Alice/East London	Belonging to a banned organization (and 4 to furthering the aims of a banned organization)	10 August	4 to 6 years 4 to 2½ years 4 to 2 years 3 to 1½ years 1 to 8 cuts 3 acquitted
4	Alice	Belonging to a banned organization	12 August	3 to 2 years (15 months suspended) 1 acquitted
6	Johannesburg	Sabotage	13 August	1 to 11 years 1 to 8 years 2 to 6 years 2 acquitted
45	Cape Town	Belonging to a banned organization	16 August	45 acquitted (4 re-arrested)
5	Port Elizabeth	Belonging to a banned organization	19 August	5 to 1 year
3	Cape Town	Sabotage	19 August	3 to 9 years
3	Cape Town	Belonging to a banned organization	19 August	2 to 3 years 1 to 1½ years
3	Queenstown	Sabotage	22 August	1 to 11½ years 1 to 10½ years 1 to 9 years
12	Paarl	Sabotage and belonging to and furthering the aims of a banned organization	23 August	1 to 18 years 2 to 15 years 4 to 12 years 1 to 5 years 4 acquitted
5	Johannesburg	Sabotage	23 August	2 to 20 years 2 to 17 years 1 to 15 years
4	Durban	Belonging to and furthering the aims of a banned organization	23 August	2 to 4 years 1 to 5¼ years 1 to 5 years
37	Engcobo	Belonging to and furthering the aims of a banned organization	27 August	1 to 8 years 36 to 5 years
14	Cape Town	Sabotage	30 August	3 to 15 years 1 to 10 years 6 to 7 years 2 to 4 years 1 to 3 years 1 acquitted
4	Pretoria	Belonging to a banned organization	30 August	2 to 2½ years 2 to 1½ years
2	Johannesburg	Belonging to a banned organization	6 September	2 to 3 years each
14	Port Elizabeth	Belonging to a banned organization	9 September	13 to 1½ years each 1 to 1¾ years
2	Cape Town	Furthering the aims of a banned organization	10 September	2 to 3 years each
4	Johannesburg	Belonging to and furthering the aims of a banned organization	11 September	1 to 6 years 3 to 5 years each
6	Cape Town	Belonging to a banned organization	13 September	2 (women) to 1½ years each 4 to 3 years each

***Appendix* (continued)**

Number of accused	*Place of trial*	*Charges*	*Date of verdict*	*Sentences*
79	Umtata	Belonging to and furthering the aims of a banned organization	16 September	40 to 2 years each 2 to 3 years each 6 to 5 years each 31 acquitted
1	Johannesburg	Belonging to a banned organization		3 years
4	Johannesburg	Murder of Special Branch man by members of PAC	1 October	Death
7	Pretoria	Undergoing military training in Ethiopia which could be of use in furthering the object of the banned ANC	1 October	7 to 20 years each
13	Pretoria	Belonging to a banned organization	5 October	2 to 3 years each 2 to 2½ years each 4 to 1½ years each 2 to 1 year each 3 acquitted
33	Grahamstown	Sabotage—attack on King William's Town police station on 8 April 1963	9 October	1 to 25 years 2 to 20 years each 6 to 12 years each 8 to 8 years each 1 to 10 years 15 acquitted
31	Umtata	Belonging to a banned organization		31 to 2½ years each (19 sentenced to a further 1 year each, to run concurrently, for contributing to a banned organization)
7	Cape Town	Belonging to a banned organization	26 October	7 to 2½ years each
23	Butterworth	Sabotage and contraventions of the Suppression of Communism Act	8 November	6 acquitted 17 to terms ranging from 6 to 20 years = 202 years in all
10	Butterworth	Sabotage and belonging to a banned organization	19 November	2 acquitted 1 to 14 years 2 to 13 years 1 to 10 years 1 to 9 years 3 to 7 years each
20	Butterworth	Public violence and culpable homicide (murder of policeman)	30 November	20 to terms of 7 years and 8 years = 148 years in all
2	Port Alfred	Sabotage	10 December	1 to 7 years 1 to 6 years
1	Cape Town	Incitement	11 December	1 to 1½ years
12	Pretoria	Belonging to a banned organization	14 December	1 acquitted 11 to terms of 1 to 3 years = 24 years in all
3	Port Elizabeth	Sabotage	17 December	1 to 12 years 1 to 8 years 1 to 3 years
2	Durban	Issuing pamphlet calculated to cause hostility between Whites and non-whites	17 December	2 to 9 months each (six months suspended)
3	Port Elizabeth	Sabotage	24 December	2 to 12 years each 1 still to be sentenced
5	Durban	Belonging to and furthering the objects of a banned organization	27 December	2 to 4 years each 1 to 2 years 1 to 3¾ years 1 to 1 year
20	Pretoria	Furthering the aims of a banned organization by conspiring to recruit Africans for training outside South Africa	30 December	1 to 20 years 2 to 12 years each 1 to 11 years 9 to 10 years each 2 to 5 years each 5 acquitted or charges withdrawn

ANNEX II

Note on developments in South Africa since the Special Committee's report of 13 September 1963 to the General Assembly and to the Security Council

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INTRODUCTION

1. The present document contains a review of some of the main developments[1] since the adoption of the Special Committee's last report on 13 September 1963.[2]

2. Since 13 September 1963, the General Assembly and the Security Council have adopted further decisions on the policies of *apartheid* in the Republic of South Africa in view of the continued non-compliance of the Government of that country with the earlier decisions and the continued aggravation of the situation in the country.

3. It may be recalled that on 7 August 1963 the Security Council expressed its conviction that the situation in South Africa was seriously disturbing international peace and security, and (*a*) strongly deprecated the policies of the South African Government in its perpetuation of racial discrimination as being inconsistent with the principles contained in the United Nations Charter and contrary to its obligations as a Member State of the United Nations; (*b*) called upon that Government to abandon the policies of *apartheid* and discrimination, and to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*; (*c*) solemnly called upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa; and (*d*) requested the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963.[3]

4. On 11 October 1963 the General Assembly took note of reports that the South African Government was arranging the trial of a large number of political prisoners under arbitrary laws prescribing the death sentence and considered that such a trial would lead to a further deterioration of the already explosive situation in South Africa, thereby further disturbing international peace and security. By a vote of 106 in favour, with only South Africa voting against, the General Assembly in resolution 1881 (XVIII) (*a*) condemned the Government of the Republic of South Africa for its failure to comply with the resolutions of the General Assembly and the Security Council calling for an end to the repression of persons opposing *apartheid*; (*b*) requested it to abandon the arbitrary trial and forthwith grant unconditional release to all political prisoners and to all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*; and (*c*) requested all Member States to make all necessary efforts to induce the South African Government to ensure that the above provisions were put into effect immediately.

5. As South Africa failed to comply with the Security Council resolution of 7 August and the General Assembly resolution of 11 October, but proceeded with its course of increased *apartheid* and increased oppression, the Security Council considered the matter again from 27 November to 4 December 1963. On 4 December, the Security Council unanimously adopted a resolution[4] by which it (*a*) appealed to all States to comply with the provisions of the resolution of 7 August 1963; (*b*) urgently requested the South African Government to cease forthwith its continued imposition of discriminatory and repressive measures which were contrary to the principles and purposes of the Charter and which were in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights; (*c*) condemned the non-compliance by the South African Government with the appeals contained in the resolutions of the General Assembly and the Security Council; (*d*) again called upon the South African Government to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*; and (*e*) solemnly called upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms or ammunition in South Africa.

6. The Security Council also requested the Secretary-General to establish, under his direction, a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed. Finally, it requested the Secretary-General to continue to keep the situation under observation and to report to the Security Council such new developments as might occur, and in any case not later than 1 June 1964, on the implementation of this resolution.

7. On 16 December 1963 the General Assembly adopted two resolutions. By resolution 1978 A (XVIII) it (*a*) appealed to all States to take appropriate measures and intensify their efforts, separately or collectively, with a view to dissuading the South African Government from pursuing its policies of *apartheid*, and requested them, in particular, to implement fully the Security Council resolution of 4 December 1963; and (*b*) noted the reports of the Special Committee with appreciation and requested it to continue to follow the various aspects of this question constantly and to submit reports to the General Assembly and the Security Council whenever necessary.

8. By resolution 1978 B (XVIII) the General Assembly took note of the reference of the Special Committee to the serious hardships faced by the families of persons persecuted by the South African Government for their opposition to the policies of *apartheid*, and its recommendation that the international community, for humanitarian reasons, should provide them with relief and other assistance. It requested the Secretary-General to seek ways and means of providing relief and assistance, through the appropriate international agencies, to the families of all persons persecuted by the South African Government for their opposition to the policies of *apartheid*, and invited Member States and organizations to contribute generously to such relief and assistance.

9. In connexion with the question of South West Africa the General Assembly adopted two resolutions. By resolution 1899 (XVIII) of 13 November 1963, the Assembly condemned the South African Government for its persistent refusal to co-operate with the United Nations in applying the principles of the Charter and implementing the resolutions of the General Assembly. It urged all States which had not yet done so to take, separately or collectively, the following measures with reference to the question of South West Africa:

"(*a*) Refrain forthwith from supplying in any manner or form any arms or military equipment to South Africa;

"(*b*) Refrain also from supplying in any manner or form any petroleum or petroleum products to South Africa;

"(*c*) Refrain from any action which might hamper the implementation of the present resolution and of the previous General Assembly resolutions on South West Africa."

[1] Developments relating to the persecution of the opponents of the policies of *apartheid* are covered in document A/5825/Add.1.

[2] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, documents A/5497 and Add.1.

[3] *Official Records of the Security Council, Eighteenth Year, Supplement for July, August and September 1963*, document S/5386.

[4] *Ibid., Eighteenth Year, Supplement for October, November and December, 1963*, document S/5471.

10. By resolution 1979 (XVIII) of 17 December 1963, the Assembly requested the Security Council to consider the critical situation prevailing in South West Africa.

11. Despite resolutions adopted unanimously, or almost unanimously, by the principal organs of the United Nations, the Government of the Republic of South Africa continued with its policies of *apartheid* in defiance of the authority of the United Nations and in violation of its obligations under the United Nations Charter. The policies and actions of the Government have further aggravated the situation in the Republic of South Africa and caused wider international repercussions.

I. Non-compliance with the resolutions of the General Assembly and the Security Council

12. In a communication of 11 October 1963, the Government of the Republic of South Africa claimed that the Security Council did not have the juridical power to take the action envisaged by its resolution of 7 August 1963 and that the resolution could not have any binding effect on the Republic of South Africa or any other Member State.[5] By a note dated 14 November 1963, it informed the Secretary-General that no reply could be expected to General Assembly resolution 1881 (XVIII) of 11 October 1963, on the ground that it constituted flagrant interference in South Africa's judiciary and was beyond the competence of the United Nations.[6] In a communication dated 5 February 1964, it described the Security Council resolution of 4 December 1963 as an "unparalleled attempt at deliberate interference" in the internal affairs of the Republic and "yet another flagrant example of the application of the 'double standard' ". It added that any form of co-operation with the Expert Group established under the resolution was out of the question.

13. The leaders of the South African Government have continued to adopt a hostile attitude towards the United Nations and have reiterated their determination to ignore or defy the resolutions of the General Assembly and the Security Council.

14. On 18 September 1963 Mr. Eric Louw, then Minister for Foreign Affairs, stated that if the United Nations ceased to exist it would be a "blessing".[7]

15. Speaking at a National Party rally at Klerksdorp on 26 October 1963, the Prime Minister, Mr. H. F. Verwoerd, rejected any form of concession on racial policy, and declared that he would rather be a "granite rock than soft clay".[8]

16. In regard to the Security Council resolution of 4 December 1963, the Minister of Posts and Telegraphs, Mr. A. Hertzog, stated on 16 December:

"The object of our enemies is to obliterate the white man . . . The struggle of today is practically the same as that of our ancestors, except that it is being waged more ruthlessly. The enemies of today are like those of long ago . . . [who] tried to ban arms consignments to the Voortrekkers, which is on the same pattern as today."[9]

17. In a New Year's Eve broadcast, Mr. Verwoerd described South Africa's course as the giving of each racial group "attainable ideals in its own community under its own leaders", and added that loss of control by the white man would ruin the economy and bring misery to all sections of the population. He said it was therefore justified for the Whites to refuse to commit national suicide and fight for self-preservation. He stated that the Whites:

". . . are determined to survive and to rule this country, which is their heritage. This attitude is fundamental. All who try to judge or intimidate us may as well realize from the outset that no submission or concession can be made to any pressure which will have the effect of destroying the South Africa we all know and honour, its economy, its way of life and its political structure . . . [The white man] cannot countenance his removal from the scene, or his suppression as a minority."[10]

18. In his review of international affairs at the end of the year 1963, Mr. Eric Louw, then Minister for Foreign Affairs, declared:

"The question is often put to me: 'How do you see the future of the United Nations?' My reply invariably is that if it continues on its present course, and if the General Assembly continues to be used as a forum for airing grievances and for attacking Member States, then the Organization will sooner or later come to an inglorious end—'unwept, unhonoured and unsung'—except perhaps by the Afro-Asians, who will have lost a useful weapon of attack."[11]

19. The State President, Mr. C. R. Swart, said in his opening statement to Parliament on 17 January 1964 that in 1963 attacks on South Africa had continued in the United Nations and in its specialized agencies, and decisions had been taken in direct conflict with the United Nations Charter. Stating that it could be expected that the attacks on South Africa would be developed and increased during 1964, he added:

"The Government is not prepared to sacrifice the continued existence of the South African nation, or the prosperity of all the country's inhabitants, or order and peace, not even in the face of threats in any form."[12]

20. Speaking in the House of Assembly on 21 January 1964, the Prime Minister criticized the "obsession" of bodies like the United Nations with the relationship between Whites and non-whites, and declared:

"I contend therefore that present-day international politics prove that the world is sick, and that it is not up to South Africa to allow herself to be dragged into that sickbed. It is white South Africa's duty to ensure her survival, even though she is accused of being isolated under such a policy...

"Furthermore, I contend that the West is sick and not only the world as a whole. The West is closest to us. There we find our natural friends . . . The tragedy of the present time is that in this crucial stage of present-day history, the white race is not playing the role which it is called upon to play and which only the white race is competent to fulfil. If the Whites of America and of Europe and of South Africa were dissolved in the stream of the black masses, what would become of the future of the world and of the human race? What would become of its science, its knowledge, its form of civilization, its growth, its peace, etc? . . .

"What we are dealing with here is the preservation of the white man and of what is his, and only in respect of what is justly his, coupled with the recognition of the other people's rights . . .

"I contend therefore that the Government Party has not failed in its international policy, as is alleged, but that it has succeeded. We have succeeded in warding off the threat of multi-racialism which was to be forced upon us."[13]

21. Referring to South Africa's withdrawal from the Food and Agricultural Organization of the United Nations on 18 December 1963, he continued:

"The Republic, at a time when there was no demand that South Africa should withdraw but when our friends created difficulties, decided of its own free volition no longer to remain a member of a body in which in any event South Africa had no particular self-interest. In the same way we shall use our judgement in a sensible and careful manner in

[5] *Ibid.*, document S/5438.

[6] *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 30, document A/5614; *Official Records of the Security Council, Eighteenth Year, Supplement for October, November and December 1963*, document S/5457.

[7] Reuters, 18 September 1963.

[8] *The Star* (Johannesburg), weekly edition, 2 November 1963.

[9] *The Cape Times*, 17 December 1963.

[10] *Ibid.*, 1 January 1964; *Southern Africa* (London), 3 January 1964.

[11] *Southern Africa* (London), 3 January 1964.

[12] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 17 January 1964, col. 7.

[13] *Ibid.*, 21 January 1964, cols. 53-55.

respect of other world organizations. That also applies to the United Nations."[14]

22. The Minister of Transport, Mr. B. J. Schoeman, told the House of Assembly on 23 January 1964: "The policy of this party is to discriminate. That is why we discriminate."[15]

23. The only new element is perhaps the emphasis on certain propaganda lines which do not affect the fundamental policy of *apartheid*.[16]

24. The Government has assiduously sought to project the contention that the policy of "separate development" or "orderly coexistence" was in the interest of non-whites as well. It has sought to argue that South Africa was willing to grant equal rights to non-whites, but that the controversy was only as to the time when and area where they would be exercised. Illustrative is the statement of the Minister of Bantu Administration and Development. Mr. M. D. C. de Wet Nel, at the opening of the Transkei Legislative Assembly in December 1963:

> ". . . Transkei remains part of the Republic of South Africa. We have one fatherland and we all belong to South Africa. White and Bantu need each other and must help each other. Our technical knowledge and competence are necessary for the development or your area. Our prosperity is your prosperity and our strength is your strength. Likewise is our safety your safety and towards the outside world we stand together as children of South Africa."[17]

25. The Prime Minister told the House of Assembly in January that while the Government would not allow non-white groups to have representation in a "white" Parliament, their leaders would at some later stage be taken into "that purely consultative general body, which I said would be similar to a Commonwealth body".[18]

II. Pursuit of policies of *apartheid*

26. Despite the repeated decisions of the General Assembly and the Security Council, the South African Government continues to implement racially discriminatory legislation and administrative measures. It has, moreover, introduced drastic new legislation in the current session of Parliament to deprive the Africans in "white" areas, constituting 87 per cent of the territory, of most remaining rights.

(a) *Bantu Laws Amendment Bill*[19]

27. On 18 February 1964 the Deputy Minister of Bantu Administration and Development, Mr. M. C. Botha, introduced the Bantu Laws Amendment Bill of 1964. According to press reports, the Bill abolishes the few remaining rights of Africans to seek or accept employment in "white" areas without first obtaining approval of a network of labour bureaux. A labour officer would be able to deprive an African of his job or refuse any request for permission to accept employment for a wide variety of reasons. If he deemed such employment as not "in the public interest", permission could be refused.

28. Africans who have been refused permission to accept employment would be referred to "aid centres" where they would either be offered "suitable work in the area or any other area" or required to leave the area.

29. The Bill would abolish the existing rights of Africans born in "white" areas to remain there. Unless they accept "suitable" work offered by the labour bureaux, they may be expelled to the reserves. The Bill would extend the definition of an "idle and undesirable" African, a person who had "failed without lawful cause to accept suitable employment offered him by the labour bureau", to political opponents. "Idle and undesirable" Africans would be expelled to the reserves, sent to "selected institutions" or "banished" to remote areas.

30. The Bill is regarded by the Government as an essential step to implement its policy of treating the Africans as aliens and transients outside the reserves.

31. Sir de Villiers Graaff, leader of the United Party, said the Bill would turn all Africans outside the reserves into a "vast floating labour pool from which the Minister can detach individual units from time to time". *The New York Times* stated: "Essentially the measure would . . . impose completely rigid control over the movements, homes and jobs of the more than seven million Africans who live in so-called 'white' cities and on farms outside the African reserves."[20]

32. The Conference of Roman Catholic Bishops of South Africa condemned the Bill on 17 March 1964 as "a negation of social morality and Christian thinking". The Conference stated that the Bill:

> "is an invasion of primary human rights . . . deprives African citizens of a strict right to residence, movement and employment outside the Bantu areas, that is, in four-fifths of the entire Republic. It would strip the African of his basic freedoms in the country of his birth, making him dependent upon the possession of a permit to explain his presence anywhere, and at any time, outside the 'Bantu homelands'. This is not consonant with any concept of the dignity of the human person."[21]

(b) *Expulsion of Africans from "white" areas*

33. The Government has continued to expel thousands of Africans from areas outside the reserves.

34. On 5 November 1963, the Deputy Minister of Bantu Administration and Development, Mr. M. C. Botha, urgently appealed to white employers to help the Department limit the number of Africans in "white" areas to a minimum. He stated that measures would have to be taken against employers if the necessary co-operation was not obtained.[22]

35. On 15 January 1964, he stated that the Department was framing regulations to enforce the provision in the Bantu Laws Amendment Act of 1963 limiting the number of African servants permitted to reside on the premises of employers to one per employer in 1964.[23]

36. On 28 January 1964, the Minister of Bantu Administration and Development, Mr. M. D. C. de Wet Nel, stated that in 1963, 3,103 Africans had been endorsed out of the Cape Town municipal area, 660 out of the Cape Divisional Council area and 19,650 out of the Johannesburg municipal area.[24]

37. He told the House of Assembly on 24 January 1964:

> ". . . Think of the industrial development that has taken place over those [past] ten years. All that development demands a terrific labour force. It was a miracle that we managed to put a stop to the uncontrolled flow of Bantu to South Africa. We put a stop to it. And the tide has already started to turn. The year before last 100,000 Bantu had already left the "white" areas. Do you know, Sir, that we have sent back a considerable number of foreign Bantu over the past two years? . . . Just think of the 2,000 Rhodesian Bantu whom I removed from the vicinity of Port Elizabeth. Approximately 20,000 foreign Bantu have passed through our borders posts, Bantu who will not return to South Africa . . . Bantu are daily returning to their

[14] *Ibid.*, 21 January 1964, col. 61.

[15] *Ibid.*, 23 January 1964, col. 171.

[16] The Government has devoted even more attention to propaganda at home and abroad. It was announced in January 1964 that a number of new films, dealing with various aspects of racial policy in South Africa, were being released by the Department of Information in 1964. (Statement by the Minister of Information. See Republic of South Africa, *House of Assembly Debates (Hansard)*, 4 February 1964, cols. 700-702.) Municipal and Divisional councils were authorized to contribute to the South Africa Foundation, a private organization which seeks to build goodwill abroad for South Africa. (*Southern Africa* (London), 17 January 1964.)

[17] *Southern Africa* (London), 20 December 1963.

[18] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, col. 71.

[19] The Bantu Laws Amendment Bill was originally published in February 1963 and aroused widespread opposition. An abridged version was enacted as Act No. 76 of 1963. The remaining provisions, as revised, have now been introduced.

[20] *The New York Times*, 19 February 1964.

[21] Reuters, 17 March 1964.

[22] *South African Digest* (Pretoria), 21 November 1963.

[23] *The Cape Times*, 16 January 1964.

[24] *Ibid.*, 29 January 1964.

own areas . . . You have the Mdontzani project near East London where 60,000 have been resettled in the Bantu area. We are busy with that; we shall shortly start in Pietersburg; there are 180,000 at Durban who will shortly be settled in the Bantu area: Dalmeny 75,000; Pietermaritzburg 38,000; Rustenburg 9,000; Potgietersrust 6,000 (already settled); Newcastle over 12,000; Pretoria over 50,000. Just think of these few projects, and more are in the process of development. That will mean that within the following few years over 550,000 Bantu, from the "white" areas, will be settled in their own areas. And not only do the Bantu accept this, but they accept it enthusiastically."[25]

(c) *Implementation of the Group Areas Act*

38. The forcible uprooting of families and businesses to separate the races, under the Group Areas Act, has continued. Tens of thousands of families have been affected. The proclamations for Durban alone, issued on 4 October 1963, involved the dispossession and eviction of nearly 10,000 families.[26]

39. A plan to resettle virtually all of the 38,000 Indians on the Rand in three areas is nearing completion and the final group areas proclamations are expected. Full implementation of the plan will result in almost total residential segregation of Indians in the Transvaal. The three towns of Benoni, Lenasia and Krugersdorp will be developed as "self-supporting communities which will eventually be granted autonomous local government". Some businessmen will be permitted to remain in strictly controlled multiracial trading and light industrial areas yet to be proclaimed in some urban areas.[27]

40. A deputation of persons of Indian and Pakistani origin from Cato Manor, Durban, complained to the Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, on 21 November 1963, that although their community made up only a tenth of the non-African population, it had been obliged to make nine-tenths of the sacrifices under the Group Areas Act. They stated that 125,000 persons of Indian and Pakistani origin had been affected, compared with 4,000 Whites and 10,000 Coloureds.[28]

41. Members of the Indian community observed 15 November 1963 as "a day of anguish and sorrow in thousands of homes". A statement issued in that connexion said that Indians were entering "a moment of crisis" caused by the Group Areas Act and that it was "a solemn and religious duty to say that mass uprooting of people, no matter what colour, is against all moral and religious scruples".[29] More than one hundred Indian school children were caned for having stayed away from classes on 15 November.[30]

42. Police used police dogs to disperse several hundred Indian women who had come from many parts of the Transvaal to Pretoria on Human Rights Day, 10 December 1963, to present a protest to the Prime Minister on the application of the Group Areas Act. They had carried a memorandum which read in part:

"The ruthless application of *apartheid* is causing grave concern to our people. Its implementation in the form of group areas, job reservation and other measures involves loss of homes, impoverishment and assault on our dignity and self-respect.

"As a woman, I request you to take steps that will restore security to a people whose only 'crime' is colour and race."[31]

(d) *Establishment of advisory bodies for racial groups*

43. Separate advisory and administrative bodies are being set up and expanded on racial lines to implement the policies of *apartheid* and give an appearance of consultation.

44. The first Bantu council was established at Welkon (Orange Free State) in November 1963. The council consists of eight elected and four appointed members representing their ethnic groups.[32] It may be recalled that the establishment of Bantu councils had been strongly opposed by African organizations.

45. The State President, Mr. C. R. Swart, declared in his opening statement to Parliament on 17 January 1964 that a bill would be introduced providing for a Council with legislative powers to deal with certain matters affecting Coloureds.[33] The Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, had stated in October 1963 that a Coloured Representative Council would be established and empowered to consult with a joint committee of Parliament.

46. The Prime Minister, Mr. H. F. Verwoerd, told the House of Assembly on 21 January 1964:

"Our policy is that there will be a Coloured Legislative Council which will care for the interests of the Coloureds; the leaders . . . will form an executive body. This Council will deal with matters affecting the Coloureds only. The other matters, affecting the country as a whole, will be dealt with by this Parliament as it is constituted at present, and the representatives of the Coloureds will remain white, as they are now. That is our policy."[34]

47. The Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, introduced the Coloured Persons Representative Council Bill in the House of Assembly on 26 February 1964. The Council would be composed of thirty elected and sixteen nominated members and an executive committee of five members, of whom one would be appointed as chairman by the State President. The State President would be enabled to permit the Council to legislate on specified subjects. Voting in the executive committee would be secret.[35]

48. The Government has also made efforts to set up an advisory body of people of Indian and Pakistani origin along the same lines as the Coloured Advisory Council. Representatives of the community, however, refused to co-operate[36] and the Government invited about one hundred "delegates" to a conference in Pretoria on 10 and 11 December 1963.[37]

49. The Minister of Bantu Education and of Indian Affairs, Mr. W. A. Maree, told the conference that he had invited them, as democratically elected leaders of the Indian community could scarcely be found because of "agitation, in-

[25] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 24 January 1964, cols. 282 and 283.

[26] *The New York Times*, 7 October 1963. The following declarations of group areas have been issued since 13 September 1963 and published in the *Government Gazette* on the dates indicated:

13 September 1963: group areas for Coloureds and Indians at Ermalo, Transvaal; for Whites at Ottoshoop, Transvaal; 4 October 1963: group areas for Whites, Coloureds and Indians at Durban, Natal; for Whites, Coloureds and Indians at Isipingo, Natal; for Whites and Coloureds at Colesberg, Cape Province. 18 October 1963: group area for Coloureds at Hawston, Cape Province; 25 October 1963: group area for Indians at Mountain Rise, District of Pietermaritzburg, Natal; 1 November 1963: group areas for Whites and Coloureds at Riversdale, Cape Province; for Whites at Port Elizabeth, Cape Province; for Whites and Indians at Krugersdorp, Transvaal; for Whites at Randfontein, Transvaal; for Whites and Coloureds at Roodepoort, Transvaal; 22 November 1963: group area for Whites at Somerset West, Cape Province; 6 December 1963: group areas for Whites and Coloureds at Tarkastad, Cape Province; for Whites and Coloureds at Malmesbury, Cape Province.

[27] *The Star* (Johannesburg), weekly edition, 5 October 1963.

[28] *Rand Daily Mail*, 22 November 1963; *The Cape Times*, 22 November 1963.

[29] South African Press Association, 4 November 1963.

[30] *Rand Daily Mail*, 23 November 1963, quoted in Institute of Race Relations *News Letter*, December 1963.

[31] *Rand Daily Mail*, 11 December 1963.

[32] *South African Digest* (Pretoria), 7 November 1963.

[33] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 17 January 1964, col. 3.

[34] *Ibid.*, 21 January 1964, col. 71.

[35] *The Cape Times*, 27 February 1964.

[36] The Transvaal Indian Congress declared, for instance, that "no self-respecting Indian will serve on a body designed to implement *apartheid*". (Reuters, 10 December 1963.)

[37] The Minister of Bantu Education and of Indian Affairs stated that it had been decided to invite persons who had proved by their actions that they had the interests of the community at heart. (*Rand Daily Mail*, 13 November 1963.)

timidation and internal strife" and as there was a "dire need for consultation". He continued:

"If the required co-operation is still withheld it will not mean that I shall refrain from going ahead with the task entrusted to me. But I shall do so as I see fit and nobody will be entitled to accuse me then of taking matters into my own hands without first having consulted you."

50. The Minister warned the people of Indian and Pakistani origin that the Government had difficulty in engendering an adjustment of outlook among its followers "who for many years were used to saying that the Indians were a foreign people who should go back to their countries of origin".[38]

51. The Conference was reported to have accepted the Government's plans for the formation of a National Indian Council.[39]

52. On 3 February 1964 the Minister announced the establishment of a National Indian Council of twenty-one members as "purely an administrative arrangement to provide the machinery for contact between the Government and the Indian community. In due course, and after necessary consultation, legislation will be introduced for the creation of a statutory council". He added that the establishment of the Council created an official link between the Government and the Indian community and showed "proof of the Government's willingness and desire to cater for the needs of Indians in the same way as the needs of other sections of the population are being catered for".[40]

53. On 25 February 1964 the chairman of the National Indian Council, Mr. J. H. van der Merwe, stated that the first meeting of the Council would be held from 23 to 25 March 1964.[41]

(e) Apartheid *in education, employment and other fields*

54. Segregation in education is being extended. It was reported that a faculty of medicine would be established at the University College of the North. African students would be enrolled in this segregated institution in early 1965, and would then be barred from the medical schools of the Universities of the Witwatersrand, Cape Town and Natal.[42]

55. *The Cape Times* (22 November 1963) reported that more than 100 Coloured taxi drivers had been dismissed from their jobs in Cape Town because of enforcement of regulations forbidding non-white drivers to chauffeur white passengers. At least 250 more Coloured drivers were liable to lose their jobs. Mr. A. Bloomberg, Coloured Representative for Cape Peninsula, stated: "this repressive race policy, resulting as it does in innocent people losing their means of livelihood, is causing South Africa infinite harm".

56. The South African Press has reported that the Minister of the Interior intends to introduce the Protection of Race Relations Bill to enforce rigid *apartheid* in virtually all cultural, sporting and entertainment fields. The Minister, Senator Jan de Klerk warned of "stern measures" against persons who failed to observe rigid social segregation of the races.[43]

(f) *Implementation of the Transkei Constitution Act, No. 48, 1963*

57. The adoption of the Transkei Constitution Act, No. 48, 1963, as a step towards the creation of bantustans, was reviewed in the last report of the Special Committee. The Act provided for limited self-government in the overcrowded African reserve of Transkei, to be exercised through a legislative assembly composed of sixty-four appointed chiefs and forty-five elected members.

58. Elections for the legislative assembly were held on 20 November 1963. The Government announced that 880,425 persons—414,238 men and 466,187 women had registered as voters.[44] One hundred and eighty candidates were nominated for the forty-five seats.

59. Political parties were not allowed, and the two main contenders for the post of Chief Minister—Chief Kaiser Matanzima, head of Emigrant Tembuland, and Paramount Chief Victor Poto of Western Pondoland—issued election manifestos. Chief Matanzima supported the Government's policy of "separate development", while Paramount Chief Poto called for multiracialism and a more democratic legislature.[45]

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[38] *Southern Africa* (London), 20 December 1963. Mr. Maree said the proposed council could "pave the way for an eventual democratically elected council", which in time would control those affairs of the Indian community that might be delegated to it by Parliament. Initially it would serve as a body through which the Government could consult the Indian community. It would consist of about fifteen members "nominated by me—perhaps from a list submitted by this conference". Among matters upon which the council would be consulted were: (1) how it could be developed into an elected body "with powers to legislate and administer"; (2) improvement of school facilities; (3) establishment of local government "for Indians and by Indians in their own cities, towns and residential areas"; (4) giving Indians a share in industrial development; (5) establishing Indian-run hospitals; (6) care for the aged and infirm; and (7) creation of more employment facilities.

[39] *Southern Africa* (London), 3 January 1964.

[40] Agence France Presse, 3 February 1964.

[41] *The Cape Times*, 26 February 1964.

[42] *The Star* (Johannesburg), weekly edition, 9 November 1963.

[43] *The Cape Times*, 10 January 1964.

[44] All Africans born in the Transkei, all Xhosa-speaking persons in South Africa and all Sotho-speaking persons linked with Sotho elements in the Transkei were regarded as Transkei citizens. Of the total registered voters, about 610,000 had registered in the Transkei and about 270,000 outside the territory.

[45] *The South African Digest* (7 November 1963) summarized the main points of the manifestos as follows:

"Chief Matanzima says in his 13-point manifesto that he would advocate:

"Separate development; industries for the Transkei, but not European private enterprise; the gradual take over for the Bantu of all land in the Transkei including municipal property in the 26 villages; the establishment of a Bantu battalion in the Republic's defence force to train the young Transkeians for military service in the event of war involving South Africa.

"He would also press for an all-black civil service in the Transkei with salaries comparing favourably with those of their white counterparts in the Republic.

"The Transkei's Education Department should be solely responsible for the nature and standard of education to be given to the Bantu children. The people of the Transkei should decide on the medium of instruction and syllabi.

"The Transkei would require financial stability. For this reason good relations would have to be maintained with the Republican Government (to facilitate the flow of money) from South Africa to the Transkei by way of grants and the employment of Transkeians in the border industries and elsewhere.

"He wanted agriculture to be placed on a high standard whereby every able-bodied man owning land would use modern methods of farming. The whole country should be completely rehabilitated—irrigation schemes to be undertaken, soil erosion checked, dams built and good quality stock bought.

"He would strive to induce the Republican Government to employ Bantu men and women in all the departments that had not been transferred to the Transkei Government so as to train them for independence.

"The traditional authority of chieftainship should be preserved, and in order to do so, chiefs should participate in the body that made the laws—the Transkeian Legislative Assembly. The chiefs should be in the Assembly by virtue of their status.

"This is one of the main points on which Chief Matanzima and Paramount Chief Poto disagree. The latter has said that members of the Assembly should all be elected members and that the chiefs should sit in an Upper House of Review.

"Other points which Paramount Chief Poto advocates in his election are:

"The formation of political parties which have the interests of the Transkeian people at heart; an educational system that will fit the individual into human society and which is not bound by geographical boundaries; a policy of equal pay for equal work; freedom to compete for any

60. The issues in the elections were rather unreal as the Government had made it clear that multiracialism could not be accepted. Paramount Chief Victor Poto stated that though he was in favour of a multiracial Transkei, he realized that he would not be able to do much to promote it before the Transkei was totally independent.[46]

61. Moreover, the elections were conducted under a State of Emergency and with the full use of repressive force against the militant opponents of the policies of *apartheid.* As the Liberal Party noted shortly before the elections:

"One candidate at least, Mr. L. Mdingi of Bizana, was given 90 days when he emerged as organiser of the IQumru LamaMpondo AseMpumalanga (Pondoland People's Party) putting up eight candidates. Another, Mr. Hammington Majija, a well-known Liberal, was banned under the Suppression of Communism Act on 1st October, the eve of Nomination Day. An outstanding local leader, Mr. N. I. Hinono, was house-arrested in Umtata in 1962 and another, Mr. R. S. Canca, banned and confined to Idutywa and Willowvale this year. And all the old factors remained—the cream utterly sceptical, banned, or elsewhere involved—Transkeians like Messrs. Nelson Mandela, Walter Sisulu and Govan Mbeki all in gaol and Mr. Oliver Tambo in exile. So came the election, with many leading figures knocked out in advance, no political parties, no freedom to hold meetings at will, freedom of speech muzzled by the Emergency Regulations which make even 'interference with the authority of the State, one of its officials, a chief or headman' by making 'a verbal or written statement' an offence punishable by up to three years' gaol and £300 fine."[47]

62. The Paramount chiefs and the chiefs seemed to have exercised much influence on the elections.

63. Paramount Chief Botha Sigcau of Eastern Pondoland (Quakeni), against whom there had been revolts in the area, appealed to the electorate in his region to abide by the principle of separate development on which the Transkei Constitution was based and added: "order, law and justice, and not subversion and sabotage, have always adorned the careers of wise statesmen. Voters of Pondoland, vote for such men."[48] His statement was considered significant particularly as his region has the biggest block in the Assembly—eight elected members and fifteen chiefs.

64. Paramount Chief Sabata Dalindyebo, on the other hand, supported Paramount Chief Victor Poto.

65. Despite the clear evidence of the Government's support for Chief Matanzima, nearly thirty-five of the forty-five elected seats were won by supporters of Paramount Chief Poto. This was widely interpreted as a repudiation of *apartheid* by the Xhosa people.

66. Chief Matanzima, however, was elected Chief Minister on 6 December 1963 by 54 votes to 49, having obtained the support of a large majority of the chiefs.

67. Paramount Chief Poto and his supporters formed the Democratic Party as a parliamentary opposition.

(g) *Imposition of the policies of* apartheid *in the Mandated Territory of South West Africa*

68. The Government's plans to impose the policies of *apartheid* by force in the Mandated Territory of South West Africa, in disregard of its international obligations under the United Nations Charter and the resolutions of the General Assembly, may be briefly noted.

position or employment in an unrestricted labour market and removal of disabilities of the work-seeker; a policy that will remove fear and uncertainty and instil confidence in the future and a sense of belonging and usefulness to a growing and expanding community; the establishment of factories and industries resulting in increased opportunities for employment; a legal system that will measure up to the international standards of justice; a policy of scientific, pastoral and agricultural development; increased and State-subsidized health services; and freedom of speech and religion."

[46] *South African Digest* (Pretoria), 21 November 1963.

[47] *Contact* (Cape Town), 30 November 1963.

[48] *South African Digest* (Pretoria), 21 November 1963.

69. On 27 January 1964, while the question of South West Africa was the subject of adjudication in the International Court of Justice, the Government tabled in Parliament the report of the Commission of Enquiry into South West Africa Affairs, 1962-1963, known as the Odendaal Commission, which provides, in conjunction with a development plan, for the division of the Territory into a large "white" area and a number of "native homelands".

70. The Commission endeavoured to present the plan as favourable to the indigenous African inhabitants. It stated that 21,607,745 hectares had so far been set aside as "home areas" for the non-white groups. Under the Commission's plan, these areas would be increased to 32,629,364 hectares,[49] largely by the addition of desert to consolidate scattered reserves.

71. These areas would be divided into ten "homelands" for ten non-white groups whose numbers vary from 9,234 persons in Kaokoveld to 239,363 Ovambos (who constitute 45.5 per cent of the total population of the Territory and a majority of the none-white population).[50]

72. The Commission projected the ideal of "self-determination" for the ten non-white groups. It stated that "one mixed central authority for the whole Territory would not further the proper aims of self-determination for each population group" on the grounds that (*a*) the population was heterogeneous; (*b*) the groups "harbour strong feelings against other groups"; (*c*) "the Ovambo . . . would completely dominate the other groups"; (*d*) government by non-whites would lower standards of administration, and hamper the Whites "to whom the Territory mainly owes its economic progress".[51]

73. Under the Commission's recommendations, the bulk of the habitable land of the Mandated Territory would be reserved for the Whites who constitute only a sixth of the population. In addition, all diamond mines and the great majority of all other mines would remain in the "white" area.[52] The Commission recommended that an area now part of the Kaokoveld reserve, where prospecting for diamonds has now begun, be placed in the "white" area.

74. The Commission concluded that:

". . . the upliftment and development of the non-white groups and their contemplated homelands is a task for direct handling in all its facets by the Central Government of the Republic of South Africa, and that, largely in view of the implications involved, only the proposed White area in South West Africa should be administered by an Administrator, Executive Committee and Legislative Assembly."[53]

75. It recommended that the non-white "homelands" and non-whites in the "white" area be administered by the Department of Bantu Administration and Development of the Republic.

76. The Commission recommended that each homeland institute "a citizenship of its own".[54]

77. Two Commissioners-General would be appointed for non-white "homelands".[55] Each "homeland" would have its own "constitution" and legislative council. The legislative councils would consist of chiefs and headmen and, in some cases, a minority of elected members.[56] Powers would be gradually transferred to them. Eventually, these Councils would be responsible for all functions except defence, foreign affairs, internal security and border control, posts, water affairs, power generation and transport. All legislation passed by the Council would be subject to the approval of the State President.[57]

[49] *Report of the Commission of Enquiry into South West Africa Affairs, 1962-1963*, para. 425.

[50] *Ibid*., paras. 298-407 and table XII.

[51] *Ibid*., paras. 184-189.

[52] *Ibid*., para. 1321.

[53] *Ibid*., para. 214.

[54] *Ibid*., para. 306.

[55] *Ibid*., paras. 227 and 228.

[56] *Ibid*., paras. 301-398. In the majority of cases where the Commission recommended the election of members to the Legislative Councils, it stipulated that "such elected members shall initially not constitute more than 40 per cent of the Legislative Council".

[57] *Report of the Commission of Enquiry into South West Africa Affairs, 1962-1963,* paras. 303-399.

78. The five-year development plan involves an expenditure of $219 million in both the "white" and "non-white" areas. Of this, however, about a quarter is for budget deficits. $100 million is for power and water projects: over two thirds of this appears to be intended for "white" areas or for mines controlled by Whites. Over $57 million is to be spent for roads and $4.2 million for airports. Projects for education and health in the homelands would cost $7 million.[58]

79. In short, it would seem that the Commission's plan is based on such an interpretation of "self-determination" to make the term meaningless. "Homelands" with such small populations as are envisaged can never hope to become truly self-governing or independent. The objective would seem to be to divide the territory on tribal lines, create bantustans with small populations, and integrate the territory more closely with the Republic.

80. It secures the richest part of the country for "white" control. It does not change the present situation in that respect which was described in the summary of the report as follows:

"South West Africa has what can be described as a dual economy with a predominantly modern sector in the South and a traditional subsistence economy in the North.

"Except for the wealth derived from karakul sheep which thrive in the Southern Region, the country as a whole has limited and uncertain agricultural possibilities. To its mineral resources, however, particularly diamonds and copper, it owes a large measure of its vigorous economic growth. Its fishing grounds off the coast-line have, since the last War, contributed substantially to the general prosperity.

"These developed natural resources are mainly in the Southern Sector where the knowledge and resourcefulness of the Whites in mining, industry and farming have made their exploitation possible. Apart from providing labour, the Northern Homelands have so far made an extremely small contribution to development as a whole."

81. As *Contact*, a liberal fortnightly of Cape Town, commented on 14 February 1964, the South African Government had inherited "a Mandate, not half a country". The paper added:

"The economic—industrial, agricultural, social welfare—provisions will provide a mass of useful ideas for a free South West Africa. The political ideas . . . can attract none but the inevitable sell-outs and short-term power seekers, and can please only the already *apartheid*-converted. Ten bantustans for the non-whites and the Whites . . . and not even a central parliament for all the bantustans to meet together: here is 'divide and rule' gone mad.

"The report talks of the 'melting-pot of population migrations in the country,' yet . . . it never once postulates a 'melting-pot' state—a non-racial democracy, which has been the constant aim of the political leaders of the Ovambo, Hereros, Namas, Damaras, and others as represented by the petitioners at the United Nations."

82. On 4 February 1964 the Administrator of South West Africa stated that the report of the Commission would be submitted to the Legislative Assembly of South West Africa on 17 March 1964.[59] On 25 February 1964 the Minister of Bantu Administration and Development, Mr. M. D. C. de Wet Nel, stated that there should be no delay in implementing the Commission's recommendations.[60]

III. Build-up of military and police forces

83. In its previous reports, the Special Committee reviewed the tremendous expansion of military and police forces in South Africa to meet the grave situation caused by the imposition of the policies of *apartheid*, and indicated that this expansion was itself likely to have serious international repercussions.

84. The build-up of military and police forces has continued during the period under review.

[58] *Ibid.*, para. 1509.

[59] South African Information Service, 5 February 1964.

[60] *The Cape Times*, 26 February 1964.

85. State President C. R. Swart declared in his opening address to Parliament on 17 January 1964:

"It is gratifying to be able to mention that the programme to equip our Defence Force is proceeding according to plan, and that defence research and local production of defence requirements are progressing satisfactorily . . . It is also encouraging to note that the expansion of the Defence Force enjoys the general support of the nation.[61]

86. The Minister of Finance, Mr. T. E. Dönges, claimed on 17 September 1963 that South Africa could cope with any "Army of Liberation" which did not receive financial and military support from at least two great Powers.[62] He suggested, however, that South Africa had not yet reached her maximum defence expenditure and that the 1964-1965 defence vote would rise above current expenditure.[63]

87. On 16 March 1964 the Minister of Finance introduced a record defence budget totalling R210 million or $294 million. The estimate represents an increase of 25 per cent, or R52 million, over the appropriation for 1963-1964. Mr. Dönges stated in the House of Assembly that the increase was to "discourage foreign aggression" and counter:

"threats which have been hurled at our country, threats which at another time would have called down the condemnation of the civilized world . . . If I do not believe that these threats will be translated into action, it is only because I know—and those who threaten us know—that our defences are strong and getting stronger by the day".[64]

The budget also includes an estimate of $16 million for justice and police services. South Africa would spend 26.8 per cent of its total budget on security.[65]

88. The South African Government has continued to import military equipment from abroad. The *President Steyn*, second of the three modern anti-submarine frigates ordered by the South African navy in the United Kingdom, at a cost of R10 million, arrived in Cape Town in September 1963.

89. The Swiss Federal Cabinet announced in November 1963 that it had authorized a Swiss firm, Oerlikon, to deliver several anti-aircraft guns and explosives to South Africa. It stated that the export of these weapons had been permitted because they were exclusively for air defence.[66]

90. Manufacture of arms and ammunition in South Africa continues to be expanded.

91. The Minister of Defence, Mr. J. J. Fouché, said in September 1963 that South Africa still needed certain types of arms, but so much progress had been made with the production of arms and ammunition that South Africa was now almost independent of foreign sources of supply. If the threats of certain countries to stop supplies to South Africa were carried out, he foresaw great progress in the manuacture of arms in the country. He claimed that South Africa's problem was no longer to get arms manufacturers of other countries to produce arms in South Africa, but rather to decide whose requests for the establishment of factories should be accepted.[67]

92. Mr. Fouché added on 14 October 1963 that the South African production of arms, ammunition and explosives had risen 80 per cent in the past four years and that the variety of arms and ammunition manufactured was three times as great as during World War II, despite the greater complexity of modern weapons.[68]

93. He stated in December 1963 that South Africa had not been buying arms for internal use for some time and that it either had, or was manufacturing, all arms needed for internal security.[69]

[61] *The Senate of the Republic of South Africa, Debates (Official Report)*, 17 January 1964, col. 9.

[62] *The Cape Times*, 18 September 1963.

[63] *Ibid.*, 11 September 1963.

[64] *The Times* (London), 17 March 1964.

[65] *The New York Times*, 17 March 1964.

[66] *South African Digest* (Pretoria), 21 November 1963.

[67] *Ibid.*, 19 September 1963.

[68] Agence France Presse, 14 October 1963; *The Cape Times*, 15 October 1963.

[69] *Southern Africa* (London), 20 December 1963.

94. Defence research, begun in 1962 with the collaboration of the Council for Scientific and Industrial Research and the Defence Force, was actively promoted and expanded. Close contact was maintained with industry and the universities.[70]

95. Early in September 1963, it was announced that the Council for Scientific and Industrial Research (CSIR) was recruiting highly qualified scientists to be sent overseas for two years for the necessary training to conduct research into the construction of rockets.[71]

96. On 27 October, Professor L. J. le Roux, Vice-President of the Council for Scientific and Industrial Research, announced the establishment of a Rocket Research and Development Institute. He stated that the rocket-propelled ground-to-air missile was one of the defensive weapons being contemplated. Supported by radar to seek out an assailant far beyond the boundaries of the country, the guided missile was the surest defence against an enemy attack from the air.[72]

97. He also announced the establishment of a Naval Research Institute. Its main task would be the development of scientific methods to protect the Republic's harbours and coastline.[73]

98. Professor le Roux stated on 7 November 1963 that the South African Government was studying recent developments in airborne weapons, including poison gases known to be capable of massive devastation, in order to strengthen defences against surprise attack from the air. He said that gas was coming back as a low-cost weapon of frightening power and stated:

> "We appreciate that these poisons are capable of being delivered in vast quantity by aircraft or long-range missile and they can have a destructive effect similar to that of a nuclear bomb of 20 megatons. These gases are 10 times more poisonous than any other substance you can name . . . We must be alert to such dangers."[74]

99. Large numbers of civilians are being trained in the use of firearms. The Minister of Justice, Mr. B. J. Vorster, stated on 11 September that 27,250 women in South Africa belonged to pistol clubs where they received instruction from police officers.[75]

100. The Government set up a special committee of police and defence experts to compile a list of military and strategic installations which would be declared "protected areas" in case of emergency. The Minister of Justice may direct the owners of "protected areas" to erect security fences, refuse admittance to all persons not authorized by the Minister and institute other precautionary measures at their own expense. He may also designate any person "in the service of the State" and specifically military personnel, to take charge of any such installation. The Minister stated that Africans would be excluded from all duties connected with the security of such areas. The Minister of Defence announced simultaneously that special units of the Commandos would be responsible for the security of strategic installations.[76]

ANNEX III

Resolution adopted by the Council of Foreign Ministers of the Orgnization of African Unity at its second regular session held at Lagos, 24-29 February 1964

The second regular session of the Council of Ministers of the Organization of African Unity, meeting at Lagos from 24 to 29 February 1964,

Recalling its earlier resolutions on *apartheid* and racial discrimination, and particularly the resolution adopted by the Summit Conference of Heads of African States and Governments at Addis Ababa in May 1963,[1]

Having considered the report of the Committee for Liberation,

Having heard the report of the delegation of Foreign Ministers entrusted by the Addis Ababa Summit Conference with the task of setting forth and defending the African position in the United Nations Security Council,

Noting with great concern the continued refusal of the Government of South Africa to heed the appeals of all sectors of world public opinion, and in particular the resolutions of the United Nations Security Council and General Assembly,

Noting in particular that inasmuch as the Government of South Africa has disregarded all peaceful efforts to secure the abandonment of the policy of *apartheid*, sanctions of every kind represent the only remaining means of peacefully resolving the explosive situation prevailing in South Africa,

Decides to submit to the next conference of Heads of State the following recommendations:

1. That it should reaffirm that the situation in South Africa represents a serious threat to international peace and security;

2. That it should condemn the Government of South Africa, whose policy, which is inconsistent with its political and moral obligations as a State Member of the United Nations, gravely imperils the stability and peace of the African continent and of the world;

3. That it should endorse and promote action by representatives of the Organization of African Unity in international bodies to secure the abandonment of the policy of *apartheid* and that it should welcome the growing support of many States and institutions for African demands in this matter;

4. That it should renew its appeal to all States to apply strictly the economic, diplomatic, political and military sanctions already decided upon by the United Nations General Assembly and Security Council;

5. That it should address a special appeal to the major trading partners of the Government of South Africa to desist from the encouragement they are giving to *apartheid* through their investments and their trade relations with the Pretoria Government;

6. That it should commend the delegation of Foreign Ministers entrusted by the Addis Ababa Summit Conference with the task of setting forth and defending the African position in the United Nations Security Council and that it should instruct the African Group in the United Nations to request the earliest possible action by the Security Council to give effect to its resolutions S/5386 of 7 August 1963 and S/5471 of 4 December 1963 calling for an end to the sham trials of South African nationalists and for the liberation of all persons imprisoned, interned or subjected to other restrictions for having opposed *apartheid*;

7. That it should decide to take all necessary steps to deny the right of overflight, landing and docking, and all other facilities, to aircraft and ships coming from or bound for South Africa;

8. That it should instruct the African Group in the United Nations to prepare and submit to the next Summit Conference of Independent African States a complete report on the nature and scope of trade relations and private and public investments as between South Africa and other States, and as between African States and these partners of the Government of South Africa.

Lagos, 27 February 1964

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[70] *South African Digest* (Pretoria), 31 October 1963.

[71] *Ibid.*, 5 September 1963.

[72] *Ibid.*, 31 October 1963; *The New York Times*, 28 October 1963.

[73] *South African Digest* (Pretoria), 31 October 1963.

[74] Reuters, 7 November 1963.

[75] *The Star* (Johannesburg), 1 September 1963.

[76] *The Star* (Johannesburg), weekly edition, 21 September 1963.

[1] Summit Conference of Independent African States, held in Addis Ababa, 22-25 May 1963.

DOCUMENT A/5707*

Report of the Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa

[*Original text: French*]
[*25 May 1964*]

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Letter of transmittal

New York, 25 May 1964

Sir,

I have the honour to transmit herewith a report unanimously adopted on 22 May 1964 by the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa.

This report is submitted to the General Assembly and the Security Council in pursuance of the provisions of operative paragraph 5 (*b*) of General Assembly resolution 1761 (XVII) of 6 November 1962, and operative paragraph 2 of General Assembly resolution 1978 A (XVIII) of 16 December 1963.

The Special Committee has decided to submit this report in view, particularly, of the forthcoming consideration of the question by the Security Council, at the request of fifty-eight Member States which have drawn attention to the new developments in the Republic of South Africa and more specifically the imposition of death sentences on African political leaders. The Special Committee wishes to draw the attention of the two principal organs of the United Nations to the grave developments since its last report of 23 March 1964 and to assist them in the consideration of effective measures and in their search for adequate solutions to meet the grave and growing threat to international peace and security represented by the present situation.

The Special Committee wishes to emphasize again the urgent need for mandatory action under Chapter VII of the Charter, with the active co-operation, in particular, of Governments that maintain close relations with the Government of the Republic of South Africa, in order to avert a violent conflict in South Africa, which is liable to have serious international consequences.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Diallo Telli
Chairman.
Special Committee on the Policies of apartheid *of the Government of the Republic of South Africa*

His Excellency U Thant,
Secretary-General of the United Nations,
New York.

Report of the Special Committee

1. On 23 March 1964, the Special Committee submitted an urgent report to the Security Council (S/5621) and the General Assembly (A/5692) "in view of grave new developments in the Republic of South Africa, namely, that some political prisoners opposed to *apartheid* have just received death sentences, others are threatened with the same penalty, and all of them risk being hanged".

2. The Special Committee, being convinced that effective mandatory measures must be taken urgently to meet this grave situation and to prevent irrevocable consequences, recommended in paragraph 14 of its report that the Security Council should as a first step demand that the South African Government:

"(*a*) Refrain from the execution of persons sentenced to death under arbitrary laws providing the death sentence for offences arising from opposition to the Government's racial policies;

* Also issued as S/5717.

"(*b*) End immediately trials now proceeding under these arbitrary laws, and grant an amnesty to all political prisoners whose only crime is their opposition to the Government's racial policies;

"(*c*) Desist immediately from taking further discriminatory measures; and

"(*d*) Refrain from all other actions likely to aggravate the present situation."

3. The Special Committee further recommended, in paragraph 15 of its report, that, unless the South African Government complied within a brief time-limit with the aforementioned minimum, but vital, demands, the Security Council, in conformity with the terms of Chapter VII of the Charter of the United Nations and on the basis of the recommendations of the General Assembly and the Special Committee, should take new mandatory steps to compel the South African Government to comply with the decisions of the Council.

4. Since that report was issued, the Special Committee has continued to review the situation in the Republic of South Africa in the discharge of its mandate under General Assembly resolutions 1761 (XVII) and 1978 (XVIII). A number of new and important developments have occurred in the Republic of South Africa since that time. The main developments are given in annex I to the present report.

5. The South African Government has shown no willingness to comply with the resolutions of the General Assembly and the Security Council or to take the minimum steps recommended in the last report of the Special Committee. On the contrary, it has continued to persecute opponents of the policies of *apartheid* and passed new discriminatory legislation depriving the non-whites of the few remaining rights. The gravity of the situation, and particularly the urgent need for effective measures to save the lives of those who have already been, or may be, sentenced to death, has given rise to the need for this new report, pursuant to the terms of reference of the Special Committee.

6. The trial of Nelson Mandela, Walter Sisulu and other leaders of the people and opponents of *apartheid* was resumed on 20 April 1964 and continues in Pretoria under arbitrary and iniquitous laws, which violate the fundamental principles of universal justice and human rights and prescribe the death penalty for acts of resistance to the policy of *apartheid*. A number of other similar trials are taking place in the country. In those which have already been concluded, numerous persons have been given the most severe sentences for belonging to the African National Congress and the Pan-Africanist Congress, nationalist political movements which are banned, or for acts arising from opposition to the policies of *apartheid*.

7. Meanwhile, the Parliament has passed the Bantu Laws Amendment Bill which also violates the fundamental principles of human rights and further aggravates tension in the country.

8. These developments are greatly increasing the threat of violent conflict in South Africa which is bound to have the most serious repercussions in the continent of Africa and in the world. The statement of Nelson Mandela at his trial in Pretoria on 20 April 1964 (A/AC.115/L.67) and the evidence of others accused in that trial, show clearly that the policies of the South African Government have left no effective means of protest and redress to the opponents of *apartheid* in South Africa except resorting to violence.

9. The Special Committee has taken note of the urgent and earnest appeal by the Secretary-General to the Government of South Africa on 27 March 1964 to spare the lives of those facing execution or death sentences for acts arising from their opposition to the Government's racial policies, so as to prevent an aggravation of the situation and to facilitate peaceful efforts to resolve the situation, as well as similar appeals by a number of Chiefs of State, non-governmental organizations and prominent personalities.

10. The Group of Experts established in pursuance of the Security Council resolution of 4 December 1963[1] has also emphasized the imperative and urgent need for an "amnesty for all opponents of *apartheid*, whether they are under trial or in prison or under restriction or in exile".[2] It also recommended the formation of a fully representative national convention to set a new course for the future of South Africa.

11. The Special Committee has noted that the Prime Minister of South Africa and other leaders of the South African Government, since the publication of the report of the group of experts, have arbitrarily and summarily rejected any steps towards compliance with the recommendations of the group of experts. The South African Government has also denounced the Secretary-General's appeal of 27 March and thus challenged the demands of all Member States as declared in resolutions of the General Assembly and the Security Council.

12. The Special Committee sent a delegation to London to attend as observers the International Conference on Economic Sanctions against South Africa, from 14 to 17 April 1964. Heads of State and of Government of several Member States were patrons of the Conference and many Member States sent official representatives to attend the Conference. The main conclusions of the Conference are in harmony with the spirit of the recommendations of General Assembly resolution 1761 (XVII) of 6 November 1962.

13. A review of the International Conference by the delegation of the Special Committee is attached as annex II to this report for the information of the General Assembly and the Security Council and to facilitate their consideration of this question and their search for appropriate solutions. The Conference, after a study and discussion of papers by well-known experts on the various aspects of the question of economic sanctions against South Africa, concluded that total economic sanctions are politically timely, economically feasible and legally appropriate. To be effective, the Conference found that economic sanctions should be total and universally applied, and must have the active participation of the main trading partners of South Africa.

14. The Special Committee's delegation also heard a number of petitioners during its visit to London, including representatives of South African organizations opposed to the policies of *apartheid* and others who could provide it with useful information on the situation in South Africa. The hearings of the Committee and the memoranda received by it (A/AC.115/L.65) emphasize: (*a*) the urgent need for effective action to save the lives of prisoners under trial for their opposition to the policies of *apartheid* and to avert the present

[1] *Official Records of the Security Council, Eighteenth Year, Supplement for October, November and December 1963*, document S/5471.

[2] *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5694, annex, para. 44.

disastrous course in the country; (*b*) the need for early imposition of economic sanctions against South Africa as the only peaceful means available to the international community; and (*c*) the great responsibility which rests on the few countries which have the closest relations with the Government of the Republic of South Africa, particularly the United Kingdom and the United States of America.

15. The Special Committee feels that the course being pursued by the Government of the Republic of South Africa, particularly with regard to the trials and persecution of opponents of *apartheid* and leaders of the non-white population, in open defiance of the appeals and demands of competent United Nations organs, is leading to a rapid aggravation of the situation and is precipitating a violent conflict. It feels it essential that the competent United Nations organs, and the States which bear special responsibilities in this matter in view of their close relations with South Africa, should take decisive measures before irreparable harm is caused to the peace in South Africa and beyond. The Special Committee, therefore, again recommends that the Security Council should:

(*a*) Declare that the situation in the Republic of South Africa constitutes a threat to the maintenance of international peace and security;

(*b*) Take all necessary effective measures to save the lives of the South African leaders condemned for acts arising from their opposition to the policies of *apartheid*;

(*c*) Call upon all States and international organizations to utilize all their influence to ensure the fulfilment of the minimum but vital demands indicated in the last report of the Special Committee;

(*d*) Address a special request to all States which maintain relations with South Africa, especially the United States of America, the United Kingdom and France, permanent members of the Security Council, to take effective measures to meet the present grave situation;

(*e*) Decide to apply economic senctions, in accordance with Chapter VII of the Charter, as long as the Government of South Africa continues to violate its obligations as a Member of the United Nations.

16. In conclusion, the Special Committee wishes to emphasize that, in its opinion, effective mandatory action is imperative to avoid the most serious consequences arising from the policies of *apartheid* of the Government of South Africa, and that the Security Council is entitled to take such action under the provisions of the Charter. It expresses the hope that the Security Council will assume its full responsibilities on this question in accordance with the Charter and with the active co-operation of all the great Powers concerned, whose role is decisive in this matter.

17. The following documents are annexed to the present report for the information of the Security Council and the General Assembly and to facilitate the search for appropriate solutions by these two organs:

(*a*) Note on developments in South Africa since the Special Committee's report of 23 March 1964 to the General Assembly and the Security Council (annex I);

(*b*) Report of the delegation of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa on the International Conference on Economic Sanctions against South Africa, London, 14-17 April 1964 (annex II).

ANNEX I

Note on developments in South Africa since the Special Committee's report of 23 March 1964 to the General Assembly and the Security Council

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Introduction

1. In the annexes to the report of 23 March 1964, the Special Committee transmitted to the General Assembly (A/5692) and the Security Council (S/5621) a review of developments in South Africa since its previous report of 13 September 1963.

2. Since 23 March 1964 the Government of South Africa has reaffirmed its policies of *apartheid*, introduced serious new discriminatory methods and continued persecution of opponents of the policies of *apartheid* and continued its military build-up, thus aggravating the danger of violent conflict. These developments are briefly reviewed in the following sections.

I. Declarations by the Government of the Republic of South Africa on its racial policies

3. During the period under review, the South African Government has continued to state that it would not abandon its policies of *apartheid* or make any concessions in response to world opinion, and that it would oppose international action to bring about a change of its racial policies.

4. In a major policy statement in the House of Assembly on 23 April 1964, that is three days after the publication of the report of the group of experts established in pursuance of the Security Council resolution of 4 December 1963, the Prime Minister, Mr. H. F. Verwoerd, stated that in any attempt to "link up the various racial groups in one multiracial society, the majority group will and must eventually become the dominant group . . . From a multiracial society we can expect no other result than . . . one man, one vote, or black domination. . . . If South Africa wants to achieve its objective of remaining white there is only one method, and that is to segregate the Whites and the Blacks".[1] He continued:

> "We have set ourselves a clear objective . . . We as a white nation, which is settled here . . . and which has developed the country and brought prosperity not only for ourselves but also for the non-whites in our midst, will continue to exist in future as an independent . . . nation. That is our unshakeable object, an object in regard to which we will not negotiate and which we will not abandon . . .
>
> ". . . Integration has proved an outright failure . . . We shall be able to prove that it is only by creating separate nations that discrimination will in fact disappear in the long run . . . They [the African States] want their ideas to triumph in our country so that the white man can disappear from this country . . .".[2]

5. The Prime Minister added that the great Powers "only see South Africa as a pawn on the world chess-board. If it gets in the way it must be destroyed". He continued:

> ". . . South Africa cannot test its policy by . . . what is in line with the resolutions of U.N. organizations . . . We will not allow our lives and our continued existence to be decided by foreign interests."[3]

[1] Republic of South Africa, *House of Assembly Debates (Hansard)*, 23 April 1964, col. 4816.
[2] *Ibid.*, cols. 4814-4821.
[3] *Ibid.*, cols. 4815-4818.

6. With regard to South Africa's membership in the United Nations, the Prime Minister stated in the House of Assembly on 24 April 1964:

". . . South Africa's membership of various bodies is dependent upon what is in the best interests of South Africa in the opinion of the Government. The Government judges the situation from time to time in the light of prevailing circumstances. We are not prepared to leave South Africa in the lurch in any way. I reject as absolutely incorrect and untrue the insinuation that continued membership is the only proof of our readiness to fight for South Africa and that we are leaving South Africa in the lurch when we give up our membership under certain circumstances. There are circumstances in which one serves the best interests of one's country by not being a member of a particular body and in which one serves the best interests of one's country . . . by choosing one's own methods of fighting. The same thing applies to the United Nations. The policy of South Africa is to remain a member of the UN as long as it is considered to be in the interests of South Africa. If circumstances should arise under which it will no longer be in the interests of South Africa, then she will no longer remain a member."[4]

7. On 25 April the Prime Minister declared at a Nationalist Party rally at Paarl that South Africa would stand firm in the face of outside pressure. He said there were two reasons for confidence, first, the path chosen by the Government satisfied the basic requirements of justice to all sections of the population, and secondly, South Africa was one of the bastions of white civilization and Christendom: "The whole world is dependent on . . . the white nations. Africa will fall into chaos and disorder without the protecting hand of the white nations." He added that the Western Powers were willing to make concessions to the African States on one point after another to win their votes in the United Nations, and expected the South African Government to make the same sort of concessions. South Africa would be sacrificing her existence once she started to make concessions. Because South Africa's stability was as important to the West as to the Republic itself, South Africa must stand fast. He said:

"I believe that there will come a time when the Powers will draw the line and will refuse to be pushed any further . . . It seems that the boycotts and other threats are bringing the Western Powers to a point where they will eventually have to decide whether they can make further concessions."

8. For his part he would give the assurance that South Africa would resist the attacks against her:

"If it is necessary for us to make the sacrifices we will do so; but if we stand together as one people and let the world know that we are going to do what is right and how strong and universal is our will, so they know that if they do anything it will be against a strong, unified nation, then the future is bright and beautiful . . .

"I do not want to leave the people under any illusions. We will fight with our economic strength if it is boycotts we face, and with our sons and daughters and ourselves if it is force. For us it is a matter of life or suicide . . . The South African nation has always . . . fought for its existence. If this has been true when the nation was small and weak and without economic or military power, how much more true is it now that South Africa is strong . . ."[5]

9. Other leaders and spokesmen of the South African Government have declared, in similar vein, that *apartheid* or "separate development" was the only way of averting racial tension, that the survival of the white man was at stake and that the South African Government would not make any concessions on its racial policies.

10. For instance, Mr. Carel de Wet, South African Ambassador to the United Kingdom, stated in late March:

"It seems to me that separate development and happiness with progress for all are bedfellows . . .

"My Government stands immovable on our birthright as a distinct white nation to survive and rule in those parts of South Africa which we have settled and civilized . . ."[6]

11. The Deputy Minister for South West Africa Affairs, Mr. J. G. H. van der Wath, stated on 23 April 1964 that once South Africa began making concessions her enemies would demand more and would not be satisfied until the white man capitulated.[7]

II. CONTINUED PURSUIT OF THE POLICIES OF *apartheid*

12. The South African Government has continued to implement racially discriminatory measures and has pushed ahead with drastic new legislation to enforce *apartheid.*

Bantu Laws Amendment Bill

13. The introduction in Parliament of the Bantu Laws Amendment Bill, which makes Africans in "white" areas (constituting 87 per cent of the territory) temporary migrants totally dependent on work permits from the Government, was described in the last report of the Special Committee. Ignoring widespread opposition, the Government pushed ahead with the Bill and it was passed by the House of Assembly on 7 April and the Senate in May.

14. The essence of the legislation was explained by the Deputy Minister of Bantu Administration and Development, Mr. M. C. Botha, in the House of Assembly on 7 April 1964:

"Dominating all this is one aspect of our policy, namely that the Bantu's presence in the urban areas is justified by the labour he does; that is the most important and the best exemption the Bantu can ever obtain."

15. He stated that Africans would have no citizenship rights in urban areas: the exemptions or concessions were "simply arrangements for them to remain here".[8]

16. In terms of the Bill, all urban areas and any other areas the Minister so proclaims would be "prescribed areas". In these areas no African may enter into or be employed without obtaining permission from a Government labour bureau. A labour bureau officer may refuse to register or cancel a service contract if he considers that it is not in the public interest, impairs the safety of the State or the maintenance of public order, or is likely to do so.

17. The Deputy Minister stated on 7 April:

"Every Bantu must obtain permission to enter and to live in an urban area or a proclaimed area; he must obtain permission at the Bureau to work there or he must obtain permission to enter from the local authority official concerned. That is fundamentally necessary in each case."[9]

18. The definition of "idle Bantu" is greatly widened. Unemployed Africans may be considered "idle". African girls over the age of fifteen who are not attending school can be deemed "idle Bantu". The category of "undesirable" Africans is also extended to Africans convicted of any of a number of offences, including political offences.

19. Africans declared to be "idle" or "undesirable" may be ordered to move to their "homelands", to work in colonies or rehabilitation centres, or permitted to take up approved employment. These provisions may be applied to all Africans who had previously acquired the right to remain in urban areas by having lived there since birth or continuously for fifteen years, or by working continuously for the same employer for ten years.

20. The Bill removes the right previously accorded to wives of Africans who have worked in an urban area for two years to visit their husbands on a so-called "conception visit". Such visits will henceforth be prohibited except with the express permission of a labour bureau officer.

21. The Bill provides for the establishment of "aid centres" to which Africans arrested for or convicted of offences under

[4] *Ibid.*, 24 April 1964, cols. 4899 and 4900.

[5] *The Cape Times*, 27 April 1964; *South African Digest* (Pretoria), 1 May 1964.

[6] *South African Digest* (Pretoria), 26 March 1964.

[7] *The Cape Times*, 24 April 1964.

[8] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 7 April 1964, col. 3809.

[9] *Ibid.*, col. 3808.

the pass laws may be admitted. Unemployed Africans may also go to these centres. Officials in charge of the "aid centres" may arrange for Africans and their dependants to be sent to any other place or, with their consent, be placed in employment.

22. The Government has stated that such centres will not be used as detention centres. The Minister stated that no African could be compulsorily detained in an "aid centre", "but nothing should prevent an African who was unemployed or was in an area illegally being admitted to such a centre at his own request". Arrested persons may be taken to the centres and courts may be held there.

Reactions to the Bantu Laws Amendment Bill

23. The Bill has aroused widespread opposition in the country. The South African Institute of Race Relations stated on 28 February 1964:

"The Institute is convinced that by its contemplated actions the Government will cause a further deterioration of race relations and by imperilling the security of the majority of Africans imperil the security of all peoples in the Republic . . . It is of the opinion that in addition to undermining security, it will heighten instability, discourage Africans from acquiring that sense of belonging to a community which is essential to the development of ordered social life, and inhibit the growth of an African middle class."[10]

24. The Christian Council of South Africa, representing twenty-eight churches, said the Bantu Laws Amendment Bill "infringes on certain basic Christian concepts concerning family life and the dignity of the individual".[11]

25. Sir de Villiers Graaff, leader of the United Party, stated on 7 April: "The Bill is placing officials in a place where they are invading the sphere of the courts . . . There are virtually no safeguards for the exercise of these powers." Senator R. D. P. Jordan (United Party) stated on 4 May that the Bill "converted the Bantu into labour slaves". He said it was the death warrant of a host of rights Africans had enjoyed as citizens of South Africa, and gave terrifying powers to junior officials against which there was no right of appeal except to other officials.[12]

26. The Roman Catholic Archbishop of Cape Town, the Most Rev. Owen McCann, stated on 1 May 1964 that one of the sores on the body politic of South Africa was the migratory labour system. He stated:

"The Bantu Laws Amendment Act treats the Bantu as a labour unit, not considering his personal dignity and the rights flowing from this dignity. It disregards the family obligations he may have, and in fact continues the sad break-up of family life which is one of the evils of the system. We know it is disastrous to family life—that it induces instability of marriage, mal-education of the offspring and delinquency and leads to immorality."[13]

27. *The Times*, London, commented on 8 May 1964:

"The Bill's practical use is as a police measure. Its worst effects . . . will be to turn the middle-class African who had a stake in law and order because he had some security and status finally against the white man. He will become a rootless member of a floating labour force."

Establishment of advisory bodies for racial groups

28. The Government is taking further steps to establish separate advisory bodies on racial lines (see A/5692, annex II).

29. The Coloured Persons Representative Council Bill, introduced on 26 February, was approved by the House of Assembly on 30 April 1964. The Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, stated on 10 April 1964 that the object of the Bill was to establish "a representative Coloured council for the Republic which, with its executive committee, can be the mouthpiece of the Coloured population; which can serve as a means of consultation between the Republican Government and the Coloured population, and can serve as an instrument by means of which Coloured leaders in the spheres of local government, education, communal welfare and rural areas can lead and serve their community".[14] He added:

"I must reject the standpoint that the only basis for proper consultation and goodwill is an equal franchise on the same voters' roll . . . The safety and good order and progress of South Africa as a State with a Christian character are closely dependent on the continued existence of this white nation with its strong position of power in Southern Africa. The continued existence of the white man is also the best guarantee for the safety and progress of the Coloureds as a minority group in the area of white South Africa".[15]

He argued that consultation between separate racial groups could never take place through a common voters' roll but through separate racial councils subordinate to the white nation.

30. In the terms of the Bill, the functions of the Council will be to advise the Government on matters affecting the economic, social, educational and political interests of the Coloured people when it is requested to do so, and to serve as a link between the Coloured population and the Government. The Minister refused to specify what powers the Council would have other than acting purely on the request of the Government. He stated:

"At this stage it is not wise to specify what legislative power they will have . . . It is a process of emancipation . . . It is not a process which can just take place holus bolus . . . We have the precautionary measure that we shall not be doing more for the Coloured population than they are prepared to do for themselves . . . They will have to show signs of initiative, of a sense of responsibility, of a willingness to serve, of faith in their own people; they will have to show signs that they are trying to escape from the misery and the difficulties of their own masses before they receive responsibility from me."[16]

31. Mr. Barney Desai, President of the Coloured Peoples Congress, stated before the delegation of the Special Committee on 13 April 1964:

"In the case of the Coloured people . . . they can only discuss matters which they have been asked to discuss. That leaves much to be desired in so far as democracy is concerned . . . I think the Transkei proposals are a fraud. All I am trying to say is that the proposals for the Coloured people are an even greater fraud. It is just a matter of constitutional hocus pocus."[17]

32. Mr. J. M. Connan, United Party, said that the Bill was "another step on the road to separate development" and that his Party could under no circumstances support it.[18]

33. The Government's efforts to set up an advisory body of persons of Indian and Pakistani origin were described in annex II to the last report of the Special Committee (A/5692). The National Indian Council, composed of twenty-one members who had been appointed by the Minister of Bantu Education and of Indian Affairs on 3 February 1964, was convened on 23 March. The Minister told the Council's inaugural meeting in Cape Town that the Council "will go a long way towards relieving the frustration which might have existed in the past". He added that if Indians felt frustrated they might well ask to what extent their plight was due to the reckless and irresponsible words and actions of some of their compatriots.[19]

34. On 14 April 1964 the first Indian Consultative Committee was appointed by the Executive Committee for the Transvaal. The Committee, which consists of five members, is at Laudium, an Indian township recently established under

[10] *Race Relations News* (Johannesburg), March 1964.
[11] *Rand Daily Mail* (Johannesburg), 4 March 1964.
[12] *The Cape Times*, 5 May 1964.
[13] *Ibid.*, 2 May 1964.

[14] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 10 April 1964, col. 3999.
[15] *Ibid.*, col. 3994.
[16] *Ibid.*, cols., 4000 and 4001.
[17] A/AC.115/L.65.
[18] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 10 April 1964, col. 4003.
[19] *South African Digest* (Pretoria), 3 April 1964.

the Group Areas Act, 1950, for Indians evicted from Johannesburg.[20]

Implementation of the Transkei Constitution Act[21]

35. On 5 May 1964 State President Swart opened the first session of the Transkei Legislative Assembly. He pledged Government assistance and referred to an appropriation of R13 million for the Transkei in the budget estimates before the Parliament as tangible proof of such assistance. South Africa, he said, was the Transkei's "patron, friend and good neighbour".[22]

III. Repressive measures against, and persecution of, opponents of the policies of *apartheid*

36. During the period under review, the South African Government has continued trials of persons opposed to the policies of *apartheid.* A large number of persons have been given heavy sentences for belonging to banned organizations or for breach of the security laws. One more death sentence has been passed. The Rivonia trial of Nelson Mandela, Walter Sisulu and others was resumed on 20 April and is rapidly drawing to a close.

Trials and convictions of opponents of apartheid

(a) *The Rivonia trial in Pretoria*

37. On 4 March 1964 the trial was adjourned after the State had presented 174 witnesses and about 500 documents in evidence against the accused. After two adjournments the trial resumed on 20 April 1964 for the presentation of the defence and is rapidly drawing to a close.

38. On 20 April 1964, Nelson Mandela made a statement in his defence.[23] He was followed by Walter Sisulu, Ahmed Kathrada, Raymond Mhlaba, Lionel Bernstein, Govan Mbeki, Denis Goldberg, Andrew Mlangeni and Elias Matsoaledi.

39. On 18 May 1964 the defence closed its case.[24]

(b) *Other trials*

40. On 18 March 1964 in Pretoria, six Africans were sentenced to three years' imprisonment, two and a half years conditionally suspended, on charges of belonging to the African National Congress. The magistrate said he had taken into consideration the fact that the men had been detained since May 1963.[25]

41. On 23 March in East London, Washington Bongco was sentenced to death on six charges of sabotage. Feliz Mlanda and Brian Mjo were each sentenced to twenty years' imprisonment for allegedly participating in a petrol bomb attack. Malcomes Kondoti was sentenced to 18 years' imprisonment on charges of sabotage, membership in the African National Congress and soliciting money. Douglas Sparks, Stephen Tshwete and Lungelo Dwaba were also sentenced on charges of belonging to the African National Congress and soliciting money.[26]

42. Also in March in Johannesburg, three Whites, including one immigrant, were charged with sabotage.[27]

43. On 1 April in Queenstown, three Africans were sentenced to a total of twenty-one years' imprisonment on charges of sabotage and taking part in the activities of the African National Congress. The charge of sabotage alleged stone-throwing attacks on homes.[28]

44. On 1 April in Cape Town, two Africans were charged with being members of Poqo and the Pan-Africanist Congress.[29]

45. On 3 April 1964 in Johannesburg, four Africans were charged with conspiring to commit sabotage. One African was also charged wtih possessing banned literature. Bail was refused.[30]

46. On 10 April in Cape Town, Elliott Dudamashe and Welton Beshe were each sentenced to three years' imprisonment on charges of being members of Poqo. Application for bail was refused.[31]

47. On 13 April in Cape Town, Randolph Vigne, former national vice-chairman of the Liberal Party, was acquitted of violating his banning order.[32]

48. On 15 April in Pietermaritzburg, four non-whites were charged with receiving training overseas to further the aims of Poqo.

49. On 15 April in Cape Town, Neville Alexander and ten other persons were sentenced on charges of sabotage. Alexander, a doctor of philosophy described as one of Cape Town University's most brilliant graduates, the Rev. Don Davis, Marcus Solomons, Miss Elizabeth van der Heyden, teachers, and Fikele Bam, a student, were each sentenced to ten years' imprisonment on charges of leading the National Liberation Front which allegedly had plans to overthrow the Government by means of revolution and guerrilla warfare. Lionel Davis and Gordon Hendricks were sentenced to 7 years' imprisonment on charges of being members of the Regional Committee of the National Liberation Front. Ian Leslie van der Heyden, Miss Dulcie September, Miss Dorothy Alexander and Miss Doris van der Heyden were found guilty of being "ordinary members" of the NLF and sentenced to five years' imprisonment.[33]

50. On 24 April in Ladysmith, seven Africans were sentenced to one to five years' imprisonment on charges of being office-bearers in the African National Congress. Four of the accused were sentenced for having taken part in its activities.[34]

51. In April in Cape Town, eighteen non-whites, including two women, were charged with contravening the Suppression of Communism Act. They were charged with having become or continued to be office-bearers of the African National Congress and with having participated in its activities. They were also charged with having unlawfully advocated, advised or encouraged the achievement of the objects of the African National Congress. On 17 April charges were withdrawn.[35]

52. On 1 May in Humansdorp, eleven Africans, including one woman, were sentenced to a total of twenty-seven years' imprisonment on charges of belonging to the African National Congress.[36]

Detention without trial

53. Section 17 of the General Law Amendment Act, No. 37, 1963, which provides for the detention of persons without trial for periods of ninety days at a time, has been widely used since the last report of the Special Committee.

54. On 21 April 1964, the Minister of Justice, Mr. B. J. Vorster, stated that five Bantu women, one white man, two Coloured men, one Indian, and 109 Bantu men had been detained since 21 January 1964.[37] Those detained include Miss Leabie Mandela, sister of Nelson Mandela and a nurse at Baragwanath Hospital, Johannesburg.[38] Eighty-four persons had been released since that date, of whom twenty-one had been charged with political offences including "sabotage; furthering/becoming a member of a banned organization; incitement to commit murder; conspiracy and incitement to commit sabotage; malicious injury to property; recruiting persons to receive military training outside the Republic of South

[20] *Ibid.*, 24 April 1964; South African Information Service, 15 April 1964.

[21] See A/5692, annex II.

[22] *Southern Africa* (London), 8 May 1964.

[23] A/AC.115/L.67.

[24] Reuters, 18 May 1964.

[25] *Pretoria News*, 18 March 1964.

[26] *The Cape Times*, 24 March 1964.

[27] *Spotlight on South Africa* (Dar es Salaam), 27 March 1964.

[28] *Rand Daily Mail* (Johannesburg), 2 April 1964.

[29] *The Cape Times*, 2 April 1964.

[30] *Sunday Express* (Johannesburg), 5 April 1964.

[31] *The Cape Times*, 11 April 1964.

[32] *The Times* (London), 14 April 1964.

[33] *The Cape Times*, 16 April 1964.

[34] *The New York Times*, 25 April 1964.

[35] *The Cape Times*, 18 April 1964.

[36] *The Star* (Johannesburg), 2 May 1964.

[37] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 April 1964, col. 4599.

[38] *The Cape Times*, 14 April 1964.

Africa; possession of explosives; leaving country for military training; possession of banned literature".[39]

55. On 5 May 1964 the Minister of Justice stated that 706 persons had been detained under the ninety-day clause.[40]

56. In addition, the Minister of Justice stated on 14 April that five persons had been detained in the Transkei for alleged political offences between 1 February and 9 April under Proclamation R.400, which provides for indefinite detention without trial.[41]

Reactions to the ninety-day detention clause

57. The ninety-day detention clause has provoked strong condemnation in South Africa.

58. The ninety-day Protest National Committee was established on 26 February 1964 by a conference of representatives of churches and religious organizations, the Civil Rights League, the Institute of Race Relations, the National Council of Women, the National Union of South African Students, the Black Sash, trade unions and academic institutions. The Conference was convened on the initiative of Mr. J. Hamilton Russell, a former member of Parliament who resigned in protest against the General Law Amendment Act, No. 37, 1963, and Mr. Justice Centlivres, former Chief Justice of South Africa. Mr. Russell stated at the Conference that if Christ preached in South Africa today. He would not only be called a Leftist by the Minister of Justice but He would probably be banned as a Communist or detained for ninety days. He said: "This in a land that calls itself Christian and where many churchmen think it is evil to bathe on Sunday. What of the innocent men, women and children who have spent Sunday after Sunday in the solitary confines of a small concrete hell?" He appealed to the Churches to lead a crusade to abolish "this unchristian law which degrades the human mind and soul".[42]

59. On 6 May 1964 Mr. Russell, Chairman of the Committee, stated that it had published a booklet to present the "unanswerable case for the abolition of this drastic and dangerous law".[43]

60. The Co-ordinating Committee of Religious Churches, representing 5,000,000 Whites and non-whites in South Africa, issued a Declaration on 4 May 1964 condemning the clause. The Declaration states:

> "Inasmuch as we believe it is a fundamental tenet of justice that there should be no imprisonment without trial, and that access to the normal protections of the rule of law should be accorded to everyone, and that section 17 of the General Law Amendment Act (commonly known as the 90-day Detention Clause) is a tragic breach and negation of this principle, and a violation of the moral law, and an offence to religious conscience, and appeal to those in authority not to repromulgate it when it comes under review."

61. The Declaration was signed by the following nineteen church leaders: the Most Rev. Robert Selby Taylor, Anglican Archbishop of Cape Town; the Most Rev. Owen McCann, Roman Catholic Archbishop of Cape Town: the Rev. Stanley G. Pitts, President, Methodist Church of South Africa; Professor Israel Abrahams, Chief Rabbi, United Council Orthodox Hebrew Congregation of Cape and South West Africa; Rabbi David Sherman, Rabbi of the Cape Town Jewish Reform Congregation; the Rev. W. G. M. Abbott, Chairman, Congregational Union of South Africa; the Right Rev. Helge Fosseus, Bishop, Evangelical Lutheran Church (south-east region); the Rev. D. M. Bottoman, Moderator, Presbyterian Church of Africa; Rabbi B. M. Casper, Chief Rabbi, United Hebrew Congregation of Johannesburg; the Rev. Paul S. King, acting Board representative, London Missionary Society; Sheikh Abukader Najaar, Chairman, Muslim Judicial Council; Mrs. Audrey Hoole, yearly meeting clerk, the Religious Society of Friends; the Rev. P. R. Webber, acting Administrative Secretary, Disciples of Christ; the Rev. W. O. Rindahl, Superintendent, American Lutheran Mission; the Rev. T. Ellwyn, Chairman, Church of Sweden Mission in South Africa; the Rev. N. G. Ngobo, Chairman, Congregational Church in Africa; the Rev. G. Froise, Superintendent, Norwegian Mission in South Africa; the Rev. Victor Carpenter, Minister in Charge, Unitarian Church; and Commissioner Wm. B. F. Wotton, of the Salvation Army.

62. On 20 May 1964, eleven religious leaders representing 250,000 Christians, Jews and Moslems called on the South African Government to abolish the ninety-day detention clause and declared they were "deeply disturbed" at the moral implications of the provisions allowing detention without trial.[44]

Torture of prisoners

63. Allegations of torture of prisoners in South African gaols received wide attention as a result of a trial in Bultfontein.

64. On 11 April 1964, four policemen, including the station commander and a clerk of the court, were convicted in connexion with the murder through torture of an African prisoner, Izak Magaise, and assault with intent to murder a second prisoner, Philemon Makhetla. The two men had been arrested on 3 December 1963 for the alleged theft of R13.50 in milk coupon money. The prisoners were tortured through assault, electric shock, smothering, and dropping on the floor.

65. Constable Coetzee, one of those convicted, stated in evidence:

> "I have been taught to use and have used plastic bags myself in the past on suspected persons. It is common in investigations. I don't think there is a police station in the country that does not use violence during questioning."

He said it was his method, although he knew it was illegal, and that he had always tried not to leave marks.

66. Constable Maree said that he and Constable Van Wyck dropped Magaise three times from a height of three feet; after the third time he was dead.

67. While the trial was in progress opposition members of Parliament called for an inquiry into the treatment of prisoners by police and prison officers. They noted that police brutality had been alleged at places as wide apart as White River, Bellville, Johannesburg, Queenstown and Zululand.

68. On 24 April, the Prime Minister, Mr. H. F. Verwoerd, refused to institute an inquiry into police malpractices. He said that a country-wide investigation had already been undertaken by the police themselves following the evidence in court. Mr. Verwoerd said that "at a few places" individual policemen were found with electric shock machines, and strongly denied the "insinuation" that such machines had been issued to the police force. He said an inquiry at that point could only point to a lack of confidence in the investigation held by the police.[45]

69. Also on 24 April, the Minister of Justice stated that the police were in the front line in the "cold war" against South Africa and that the Republic's enemies were attempting to undermine the front line by allegations of torture.[46]

70. On 1 May 1964 the Minister of Justice stated that police and prison officers found guilty of assault on witnesses or prisoners were not dismissed in all cases. He said that 149 police and ten prison staff guilty of assault had been retained in the service.[47]

71. On 5 May 1964 the Minister of Justice stated that fifty-one complaints in regard to treatment of detainees had been officially lodged with the police and in forty-eight instances "no grounds for prosecution could be found".[48]

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[39] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 April 1964, col. 4599.

[40] *Ibid.*, 5 May 1964, col. 5444.

[41] *Ibid.*, 14 April 1964, col. 4151.

[42] *Rand Daily Mail* (Johannesburg), 27 February 1964.

[43] *The Cape Times*, 7 May 1964.

[44] *The New York Times*, 21 May 1964.

[45] Republic of South Africa, *House of Assembly Debates (Hansard)*, 24 April 1964, col. 4898.

[46] *The Cape Times*, 25 April 1964.

[47] Republic of South Africa, *House of Assembly Debates (Hansard)*, 1 May 1964, col. 5281. Earlier, on 25 March 1964, the Minister of Justice, Mr. B. J. Vorster, stated that 354 members of the Police and Prison Department had been convicted in the past four years of "offences involving irregular treatment" of persons in custody (*The Cape Times*, 26 March 1964).

[48] Republic of South Africa, *House of Assembly Debates (Hansard)*, 5 May 1964, cols. 5444 and 5445.

New repressive legislation

72. In view of the current trials of opponents of the policies of *apartheid* great concern has been expressed in South Africa and abroad over the introduction in the current session of Parliament of the Attorneys, Notaries and Conveyancers Admission Amendment Bill. In terms of the Bill only South African citizens or persons admitted to the Republic for permanent residence will be entitled to enrol as attorneys, except that Southern Rhodesians may practise if approved by the Minister of Justice.

73. The Bill also provides that in future a person must have passed in both official languages in the matriculation examination before he can be allowed to practise as an attorney. It also prescribes circumstances under which certain attorneys may be struck off the roll or suspended from practising.[49]

74. This legislation will make it difficult for many of the accused to obtain counsel, as they will not be able to obtain foreign legal assistance or engage attorneys listed as communists in terms of the Suppression of Communism Act.

75. The Government has also hinted that further restrictions would be imposed on the Press. On 27 April 1964 the Prime Minister stated that English-language newspapers went near the border of treason against South Africa by placing the Republic in a vulnerable position to be attacked from the outside world. The Government would not be prevented from taking action in the best interest of the safety of South Africa.[50]

76. On 11 May the South African Press Commission recommended the establishment of a council for the "self-control and discipline" of the South African and overseas Press. The proposed commission, with which every newspaper and journalist in South Africa would have to register, would be authorized to impose unlimited fines and exercise virtually the same punitive powers as a court of law over newspapers and journalists for bad reporting of political and racial matters. There would be no appeal from its decisions.[51]

77. The Commission's proposals provoked strong condemnation in South Africa and abroad. Mrs. Helen Suzman, Progressive Party, stated on 12 May in the House of Assembly that the Commission's report was "part of the Government's theme that it is right and the rest of the world is wrong", and the reasons for its establishment had been the Government's opposition to "the concept of freedom of expression". She added: "There is nothing more calculated than this to make us the laughing stock of the civilized world." Mr. Jan Steytler, leader of the Progressive Party, stated: "The entire report of the Press Commission is based upon the premise that White supremacy is sacred". Sir de Villiers Graaff, leader of the United Party, stated that the recommendation to establish a press council should be rejected. In addition, the report provoked widespread condemnation by the South African Press.[52]

78. On 14 May the International Press Institute, Zurich, described the proposals as "a step toward the political control of the Press". It said the proposed press council would:

> "not be a safeguard of the freedom of the Press but an infringement of that freedom. The compulsory registration of journalists would constitute a permanent threat to their livelihood and freedom of operation. Such a measure would seriously interfere with the flow of uncensored news..."[53]

IV. Military build-up and trends towards violent conflict

79. As indicated in previous reports, the expansion of military and police forces and the ruthless repression of the opponents of the policies of *apartheid* have increased the danger of a violent conflict in South Africa. The main developments in this connexion since the last report of the Special Committee are reviewed below.

Build-up of military forces

80. In its last report the Special Committee noted the introduction of the record defence budget totalling R210 million or $294 million (see A/5692, annex II).

81. In justification of the increase in the budget, the Minister of Finance, Mr. T. E. Dönges, stated in late March 1964 that it was intended to ensure South Africa's continued stability. The prevailing international situation and the attitude of certain African States made it necessary to strengthen the Republic's defences.[54]

82. Reference may also be made in this connexion to the statement of the Minister for Foreign Affairs, Mr. H. Muller, in late April 1964: "All countries with black and white citizens have racial problems . . . Nobody will be investing here if they believe the Whites are losing control."[55]

83. The South African Government appears to be particularly anxious to acquire a fleet of warships.

84. In March 1964, Rear Admiral H. H. Bierman, Chief of Naval Staff, commissioned a new anti-submarine frigate, the *President Pretorius*, built at a cost of R8 million, in Portsmouth, England. It is to be delivered to South Africa later in 1964.[56]

85. South Africa has also commissioned two refitted destroyers, the *Simon van der Stel* and the *Jan van Riebeeck*. It is expanding dockyard facilities at Simonstown for the Republic's war fleet.[57]

86. The Government is reported to be seeking to purchase at least three submarines from the United Kingdom.

87. Press reports indicate that the South African Government intends to call up 16,527 Whites, the equivalent of an infantry division, for military induction by December 1964, and to have 145,000 men under arms by the end of the year. *The New York Times* stated: "In effect, one of every two white males in the country who reaches the age of 17 this year will be drafted."[58]

88. On 26 April 1964 press reports indicated that the Government had drawn up a "master plan for civil defence" in the event of riots and war. The plan would provide for reception centres for civilians, hospital facilities and the concentration of rescue workers at points near "target areas".[59]

Trends towards violent conflicts

89. The grave danger of violent conflict between the forces of the Government and the non-white victims of repression has been underlined by the Rivonia trial now in progress in Pretoria.

90. The accused, who include some of the most prominent leaders of the non-white population of South Africa, have not denied that they had planned sabotage as the only way to end racial domination, and have emphasized that violence had become inevitable. Nelson Mandela, giving evidence in his defence, stated on 20 April 1964:

> "I do not, however, deny that I planned sabotage. I did not plan it in a spirit of recklessness, nor because I have any love of violence. I planned it as a result of a calm and sober assessment of the political situation that had arisen after many years of tyranny, exploitation and oppression of my people by the Whites . . .
>
> "Firstly, we believed that as a result of Government policy, violence by the African people had become inevitable, and that unless responsible leadership was given to canalise and control the feelings of our people, there would be outbreaks of terrorism which would produce an intensity of bitterness and hostility between the various races of this country which is not produced even by war. Secondly, we felt that without violence there would be no way open to the African people to succeed in their struggle against the principle of white

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[49] *The Cape Times*, 3 April 1964.
[50] *Ibid.*, 28 April 1964.
[51] *The New York Times*, 12 May 1964.
[52] Reuters, 12 May 1964.
[53] *The New York Times*, 15 May 1964.
[54] *South African Digest* (Pretoria), 3 April 1964.
[55] *Ibid.*, 1 May 1964.
[56] *Ibid.*, 26 March and 17 April 1964. The Government had earlier taken delivery of three new frigates.
[57] *South African Digest* (Pretoria), 3 April 1964.
[58] *The New York Times*, 26 March 1964.
[59] *Sunday Times* (Johannesburg), 26 April 1964.

supremacy. All lawful modes of expressing opposition to this principle had been closed by legislation, and we were placed in a position in which we had either to accept a permanent state of inferiority, or to defy the Government. We chose to defy the law. We first broke the law in a way which avoided any recourse to violence; when this form was legislated against, and when the Government resorted to a show of force to crush opposition to its policies, only then did we decide to answer violence with violence.

"But the violence which we chose to adopt was not terrorism. We who formed Umkonto were all members of the African National Congress, and had behind us the ANC tradition of non-violence and negotiation as a means of solving political disputes. We believed that South Africa belonged to all the people who lived in it, and not to one group, be it black or white. We did not want an inter-racial war, and tried to avoid it to the last minute . . .

". . . But the hard facts were that fifty years of non-violence had brought the African people nothing but more and more repressive legislation, and fewer rights. It may not be easy for this Court to understand, but it is a fact that for a long time the people had been talking of violence —of the day when they would fight the white man and win back their country, and we, the leaders of the African National Congress, had nevertheless always prevailed upon them to avoid violence and to pursue peaceful methods. When some of us discussed this in May and June of 1961, it could not be denied that our policy to achieve a non-racial state by non-violence had achieved nothing, and that our followers were beginning to lose confidence in this policy and were developing disturbing ideas of terrorism . . .

"At the beginning of June 1961, after a long and anxious assessment of the South African situation, I, and some colleagues, came to the conclusion that as violence in this country was inevitable, it would be unrealistic and wrong for African leaders to continue preaching peace and non-violence at a time when the Government met our peaceful demands with force.

"This conclusion was not easily arrived at. It was only when all else had failed, when all channels of peaceful protest had been barred to us, that the decision was made to embark on violent forms of political struggle, and to form Umkonto Sizwe. We did so not because we desired such a course, but solely because the Government had left us with no other choice . . .

". . . We felt that the country was drifting towards a civil war in which Blacks and Whites would fight each other. We viewed the situation with alarm. Civil war could mean the destruction of what the ANC stood for; with civil war racial peace would be more difficult than ever to achieve."[60]

91. Walter Sisulu and other defendants in the Rivonia trial made similar statements.

ANNEX II

Report of the delegation of the Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa on the International Conference of Economic Sanctions against South Africa, London, 14-17 April 1964*

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Introduction

1. On 3 April 1964, the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa decided to send a delegation, consisting of its officers and its Sub-Committee, to attend as observers the International Conference on Economic Sanctions against South Africa, held in London from 14 to 17 April.

2. In accordance with this decision, the following members attended the Conference:

Chairman: Mr. Diallo Telli (Guinea)

Rapporteur: Mr. Ram C. Malhotra (Nepal)

Chairman of the Sub-Committee: Mr. E. C. Anyaoku (Nigeria)

Members of the Sub-Committee: Mr. Joseph B. Phillips (Ghana)

Mr. Virgilio Nañagas (Philippines)

3. The delegation as a whole attended the plenary sessions on 14 and 17 April, and divided itself into three teams to attend the closed meetings of the Commissions on 15 and 16 April.

4. The delegation has the honour to submit herewith a brief review of the Conference, taking into account the expert papers submitted to the Conference, the discussions in the Commissions and in plenary, and the conclusions reached by the Conference.

5. The delegation was impressed by the widespread conviction at the Conference that the situation in South Africa constituted a grave threat to international peace and security and that the United Nations had a key role to play in the imposition of effective economic sanctions against South Africa and in all efforts to resolve the South African situation. The participants were, however, conscious that United Nations resolutions over many years had not been effective largely because of the unwillingness of some States which maintained close relations with South Africa to join in collective measures. Their main concern was the search for ways and means to persuade those States to take effective action for the fulfilment of United Nations objectives in South Africa. The conclusions of the Conference merit serious attention by the United Nations organs as the developments on this question affect the prestige and authority of the Organization.

6. The delegation was happy to note that the work of the Special Committee was widely known among the delegates to the Conference and regarded as a useful contribution to the common efforts to resolve the situation in South Africa.

7. The delegation wishes to take this opportunity to express its sincere appreciation to Mr. Ronald Segal, convener of the Conference, and to his associates, for their unfailing courtesy and their valuable assistance.

I. Organization of the Conference

8. The International Conference on Economic Sanctions against South Africa was called as a result of the initiative of the Anti-Apartheid Movement, London. Mr. Ronald Segal, a South African writer now in exile, was the convener.

9. The Conference had as its patrons the Heads of State of Algeria, Ethiopia, Ghana, Guinea, Liberia, Senegal, Tanganyika and Tunisia, and the Heads of Government of India, Kenya and Malaysia. The sponsors included a large number of distinguished scholars and prominent personalities from Argentina, Belgium, Canada, Colombia, Denmark, France, Iceland, Ireland, Italy, Japan, Norway, Poland, Sweden, Tanganyika, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

10. The Conference was held at Friends House, London, under the chairmanship of Mr. Mongi Slim, Minister of Foreign Affairs of Tunisia. It was attended by official delegations, representing Governments or ruling parties of twenty-nine countries, including twenty-seven Member States of the United Nations,[1] as well as representatives of organizations and individuals from a number of other countries.

[60] A/AC.115/L.67.

* Previously circulated as document A/AC.115/L.68.

[1] Algeria, Bulgaria, Cameroon, Congo (Leopoldville), Czechoslovakia, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Kenya, Liberia, Libya, Malaysia, Morocco, Norway, Pakistan, Poland, Senegal, Sierra Leone, Sudan, Tanganyika, Tunisia, Union of Soviet Socialist Republics, Yugoslavia and Zanzibar.

11. The purpose and significance of the Conference were described by the Chairman in his opening speech in which he noted that despite the numerous resolutions adopted by the United Nations organs:

"The South African Government persists in following the criminal path it has chosen.

"Taking an objective view, and setting aside our legitimate feelings of disgust that this attitude arouses, we can justifiably conclude that the South African Government has placed itself despite repeated warnings outside the human family. In time humanity will arrive at the logical conclusions about this situation, starting with the economic sphere.

"History, as well as the actual state of the world prove conclusively that governments as well as political régimes base their strength and even their existence in their economy and its development. It is therefore in the economic sphere that one should look for the best means of reacting on the South African Government in order to bring it to a better understanding and respect for the inalienable human rights, the dignity of liberty equal for all without distinction of colour or race. It is the study of the means for applying efficient economic sanctions that we should turn objectively, overcoming our feelings and passions.

"This Conference is, therefore, of great importance. It is important owing to the quality, number and diversity of the tendencies of its participants. It is also important owing to the nature of the problems under discussion for whose solution the Conference must arrive at conclusions capable of affecting in the right way the decisions of the appropriate agencies with respect to positive economic sanctions against the South African Government.

"The hesitation and doubt expressed by certain countries about the possibility, usefulness and efficiency of such sanctions have unfortunately encouraged indirectly the Government of Pretoria to continue its policy of *apartheid*. By a serious and objective discussion our Conference must dispel these doubts and provide an irrefutable proof of the possibility, efficiency and necessity of resorting to such sanctions.

"The fact that this Conference is held in London is for us of special significance. The British people, and particularly the present generation, will not forget the catastrophic consequences to the world of the failure of the British Government's attempt to impose economic and other sanctions in 1936 against fascist Italy for its aggression in Ethiopia. It cannot be forgotten that it was the resistance, the hesitations then displayed by certain countries for imposing such sanctions, that encouraged the subsequent aggression by other European countries, which finally led to the Second World War.

"It is therefore important that this Conference held in London should arrive at decisive and concrete conclusions which would clearly show that sanctions against the South African Government are an obvious and efficient measure in order to make it give up, definitely, its racist policy."

12. The Conference began with two plenary sessions on 14 April. The opening speech of the Chairman was followed by the reading of messages; the address by Mr. Diallo Telli, Chairman of the Special Committee and of its delegation to the Conference, and the presentation of a paper by Mr. Per Hakkerup, Minister for Foreign Affairs of Denmark. The Chairman of the Special Committee, in greeting the Conference, described the work of the Special Committee in the discharge of its mandate, and stated *inter alia*:

"In carrying out its mandate, the Special Committee has noted with satisfaction that many developing countries have responded in a positive manner to the recommendations of the General Assembly and the decisions of the Security Council and have made great economic and commercial sacrifices by taking the specific steps recommended by the United Nations against the South African Government.

"Nevertheless, those sacrifices, however onerous they may have been for the countries concerned, have had only a very limited effect on the situation in South Africa because most of the important economic and trade partners of South Africa have refused to co-operate . . .

"The foregoing explains the importance which the Special Committee attaches to the part played in the economy of the Republic of South Africa by foreign trade, which rests largely on exports of a limited number of products, and by investments of foreign capital, which have greatly strengthened the present régime in South Africa.

"In these two important fields, peoples, private organizations, Governments and international institutions have a real possibility of showing that they are determined peacefully to put an end to the policy of *apartheid*. A boycott on exports and the blocking of investments, together with an embargo on arms, would constitute the three decisive means of bringing about any peaceful change in South Africa."

13. The second meeting was devoted to the presentation and discussion of a paper "Apartheid—the indictment" by Mr. Oliver Tambo, Deputy President of the African National Congress of South Africa.

14. The Conference was then divided into Commissions for the discussion of various aspects of the question. Five Commissions were set up as follows:

Commission I. "Sanctions and their effect on international trade and finance." *Chairman*: Mr. A. Z. N. Swai, Minister for Development Planning, Tanganyika.

Commission II. "Sanctions and their effect on individual economies." *Chairman*: Professor V. K. R. V. Rao, member of the Indian Planning Commission.

Commission III. "The racial crisis in South Africa, its international implications and the probable effects of sanctions on South Africa." *Chairman*: The Rt. Rev. Ambrose Reeves, former Bishop of Johannesburg.

Commission IV. "Legal and political aspects of sanctions." *Chairmen*: Mr. Joseph Thorson, President of the Exchequer Court of Canada, and Mr. Mainza Chona, Minister of Justice of Northern Rhodesia.

Commission V. "Policing aspects of sanctions." *Chairman*: Mr. T. J. Mboya, Minister of Justice and Constitutional Affairs, Kenya.

Commissions I and II, however, decided to remain in joint session under the joint chairmanship of the two Chairmen. Commissions IV and V also decided to meet together under the joint chairmanship of their three chairmen.

15. The Commissions had before them a number of papers by the following well-known experts:

Economic aspects

A. Maizels (Senior Research Officer, National Institute of Economic and Social Research, London; author of *Industrial Growth and World Trade*[2] and articles on world trade): "Economic sanctions and South Africa's trade".

Brian Lapping (of *The Guardian*) with the assistance of a group of young Fabians: "Oil sanctions against South Africa".

G. D. N. Worswick (Fellow of Magdalen College, Oxford; joint editor of *The British Economy, 1945-1950*[3] and *The British Economy in the 1950's*[4]): "The impact of sanctions on the British economy".

Elliot Zupnick (Associate Professor of Economics, University of the City of New York; author of *Britain's Post-war Dollar Problem*[5]): "The impact of sanctions on the United States".

Roger Opie (Fellow of New College, Oxford; editor of *The Bankers' Magazine*; Economic Adviser, H.M. Treasury, 1958-1960): "Gold".

K. N. Raj (Professor at the Delhi School of Economics): "Sanctions and the Indian experience".

[2] Cambridge, Cambridge University Press, 1963.

[3] Oxford, Oxford University Press, 1952.

[4] *Ibid*.

[5] New York, Columbia University Press, 1957.

Impact on South Africa

Colin Legum (Commonwealth correspondent of *The Observer* (London); author of *Pan-Africanism*[6] and other books on African affairs; former Johannesburg City Councillor) and Margaret Legum (economist and writer on African affairs; former Lecturer in Economics and Politics, Rhodes University); "Power in South Africa".

R. M. Bostock (Research Fellow in the Department of Political Economy, University of Edinburgh): "Sanctions and the High Commission Territories".

J. D. Marvin (former editor of the *South African Financial Mail*; editor of the *Investor's Chronicle* (London)): "Sanctions against South Africa: the impact and the aftermath".

Legal, political and strategic aspects

Conference Steering Committee: "Sanctions and world peace".

D. H. N. Johnson (Professor of International Law, University of London; Assistant Legal Adviser, British Foreign Office, 1950-1953; Senior Legal Officer, Office of Legal Affairs, United Nations, 1956-1957): "Sanctions against South Africa: the legal aspect".

Peter Calvocoressi (Chairman, the Africa Bureau; Council Member of the Royal Institute of International Affairs and the Institute for Strategic Studies; author of *World Order and New States*[7] and other books on international affairs): "The politics of sanctions: The League and the United Nations".

William F. Gutteridge (Head of Department of Languages and Social Science, Lanchester College of Technology, Coventry; Senior Lecturer in Modern Subjects, Royal Military Academy, Sandhurst, 1949-1963; author of *Armed Forces in New States*;[8] Nuffield Travelling Fellow in Africa, 1960-1961): "The strategic implications of sanctions against South Africa".

Neville Brown (of the Institute for Strategic Studies): "The strategic situation".

Rosalyn Higgins (International lawyer, Royal Institute of International Affairs; United Kingdom intern, United Nations, 1958; Commonwealth Fund Fellow, Yale Law School, 1959-1961; Junior Fellow in International Studies, London School of Economics, 1961-1963; author of *The Development of International Law through the Political Organs of the United Nations*[9]): "International action and domestic jurisdiction".

16. On 17 April, the three reports of the Commissions were submitted to the plenary session and adopted.

17. Before closing, the Conference adopted the following resolution:

"The Conference charges the Steering Committee to convey to all Heads of State and specialist international, national and other organizations the urgency of acting upon the resolutions and decisions of the Conference and to urge any appropriate action. It further charges the Steering Committee to bring to the notice of the Organization of African Unity the urgent need for setting up a permanent commission to pursue energetically the ends of economic sanctions."

II. The threat to international peace and security

18. Underlying all the discussions at the Conference was the common recognition of the enormous dangers posed by the continued imposition of the policies of *apartheid* in South Africa, and the need for urgent and effective action to eliminate the system of *apartheid*. The Conference devoted much attention to the political, economic and legal grounds for international action against the Government of South Africa and to the appropriate measures to be taken.

[6] New York, Praeger, 1962.

[7] *Ibid.*

[8] London, Oxford University Press, 1962.

[9] *Ibid.*, 1963.

19. The general consensus at the Conference was that international action was justified and urgently required because the situation in South Africa was leading to a conflict and constituted a grave threat to international peace and security.

20. Mr. Colin Legum and Mrs. Margaret Legum, well-known writers on African affairs, pointed out in their paper that as the Government used coercive laws, reinforced by the police and the army, to prevent effective mobilization of African power for non-violent action, and greatly increased police and defence expenditures, African nationalism grew more militant and began to use new weapons.

"Thus both sides are now speaking the language of violence. Both urge their supporters that violence cannot be shirked. The seeds of racialism have begun to bear fruit. In such a situation it is vain to hope that the conflict will not produce a race war. The political dynamic inside the country can lead in one direction only.

"Neither side can win without active help from outside. The white Government hopes to persuade the West that it deserves support to make 'Separate Development' work. The Africans look to the independent African States and to international opinion to sustain them in their struggle. The result is predictable—a race war into which outside Powers will inevitably be drawn."

21. The fact that the threat of conflict arises largely from internal acts of the Government, it was generally agreed, does not preclude international remedial action. Mrs. Rosalyn Higgins pointed out in the paper on "International action and domestic jurisdiction":

"There may be a stage at which the internal acts of a government become so provocative as to be tantamount to a threat to the peace. The precedent of the Nuremburg Tribunal indicates, for example, that the killing of German Jews in concentration camps was not to be regarded as matter solely for German concern and jurisdiction. The continued development of the law in this direction since 1946 confirms that, where persons of one racial group are being ill-treated, governments of the same race in adjoining countries have a genuine legal interest. What is less certain, however, is whether this interest is more than an *ex post facto* right of jurisdiction in a court of law, or whether it is a valid legal basis for intervention. The case for the latter interpretation is, of course, stronger if the intervention is under the auspices of the United Nations."

22. The threat to the peace of Africa created by the South African situation was also elaborated by the Conference Steering Committee in the paper on "Sanctions and world peace":

"The South African question assumes particular importance in the context of Africa, for at least three reasons.

"First, the régime of white supremacy and *apartheid* in South Africa is regarded by the rest of Africa as an extreme manifestation of colonialism: a centre of counter-revolution and reaction whose aims are seen as the preservation of an order wholly in conflict with and antagonistic to the great changes that have swept the continent in the past decade....

"Secondly, the extreme forms which racialism takes in South Africa are regarded by the African people as standing insults to their dignity and a provocation to their pride and national self-respect. No African Government can ignore this, nor the fact that its people are inflamed by South Africa's defiant pursuit of *apartheid*. This agitation has become a source of all-African discontent which compels every African State, as a matter of national self-interest, to pursue a direct anti-South African policy.

"Thirdly, the South African question has now become considerably more serious and direct for the independent African States as a result of the formidable programme of militarization that South Africa has undertaken in recent years. This programme introduces a new factor into the international character of the South Africa problem. It not only reinforces the belief that the Government of the Republic is prepared to use the force of arms in order to maintain *apartheid*, but by the very nature of the armaments being acquired, threatens the safety of the independent States of Africa...

"The South African arms build-up envisages not only the development of a considerable defence posture. It includes the creation of a force capable of large-scale offensive operations, employing weapons and aircraft of considerable range to bring countries in a wide arc stretching from Ghana to Somalia within its firing power. Some Western countries, particularly Britain, have claimed interests of strategy in South Africa and link these interests with their supply of arms and equipment to the South African Government. In this way the general war danger is being introduced into the continent, greatly adding to the security problems of the independent African States. A new and far-reaching imbalance in armaments and military power has developed in the continent as a result of the South African military build-up. This is a new and serious source of disturbance which exposes the African States to demands for redressing the balance and hence for a diversion of their scarce resources into a costly arms race...

"These African reactions portend a conflict with strong racial implications, carrying enormous consequences for world peace."

23. The paper added that the situation "carries with it the seeds of a most dangerous conflict—a race war, which may spread throughout the world". It further noted that

"The South African question has contributed to the deterioration of relations between third States. The meeting of Foreign Ministers of the member countries of the Organization of African Unity, held in Lagos recently, decided to recommend to the African member States to withdraw overflight and transit facilities from all aircraft and vessels, irrespective of nationality, which fly between South Africa and countries abroad. And in other ways, the attitude and policies of several Western countries towards the South African question have influenced and disturbed their relations with the emergent nations and peoples of Africa. This is a further source of tension in international relations."

24. Several experts expressed the view that the determination of the threat to international peace and a decision to apply coercive measures such as sanctions were primarily political decisions.

25. Mr. Peter Calvocoressi stated in his paper on "The politics of sanctions: the League and the UN", that a "threat to the peace" is not necessarily an act but a "state of affairs". Under the Charter, the Security Council is competent to consider the facts and declare whether any of the circumstances envisaged by Article 39 has arisen. Once the Security Council has pronounced itself under Article 39, no Member of the United Nations may question its conclusions or legitimately abstract itself from the consequences.

"The application of sanctions in any particular case involves a politico-economic decision within a legal framework."

26. Professor D. H. N. Johnson stated in his paper on "Sanctions against South Africa: the legal aspect":

"...it must be realized that any decision to apply sanctions against South Africa would be a political decision. All that a lawyer can do is to set out the underlying legal principles and to indicate how the decision to apply sanctions, if such decision were taken on political grounds, could not merely be kept within the law but could also be implemented in such a way as best to promote the rule of law."

27. Professor Johnson added:

"...a threat to the peace and a 'breach of the peace' must be judged objectively. Parties are not allowed to say that a 'threat to the peace' exists merely because they disapprove of another State's conduct. Nor, however, is a party allowed to say that no 'threat to the peace' exists merely because the question turns on domestic issues and such threats to international peace as do exist are not his responsibility but are fomented from outside by his critics and opponents."

28. A detailed discussion of this question of the threat to the peace took place in the Commissions of the Conference with the participation of many noted legal and political experts. The relevant parts of the reports of the Commissions, adopted by the Conference, are reproduced below.

29. The report of Commission III stated:

"South Africa today is in a state of crisis. Power is in the hands of the Government which is ruling without the authority of the people, and which is waging what amounts to war on all those who oppose the policy of *apartheid*. This policy involves for the Africans, Coloureds and Indians removal from their homes, separation from their families, denial of opportunities for advancement, participation in the Government and basic human rights. Faced with the growing opposition of the people the Government has introduced savage laws which fall on all opponents of *apartheid*, black and white. For years the great mass of the people struggled to win equal rights for all, first by normal constitutional means and later by non-violent protest. Denied all legal methods of struggle and subjected to increasing restrictions on their political actions and on their freedom of movement they have turned as a last resort to violence as their only means of redress. They are faced with a ruthless Government which is able to draw support from its main trading partners. The prospect therefore is increasing violence and bloodshed at a cost which the world cannot contemplate.

"Further there is every likelihood of this internal conflict spreading beyond the borders of the Republic. There is an imminent danger that this would involve the rest of the continent of Africa and possibly beyond and might lead to a global war."

30. The joint report of Commissions IV and V, in which this matter was discussed in greater detail, stated:

"The Legal and Political Commission of the Conference deliberated at length on the question: Is the South African situation a threat to peace, a state of affairs in which the United Nations must be prevailed upon to apply economic sanctions against South Africa?

"The Commission has unanimously and without reservation come to the conclusion that the policies of the present South African Government do constitute a most serious threat to the peace, and an ever more dangerous one.

"*Apartheid* is a form of government which denies to the vast majority of South Africans the most elementary human rights; it violates the United Nations Charter, the Universal Declaration of Human Rights, and all civilized precepts of government; it flies in the face of international standards and fundamental freedoms.

"*Apartheid* is a form of colonialism which has used race discrimination and armed suppression against its people in order to entrench white minority rule and to prevent the right of national groups—which constitute the majority in the country—to participate in the government and to determine their own future.

"Above all it is vital to note that the *apartheid* system is a tyranny that is especially inflammatory because it is a racial form and this race rule—unique in the world in its brutality and rigidity and official enforcement—is a threat to peace by its very existence.

"The minority government of *apartheid* clings to power by the use of force and violence against the South African people and recent years have seen bitter offensives launched by a greatly strengthened police state to crush organizations and forces in the country that campaign for human rights and opportunities. The South African Government has refused to veer from its path of rule by force; it resolutely refuses to recognize or negotiate with the representatives and leaders of the persecuted majority; it has rejected every opportunity for a peaceful and negotiated solution to the country's problems; and in the present series of political trials, chief among them the Rivonia trial, it seeks to incarcerate indefinitely or even bring to death the spokesmen of the people who have led them in their fight for equality and fundamental freedoms.

"South Africa's racial policies are a continual threat to peace within her own borders.

"By its seizure and misrule of South West Africa, the South African Government has persistently and deliberately failed to fulfil its international obligations in the administration of the mandated territory. It has thereby, by flagrant

defiance of United Nations resolutions over the past seventeen years, created a crisis for the international community where the time is long overdue for action to save this territory from South Africa's misrule. Even in the face of the most unanimous condemnation of the world South Africa continues to press forward with the intensification of *apartheid* in this territory as planned by the Odendaal Commission.[10]

"South Africa's economic involvement in other territories, notably the Protectorates, the Rhodesias and the Portuguese colonies of Mozambique and Angola, buttresses colonial race rule in half a dozen countries and threatens the whole of the southern portion of the continent with the consequences of her bellicose race policies.

"Above all, South Africa's race rule is an ever present incitement to the rest of Africa where oppression of the African people on the grounds of race is a cause of the most intense provocation. South Africa is seen by independent Africa to be not only an extreme manifestation of colonialism but also as a centre of aggression and counter-revolution that menaces the principles and practices of the new independent Africa. In the view of the African nations the continuance of colonialism and racialism in this form constitutes a menace to the peace of the continent and the world; and this is a vital factor in the foreign policies of all the independent States, cementing all-African unity and inspiring their determination to act against a force which challenges the very basis of independence for Africa.

"This Commission finds that within South Africa the *apartheid* government is arming against its people to maintain *apartheid* and an explosive unrest threatens to develop at any time from isolated acts of sabotage and resistance into prolonged armed conflict that will engulf the whole southern half of the continent. Outside South Africa independent Africa is inflamed not only by the practices of *apartheid* but by the evidence that South Africa's formidable programme of militarization makes the *apartheid* state a belligerent threat to the peace of the continent."

31. The joint report added that the South African Government had been able to flout recent resolutions of the Security Council by taking advantage of weakness in their wording, "a weakness which is due to the reluctance of three of the permanent members of the Security Council, the United States, the United Kingdom and France, to envisage enforcement measures against South Africa".

"If the resolution had defined the situation in South Africa as being a threat to the peace in the words of the Charter then the question of enforcement measures would automatically have arisen in the case of defiance by South Africa of the Security Council's resolution. As on the insistence of the Powers named, these key words were not used—being replaced by the rhetorically stronger, but effectively weaker form 'seriously disturbing international peace and security', South Africa has been able to defy this resolution of the United Nations like all the others with continued impunity.

"This situation is humiliating for the United Nations and damaging to the prospects of a strengthened world order. By refusing to recognize the existence of the real and serious threat to world peace which is constituted by the South African situation, the Security Council is allowing this threat to develop to even more dangerous proportions. Responsibility for this situation rests primarily on the Governments of the three countries named and secondly on public opinion in these countries which has not yet been sufficiently awakened to the danger the South African system of government represents to international peace and security."

32. On the question of the threat to the peace, the joint report concluded:

"The determination of the existence of a threat to peace is not in itself a legal question but a question of fact subject to political assessment.

"The Commission is of the opinion that the South African situation does constitute a threat to peace and that the reasons why the Security Council has not recognized it as such are political reasons stemming from the reluctance of certain Powers, having close relations with South Africa, to undertake or support sanctions of any kind.

"It is sometimes argued, on behalf of these Powers and by others, that the South African situation cannot be considered a threat to the peace within the meaning of the Charter because the danger to international peace arises exclusively, it is claimed, from the possible intent of African and other adversaries of South Africa's internal policies. In the Commission's view this opinion cannot be sustained. The threat to the peace arises in the first instance from the policies and practices which the South African Government imposes by the threat and use of force on the majority of the population over which it has control. The populations of the other States in Africa know that these policies are directed against Africans as such, although the régime can make them effective only against the population within its borders.

"All peoples neighbouring on a State which systematically oppresses people like them and which refuses to negotiate about, or even to discuss, its oppressive policies are bound to resent this situation intensively and, if all other recourse is exhausted, to consider military means.

"It would be perverse either to ignore the threat to the peace which this constitutes or to claim that this derives primarily from the policies of the neighbouring countries. The primary threat to the peace is constituted by the South African Government's use of force against the majority of its own population. Secondary threats to the peace come from the massive build-up of South African armed forces, which menaces the independent countries of Africa, and from the hostile reaction of the African population within and beyond the borders of South Africa.

"If the South African Government can be induced to abandon its policies of racial oppression imposed by force then no threat will arise from beyond its borders.

"Those who are concerned about this threat to the peace must therefore seek by all effective means to induce the Government of South Africa to abandon these practices."

III. The case for economic sanctions

33. The arguments for the application of economic sanctions against South Africa as the only effective peaceful means of resolving the South African situation have often been stated in United Nations organs, and have resulted in General Assembly resolution 1761 (XVII) of 6 November 1962. We need, therefore, refer only briefly to some of the relevant contributions at the Conference.

34. Mr. Duma Nokwe, Secretary-General of the African National Congress of South Africa, stated in his message to the Conference:

"Economic sanctions against South Africa can reduce the price in human lives which has to be paid in the struggle against *apartheid*. We hope the Conference will reinforce the demand of the people of South Africa."

35. The Organization of African Unity declared in its message to the Conference:

"We agree that an effective way to break the backbone of *apartheid* in South Africa is by measures of economic sanctions, for *apartheid* is a system based on economic privileges and exploitation. We should expect the international community to go beyond manifestations of moral indignation and have the courage of its convictions by taking measures of self-defence against the assault perpetrated by the South African Government on universal values. We cannot agree with those who say that economic sanctions will only add misery to the unfortunate victims of *apartheid*. To these we say—what more suffering could there be than under *apartheid*? And the victims themselves are demanding precisely such measures."

36. The report of Commission III stated:

"... the Commission is convinced that the world has a duty to intervene in order both to help break the deadlock

[10] Commission of Enquiry into South West Africa Affairs, 1962-1963.

within South Africa and also to bring about the conditions necessary for social change with the minimum cost in terms of human life and suffering. The only effective means, short of military intervention, is economic sanctions. These must be swift and total. To achieve this it is necessary that all States should co-operate in enforcing such sanctions."

37. The joint report of Commissions IV and V stated:

"Intermediary between moral suasion which has failed and military means which should be used only in the last resort, are a number of sanctions and measures holding varying prospects of success. It is the Commission's considered opinion that all methods in this range holding prospects of even limited success should be tried... Economic and other sanctions constitute, however, the only peaceful option available and it is clear for that reason that they must be given a trial. The sole hope of ending the *apartheid* system in South Africa without the use of force lies in the determined and united application by the world community of effective economic sanctions and political measures associated with such sanctions."

38. The argument that economic sanctions are not desirable as they may harm the non-white people of South Africa and consolidate the Whites in an even more uncompromising position were rejected at the Conference. The report of Commission III stated:

"The effects of sanctions would fall on all the people of South Africa. Africans are used to privation and are prepared for more. It is they who have repeatedly asked for sanctions because they believe that if the Government is deprived of outside assistance it would be easier for them to achieve their objectives. We believe that the majority of the Indians and Coloureds stand by the Africans in this. It is frequently argued that sanctions would consolidate the Whites behind the present South African Government. It is our conviction that total sanctions would have a profound effect on the white minority. They would rapidly be involved in discomfort, inconvenience and hardships of varying degrees. Further they would be faced with imminent disaster. This would compel many of the more reactionary to re-think their position and would create conditions in which the more liberal elements would be encouraged to come out more openly against *apartheid*. There were signs of this happening after Sharpeville and indeed at each crisis under nationalist rule since the defiance campaign but the cracks were papered over; the crisis was not big enough and there was not sufficient pressure from outside. Furthermore we believe that sanctions will be an encouragement to the people of South Africa in their struggle. It would be unrealistic to suppose that violence can be avoided, but it seems probable that in these circumstances it will be far less than in the prolonged brutal and civil strife which we would otherwise foresee."

39. The objectives of economic sanctions were defined as follows in the reports of the Commissions:

"It was agreed that the object of economic sanctions was to produce a sufficient breakdown in the operation of the South African economy to create a situation in which *apartheid* would be brought to an end" (joint report of Commissions I and II).

"... complete trade sanctions provide the only effective means of intervention short of military intervention... the aim of sanctions is to remove economic support from *apartheid* so that the people of South Africa can bring about change... prevented from involving the whole continent and beyond...

"The aim of sanctions is to help bring about conditions in which the people of South Africa can establish a non-racial democracy. The constitution of such a democracy must be worked out by the people of South Africa themselves" (report of Commission III).

"Certainly hopes expressed by many in the past about the spontaneous development of some kind of liberal force in South Africa proved wholly without foundation. It may however be more reasonable to consider the possibility that business interests in South Africa, and associated with South Africa, may come to see the need for political change if it becomes evident that world opinion on this matter is seriously determined and will not be content, as in the past, with lip service to liberal ideas about South Africa" (joint report of Commissions IV and V).

Vulnerability of South African economy

40. Several papers dealt with the vulnerability of South Africa to total or selective economic sanctions.

41. Mr. A. Maizels, Senior Research Officer of the National Institute of Economic and Social Research, London, in his paper on "Economic sanctions and South Africa's trade", stated:

"Exports account for about one-quarter of South Africa's gross domestic product, and imports for one-fifth. These proportions are large enough for severe damage to be done to the functioning of the South African economy against the whole of her foreign trade...

"Imports are heavily weighted by capital goods items, textiles, petroleum and chemicals; exports by gold, wool, uranium, fruit and vegetables and diamonds. Economic sanctions would thus result directly in a large proportionate cut in supplies of capital equipment, and would also most probably bring the great part of South African industry to a stand-still for lack of materials and components. The gold mining industry, which is virtually self-sufficient in materials, could carry on production, but this would be pointless if South Africa could find no buyers for its gold abroad...

"It would be possible to apply sanctions to particular commodities, as an alternative to a general trade embargo. The advantage of a 'selective' type of sanctions would be considerable economic dislocation in the South African economy with a minimum of disturbance of traditional trading channels. It would, moreover, face the South African Government with an urgent alternative of either negotiating with the United Nations (with the possibility of further sanctions in the background), or of imposing a complete reshaping of their economy, with an inevitable drastic cut in the standard of living. The fact that the sanctions were limited to a small number of commodities, and would still allow South Africa to trade in world markets on a considerable scale, might well encourage an atmosphere in which fruitful negotiations could begin.

"Objections to a limited programme of sanctions of this type might be that it would be more burdensome, or more difficult, to police effectively than would a complete embargo on trade with South Africa, and that it is not likely to be as effective. However, a limited programme could be given a time limit within which negotiations should start; if they do not, the full range of sanctions could then be applied.

"Such a minimum programme of trade sanctions would consist of an embargo on exports to South Africa of capital equipment and petroleum, together with an embargo on purchases of South African gold. The effect on the South African economy of withholding supplies of capital equipment from abroad, including spares for maintenance of existing equipment, has already been indicated.

"South Africa is even more dependent on imports for her supplies of petroleum than she is for capital equipment. In recent years, almost all her petroleum has been imported, mainly in refined form, the state-owned SASOL Corporation's output from its oil-from-coal plant being only about .25 million tons a year. Total consumption in 1962 was 3.5 million tons, and is growing fairly steadily at 5 per cent a year; at this rate, import requirements by 1970 would amount to over 5 million tons, unless home output is expanded.

"Apart from the probability of an extension of output by SASOL, there remains the possibility of a large-scale oil strike within South Africa. Exploration leases have already been issued (mainly to a consortium of US, British, French and West German companies) covering 300 thousand square miles in Natal, the Orange Free State and Cape Province. Exploration is also being pressed forward in South West Africa. None the less, a dramatic change in South Africa's dependence on imported petroleum is unlikely, at least for the remainder of this decade, during which the South

African economy will be vulnerable to an embargo on its foreign petroleum supplies."

42. Mr. Maizels concluded:

"Several main conclusions can reasonably be drawn from this review of the character of South Africa's foreign trade. First, the South African economy is a relatively 'open' one, in the sense that foreign trade plays a major role in economic growth, both by providing growing markets for South African produce, and by providing the industrial materials, fuel and capital equipment on which that growth has fed. Second, the concentration of South African foreign trade on a limited number of industrialized countries implies that no attempt by the United Nations to impose sanctions on South Africa could succeed without the full agreement and participation of these countries, among which Britain and the United States are the most important. Third, sanctions limited to a few 'key' commodities (petroleum, capital equipment and gold) would have severe adverse repercussions on the South African economy, without putting that economy under 'siege' conditions. Fourth, some form of policing of trade with countries not conforming with a general United Nations sanctions scheme would have to be instituted to prevent any substantial evasion by way of trade diversion.

"Finally, the countries imposing sanctions would suffer an economic loss, since they would have to switch their trade to less profitable markets, or buy from more expensive sources of supply. Such losses would, however, be marginal for most countries, and there seems little case for proposing a special scheme of compensation from international funds, particularly as the majority of countries likely to be most affected (relatively to their total trade) have already banned trade with South Africa. If one assumes that Southern Rhodesia and Portugal (together with Mozambique) under their present régimes, would not comply with a United Nations request for sanctions, then there would be very few countries indeed (Mauritius might be one), for which the imposition of sanctions might involve any appreciable loss. In the absence of an international compensation scheme, such countries might well decide not to invoke sanctions on their trade with South Africa. Such a decision would not, however, significantly reduce the effectiveness of a uniformly-applied system of sanctions by the main industrial countries under the authority of the United Nations."

43. Brian Lapping dealt in further detail with the question of selective sanctions in his paper—"Oil sanctions against South Africa". He noted that South Africa is less dependent on oil than most industrialized countries as oil provides only about 10 per cent of its fuel consumption and as it has enormous coal reserves. He described the probable effects of oil embargo as follows:

"Roughly, half the oil consumed in South Africa is in the form of petrol, which is mainly for the propulsion of private cars. These are the normal means of transportation of the white population, and the South African Government is proud of the Republic's high car ownership. When the effects of an oil embargo begin to be felt, the inevitable petrol rationing for motor cars will strike at one of the props of the white South African way of life.

"Even more, however, it will strike at agriculture. In 1959 there were 106,000 tractors in use, 45,000 lorries, and 80,000 other vehicles on farms in South Africa. Road transport is the farmer's normal means of contact with the railways, by which he despatches his products for sale. The white farmer's extensive holdings are substantially mechanized, and here oil is the main source of power, both for production and transport.

"Some diamond mines in South West Africa and the fishing fleet, which has been a steady source of exports based on canning in recent years, are also dependent on oil. A growing chemical industry has developed following the establishment of oil refineries in South Africa, and would be severely hit if the oil-flow stopped. Motor car assembly, which has become a large industry in South Africa, would presumably suffer, as would the complete motor car production plants which are being built by Ford, General Motors, Dyna-Panhard and the Daihatsu Kogyu Company.

"The defence forces are, of course, dependent on oil for mobility."

44. Mr. Lapping stated that the South African Coal, Oil and Gas Corporation Ltd. (SASOL), which extracts about 10 per cent of the country's present oil needs from coal, might be able to increase its production at a cost of £40 million for the machinery to satisfy every 10 per cent of the present need.

"This expenditure would have to be regarded as a pure defence cost, since at the moment SASOL does not see economic sense in increasing oil production, and has in fact slightly diminished it."

Apart from SASOL's production, all South Africa's oil comes from overseas, the bulk being imported in crude form and refined in the Republic. Increase of storage capacity for crude oil would cost roughly £600,000 for each month's supply.

45. Effectiveness of the oil embargo, Mr. Lapping added, requires the full co-operation of the many oil exporting countries which have so far not supported sanctions.

"The large oil-consuming countries, especially the United States and those in Western Europe, are the ones we need to worry about, and no party with a prospect of power in any of these countries, let alone a government, has yet made an oil embargo against South Africa part of its policy. Unless it is backed by a blockade, an embargo could be rendered ineffective if one Western Government decided not to break it, not even to encourage companies to break it, but merely to allow some trifling inefficiencies of administration occasionally to hamper the free movement of the embargo inspectors sent by the United Nations, or regularly, but always accidentally, to fail to stop sales of oil to independent businessmen, for whose subsequent use of the oil the government concerned really could not be held responsible... Thus it can be seen that an oil embargo requires the active co-operation of the powerful countries of the West, and probably their military support. Such co-operation will never be obtained by exhortation, but only by convincing the governments concerned that supporting an embargo is in their own national interest.

"Once the persuasion of the Western Powers is accomplished, the problem of organizing the embargo will have to be faced. A blockade by ships of war off the South African coast looks like the simplest answer. If the United States and Britain are persuaded to support an embargo, why should they not lend ships to enforce it?"

46. Mr. Lapping considered an international oil-rationing scheme designed to enforce an oil embargo without the use of a military blockade, but argued that in view of the complexity and doubtful effectiveness of such a scheme, a blockade would be the only way.

47. He summarized his conclusions as follows:

"No embargo would be effective without the support of the United States, Britain, and other Western powers.

"South Africa's present oil stocks would last four to six months, at her present rate of consumption, and could probably be extended.

"Agriculture in South Africa would be severely affected by an oil embargo, industry much less so.

"An oil embargo, to have a reasonable expectation of effectiveness, would need to be enforced by a blockade."

48. The question of selective sanctions on strategic materials was also briefly referred to by William F. Gutteridge in his paper—"The strategic implications of sanctions against South Africa". He stated:

"... The key materials are rubber and oil in all its forms. Synthetic and natural rubber is imported from a wide range of sources, especially the United States and Malaya,[11] the domestic production of motor tyres and tubes is in value

[11] South African trade statistics show imports according to country of origin. The representative of Malaysia stated at the 34th meeting of the Special Committee on 12 May 1964 that while rubber imports into South Africa may have originated in Malaysia, they were not in fact directly exported from that country (A/AC.115/SR.34).

about five times the figure for those imported ready manufactured. The dangers of dependence on foreign raw materials are significant but could be partially offset by stockpiling, and synthetic manufacture, for which no figures are available.

"Oil is imported from the main oil producing areas and most notably from Iran which provides about £6m. of crude oil annually, as well as about £5m. of motor spirit and considerable quantities of paraffin. Oil companies in South Africa hold about two months' supply of motor spirit and three months' diesel fuel: government stocks for strategic purposes are not known. The weakness here is recognized and action with a tinge of desperation is evident in this field. SASOL, the state-owned plant which produces oil from coal now yields about 40 million gallons of petrol annually or around 10 per cent of the country's needs, and makes a minor contribution to the supply of diesel oil, is in the process of development. It is unlikely, however, that in the next fifteen years even with the considerable expansion of manufacturing capacity which is planned, this source could do more than maintain the present position with regard to oil supply....

"Thus a blockade which concentrated on oil and rubber and in particular shut off supplies from the Persian Gulf, would have a substantial chance of bringing the South African Government to its knees, because it would within a matter of months, restrict internal security patrols and above all reduce the capacity of the security forces to move rapidly to meet an emergency."

49. As regards the effect of a ban on sales of South African gold, Mr. Roger Opie stated:

"Suppose a total ban on South African gold sales was successful. The loss of income this would impose on South Africa is serious. Gold accounts for some 10 to 12.5 per cent of the Republic's gross national product, and sales of it for some half of her total exports. A complete stop to such sales would cut GNP by something like, at least, one-fifth to one-quarter fairly quickly (unless the Government or Reserve Bank financed the stockpiling of it) apart from the indirect effects of such a fall in income on the demand for and output of South African capital goods industries."

50. The Congress came to the conclusion that economic sanctions against South Africa can be effectively applied to achieve the objectives stated in paragraph 39. The Conference also decided, after discussion, to support total economic sanctions rather than selective sanctions.

IV. Economic and strategic aspects of sanctions against South Africa

51. Commissions I and II discussed in detail the implications of economic sanctions against South Africa both for individual countries and for the world trade and payment system as a whole. Strategic aspects of economic sanctions were considered by Commissions IV and V.

Impact of sanctions on individual countries

52. Three expert papers dealt with the impact of total economic sanctions on the major trading partners and the world payments system.

53. Professor G. D. N. Worswick, in a paper on "The impact of sanctions on the British economy", dealt with the effect of total sanctions on the British economy. This paper is of particular significance as the United Kingdom accounts for nearly one third of the foreign trade of South Africa and nearly half of foreign investment income from South Africa. On the effect of a ban on exports to South Africa, Professor Worswick stated:

"...the immediate impact on Britain of stopping all sales to South Africa will be a loss of income to owners of capital, and a reduction of income (e.g. through short-time working) for some, and a complete loss of employment for others. But this is not a permanent loss. Put the other way round, we can say that the immediate effect of the ban is to release productive resources which become available for alternative uses. Take employment: if, which is reasonable, we postulate a continuation of policies of full employment, workers made unemployed by the ban will, sooner or later, be re-employed elsewhere. An economist might argue that, in the nature of things, the alternative employment will be marginally less productive than the one it replaces. There is something in this... But even if this 'permanent' loss were as high as 10 per cent (which is putting it high for such a relatively small shift) it would amount to something of the order of £20 million a year, which, spread over the whole population, is barely perceptible. The important losses are the transitional ones—between the loss of employment in the old occupation and picking it up again in the new one. The same applies to loss of profits from current trading."

To compensate the transitional losses, he suggested the following:

"An alternative line of approach would be to offer to under-developed countries, e.g. independent African States, a total of loans at a rate equal in value to the previous exports to South Africa. Part of these loans, however, would be 'earmarked', i.e. could only be spent on the products of those industries most adversely affected by the South African ban. Such a scheme would go a long way towards overcoming transitional losses, and would, at the same time, have a certain political appeal."

54. Professor Worswick then took account of the possible loss of income in the order of £60 million a year by British investors, and suggested the following means to spread the burden evenly:

"The British Government would offer to take title of all shares and bonds concerned, and pay compensation, in the form of interest-bearing British government securities. The interest on these securities could be financed during the ban by an increase in the income tax on unearned incomes. If, when the ban is over, the South African investments begin to yield again—the money will flow into the Treasury, and the UK taxpayer can be relieved *pro tanto*."

55. Considering the effect of a ban on imports from South Africa, Professor Worswick stated that in most cases there would be no real difficulty in finding satisfactory alternative supplies. There would be some loss but it would be so widespread as not to call for specific amelioration.

56. Professor Worswick concluded:

"Thus there is no simple answer to the question—what would be the effect of economic sanctions on the U.K. economy itself? If Britain acted unilaterally, and then proceeded to cope with consequential balance of payments problems by the wrong means, the outcome might mean a sacrifice of 2½ per cent of national product. But if an optimal policy were followed, a combined operation of all the nations, the overall loss would be imperceptible, especially in economies which are growing at a reasonable rate. Britain's position wth regard to sanctions is a strategic one. On the one hand her trade constitutes about one third of the external trade of South Africa. Thus if Britain stayed out, the effectiveness of sanctions by other countries would be significantly diminished, the more so if Britain allowed her own trade consequentially to increase. On the other hand, if Britain were to do it alone, and were obliged to cope with consequential balance of payments problems single-handed, she might run into rough water. Thus Britain, if she supports sanctions, has a strong case for asking that they should take the form of a combined UN operation, in which event the burden would be light."

57. Professor Elliot Zupnick submitted a paper on "The impact of sanctions on the United States". He concluded:

"The imposition of sanctions against the Republic of South Africa will, on balance, have a very minor impact on the American economy. The cessation of exports will result in disemployment of 50,000 workers. The cessation of imports from the Republic will not create any serious problems, although the cost of substitutes may rise nominally. The threat that sanctions will result in the loss of foreign investment is more apparent than real, especially if the sanctions are universally applied and effectively policed. Finally, the

reduction in the gold outflow from the Republic of South Africa should not be a source of difficulty and may even help bring about some long overdue reforms in the international financial mechanism."

58. The Conference also had before it a detailed paper on "Sanctions and the High Commission Territories" by Mr. R. M. Bostock. He concluded that although the three High Commission Territories would feel certain difficulties because of their special situation, they, with the support of all the African States, the United Nations and the United Kingdom, could certainly withstand an economic boycott directed against South Africa.

59. Another paper, submitted by Professor K. N. Raj of India, dealt wth "Sanctions and the Indian experience". He noted that India had prohibited trade with South Africa in 1946 when that trade was considerable.

"Though the decision to sever trade relations with South Africa was motivated primarily by considerations of national self-respect and prestige, it was undoubtedly strengthened by the belief that such action could also be effective."

This ban, however, made little difference to South Africa. A number of countries acted as transit camps for re-export to South Africa of commodities imported from India. Subsequently, South Africa was able to find alternative sources. Professor Raj concluded:

"The case for economic sanctions is obviously a political one and the factors that determine their success are also in the ultimate analysis of a political character. If all countries decide on severing trade relations with South Africa, and if action is taken more or less simultaneously, the boycott will be certainly effective. Even if all countries are not prepared to be actively involved, the boycott can be made effective provided those who join are numerous and strong enough to prevent others from taking advantage of the situation. But if a small group of countries decide to 'go it alone', it is very unlikely that sanctions can achieve their objective however large the share of South African trade enjoyed by the sanctioning countries might be now and however vital the requirement of the South African economy for their products. The loss is likely to fall more heavily on them than on the country against which the boycott is imposed... This is essentially the main lesson of the Indian experience in boycotting South Africa."

60. After detailed discussion, the Conference concluded "that losses accruing to individual countries and firms as a result of the imposition of total economic sanctions were likely to be very small, compared with the losses that would accrue if South Africa exploded into a racial war".

"It was also agreed that it would be essential, in view of their strategic role in relation to trade with South Africa, that the programme of sanctions should have the active participation of the United States and the United Kingdom. But it would also be necessary for the programme to have the backing of all other important member nations in order to prevent South Africa evading the effects of the sanctions imposed by some countries by diverting its trade to others...

"The Commission felt that it was important to look at the individual economies of Britain, the United States, West Germany, and Japan. There was some discussion about the weight that should be given to problems of Britain and the United States. But the detailed consideration of their problems arose not so much from sympathy for their difficulties as from an appreciation of two things: first, that Britain and the United States are the major opponents of sanctions; and second that the arguments about the economic consequences usually go unchallenged. The Conference, and in particular the terms of reference of the Economic Commissions, gave us a valuable opportunity to examine the arguments and to explode the myths....

"The Commission concluded that for the industrial countries of which the above four would be most affected, no vital national issues are at stake and these countries cannot convincingly plead economic disaster as a reason against supporting sanctions.

"In addition to the effects on national economies, the effects on individual groups were considered. It was agreed that there are two reasons, apart from political considerations, why countries like the United States and Britain are opposed to sanctions. One is the existence of important business groups in these countries having considerable interests in South Africa; the other is the fear that if sanctions were not enforced simultaneously by other competing countries like Germany, France and Japan, these business groups would lose through sanctions without the objective of sanctions being achieved. It was felt that the only effective way of overcoming the hesitations on these accounts is to make clear to all business groups in all countries that continuance of trade and business with South Africa would bring them losses far greater than their gains. Many of these business groups have larger interests in countries which have already decided to adopt economic sanctions against South Africa, than in South Africa itself. Discriminatory action against these companies could be an important and decisive factor in winning the support of their opposing governments."

Impact of sanctions on the world trade and payments system

61. Mr. Maizels, in his paper—"Economic sanctions and South Africa's trade"—referred to above, while noting that South Africa was by far the largest gold producer in the world, stated:

"However, it is not likely that even the complete cessation of South Africa's gold sales to the rest of the world would have a serious adverse effect on the world liquidity position. At the end of 1962, the official gold reserves held by all countries outside the Soviet area totalled $39 billion so that, assuming that about one-half of the current South African output ($892 million in 1962) went into monetary reserves, this would represent only just over 1 per cent of the total current stock. There is always the possibility, moreover, that the loss of supplies from the world's largest producer might induce the monetary authorities in the main trading nations to improve the present monetary arrangements."

62. Mr. Roger Opie, in his paper on "Gold", dealt in detail with the impact of a ban on South African gold sales, and concluded that while a ban could severely damage the South African economy, it "need do no more than the most trifling damage to the international monetary system (and might just precipitate a much needed series of reforms therein)". He added that even a mere refusal by the central banks of the Western world to buy South African gold would do little harm to them but much to South African gold producers.

63. On the question of the impact of sanctions on the world trade and payments system, the Conference reached the following conclusion:

"The dependence of total world trade on the South African economy... was extremely small, and the effects on world trade of the complete disruption of economic relations between South Africa and the rest of the world would not be serious.

"It was strongly emphasized that an effective programme of sanctions would only be temporary: it would be maintained only until *apartheid* had been abandoned, and this would happen within a very few years, and possibly within a matter of months. It was pointed out that the financial crisis which had hit South Africa at the time of the Sharpeville massacre was an indication of the vulnerability of its economy. When *apartheid* had been abandoned, sanctions will be withdrawn, trade and payments between South Africa and the rest of the world would be rapidly re-established.

"It was agreed that world trade and payments would not suffer any serious effects as a result of the cessation of South African gold sales. Although South African gold production accounts for more than 70 per cent of newly mined gold outside the Soviet area, it represents a very small annual addition to total international reserves. In view of the temporary nature of a programme of economic sanctions, the cessation of South African gold sales should do little damage to the international liquidity system. In any case the world is well aware of the need to reorganize and extend the system of international liquidity, and a cessation of South African gold sales might accelerate this process.

Even under existing arrangements, it would be perfectly feasible for the appropriate United Nations agency to make credit available to offset any loss of world liquidity.

"It was also agreed that there should be no difficulty in making sufficient gold available out of Central Bank reserves to offset any tendency for the gold price to rise as a result of any increase in private hoarding. There was some discussion of the problem of distinguishing newly mined South African gold from other newly mined gold, but it was agreed that a system of identifying South African gold would not be necessary if there was a total blockade on South African imports, since South Africa would not in that case be able to use foreign exchange that accrued from clandestine sales of gold."

Strategic aspects

64. Two papers dealt with the strategic aspects of economic sanctions.

65. Professor William F. Gutteridge, in his paper on "The strategic implications of sanctions against South Africa" stated:

"Sanctions could be either total or concerned with commodities vital to the country's economy and its defence. Total sanctions are in an important sense easier to apply: a blockade in these circumstances would simply aim at the prohibition of all traffic with South Africa whether by land, sea or air. A limited procedure would involve search and would, therefore, be more tedious in its application on the various routes of entry into Southern Africa. If there were full co-operation on the part of all the members of the United Nations with the exception of Portugal then the task would be relatively simple from the military point of view, especially if the areas of Portuguese Mozambique and Angola were to be included in the blockade. If they were not then the leakage of supplies whether by land or air would be unlikely to contribute much to the alleviation of growing shortages of commodities like oil and rubber in which the South African economy is most vulnerable, though a loophole, however trivial, could be an embarrassing complication in other ways. The land frontiers with the two Portuguese territories are not conducive to free traffic of large quantities of goods and the terrain is such that they could not be rapidly developed for this purpose even if it should prove worthwhile...

"A plan for economic sanctions to be successful must be accompanied by massive means of enforcement if it is not to be readily disrupted by officially unrecognized groups exploiting the situation for gain or adventure. South Africa has a negligible merchant marine and relatively few transport aircraft of her own and so would inevitably be dependent for supplies on an agglomeration of strange friends."

66. Referring to the question of a blockade to prevent supplies of oil and rubber to South Africa, Professor Gutteridge said:

"The effectiveness of such an operation would depend upon its backers. The Republic would almost certainly have the capacity to frustrate it, if the only naval forces available were the few frigates, seaward defence boats and so on which countries like Ethiopia, Ghana, Nigeria and Senegal could contribute. Few of the smaller nations have any aircraft at all capable of the long duration flights which are necessary for ocean patrol. It might be that opinion in favour of sanctions would be so strong as to make insignificant the number of vessels available and able to convey the relevant supplies. To run the risk involved in no action, however, would be an invitation to ridicule. The alternative is a relatively full-dress operation which only powers of some military standing could organize on behalf of the United Nations. The immediate military problems of a blockade are clear enough: it is to some extent a question of whether the long-term strategic and immediate political concerns of the major powers of the West are seen to coincide sufficiently to engage them in a project which in all other respects is bound to be deemed unpalatable.

"Given such participation the necessary blockade would become a matter of organization."

67. Mr. Neville Brown, in his paper on "The strategic situation" said:

"There would be little prospect of a naval patrol being effective without the collaboration of the major naval Powers. The coastline of the Republic of South Africa is some 1,600 miles and vessels enter South African ports at the average rate of 40 a day. The coastline of the Portuguese Overseas Territories, which might be used to smuggle goods in, extends over an extra 1,500 miles and vessels enter Portuguese controlled ports at an average rate of 20 per day. To work an effective control system it would be necessary to have aircraft carriers on station to direct other warships towards approaching merchantmen. Four fleet carriers would probably be needed to help maintain a patrol of South Africa and seven to help maintain one of South Africa plus the Portuguese Overseas Territories. The United States keeps 26 fleet carriers in service, Britain 4, and France 3. Australia, Canada, India and the Netherlands have one each.

"The number of warships needed actually to inspect incoming merchantmen would be of the order of 25 to 50 and provision of these would be well within the capability of several nations.

"A point to note is that oil tankers are exceptionally easy to identify. Oil can of course be carried in tins or barrels in ordinary tramp ships but this mode of transit is neither safe nor convenient."

68. The Conference reached the conclusion that economic sanctions against South Africa should be total and universally enforced. They should have the support and active participation of the major trading partners of South Africa. The enforcement of sanctions would not provide a problem if such sanctions were ordered and operated by the United Nations with the support of the great Powers.

V. Obstacles to economic sanctions

69. As indicated in the preceding sections, the general consensus of the Conference was that the situation in South Africa constituted a threat to the peace in terms of Article 39 of the United Nations Charter; that effective international intervention was essential to avoid a grave international crisis; that the imposition of economic sanctions was the only peaceful means to deal with the situation; and that international economic sanctions were legal, feasible, and practical, and involved no insurmountable problems.

70. It was the view of the Conference that the main obstacle to economic sanctions was not the impracticability or undesirability of economic sanctions, but the attitude of various Powers.

71. The joint report of Commissions IV and V, approved by the Conference, stated:

"The main obstacle to the implementation of such a policy —the policy of a serious attempt to end the *apartheid* system by peaceful means—lies in the fact that three major Powers, permanent members of the Security Council, have in varying degrees associations with South Africa, have shown themselves consistently reluctant to do anything that might disturb the *status quo* in that country. These States are the United States of America, the United Kingdom and France.

"The United Kingdom, because of its heavy economic involvement in South Africa, is unlikely to take the lead in any measures designed to bring about radical change. It is true that a change of Government in the United Kingdom might eliminate the more cynical practices of the present British Government, such as the continued sale of arms to South Africa, in defiance of the Security Council resolution. It is clear, however, from the message of the Leader of the Opposition, Mr. Harold Wilson, to this Conference that even a Labour Government would not take a lead in the use of sanctions against South Africa. While, therefore, it is desirable that the efforts of the Anti-Apartheid Movement and others concerned with enlightenment of British public opinion on this question should continue, it would not be realistic to look for a new lead from this quarter. It can however reasonably be expected that a British Labour Gov-

ernment would not be able to take a less progressive position on this matter than the United States. It would seem, therefore, possible that the British support for economic sanctions might be obtained if the position of the United States were to change.

"The position of the United States is in many respects the key to the problem of securing international support for the use of economic sanctions. The influence of the United States at the United Nations is such that it is inconceivable that that body could adopt sanctions without not merely the consent but the active support of the United States. It is therefore essential that for the action which ought to follow this conference a special effort should be made to influence American opinion in the right direction...

"As regards France, which might until recent times have been classified almost automatically as politically sympathetic to the South Africa régime, it has been suggested to the Commission that recent evolutions of France's foreign policy and France's relations with the French-speaking African states might lead to a radically new approach on France's part to the South African question. The Commission is not in a position to assess exactly what weight should be given to these reports, but it considers that the matter should be carefully explored.

"In the Commission's opinion, if the support of these three Powers can be obtained for sanctions against South Africa, then the United Nations will be certain to determine on such action and will have the necessary power at its disposal to make the programme of applying sanctions respected by the South African régime. Without such support, or at least the support of the United States, no programme of internationally applied total economic sanctions is likely to come into being and therefore if this support is denied, the situation will continue to drift as it is doing at present towards an explosion of violence."

VI. Findings and recommendations of the Conference

72. As indicated in the preceding sections, after a study and discussion of papers by well-known experts on the various aspects of the question of economic sanctions against South Africa, the Conference reached the conclusion that the situation in South Africa constituted a grave threat to international peace and security. It considered that the Security Council should define this situation as a threat to the peace in terms of Article 39 of the Charter so that mandatory action could be taken under the auspices of the United Nations.

73. The Conference noted that as all efforts towards moral suasion had failed over many years, the only effective means, short of military action, to change the situation in South Africa was the imposition of total economic sanctions.

74. The Conference came to the conclusion that total economic sanctions were politically timely, economically feasible and legally appropriate. To be effective, economic sanctions should be total and universally applied, and must have the active participation of the main trading partners of South Africa.

75. These conclusions, in the view of the delegation of the Special Committee, deserve serious consideration by the competent organs of the United Nations.

76. Finally, the Conference adopted a number of findings and recommendations which are reproduced below:

Findings and recommendations of Commissions I and II

(*a*) After detailed consideration, the Commission finds that a policy of total economic sanctions against South Africa is feasible and practical and can be effective. The Commission therefore strongly recommends a policy of total economic sanctions against South Africa.

(*b*) The Commission finds that the adverse effects of a policy of collective sanctions on world trade, finance and the economies of individual countries having significant share in the South African economy would be small and marginal. Even these effects may be mitigated by the adoption of domestic measures by the countries concerned, and by international action.

(*c*) The Commission recommends that the widest possible publicity be given to the fact that such adverse effects as the imposition of sanctions might have on the British and American economies would be marginal, and that arguments that vital economic interests are at stake are highly exaggerated.

(*d*) The Commission recommends that countries imposing sanctions against South Africa consider the appropriateness of adopting a policy of discrimination against firms of any country which deal with and strengthen South Africa economically.

(*e*) The Commission recommends that this report and recommendations be transmitted to the United Nations Conference on Trade and Development currently in session in Geneva for consideration when formulating their proposals for the promotion of economic development and international trade.

Findings and recommendations of Commission III

The beliefs of this Commission are:

(*a*) That South Africa is in a crisis which amounts to a state of race war;

(*b*) That the crisis cannot be resolved except by intervention from outside;

(*c*) That complete trade sanctions provide the only effective means of intervention short of military intervention;

(*d*) That the aim of economic sanctions is to remove economic support from *apartheid* so that the people of South Africa can bring about change, with the minimum cost in human life and suffering, and the present race war be prevented from involving the whole continent and beyond;

(*e*) That the effect of total sanctions could quickly achieve those aims and that their total effect on the High Commission Territories must be faced but that such effect can be considerably lessened.

Findings and recommendations of Commissions IV and V

(*a*) The Commission recommends an intensive programme of action designed to bring nearer the day of mandatory economic sanctions against South Africa.

(*b*) Activity on a national and international level by all forces united on the need for sanctions to use the machinery of the United Nations to declare that the South African situation constitutes a threat to world peace within the meaning of Article 39 and to invoke the provisions of Chapter VII for mandatory sanctions.

(*c*) Recognizing that mandatory action can only result from a Security Council resolution which would require the support of the five permanent members of the Security Council, special pressures are essential to get the Governments of the United Kingdom, the United States of America and France to change the direction of their policies on the South African question.

(*d*) The campaign must stress that opposition to *apartheid* and continued trade which bolsters this system are incompatible policies; are policies against the trend of world opinion; are contradictory to the long-term interests of those Powers; and a potential source of conflict with the Powers of Africa and Asia. The continued frustration of the wishes of the overwhelming majority of nations and even of mankind could lead to a breakdown of the United Nations, to alignments on a colour basis and to extreme crisis on a world scale.

(*e*) The sanctions movement can be impelled forward by the most loyal adherence to boycott resolutions of the United Nations and other assemblies, and in all countries where it is not fully observed the most energetic steps should ensure its complete enforcement.

(*f*) Within specific countries appropriate pressures must be devised in this campaign. Examples are:

In the United States—pressure by the negro and civil rights movements to influence State Department policy;

In the former French territories of Africa—pressure on France;

In the United Kingdom—pressure by Commonwealth countries, particularly in Africa and Asia;

In the Middle East—pressure on the oil-producing countries.

(*g*) Concerted action to blacklist firms which trade with South Africa and thrive on *apartheid* must be planned. Information must be disseminated to show South Africa's trading relations with the rest of the world, and, by contrast, the trading position of Africa and Asia with the rest of the world.

(*h*) Appeals should be made to Heads of State, the trade union movements in all countries, the major religions of the world, youth and student organizations, and political parties, sensitive to pressure at times of election.

(*i*) Information services should counter the propaganda of the South African Government and the South African Foundation should argue the unanswerable case against *apartheid* and so influence public opinion.

(*j*) These and other activities call for the establishment of a permanent body to further the movement for economic sanctions and to co-ordinate activity on the international plans.

DOCUMENT A/5741*

Letter dated 8 October 1964 from the representative of Pakistan to the Secretary-General

[*Original text: English*]
[*9 October 1964*]

I have the honour to refer to resolution 1761 (XVII) adopted by the General Assembly of the United Nations on 6 November 1962, and the recommendations made therein to the Member States with regard to the policies of *apartheid* of the Government of the Republic of South Africa. The former Permanent Representative of Pakistan, in his letter dated 14 October 1963 addressed to the Chairman, Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa (A/AC.115/L.9/Add.11), had informed of the measures taken by the Government of Pakistan towards the implementation of the said resolution.

I have now been instructed by my Government to inform you further of the measures taken towards the fulfilment of the implementation of this resolution.

The Government of Pakistan, on 7 October 1964, issued a notification banning all exports from Pakistan to South Africa with immediate effect. Simultaneously the Ministry of Communications issued instructions to all Pakistan shipping companies to the effect that Pakistani ships shall not enter South African ports.

These measures have been taken in compliance with the provisions of General Assembly resolution 1761 (XVII), which, *inter alia*, called upon Member States to refrain from exporting goods to South Africa and to prohibit their ships from entering South African ports.

The General Assembly resolution also called upon Member States to break off diplomatic relations with the Government of the Republic of South Africa; to close their ports to all vessels flying the South African flag; to boycott all South African goods; and to refuse landing and passage facilities to all aircraft belonging to the Government of South Africa and companies registered under the laws of South Africa.

The Government of Pakistan has complied with these provisions. Pakistan has never established diplomatic or consular relations with South Africa nor has it any intention of doing so until the South African Government abandons its racist policies. Landing and passage facilities have been refused to South African aircraft and Pakistani ports have been closed to vessels flying the South African flag. Furthermore, import of South African goods into Pakistan and any sale of arms and ammunition or military vehicles to South Africa have been banned.

The decision today of the Government of Pakistan to ban exports to South Africa and to prohibit Pakistani vessels from calling at South African ports completes actions by Pakistan to give effect to all the provisions of the said resolution.

(*Signed*) Syed AMJAD ALI
Permanent Representative of Pakistan to the United Nations

*Incorporating document A/5741/Corr.1.

DOCUMENTS A/5825 AND ADD.1**

Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa

** Also issued as S/6073 and Add.1.

DOCUMENT A/5825

[*Original text: English/French*]
[*8 December 1964*]

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‡ *Official Records of the Security Council, Eighteenth Year, Supplement for October, November and December 1963*, document S/5471.

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Letter of transmittal

New York, 30 November 1964

Sir,

I have the honour to send you herewith the report adopted unanimously on 30 November 1964 by the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa.

This report is submitted to the General Assembly in pursuance of operative paragraph 5, sub-paragraph (*b*), of General Assembly resolution 1761 (XVII) of 6 November 1962, and of operative paragraph 2 of General Assembly resolution 1978 A (XVIII) of 16 December 1963.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Achkar Marof
Chairman,
Special Committee on the Policies of apartheid *of the Government of the Republic of South Africa*

His Excellency U Thant,
Secretary-General of the United Nations,
New York.

Introduction

1. The Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa was established by General Assembly resolution 1761 (XVII) of 6 November 1962, with the following terms of reference:

"(*a*) To keep the racial policies of the Government of South Africa under review when the Assembly is not in session;

"(*b*) To report either to the Assembly or to the Security Council or to both, as may be appropriate, from time to time."

It is composed of the following eleven members: Algeria, Costa Rica, Ghana, Guinea, Haiti, Hungary, Malaysia, Nepal, Nigeria, Philippines and Somalia.

2. At its first meeting on 2 April 1963, the Special Committee elected Mr. Diallo Telli (Guinea) as Chairman, Mr. Fernando Volio Jiménez (Costa Rica) as Vice-Chairman, and Mr. Matrika Prasad Koirala (Nepal) as Rapporteur.

3. On 10 March 1964, Mr. Koirala resigned his office in view of his departure for Nepal. On 23 March, the Special Committee elected Mr. Ram C. Malhotra (Nepal) as the Rapporteur.

4. Mr. Diallo Telli (Guinea) took leave of the Committee on 30 July 1964 following his election as Administrative Secretary-General of the Organization of African Unity. On 24 September, the Special Committee elected Mr. Achkar Marof (Guinea) as the Chairman.

5. On 5 April 1963, the Special Committee established a Sub-Committee on Petitions composed of the representatives of Algeria, Ghana, Nigeria and the Philippines. Mr. S. H. Okechuku Ibe (Nigeria) was Chairman of the Sub-Committee until 22 January 1964 and was succeeded by Mr. E. C. Anyaoku (Nigeria). The Sub-Committee has submitted thirteen reports since 13 September 1963 (A/AC.115/L.33, L.37, L.40, L.44, L.50, L.66, L.72, L.74, L.76, L.80, L.85, L.95, L.101).

6. The following representatives have served on the Special Committee since 13 September 1963:

ALGERIA

Representative

H.E. Mr. Abdelkader Chanderli
(until 28 August 1964)
Mr. M. Tewfik Bouattoura

Alternate Representatives

Mr. Kemal Hacene
Mr. Abdelkader Boukhari
Mr. Raouf Boudjakdji
Mr. Abderrahmane Bensid

COSTA RICA

Representative

H.E. Mr. Fernando Volio Jiménez

Alternate Representative

Mr. José María Aguirre

GHANA

Representative

H.E. Mr. Alex Quaison-Sackey

Alternate Representatives

Mr. Nathan Anang Quao
Mr. Emmanuel Yawo Agorsor
Mr. Kwaku Mensa Akude
Mr. Joseph Benjamin Phillips

GUINEA

Representative

H.E. Mr. Diallo Telli
(until 30 July 1964)
H.E. Mr. Achkar Marof

Alternate Representative

Mr. Nanamoudou Diakite
Mr. MBaye Cheík Omar

HAITI

Representative

H.E. Mr. Carlet R. Auguste

Alternate Representatives

Mr. Raoul Siclait
Mr. Alexandre Verret
Mr. Léonard Pierre-Louis

HUNGARY

Representative

H.E. Mr. Károly Csatorday

Alternate Representatives

Mr. Arpád Prandler
Mr. József Horvath

MALAYSIA

Representative

H.E. Mr. Radhakrishna Ramani

Alternate Representatives

Mr. Peter S. Lai
Mr. Zain Azraai bin Zainal Abidin

NEPAL

Representative

H.E. Mr. Matrika Prasad Koirala
(until 10 March 1964)
H.E. Mr. Ram C. Malhotra

NIGERIA

Representative

H.E. Chief S.O. Adebo

Alternate Representatives

Mr. E. C. Anyaoku
Mr. S. H. Okechuku Ibe
Mr. O. M. A. Abiola
Mr. Mustafa Zubairu

PHILIPPINES

Representative

H.E. Mr. Privado G. Jiménez

Alternate Representative

Mr. Hortencio J. Brillantes

Adviser

Mr. Virgilio C. Nañagas

SOMALIA

Representative

H.E. Mr. Hassan Nur Elmi

Alternate Representatives

Mr. Ahmed M. Darman
Mr. Abdulkadir Scek Mao

7. By resolution 1978 A (XVIII) of 16 December 1963, the General Assembly noted with appreciation

the reports submitted by the Special Committee in 1963,[1] and strengthened its mandate by requesting it "to continue to follow constantly the various aspects of this question and to submit reports to the General Assembly and the Security Council whenever necessary". The General Assembly requested the Secretary-General to furnish the Special Committee with all the necessary means for the effective accomplishment of its task and invited the specialized agencies and all Member States to give it their assistance and co-operation in the fulfilment of its mandate.

8. In accordance with its terms of reference the Special Committee has submitted two interim reports to the General Assembly and the Security Council since the report of 13 September 1963 submitted to the eighteenth session of the General Assembly. In the first of these reports (A/5692), submitted on 23 March 1964, the Special Committee reviewed the developments since its previous report of 13 September 1963, with special emphasis on the repressive measures against the opponents of the policies of *apartheid* in the Republic of South Africa. In the second report (A/5707), submitted on 25 May 1964, on the eve of the renewed consideration of the question by the Security Council, the Special Committee reviewed the subsequent developments in the Republic of South Africa and transmitted the report of the delegation of the Special Committee on the International Conference on Economic Sanctions against South Africa, held in London from 14 to 17 April 1964.

9. In its resolution of 18 June 1964,[2] the Security Council took note of these reports of the Special Committee with appreciation.

10. On 30 November 1964, the Special Committee decided unanimously to submit the present report on developments since 13 September 1963 to the General Assembly and the Security Council.

11. The report is divided into three parts. The first part contains a review of the work of the Special Committee in pursuance of its mandate under General Assembly resolutions 1761 (XVII) and 1978 (XVIII). The second part is devoted to a review of the main developments relating to the racial policies of the Government of the Republic of South Africa since 13 September 1963. The third part contains the conclusions and recommendations of the Special Committee, with special reference to the means of dissuading the Government of the Republic of South Africa from pursuing its policies of *apartheid*.

12. The following annexes are attached to the report:

Annex I. Replies received from Member States to the appeal by the Special Committee, dated 23 March 1964, in connexion with the trials and death sentences in the Republic of South Africa:

Annex II. List of documents (excluding reports of the Special Committee) circulated between 13 September 1963 and 30 November 1964; and

Annex III. Direction of imports and exports of the Republic of South Africa.

[1] First and second interim reports—see *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497/Add.1, annex III; report of 13 September 1963—see *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497.

[2] *Official Records of the Security Council, Nineteenth Year, Supplement for April, May and June 1964*, document S/5773.

13. In view of the great intensification of the repressive measures by the South African Government against the opponents of *apartheid* during the period under review, a detailed note on the repressive measures has been prepared and attached as an addendum to this report.

14. The Special Committee wishes to record its great appreciation to Mr. Diallo Telli (Guinea) for his invaluable contribution as its Chairman from April 1963 to July 1964 and to Mr. M. P. Koirala (Nepal) for the exemplary performance of his duties as Rapporteur until March 1964.

15. The Special Committee also wishes to express its appreciation to the heads of the various specialized agencies for their co-operation in the fulfilment of its mandate. It also notes with appreciation the assistance rendered by many non-governmental organizations and individuals.

16. The Special Committee wishes to record again its gratitude to the Secretary-General for his unfailing interest in its work. It also wishes to express its appreciation to Mr. Vladimir Suslov, Under-Secretary for Political and Security Council Affairs, and Mr. M. A. Vellodi, Director for Political and Security Council Affairs.

17. Finally, it wishes to express its appreciation to Mr. Enuga S. Reddy, the Principal Secretary, and to the other members of the Secretariat assigned to the Committee who have discharged their duties with remarkable efficiency and devotion.

Chapter I. Review of the work of the Special Committee

A. Report of 13 September 1963

18. In its report of 13 September 1963,[3] submitted to the eighteenth session of the General Assembly, the Special Committee transmitted a detailed review of the situation in the Republic of South Africa which made it clear that the Government of the Republic of South Africa had not only not complied with the General Assembly resolution 1761 (XVII) of 6 November 1962 and the Security Council resolutions of 1 April 1960[4] and 7 August 1963,[5] but had taken further measures which aggravated the tension within the country. It stated that the utterly negative reaction of the South African Government made it essential that the General Assembly and the Security Council consider, with no further delay, "possible new measures in accordance with the Charter, which provides for stronger political, diplomatic and economic sanctions, suspension of rights and privileges of the Republic of South Africa as a Member State, and expulsion from the United Nations and its specialized agencies".

19. The Special Committee considered it essential that the General Assembly and the Security Council should: (*a*) take note of the continued deterioration of the situation in the Republic of South Africa in consequence of the continued imposition of discriminatory and repressive measures by its Government in violation of its obligations under the United Nations Charter, the provisions of the Universal Declaration of Human

[3] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497.

[4] *Official Records of the Security Council, Fifteenth Year, Supplement for April, May and June 1960*, document S/4300.

[5] *Ibid., Eighteenth Year, Supplement for July, August and September 1963*, document S/5386.

Rights and the resolutions of the General Assembly and the Security Council; (*b*) affirm that the policies and actions of the Republic of South Africa are incompatible with membership in the United Nations; (*c*) declare the determination of the Organization to take all requisite measures provided in the Charter to bring to an end the serious danger to the maintenance of international peace and security; and (*d*) call upon all United Nations organs and agencies and all States to take appropriate steps to dissuade the Republic of South Africa from its present racial policies.

20. The Special Committee further deemed it essential that all Member States be called upon to take requisite measures speedily to implement the relevant provisions of General Assembly resolution 1761 (XVII) of 6 November 1962 and the Security Council resolution of 7 August 1963. It felt that Member States which had taken effective measures in this respect should be commended, and that an urgent invitation should be addressed to all others to take action and report without delay. It felt, moreover, that the General Assembly and the Security Council should express disapproval of the actions of certain States which had taken measures contrary to the provisions of the resolutions of the General Assembly and the Security Council on the policies of *apartheid* of the Government of the Republic of South Africa.

21. The Special Committee felt that the States responsible for the administration of territories neighbouring the Republic of South Africa should be called upon to provide asylum and relief to South African nationals who were obliged to seek refuge because of the policies of *apartheid* and to refrain from any action which may assist the South African authorities in the continued pursuit of their present racial policies.

22. Further, in view of the persecution of thousands of South African nationals for their opposition to the policies of *apartheid* and the serious hardships faced by their families, the Special Committee considered that the international community, for humanitarian reasons, should provide them with relief and other assistance. It recommended that the Secretary-General should be requested, in consultation with the Special Committee, to find ways and means to provide such relief and assistance through appropriate international agencies.

23. With regard to the request to the Member States by the General Assembly that they refrain from exporting all arms and ammunition to South Africa (resolution 1761 (XVII)), and by the Security Council in its resolution of 7 August 1963 that they cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa, the Special Committee submitted the following supplementary recommendations: (*a*) Member States should be requested not to provide any assistance, directly or indirectly, in the manufacture of arms, ammunition and military vehicles in South Africa, including the supply of strategic materials, provision of technical assistance, or the granting of licences; (*b*) Member States should be requested to refrain from providing training for South African military personnel; and (*c*) Member States should be requested to refrain from any form of co-operation with South African military and police forces.

24. The Special Committee further suggested that the General Assembly and the Security Council give consideration to additional measures, including the following, to dissuade the Government of the Republic of South Africa from its racial policies: (*a*) recommendation to all international agencies to take all necessary steps to deny economic or technical assistance to the Government of the Republic of South Africa, without precluding, however, humanitarian assistance to the victims of the policies of *apartheid*; (*b*) recommendation to Member States to take steps to prohibit or discourage foreign investments in South Africa and loans to the Government of the Republic of South Africa or to South African companies; (*c*) recommendation to Member States to consider denial of facilities for all ships and aircraft destined to or returning from the Republic of South Africa; (*d*) recommendation to Member States to take measures to prohibit, or at least discourage, emigration of their nationals to the Republic of South Africa, as immigrants are sought by it to reinforce its policies of *apartheid*; and (*e*) study of means to ensure an effective embargo on the supply of arms and ammunition, as well as petroleum, to the Republic of South Africa, including a blockade, if necessary, under aegis of the United Nations.

25. Finally, the Special Committee felt that Member States should be urged to give maximum publicity to the efforts of the United Nations with respect to this question and take effective steps to discourage and counteract propaganda by the Government of the Republic of South Africa, its agencies and various other bodies which seek to justify and defend its policies.

B. Consideration of the question by the General Assembly and the Security Council, October-December 1963

26. The reports of the Special Committee were considered by the General Assembly at its eighteenth session and by the Security Council from 27 November to 4 December 1963.

27. On 11 October 1963 the General Assembly, considering reports to the effect that the Government of South Africa was arranging the trial of a large number of political prisoners under arbitrary laws prescribing the death sentence and that such a trial would inevitably lead to a further deterioration of the already explosive situation in South Africa, thereby further disturbing international peace and security, adopted resolution 1881 (XVIII) by 106 votes, with South Africa alone voting against. The General Assembly recalled its resolution 1761 (XVII) of 6 November 1962 and Security Council resolution of 7 August 1963, which called upon the Government of the Republic of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*, and took note of the Special Committee's report which stressed that the harsh repressive measures instituted by the South African Government frustrate the possibilities for peaceful settlement, increase hostility among the racial groups and precipitate violent conflict. The operative part of the resolution read:

"1. *Condemns* the Government of the Republic of South Africa for its failure to comply with the repeated resolutions of the General Assembly and of the Security Council calling for an end to the repression of persons opposing *apartheid*;

"2. *Requests* the Government of South Africa to abandon the arbitrary trial now in progress and forthwith to grant unconditional release to all political prisoners and to all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*;

"3. *Requests* all Member States to make all necessary efforts to induce the Government of South Africa to ensure

that the provisions of paragraph 2 above are put into effect immediately;

"4. *Requests* the Secretary-General to report to the General Assembly and the Security Council, as soon as possible during the eighteenth session, on the implementation of the present resolution."

28. When the Security Council resumed consideration of the question on 27 November 1963, it was clear that the South African Government had not heeded the General Assembly's request in operative paragraph 2 of resolution 1881 (XVIII), despite the efforts made by Member States in accordance with operative paragraph 3 and reported by the Secretary-General in documents A/5614 and Add.1-3.[6] It continued with the trials of opponents of the policies of *apartheid* and other repressive measures against them.

29. On 4 December 1963 the Security Council unanimously adopted a resolution,[7] deploring the refusal of the South African Government to comply with its resolution of 7 August 1963 and to accept the repeated recommendations of other United Nations organs, and stating in its operative part:

"1. *Appeals* to all States to comply with the provisions of the Security Council resolution of 7 August 1963;

"2. *Urgently requests* the Government of the Republic of South Africa to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights;

"3. *Condemns* the non-compliance by the Government of the Republic of South Africa with the appeals contained in the above-mentioned resolutions of the General Assembly and the Security Council;

"4. *Again calls upon* the Government of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*;

"5. *Solemnly calls upon* all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;

"6. *Requests* the Secretary-General to establish under his direction and reporting to him a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed, and to consider what part the United Nations might play in the achievement of that end;

"7. *Invites* the Government of the Republic of South Africa to avail itself of the assistance of this group in order to bring about such peaceful and orderly transformation;

"8. *Requests* the Secretary-General to continue to keep the situation under observation and to report to the Security Council such new developments as may occur, and in any case not later than 1 June 1964, on the implementation of this resolution."

30. On 16 December 1963 the General Assembly adopted resolution 1978 (XVIII) on the reports of the Special Committee. In the operative part of resolution 1978 A (XVIII), adopted by 100 votes to 2, with one abstention, the General Assembly stated:

"1. *Appeals* to all States to take appropriate measures and intensify their efforts, separately or collectively, with a view to dissuading the Government of the Republic of South Africa from pursuing its policies of *apartheid*, and requests them, in particular, to implement fully the Security Council resolution of 4 December 1963;

"2. *Notes with appreciation* the reports of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa, and requests it to continue to follow constantly the various aspects of this question and to submit reports to the General Assembly and to the Security Council whenever necessary;

"3. *Requests* the Secretary-General to furnish the Special Committee with all the necessary means for the effective accomplishment of its task;

"4. *Invites* the specialized agencies and all Member States to give to the Special Committee their assistance and co-operation in the fulfilment of its mandate."

31. In resolution 1978 B (XVIII), adopted by 99 votes to 2 (Portugal and South Africa), with no abstentions, the General Assembly took note that the Special Committee had drawn attention in its report to the serious hardships faced by the families of persons persecuted by the South African Government for their opposition to the policies of *apartheid* and had recommended that the international community for humanitarian reasons provide them with relief and other assistance. Considering that such assistance was consonant with the purposes and principles of the United Nations, the General Assembly requested the Secretary-General to seek ways and means of providing relief and assistance, through the appropriate international agencies, to the families of all persons persecuted by the Government of the Republic of South Africa for their opposition to the policies of *apartheid;* invited Member States and organizations to contribute generously to such relief and assistance; and invited the Secretary-General to report to the General Assembly at its nineteenth session on the implementation of the resolution.

C. Consideration of the programme of work of the Special Committee, January 1964

32. At its meeting on 9 January 1964, the Special Committee considered its programme of work in the light of General Assembly resolutions 1881 (XVIII) of 11 October 1963 and 1978 (XVIII) of 16 December 1963, and Security Council resolution S/5471 of 4 December 1963.

33. The Committee noted with satisfaction that its reports had been noted with appreciation by the General Assembly, the Security Council and the Member States and that its work had contributed to the adoption of the resolutions by the two principal organs on the question of the policies of *apartheid* of the Government of the Republic of South Africa. The situation in the Republic of South Africa, however, continued to deteriorate daily as evidenced by the brutal repression against all those who opposed the policy of *apartheid* and the contempt shown by the South African Government for the decisions of the competent organs of the United Nations. In considering its programme of work, therefore, the Special Committee took into account the increasing seriousness of the situation, as well as the strengthening of the Committee's mandate.

34. Members of the Special Committee felt that the Special Committee should co-operate, as appropriate, with the group of experts appointed by the Secretary-General pursuant to Security Council resolution S/5471. While hoping that the efforts of the Secretary-General and the group of experts would be successful, the Committee considered it essential that the United Nations and the international community should be prepared to

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[6] *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 30.

[7] *Official Records of the Security Council, Eighteenth Year, Supplement for October, November and December 1963*, document S/5471.

exercise ever-increasing pressure on the South African Government, along the lines of the resolutions of the General Assembly and the Security Council, for the purpose of persuading it to abandon its racial policies.

35. The Special Committee, therefore, requested the Secretary-General to arrange for the preparation of detailed studies, in the light of the decisions of the General Assembly and the Security Council and the recommendations in the report of the Special Committee, on (*a*) the direction and composition of the foreign trade of South Africa, with special reference to trade in petroleum and other strategic materials; and (*b*) the sources and distribution of foreign investments in South Africa. In response to the request, the Secretariat submitted documents A/AC.115/L.55 and L.56; see also documents A/AC.115/L.55/Add.1 and Add.1/Corr.1 and 2, and L.56/Rev.1.

36. At the same meeting the Special Committee, through the Secretary-General, addressed an invitation to the specialized agencies inviting their assistance and co-operation in accordance with General Assembly resolution 1978 A (XVIII) and suggesting that it would be useful if the agencies could appoint representatives to discuss the possibilities of co-operation and to attend the meetings of the Committee as observers (see A/AC.115/L.49 and Add.1-3).

37. The replies from the heads of the specialized agencies offering their assistance and co-operation were communicated to the Committee. The Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, International Labour Office and the International Atomic Energy Agency appointed observers to attend meetings of the Special Committee (*ibid.*).

D. Consultation with the Group of Experts established in pursuance of the Security Council resolution of 4 December 1963

38. In pursuance of operative paragraph 6 of the Security Council resolution of 4 December 1963, the Secretary-General established a Group of Experts composed of Mrs. Alva Myrdal (Chairman); Sir Edward Asafu Adjaye: Mr. Josip Djerdja (Mr. Djerdja resigned from the group in March 1964); Sir Hugh Foot and Mr. Dey Ould Sidi Baba.

39. Officers and members of the Special Committee kept in contact with the Group of Experts during the period of its existence.

40. On 9 March 1964, the Special Committee held a meeting with the Group of Experts, and issued a communiqué in which it stated:

"An exchange of views on the terms of reference of the expert group under the Security Council resolution of 4 December 1963 reflected general agreement on the respective roles of the two bodies in the pursuit of the objectives of the United Nations.

"The exchange of views between the members of the Special Committee and the Expert Group took place in an atmosphere of frank cordiality.

"It was agreed that the Special Committee and the Expert Group should continue close contacts with each other in the discharge of their respective mandates." (See United Nations Press Release GA/AP/18 of 9 March 1964).

E. Consideration of the repressive measures against opponents of the policies of *apartheid* and hearing of petitioners, March 1964

41. When the Special Committee reconvened on 9 March 1964, it was obliged to devote its attention principally to the question of repressive measures launched against opponents of the policies of *apartheid* in the Republic of South Africa, despite the resolutions of the General Assembly and the Security Council. It considered a report by the Rapporteur on these repressive measures[8] and took note of a number of communications received by the Committee, particularly in connexion with the Rivonia trial of Nelson Mandela, Walter Sisulu and other leaders, and the death sentences passed on several leaders of the African National Congress in Port Elizabeth.

42. The Special Committee also heard the following petitioners: Miss Miriam Makeba, South African singer, at the twenty-sixth meeting on 9 March 1964; Miss Mary Benson, author of *African Patriots*[9] and other books, at the twenty-eighth meeting on 11 March 1964; and Mr. Oliver Tambo, Deputy President of the African National Congress of South Africa, and Mr. Tennyson Makiwane, member of its national executive, at the twenty-ninth meeting on 12 March 1964.

43. The petitioners referred to the trials of South African leaders then under way, the mistreatment of numerous detainees and the hardships endured by their families. They appealed for urgent action by the international community to save the lives of persons involved in the trials, particularly of the defendants in the Rivonia trial, and to secure the liberation of all persons imprisoned, interned or subjected to other restrictions for their opposition to the policies of *apartheid.*

44. Appealing to the Special Committee for quick and concrete action, Miss Makeba stated that the people of South Africa had sought their basic human rights by every possible means, facing bans, banishment, gaol and even death. But instead of improving, their situation grew worse day by day. Whenever United Nations organs adopted resolutions, the hopes of the people were aroused, only to be disappointed when the resolutions were ignored and defied by the South African Government. The Special Committee should ensure that false hopes were not raised again and that the South African Government was forced to cease the humiliation and persecution of the South African people.

45. Miss Makeba added that there was already too much hate in South Africa and that it would overflow if the world kept silent while the Government proceeded along its brutal course. She appealed to the Committee, and through it to all the countries of the world, to do everything possible to save the lives of the South African leaders, empty the prisons of those unjustly imprisoned, and help the people to win their right to human dignity.

46. Miss Mary Benson spoke of a number of men and women in South Africa who were on trial under laws providing for death sentences, particularly the defendants in the Rivonia trial, who were known to her personally. She emphasized that it was profoundly important to South Africa, to the African continent, and to the world at large that leaders like Nelson

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[8] *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 30, documents A/5614 and Add.1-3.

[9] London, Faber and Faber, 1962.

Mandela, Walter Sisulu, Lionel Bernstein, Ahmed Kathrada and Govan Mbeki must not be allowed to die.

47. Speaking of the plight of families of persons persecuted by the South African Government for their opposition to the policies of *apartheid,* Miss Benson emphasized the urgent need to implement General Assembly resolution 1978 B (XVIII) on relief and other assistance for these families so that the anguish of the South Africans concerned may be alleviated even a little. There were organizations in South Africa and London which could distribute funds, but their resources had become ever more inadequate in the face of the growing needs.

48. Finally, Miss Benson referred to the misery and uncertainty faced by the African population against the background of a fantastic wave of prosperity for white South Africa, with increasing investment especially from the United Kingdom and the United States. According to the South Africa Foundation, the average dividend in South Africa was 12.6 per cent compared with 6.6 per cent in Western Europe, while United States companies were earning profits of up to 27 per cent on capital invested in South Africa. That was "interest on the edge of a volcano," to quote the editor of the *Investor's Chronicle,* London. The massive foreign investment in South Africa, in her view, was the major obstacle to efforts to bring about change in that country. Miss Benson concluded that economic sanctions were surely the obvious civilized form of action as diplomatic pressures had long ago failed to make any impact on the South African Government.

49. Mr. Oliver Tambo, deputy president of the African National Congress, stated that, claiming to act in the name of "Christian" civilization and "Western" democracy, the South African Government was tirelessly persecuting the African people and other opponents of its policies. This persecution was encouraged by foreign investments which had continued to pour into the country. White immigrants, mainly from the United Kingdom, had recently been entering South Africa in large numbers to share in the exploitation of African labour.

50. If South Africa was enjoying an economic boom, that was doubtless partly due to a sense of security induced by the arms supplied to the South African Government by its friends, as well as by the imprisonment of the leaders of the liberation movement. It was hardly necessary to point out that the supposed stability was unreal. It was pertinent, however to ask who bore the greater guilt—those who enforced racialist policies, or those who furnished the capital technical knowledge and manpower for the carrying out of those policies.

51. Mr. Tambo said that his organization felt that the Special Committee, in seeking modes of action against *apartheid,* should consider means whereby such accomplices could be made to reconcile their public protestations with their deeds. For it was dangerous to continue pretending that the joint condemnation of *apartheid* by its opponents and its supporters would dislodge a system which drew its resources from a combination of economic power, military strength and the unbridled use of brute force. The fact that respected leaders of the South African people now stood in danger of losing their lives, he said, added to the importance of identifying those who gave to the South African Government the financial and material encouragement it needed for the continuing of its policies and practices.

52. Referring to the Bantu Laws Amendment Bill then before the South African Parliament, Mr. Tambo stated that in one of its key clauses it established a network of so-called "Aid Centres" which were in fact slave-labour detention camps, designed to entrap all Africans outside the bantustan areas and distribute them as black labour to white masters and farmers throughout the country. The practice of catching Africans in the streets and selling them to white farmers, which had been outlawed by the courts some years previously, was being legalized under the Bill which made of the African merely a chattel.

53. Mr. Makiwane, member of the National Executive of the African National Congress, recalled that in July 1963 his organization's delegation had drawn the attention of the Special Committee to the prominent role played by certain countries—notably the United Kingdom, the United States, Belgium, France and the Federal Republic of Germany—which were supplying oil to the machinery of *apartheid* by their close economic collaboration with South Africa. He said that immigrants from the United Kingdom and other countries were employed for work which could equally well be done by Africans.

F. Report of 23 March 1964 to the General Assembly and the Security Council

54. On 23 March 1964, the Special Committee unanimously adopted an urgent report to the General Assembly (A/5692) and the Security Council (S/5621) drawing attention to the grave new developments in the Republic of South Africa, in particular the death sentences already pronounced and the menace of death sentences to and execution of political prisoners opposed to *apartheid.* It expressed its conviction that positive and dynamic action by the principal organs was essential to avert a violent conflict in South Africa "which might have serious international consequences and which it is the duty of the United Nations to prevent by employing all the means available to it under the Charter".

55. The Special Committee stated, *inter alia*:

"13. While continuing to review the situation in South Africa and constantly seeking an adequate solution, the Special Committee has reached the conclusion that it is indispensable to make an urgent report to the Security Council and the General Assembly in view of grave new developments in the Republic of South Africa, namely, that some political prisoners opposed to *apartheid* have just received death sentences, others are threatened with the same penalty, and all of them risk being hanged.

"14. The Special Committee, being convinced that effective mandatory measures must be taken urgently to meet this grave situation and to prevent irrevocable consequences, recommends, as a first step, that the Security Council should demand that the South African Government should:

"(*a*) Refrain from the execution of persons sentenced to death under arbitrary laws providing the death sentence for offences arising from opposition to the Government's racial policies;

"(*b*) End immediately trials now proceeding under these arbitrary laws and grant an amnesty to all political prisoners whose only crime is their opposition to the Government's racial policies;

"(*c*) Desist immediately from taking further discriminatory measures;

"(*d*) Refrain from all other actions likely to aggravate the present situation.

"15. The Special Committee recommends that, unless the South African Government complies within a brief time-limit with the aforementioned minimum, but vital, demands, the Security Council, in conformity with the terms of Chapter VII of the Charter and on the basis of the recommendations of the General Assembly and the Special Committee, should take new mandatory steps to compel the South African Government to comply with the decisions of the Council.

"16. The Special Committee considers it essential that the Security Council should set a time-limit for the South African Government to take necessary steps to prevent the situation from becoming disastrous. The Council would, in this way, be making clear its determination to secure compliance, by effective international measures, with that Government's obligations under the resolutions of the Council and the Charter of the United Nations.

"17. The Special Committee further recommends that the Security Council should specially request all the main States which maintain close relations with the South African Government, and thus bear an important responsibility in this connexion, to do all in their power, separately and collectively, to oblige the South African Government immediately to comply with the minimum, but vital, demands contained in paragraph 14 above.

"18. The Special Committee reaffirms that the willingness of the major trading partners of South Africa, and of other States which maintain close political and economic relations with that country, to implement fully the measures recommended by the General Assembly and the Security Council is the most effective means to dissuade the South African Government from pursuing its policies of *apartheid.* It is essential that these Powers should urgently use all their influence to save the lives of persons facing death in South Africa for their opposition to *apartheid,* to secure an amnesty in conformity with the decisions of the General Assembly and the Security Council, and to induce the South African Government to fulfil its international obligations with a view to resolving peacefully the present grave situation in the Republic of South Africa.

"19. Finally, the Special Committee wishes to emphasize again the extreme gravity of the situation in South Africa and the imperative need for effective action in order to prevent a catastrophe in that country. Such action offers the only hope of a peaceful solution to the situation, which is deteriorating daily. The Special Committee believes that mandatory measures are essential to prevent irrevocable consequences and to strengthen the efforts of the United Nations to achieve its objectives, which are to bring about the abandonment of the policies of *apartheid* and to ensure the full enjoyment of human rights and fundamental freedoms by all the inhabitants of South Africa.

"20. The Special Committee feels that the Security Council, as a principal organ of the United Nations endowed with effective enforcement powers under the Charter, should assume its decisive responsibilities in connexion with the situation in South Africa. The Special Committee is convinced that positive and dynamic action by the Security Council is essential to prevent a violent conflict in South Africa, which might have serious international consequences and which the United Nations is in duty bound to prevent by every means available to it under the Charter."

G. Appeal to Member States, organizations and eminent personalities in connexion with the trials and death sentences in the Republic of South Africa

56. At the 31st meeting on 23 March 1964, the Special Committee approved the following appeal (A/AC.115/L.70) to be addressed by the officers of the Committee to Member States, organizations and eminent personalities in connexion with the trials of persons opposed to the policies of *apartheid* in the Republic of South Africa and the passing of death sentences:

"The United Nations General Assembly has entrusted the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa with the task of keeping the various aspects of the South African Government's racial policies under constant review. The latest developments in South Africa are causing grave concern to the Special Committee, which has pointed out, in the report of 23 March 1964 to the General Assembly and the Security Council, that the intensification of racial discrimination and the brutal repressive measures being taken against individuals and organizations opposed to the policy of *apartheid* are creating a situation which becomes more explosive with each passing day and will, if it continues, inevitably have serious international repercussions.

"The Special Committee is concerned, in the first instance, with the trials of hundreds of persons, including many prominent leaders of the movement for racial equality, which are now under way. These trials, conducted under arbitrary laws which violate the fundamental principles of universal justice and human rights and which prescribe the death penalty for acts of resistance to the policy of *apartheid,* are continuing despite the unanimous appeals of both the General Assembly and the Security Council, for their abandonment and for the liberation of all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid.* These trials have already resulted in the passing of death sentences on three prominent leaders opposed to the policy of *apartheid* and may well do irreparable harm to the efforts of the United Nations to find a peaceful solution to the situation in South Africa.

"The Special Committee has therefore decided to address an urgent appeal to you to exert all your influence to induce the Government of South Africa:

"(1) To refrain from executing the condemned political leaders and to spare the lives of the persons threatened with the death penalty in South Africa;

"(2) To put an end to the tortures and the various humiliations inflicted on the opponents of *apartheid* in South Africa;

"(3) To liberate the political prisoners whose only crime is their opposition to the South African Government's policy of *apartheid;*

"(4) To abandon its policy of *apartheid,* which is contrary to the United Nations Charter and the Universal Declaration of Human Rights.

"We have the honour to send you herewith for your information the report of the Special Committee of 23 March 1964, in which the Committee gives an account of recent developments and makes recommendations for appropriate international action."

57. Pursuant to the decision of the Special Committee, the officers addressed this appeal to the Heads of State or Government of Member States, through the Permanent Missions to the United Nations, and to a number of other eminent personalities and organizations.

58. The Special Committee notes that a large number of Member States have taken action in response to this appeal. The Special Committee also received communications from several Member States reaffirming their firm opposition to *apartheid* and informing the Special Committee of action either already taken or proposed to be taken by them in response to its appeal. The substantive parts of these communications are reproduced in Annex 1.

59. In connexion with the efforts of the Special Committee with regard to the trials and death sentences in South Africa, it may be noted that the African Group at the United Nations, at a meeting on 25 March 1964, heard a statement on this matter by the Chairman of the Special Committee and issued the following communiqué:

"The African group had an urgent meeting today in which it heard the Chairman of the Special Committee on *apartheid*, Ambassador Diallo Telli of Guinea.

"Ambassador Diallo Telli reported on the explosive situation which has developed in South Africa following numerous trials of South African Nationalists, resulting in death sentences.

"The African group wishes to express its profound indignation against this savage repression of the South African patriots which threatens to plunge South Africa and the entire Continent into a bloody conflict.

"The African group stresses that in these trials and death sentences it is in fact all the African States that are being tried by the racist government of South Africa.

"The group regards this as a challenge directed to the whole African Continent and accepts the challenge.

"The African group condemns the South African Government for its pursuit and intensification of its policy of *apartheid*. The group further insists for the immediate abandoning of the make-believe trials, the security for the South African leaders and the liberation of all the persons arrested, detained or submitted to other restrictions for having opposed *apartheid*."

60. Moreover, on 27 March 1964, the Secretary-General took note of the recommendations of the Special Committee and made an urgent and earnest appeal to the South African Government "to spare the lives of those facing execution or death sentences for acts arising from their opposition to the Government's racial policies, so as to prevent an aggravation of the situation and to facilitate peaceful efforts to resolve the situation".

H. Letter to the Organization of Petroleum Exporting Countries concerning appropriate means of achieving an effective embargo on the supply of petroleum and petroleum products to South Africa

61. In connexion with its conclusion that effective action should be taken to secure speedy compliance by the South African Government with certain minimum demands, the Special Committee recalled the provisions of General Assembly resoultion 1899 (XVIII) of 13 November 1963 under which all States were urged "to refrain . . . from supplying in any manner or form any petroleum or petroleum products to South Africa". It decided to request the Organization of Petroleum Exporting Countries (OPEC) for its observations on the appropriate means of achieving an effective embargo on the supply of petroleum and petroleum products to South Africa (see A/AC.115/SR.28 and SR.31).

62. Accordingly, on 23 March 1964, the Chairman sent the following letter to the Secretary-General of OPEC.

"The Special Committee of the Policies of *apartheid* of the Government of the Republic of South Africa, which was established under General Assembly Resolution 1761 (XVII) of 6 November 1962, is seeking ways and means of inducing the Government of South Africa to abandon its racial policy of *apartheid*. It is convinced that effective international action is essential in order to eliminate the explosive situation in South Africa, which, if it continues, will have increasingly serious international consequences.

"In this connexion, the Special Committee has recommended study of means of ensuring an effective embargo on the supply of petroleum to the Republic of South Africa, including, if necessary, a blockade under the auspices of the United Nations.

"The Special Committee notes that some of the principal petroleum-exporting countries belonging to OPEC have already prohibited the export of petroleum and petroleum products to the Republic of South Africa, while others have informed the General Assembly that they are prepared to take part in applying such measures if they are carried out by all the principal petroleum-exporting countries.

"The Special Committee also notes that in resolution 1899 (XVIII) of 13 November 1963 on the question of South West Africa, the General Assembly urged all Member States to refrain from supplying in any manner or form any petroleum or petroleum products to South Africa.

"In view of the foregoing and of the urgent need for effective action to deal with the explosive situation in South Africa, the Special Committee has asked me to request you to inform the Committee of OPEC's observations on the appropriate means of achieving an effective embargo on the supply of petroleum and petroleum products to South Africa.

"I shall be grateful for any information or comments which OPEC can offer the Special Committee in this connexion."

63. In a reply dated 13 April 1964, the Secretary-General of OPEC stated that the important subject raised in the letter had been discussed at a session of that Organization's Board of Governors which decided that the matter should be discussed by each country's representative with his Government. Copies of the letter had been forwarded to the Governments of Member Countries with the request that their views and comments should be communicated to the Secretariat as soon as possible.

I. Visit of the delegation of the Special Committee to London to attend the International Conference on Economic Sanctions against South Africa and to hear petitioners

64. On 3 April 1964, the Special Committee decided to send a delegation, consisting of its officers and members of its Sub-Committee on Petitions, to attend as observers the International Conference on Economic Sanctions against South Africa, held in London from 14 to 17 April.[10] The delegation was authorized to hear petitioners during its visit to London.

65. On its return, the delegation submitted a review of the International Conference which the Special Committee transmitted to the General Assembly and the Security Council as annex II to its report of 25 May 1964 (see A/5707). The delegation noted:

"...after a study and discussion of papers by well-known experts on the various aspects of the question of economic sanctions against South Africa, the Conference reached the conclusion that the situation in South Africa constituted a grave threat to international peace and security. It considered that the Security Council should define this situation as a threat to the peace in terms of Article 39 of the Charter so that mandatory action could be taken under the auspices of the United Nations.

"The Conference noted that as all efforts towards moral suasion had failed over many years, the only effective means, short of military action, to change the situation in South Africa was the imposition of total economic sanctions.

"The Conference came to the conclusion that total economic sanctions were politically timely, economically feasible and legally appropriate. To be effective, economic sanctions should be total and universally applied, and must have the participation of the main trading partners of South Africa.

"These conclusions, in the view of the delegation of the Special Committee, deserve serious consideration by the competent organs of the United Nations."

[10] The delegation consisted of the following: *Chairman*: Mr. Diallo Telli (Guinea); *Rapporteur*: Mr. Ram C. Malhotra (Nepal); *Chairman of the Sub-Committee*: Mr. E. C. Anyaoku (Nigeria); *Members of the Sub-Committee*: Mr. Joseph B. Phillips (Ghana)), Mr. Virgilio Nañagas (Philippines); Mr. Salim Keramane (Algeria) also participated in the hearings. Mr. Fernando Volio Jiménez (Costa Rica), *Vice-Chairman*, was unable to accompany the delegation.

66. The delegation of the Special Committee also heard a number of petitioners during its visit to London, including representatives of South African organizations opposed to the policies of *apartheid* and others who could provide it with useful information on the situation in South Africa. The hearings of the Committee and the memoranda received by it (see A/AC.115/L.65) emphasized: (*a*) the urgent need for effective action to save the lives of prisoners under trial for their opposition to the policies of *apartheid* and to avert the present disastrous course in the country; (*b*) the need for early imposition of economic sanctions against South Africa as the only peaceful means available to the international community; and (*c*) the great responsibility which rests on the few countries which have the closest relations with the Government of the Republic of South Africa, particularly the United Kingdom and the United States of America.

67. Mrs. Barbara Castle, Member of Parliament and Honorary President of the Anti-*apartheid* Movement, stated that the Movement was very broadly based and non-partisan and had contributed significantly to the growing realization in the United Kingdom of the implications and dangers of *apartheid*. The Anti-*apartheid* Movement was carrying on a campaign for a total arms boycott of South Africa, and felt that the United Kingdom Government's undertaking not to send any more weapons that could be used exclusively for the suppression of the South African population did not go far enough. It felt that the time had come for more effective action to be taken on the South African issue, and had sponsored studies of economic sanctions against South Africa. It was one of the sponsors of the International Conference on Economic Sanctions.

68. Mrs. Castle added that the Anti-*apartheid* Movement recognized that the United Kingdom had a special role in relation to South Africa because of the importance of its trade with and size of investment in South Africa. While the Movement did not underestimate the difficulties of applying effective economic sanctions, it believed that the alternative was a drift to greater violence and a greater threat to peace. Economic sanctions were, therefore, in the best interest of the United Kingdom, as well as the people of South Africa and of international peace.

69. Canon L. John Collins, Chairman of Defence and Aid Fund, Christian Action, London, stated that his organization was concerned with the political struggle for freedom in South Africa and had always felt it vital and necessary to give support, without any discrimination whatsoever, to those who were fighting for their freedom.

70. Speaking of the past activities of the Defence and Aid fund, he stated that it had raised funds in the United Kingdom for legal defence in the treason trial of 1956; for the supply of inadequate but at least minimum subsistence for the families of the accused; for the care of the victims of the Sharpeville incident and for support to the activities of the South African Defence and Aid Fund. But the time of ease for raising enough money, certainly as far as the United Kingdom was concerned, had passed, and it was almost impossible to raise money in South Africa itself, because of the political implications for those who gave money. The Defence and Aid Fund was, therefore, faced at the most critical time with less money available.

71. Canon Collins felt that it was absolutely vital that General Assembly resolution 1978 B (XVIII) should be implemented as widely as possible throughout the world to enable the Defence and Aid Fund to meet a vast need. He said that the need was too great for a level of voluntary giving which had hitherto been relied upon; the very minimum for the most important trials under way was £45,000 for defence, and at least another £50,000 for aid to dependants.

72. Canon Collins said that the persistent attempt to remove the leadership of all sensible resistance to *apartheid* and to block all efforts towards political freedom was an offence against the international conscience and made it inevitable that people who had for years been concerned with non-violent resistance found that they must turn to other methods.

73. Mr. Barney Desai, President of the Coloured People's Congress of South Africa, stated that, since its coming into being ten years previously, the Coloured People's Congress had been the most active and articulate political body expressing the utter revulsion of the Coloureds to the concept and practice of *apartheid* and the rejection of efforts to consign them to the status of docile "appendages of the white people". Because the Coloureds called for the oneness of South Africa and its people, and rejected apartness which was the very antithesis of their existence as a people having been descended from Bushmen, Hottentots, Whites, Africans and Indians, and because they had been committed actively to resist the domination of one race by another they had very logically joined the dynamic alliance of the African National Congress, the South Indian Congress, the Congress of Democrats and the South African Congress of Trade Unions.

74. Mr. Desai emphasized that the Coloured people did not desire any special privileges as a people and that their demand had been for full equality in their country and full participation in the government of their land. He referred to the Coloured Representative Council Bill, then before Parliament, and described it as an even greater fraud than the Transkei Constitution Act.

75. Mr. Desai appealed to the Special Committee for strong and decisive action against the Republic of South Africa. He said that his organization was convinced that so long as the United Nations resolutions on sanctions were not mandatory on every member of the world body, no impression would be made on the oppressors of non-white people of South Africa. His organization believed that, in addition, an embargo of strategic materials, enforced by a naval blockade, should be urgently considered by the Security Council.

76. Mrs. Ruth First, a South African journalist and writer, who had recently been released from a long period of detention without trial, spoke mainly about the plight of political prisoners in South Africa. She said in part:

"South Africa today lives in what amounts to a permanent state of emergency, because increasingly over the years the legislation has been a reflection of the growth of political lawlessness on the part of the Government. Certain basic provisions of the rule of law, for example *habeas corpus* provisions of our law, have been suspended, permanently, not for any state of emergency which is due to last only a specific period of time, but permanently. Men who appear before courts for political crimes and are sentenced to periods of imprisonment cannot serve their period

of imprisonment and hope to emerge at the end of that period free men having paid their debt to whatever society South Africa is offering today. The political prisoners are incarcerated for all time. While this growth of political lawlessness has been a constant process and has been going on over many years, a turning point was reached with the passing of the General Law Amendment Act, for it is clause 17 of this Act which provides for ninety-day detention in South Africa. This was a turning point in the sense that it is no longer now so hit and miss, the tactic of the Government is to lock up for all time the political prisoners. It is becoming a daily affair and the conventional method of procedure."

77. She spoke of the torture in South African prisons—"a torture which does not leave scars, which does not leave bruises that can be shown to a court of law", and to the psychological torture of detaining men and women *incommunicado* in solitary confinement for periods of indefinite duration to force them to give information on political movements and on other political workers. She herself had been detained and asked to disclose the whereabouts of her father, who was in hiding at the time. She was asked to indicate why her husband had found it necessary to leave the country. Her brother, who had never been interested in political affairs, had been detained for three weeks, as reprisal for the inability of the political police to arrest her father.

78. Mrs. First said that the outcome of the Rivonia trial, taking it at its blackest, could precipitate a period of the most desperate racial clash in South Africa and could put an end to any hopes of solution. She appealed to the United Nations for speedy action to save the lives of the political prisoners and to induce the South African Government to abandon its policies of *apartheid*. The South African Government, she said, judged its chances of survival not by the resolutions of the United Nations but by its trading partners, its import and export figures and its profits, and believed that the United Kingdom and the United States, in particular, would not act against *apartheid*. She suggested that the most peaceful and the least damaging method of action would be mandatory sanctions enforced by a naval blockade.

79. The Right Rev. J. Joost de Blank, former Anglican Archbishop of Cape Town and now Canon of Westminster Abbey, London, stated that the weight of Christian and other religious opinion was opposed to the policies of *apartheid*. Members of the Dutch Reformed Churches of South Africa, which represented most of the Afrikaans-speaking people of South Africa and which had no contact or fellowship on that basis with the Netherlands churches, were, however, in general in support of the South African Government's racial policy. Speaking as a Christian, he said, he found that an impossible attitude to adopt.

80. He drew the delegation's attention to the role of the *Broederbond* (the Brotherhood), a secret society which had been closely intertwined with members of the South African Government and with the centres of power in the Republic of South Africa.

81. He said that a great part of the white population of South Africa favoured racial discrimination, and that it would be grossly unfair to separate those who were for *apartheid* and those who were against *apartheid* as being those who were Afrikaaners and those who were British by race and origin. The main Government party and the main opposition party were opposed to the creation of a truly multiracial society. There was, however, a significant group of Whites who were liberal in their outlook and efforts, including many professional men and women's associations, such as the "Black Sash", who were striving very hard to bring an end to the present injustice and to sow the seeds for a better nation where co-operation would replace differentiation and discrimination in the future. He stated that although the smallness of the group could not be denied, its power and its potentiality were much greater than many people were prepared to acknowledge in South Africa.

82. In conclusion, Dr. Joost de Blank said that unless the *apartheid* legislation could be brought to an end within the foreseeable future, no one could expect anything but bloody violence in South Africa.

83. Speaking on behalf of six members of the Committee of the Afro-Asian-Caribbean organizations, London, who had been on a hunger strike from 9 to 15 April 1964 in the courtyard of the church of St. Martin-in-the-Fields, Trafalgar Square, London, in protest against the trials and repression in South Africa, Mr. Manchanda said that the South African Government maintained one of the most oppressive régimes in the world and threatened the lives of the outstanding leaders of the South African people like Nelson Mandela, Water Sisulu, Lionel Bernstein, Ahmed Kathrada and Denis Goldberg. The people of South Africa were left with no choice but to resort to armed resistance against the brutal violence of the Government. The organizations he represented believed that while South Africa should be isolated in world public opinion, diplomatically and economically, it was also important that the great Powers which gave sustenance and perpetuated the racist régime in South Africa, particularly the United States of America and the United Kingdom, should also be put in the dock and should also face public opinion.

84. Thabo Mbeki, son of Govan Mbeki, one of the accused in the Rivonia trial, said that for decades his father, together with the rest of the African people, had appealed to the white Governments of South Africa, not for the exaltation of the African people to a position of dominance over the white, but for equality among the peoples. The only reward they had earned was the brutal might of South African law which had sought to bend human reason and feeling to the barbarity of madmen. He said that the defendants in the Rivonia trial were men of the greatest integrity who would grace any Government in which they served. Noting that they were accused of treason and of plotting to overthrow the Government by violent means, Mbeki said that they had acted in defence of people that the Government had sought to silence and subjugate with a whip and instruments of war. The fact was inescapable that the trial was not only their trial as individuals, but a trial of all that they had stood for, which was not war but peace among free and equal men. Mbeki concluded by appealing to the Special Committee and to the entire world not to allow the leaders at the Rivonia trial to die at the hands of the South African Government.

85. Yusuf M. Dadoo, representative of the South African Indian Congress, stated that the Indian community comprised almost 600,000 persons who lived in South Africa, had made it their home, and were Africans in every sense of the word. The Indian people had asked for no special privileges and had thrown in their lot

completely with the African people and with the other oppressed people in the struggle for human rights, justice and liberty. Mr. Dadoo said that the Indian people were confronted with genocide. The Group Areas Act, enacted in 1950, affected them particularly as the African people had already been segregated into separate areas and robbed of their land. The Indian people were being driven into ghettos far from the cities where they had been living, and were being cut off completely from the economic and social life of the country.

86. Speaking of the situation in South Africa in general, Mr. Dadoo stated that a racial war was being carried on by the South African Government, backed by the armed and police might of the State, against the non-white people in the country. Violence had been used by the police at every conceivable opportunity, even when the non-white people demonstrated in a peaceful manner for their rights. The non-white people were confronted with the choice of submitting to tyranny and a life of ignominy, or meeting the violence of the Government with determined resistance on their part.

87. Yusuf M. Dadoo felt that effective and mandatory economic sanctions should be applied against South Africa. He maintained that the non-white people of South Africa were prepared for whatever sacrifices might come as a result of economic sanctions. Rejecting the argument that sanctions would tend to harden white public opinion in South Africa, Mr. Dadoo stated that the large majority of the white people of South Africa supported the Government because they stood to benefit from the *apartheid* policies. White public opinion rallied in support of the fascist South African Government because its allies, in particular the United Kingdom and the United States of America, which had very considerable investments in South Africa and derived enormous profits out of the *apartheid* policies, resisted effective action. Economic sanctions would make the white people realize that they could not continue to live a life of luxury from the exploitation and the blood of the non-white people.

88. Leon Levy, National President and official representative abroad of the South African Congress of Trade Unions, gave an account of the discrimination against African workers, the restrictions on African trade unions and the repressive measures against African trade union leaders. He said that a section of the white population, which enjoyed the fruits of *apartheid,* was not prepared to oppose *apartheid* and that the South African Government was prepared to hang trade union leaders, political leaders and all those who opposed *apartheid*, in order to secure the financial rewards of such a system.

89. Mr. Levy said that the workers of South Africa were deeply concerned with the need to find a solution to the problem. His organization favoured the application of economic sanctions against South Africa. Its members rejected the argument that economic sanctions would hurt those whom it was meant to help, and were prepared for sacrifices if need be.

90. All the petitioners, except Thabo Mbeki, submitted memoranda and written statements elaborating their oral statements. A memorandum was also submitted by Mrs. Rosalynde Ainslie and Miss Dorothy Robinson of the Anti-*apartheid* Movement, London.[11]

[11] The full texts of the petitions, memoranda and written statements are reproduced in the report of the delegation of the Special Committee on the Policies of *apartheid* on the hearing of petitioners in London, 13 and 18 April 1964 (A/AC.115/L.65).

J. Report of 25 May 1964 to the General Assembly and the Security Council

91. After taking note of the report of the delegation and considering the developments in the Republic of South Africa from 23 March, the Special Committee submitted a further report to the General Assembly and the Security Council on 25 May 1964 (A/5707) in view, particularly, of the forthcoming consideration of the question by the Security Council at the request of fifty-eight Member States. These Member States had requested the convening of the Security Council to resume consideration of the serious situation existing in South Africa in the light of the report of the Group of Experts[12] and the new developments in the Republic of South Africa. They stated:

"Our respective Governments are particularly disturbed by the extreme measures, and more specifically the imposition of death sentences, which have been taken against a large number of African political leaders.

"The situation in South Africa, which, in the words of the Security Council resolution of 7 August 1963,[13] 'is seriously disturbing international peace and security', has deteriorated still further in the wake of recent events in that country, as is clearly apparent from the interim report of the United Nations Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa, which was submitted to the General Assembly as document A/5692 and to the Security Council as document S/5621.

"The South African Government's negative reaction to the Security Council's resolution of 4 December 1963, in particular, and the worsening of the situation as a result of the continued application by the Government of the Republic of South Africa of its policy of *apartheid* are a matter of deep concern to world public opinion and especially to the countries of Africa and Asia, which consider that the Security Council should take effective measures to obtain the compliance of the South African Government with the earlier resolutions of both the General Assembly and the Security Council and the discharge of its obligations as a Member State.

"The undersigned Governments are convinced that positive and urgent action by the Security Council is essential to prevent a conflict in South Africa of unforeseeable consequences for Africa and for the world."

92. In its report of 25 May 1964 (A/5707), the Special Committee stated, *inter alia:*

"5. The South African Government has shown no willingness to comply with the resolutions of the General Assembly and the Security Council or to take the minimum steps recommended in the last report of the Special Committee. On the contrary, it has continued to persecute opponents of the policies of *apartheid* and passed new discriminatory legislation depriving the non-whites of the few remaining rights. The gravity of the situation, and particularly the urgent need for effective measures to save the lives of those who have already been, or may be, sentenced to death, has given rise to the need for this new report, pursuant to the terms of reference of the Special Committee.

"6. The trial of Nelson Mandela, Walter Sisulu and other leaders of the people and opponents of *apartheid* was resumed on 20 April 1964 and continues in Pretoria under arbitrary and iniquitous laws, which violate the fundamental principles of universal justice and human rights and prescribe the death penalty for acts of resistance to the policy of *apartheid.* A number of other similar trials are taking place in the country. In those which have already been concluded, numerous persons have been given the most severe sentences for belonging to the African National Congress and the Pan-

[12] *Official Records of the Security Council, Nineteenth Year, Supplement for April, May and June 1964,* document S/5658.

[13] *Ibid., Eighteenth Year, Supplement for July, August and September 1963,* document S/5386.

Africanist Congress, nationalist political movements which are banned, or for acts arising from opposition to the policies of *apartheid*.

"7. Meanwhile, the Parliament has passed the Bantu Laws Amendment Bill which also violates the fundamental principles of human rights and further aggravates tension in the country.

"8. These developments are greatly increasing the threat of violent conflict in South Africa which is bound to have the most serious repercussions in the continent of Africa and in the world. The statement of Nelson Mandela at his trial in Pretoria on 20 April 1964 (A/AC.115/L.67) and the evidence of other accused in that trial, show clearly that the policies of South African Government have left no effective means of protest and redress to the opponents of *apartheid* in South Africa except resorting to violence.

"9. The Special Committee has taken note of the urgent and earnest appeal by the Secretary-General to the Government of South Africa on 27 March 1964 to spare the lives of those facing execution or death sentences for acts arising from their opposition to the Government's racial policies, so as to prevent an aggravation of the situation and to facilitate peaceful efforts to resolve the situation, as well as similar appeals by a number of Chiefs of State, non-governmental organizations and prominent personalities.

"10. The Group of Experts established in pursuance of the Security Council resolution of 4 December 1963* has also emphasized the imperative and urgent need for an 'amnesty for all opponents of *apartheid*, whether they are under trial or in prison or under restriction or in exile'.** It also recommended the formation of a fully representative national convention to set a new course for the future of South Africa.

"11. The Special Committee has noted that the Prime Minister of South Africa and other leaders of the South African Government, since the publication of the report of the group of experts, have arbitrarily and summarily rejected any steps towards compliance with the recommendations of the group of experts. The South African Government has also denounced the Secretary-General's appeal of 27 March and thus challenged the demands of all Member States as declared in resolutions of the General Assembly and the Security Council.

"...

"15. The Special Committee feels that the course being pursued by the Government of the Republic of South Africa, particularly with regard to the trials and persecution of opponents of *apartheid* and leaders of the non-white population, in open defiance of the appeals and demands of competent United Nations organs, is leading to a rapid aggravation of the situation and is precipitating a violent conflict. It feels it essential that the competent United Nations organs, and the States which bear special responsibilities in this matter in view of their close relations with South Africa, should take decisive measures before irreparable harm is caused to the peace in South Africa and beyond. The Special Committee, therefore, again recommends that the Security Council should:

"(*a*) Declare that the situation in the Republic of South Africa constitutes a threat to the maintenance of international peace and security;

"(*b*) Take all necessary effective measures to save the lives of the South African leaders condemned for acts arising from their opposition to the policies of *apartheid*;

"(*c*) Call upon all States and international organizations to utilize all their influence to ensure the fulfilment of the minimum but vital demands indicated in the last report of the Special Committee;

"(*d*) Address a special request to all States which maintain relations with South Africa, especially the United States of America, the United Kingdom, and France, permanent members of the Security Council, to take effective measures to meet the present grave situation;

"(*e*) Decide to apply economic sanctions, in accordance with Chapter VII of the Charter, as long as the Government of South Africa continues to violate its obligations as a Member of the United Nations.

"16. In conclusion, the Special Committee wishes to emphasize that, in its opinion, effective mandatory action is imperative to avoid the most serious consequences arising from the policies of *apartheid* of the Government of South Africa, and that the Security Council is entitled to take such action under the provisions of the Charter. It expresses the hope that the Security Council will assume its full responsibilities on this question in accordance with the Charter and with the active co-operation of all the great Powers concerned, whose role is decisive in this matter."

93. In submitting its report of 25 May 1964 the Special Committee emphasized once again the urgent need for mandatory action under Chapter VII of the Charter, with the active co-operation, in particular, of Governments that maintain close relations with the Government of the Republic of South Africa, in order to avert violent conflict in South Africa, which is liable to have serious international consequences.

94. On 29 May 1964, the African group at the United Nations, after taking note of the report of the Special Committee and having heard the African representatives in the Special Committee, issued a communiqué in which it stated:

"... the African Group notes with great anxiety that during the year following the Conference of Addis Ababa the situation in South Africa, in spite of all the efforts exerted by the United Nations, has continued to worsen steadily to the point where it now constitutes a very serious threat to the maintenance of international peace and security. The Group believes that this serious deterioration is due not only to the defiant attitude and criminal obstinacy of the South African Government but also to the lack of effective co-operation on the part of that Government's major partners who, in spite of all appeals, have refused to undertake the only effective action to change the catastrophic course of events in South Africa, namely, economic sanctions.

"The African Group adopts the recommendations contained in the 25 May report of the Special Committee stressing the imperative necessity for mandatory action in the form of economic and commercial sanctions so as to forestall a racial explosion in South Africa with unforeseeable consequences.

"The African Group appeals once again to the partners of South Africa and, in particular, to the Governments of the United Kingdom, the United States and France, the only permanent members of the Security Council to maintain relations with the Government of Pretoria, (*a*) to take all necessary measures in order to prevent the execution of the nationalist leaders condemned for their opposition to *apartheid* and (*b*) to support all economic sanctions designed to bring about, by peaceful means, an end to the intolerable policy of *apartheid* which has been unanimously condemned by international opinion.

"Finally, the African Group, in the face of the extreme gravity of the situation, desires to recall the unanimous and solemn appeal which the African Heads of State, meeting in Addis Ababa, had sent out to the great Powers, which read as follows:

"'The Summit Conference of Independent African States purposely intervenes and asks the great Powers to stop giving, without exception, either directly or indirectly, any support or assistance to all colonialist governments who would use this assistance to repress African movements of national liberation ... ; announces to the allies of colonial powers that they must choose between their friendship for African peoples and their support to powers which oppress these peoples.'

"* *Official Records of the Security Council, Eighteenth Year, Supplement of October, November and December 1963*, document S/5471.

"** *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5694, annex, para. 44."

"The African Group expresses the hope that this appeal will finally be heard and that the great Powers to whom the Group addresses itself will manifest concretely, during the forthcoming Security Council debates, their unequivocal desire to bring about an effective and rapid end to the policy of *apartheid* of the South African Government."

K. Consideration of the question by the Security Council, June 1964

95. The Security Council resumed consideration of the question in June 1964 at the request of fifty-eight Member States and took into account the reports of the Special Committee as well as the report of the Group of Experts appointed by the Secretary-General pursuant to the Security Council resolution of 4 December 1963.

96. On 9 June 1964 the Council adopted a resolution[14] recalling the provisions of General Assembly resolution 1881 (XVIII) of 11 October 1963 and of the Security Council's resolutions of 7 August 1963 and 4 December 1963 concerning the arbitrary trials and repressive measures against opponents of *apartheid* in South Africa, and noting with great concern that the arbitrary Rivonia trial instituted against the leaders of the anti-*apartheid* movement had been resumed and that the imminent verdict to be delivered under arbitrary laws prescribing long terms of imprisonment and the death sentence might have very serious consequences. In its operative part the resolution read:

"1. *Urges* the South African Government:

"(*a*) To renounce the execution of the persons sentenced to death for acts resulting from their opposition to the policy of *apartheid*;

"(*b*) To end forthwith the trial in progress, instituted within the framework of the arbitrary laws of *apartheid*; and

"(*c*) To grant an amnesty to all persons already imprisoned, interned or subjected to other restrictions for havtng opposed the policy of *apartheid*, and particularly to the defendants in the Rivonia trial;

"2. *Invites* all States to exert all their influence in order to induce the South African Government to comply with the provisions of this resolution;

"3. *Invites* the Secretary-General to follow closely the implementation of the resolution and to report thereon to the Security Council at the earliest possible date."

97. Two days after the adoption of this resolution, eight of the nine accused in the Rivonia trial were convicted. They were sentenced on 12 June 1964 to life imprisonment.

98. After further consideration of the question of race conflict in South Africa resulting from the policies of *apartheid*, the Security Council adopted resolution S/5773 on 18 June 1964 taking note with appreciation of the reports of the Special Committee and of the Group of Experts, deploring the refusal of the South African Government to comply with pertinent Security Council resolutions and declaring in its operative part:

"1. *Condemns* the *apartheid* policies of the Government of the Republic of South Africa and the legislation supporting these policies, such as the General Law Amendment Act, and in particular its ninety-day detention clause;

"2. *Urgently reiterates* its appeal to the Government of the Republic of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*;

"3. *Notes* the recommendations and the conclusions in the report of the Group of Experts;

"4. *Urgently appeals* to the Government of the Republic of South Africa:

"(*a*) To renounce the execution of any persons sentenced to death for their opposition to the policy of *apartheid*;

"(*b*) To grant immediate amnesty to all persons detained or on trial, as well as clemency to all persons sentenced for their opposition to the Government's racial policies;

"(*c*) To abolish the practice of imprisonment without charges, without access to counsel or without the right of prompt trial;

"5. *Endorses and subscribes* in particular to the main conclusion of the Group of Experts that 'all the people of South Africa should be brought into consultation and should thus be enabled to decide the future of their country at the national level';

"6. *Requests* the Secretary-General to consider what assistance the United Nations may offer to facilitate such consultations among representatives of all elements of the population in South Africa;

"7. *Invites* the Government of the Republic of South Africa to accept the main conclusion of the Group of Experts referred to in paragraph 5 above, to co-operate with the Secretary-General and to submit its views to him with respect to such consultations by 30 November 1964;

"8. *Decides* to establish a committee of experts, composed of representatives of each present member of the Security Council, to undertake a technical and practical study, and report to the Security Council as to the feasibility, effectiveness, and implications and measures which could, as appropriate, be taken by the Security Council under the United Nations Charter;

"9. *Requests* the Secretary-General to provide to the committee of experts the Secretariat's material on the subjects to be studied by that Committee, and to co-operate with the committee as requested by it;

"10. *Authorizes* the committee of experts to request all States Members of the United Nations to co-operate with it and to submit their views on such measures to the Committee no later than 30 November 1964, and the committee to complete its report not later than three months thereafter;

"11. *Invites* the Secretary-General in consultation with appropriate United Nations specialized agencies to establish an educational and training programme for the purpose of arranging for education and training abroad for South Africans;

"12. *Reaffirms* its call upon all States to cease forthwith the sale and shipment to South Africa of arms, ammunition of all types, military vehicles, and equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;

"13. *Requests* all Member States to take such steps as they deem appropriate to persuade the Government of the Republic of South Africa to comply with this resolution."

L. Consideration of the programme of work of the Special Committee, July 1964

99. At its 37th meeting on 10 July 1964, the Special Committee considered its programme of work in the light of the developments since its report of 22 May, including in particular the Security Council resolutions of 9 and 18 June, as well as the sentences in the Rivonia trial and the new wave of acts of sabotage and arrests in June and July.

100. The Committee felt that, in view of the trend of events in South Africa, the United Nations should intensify its efforts to bring international pressure to bear against the South African Government in order to persuade it to abandon its policies of *apartheid*. It noted that the establishment by the Security Council of an expert committee to undertake a technical and practical study of measures which could be taken by the Council did not affect the mandate of the Special

[14] *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5761.

Committee which was charged by the General Assembly with following constantly the various aspects of the question. The Special Committee was in no way precluded from recommending action before the submission of the report of the expert committee, if it felt that the situation required such action.

101. The Committee decided to give special attention to the question of repressive measures against opponents of *apartheid* in South Africa and to consider at an early date the papers submitted by the Secretariat on the foreign trade of South Africa (A/AC.115/L.55) and foreign investments in South Africa (A/AC.115/L.56). It requested the Secretariat to revise these documents in order to bring them up to date, and in accordance with this request, the Secretariat prepared documents A/AC.115/L.55/Add.1 and L.56/Rev.1.

102. The Committee also decided to submit a report to the General Assembly at its nineteenth session.

M. Consideration of repressive measures against opponents of the policies of *apartheid* in the Republic of South Africa

103. The continued and intensified repression against opponents of the policies of *apartheid* in the Republic of South Africa, despite the Security Council resolutions of 9 and 18 June 1964, led the Special Committee to devote several meetings to this aspect of the problem. A brief account of the Committee's proceedings on this aspect is given below.

(a) *Detention of Abram Fischer*

104. On 10 July 1964, the Special Committee received the news of the detention of Abram Fischer, leader of the defence team in the Rivonia trial, and authorized the Acting Chairman to issue a statement expressing its serious concern. In accordance with this decision, the Acting Chairman issued the following communiqué:

"The Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa, at its meeting today, discussed the reported arrest by the police authorities of the South African Government of Abram Fischer, an attorney, who a few weeks ago led the defence of Nelson Mandela and seven others accused of sabotage.

"The Committee expressed its very serious concern with regard to an action which could be interpreted only as an act of reprisal perpetrated by a Government against a legal counsel for having fulfilled his duties in the face of serious odds.

"This arrest, in the view of the Committee, sheds light on the conditions under which legal proceedings are conducted under the present régime of the Republic of South Africa." (See United Nations Press Release GA/AP/33, 10 July 1964.)

Fischer was released soon afterwards, but was again arrested on 23 September and charged with furthering the aims of an unlawful organization.

(b) *Rejection of appeals against the death sentences on Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba*

105. The Special Committee held a special meeting on 9 October 1964 to consider urgently the news that the appeal against the death sentences passed in March 1964 against three leaders of the African National Congress, Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba had been rejected. Members of the Committee expressed grave concern over the danger to the lives of these three men and the inevitable consequences of executions in defiance of the General Assembly and Security Council resolutions. They agreed that world opinion should immediately be alerted in an effort to prevent such an eventuality.

106. Consequently the Special Committee unanimously decided to issue a communiqué in which it stated:

"...the Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa expresses its grave concern over the news that the appeals of Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba, leaders of the African National Congress in Port Elizabeth, against the death sentences passed on them in March 1964 have been rejected.

"It notes that the trial of these militant opponents of the policies of *apartheid* is in violation of the repeated resolutions of the General Assembly and the Security Council calling on the South African Government to end its ruthless repressive measures against the opponents of the policies of *apartheid* and seek a peaceful solution based on racial equality. It recalls that the Security Council, in its resolution S/5761 of 9 June 1964, urged the South African Government 'to renounce the execution of the persons sentenced to death for acts resulting from their opposition to the policy of *apartheid*'.

"The Special Committee, therefore, urgently demands that the South African Government refrain from the execution of the death sentences, which would seriously aggravate the situation in South Africa, and take steps to comply with the resolutions of the General Assembly and the Security Council.

"The Special Committee urgently appeals to all States, organizations and individuals to utilize all their influence to save the lives of Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba and to persuade the South African Government to grant an amnesty to all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*." (See United Nations Press Release GA/AP/38, 9 October 1964.)

107. On the same day, in accordance with the decision of the Committee, the Chairman transmitted the communiqué to the Secretary-General with a request that it be sent to the South African Government.

108. The Secretary-General subsequently informed the Chairman that he had transmitted his letter and the Special Committee's communiqué to the Permanent Representative of South Africa to the United Nations on 9 October and had expressed the hope that the South African Government would see fit to show clemency to the men sentenced to death, in the spirit of the Security Council's resolution of 9 June 1964. The Secretary-General added that he had also transmitted similar appeals by President Gamal Abdel Nasser of the United Arab Republic on behalf of the Second Conference of the Heads of State or Government of the Non-Aligned Countries and by the Chairman of the African group at the United Nations.

109. On 22 October 1964, the Secretary-General communicated to the Chairman a copy of a letter dated 21 October received from the Permanent Representative of South Africa, stating, *inter alia,* that "the South African Government have no intention whatsoever of answering the communications to which your letter gave cover and which are obviously yet another attempt organized under Communist influence by political forces hostile to South Africa to interfere in the judicial processes of a Member State" (see A/AC.115/L.93).

110. At the 44th meeting on 26 October 1964, the Chairman and members of the Committee deplored the discourtesy with which the South African Government had seen fit to reject the appeals to spare the lives of the three men condemned to death. They denounced as absurd the charge regarding Communist influence which they said was another proof that the attitude of the South African Government was such that only decisive steps by the international community could meet the grave situation.

(c) *Hearing of a petitioner concerning the banning order served on Chief Albert J. Luthuli*

111. On 29 October 1964 (45th meeting), the Special Committee heard a statement (see A/AC.115/L.94) by Mrs. Mary-Louise Hooper, a former personal assistant to Chief Albert J. Luthuli. Mrs. Hooper drew the Committee's attention to the restrictions imposed on Chief Luthuli under the five-year banning order served on him on 24 May 1964. She said that the lack of on-the-spot medical attention was shocking in view of the fact that Chief Luthuli was 66 years old and had suffered an extremely grave heart attack about ten years earlier. He had been in hospital for many weeks after that attack and again during the state of emergency in 1960 when he had been assaulted by a prison warder. The heart attack had left Chief Luthuli with dangerously high blood pressure, which should be constantly watched by a physician.

(d) *Execution of Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba*

112. The Special Committee held an emergency meeting on 6 November 1964 on receiving the news that Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba had been executed that morning in the Pretoria Central gaol.

113. The Committee observed a minute of silence in memory of these three men. Members of the Committee expressed shock and indignation at the news and emphasized the need for effective international action to avoid the rapid aggravation of the situation.

114. The Committee unanimously decided to issue the following communiqué:

"At an emergency meeting held today, the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa expressed its shock and profound indignation over the news of the execution of Messrs. Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba, three African National Congress leaders in Port Elizabeth.

"The Special Committee strongly condemns this ruthless and criminal act which not only constitutes a challenge to world public opinion, but also a flagrant violation of resolutions of the General Assembly and Security Council, particularly of the resolution of the Security Council (S/5761) of 9 June 1964 urging the South African Government 'to renounce the execution of persons sentenced to death for acts resulting from their opposition to the policies of *apartheid*'.

"The Special Committee draws the attention of the international community to the grave and irreparable consequences which are bound to result from the course being followed by the South African Government. It reaffirms its determination to redouble its efforts, in the discharge of its mandate, to assist the General Assembly and the Security Council to adopt decisive measures to ensure an urgent solution to this problem.

"The Special Committee urges all States, particularly those States which by still maintaining close relations with South Africa bear a special responsibility in this matter, now to take energetic steps, in accordance with the resolutions of the General Assembly and the Security Council, to ensure the abandonment of the disastrous policy of *apartheid* of the South African Government."

N. Appeal to Member States concerning relief and assistance to families of persons persecuted by the South African Government for their opposition to the policies of *apartheid*

115. At the 40th meeting on 24 September 1964, the Acting Chairman recalled the Committee's recommendation to the eighteenth session of the General Assembly concerning measures for relief and assistance to the families of persons persecuted for their opposition to the policies of *apartheid*,[15] and the subsequent adoption by the General Assembly of resolution 1978 B (XVIII) requesting the Secretary-General "to seek ways and means of providing relief and assistance, through the appropriate international agencies, to the families of all persons persecuted by the Government of the Republic of South Africa for their opposition to the policies of *apartheid*". He recalled that the Secretary-General had informed the General Assembly that he would contact the United Nations High Commissioner for Refugees in order to seek assistance for South African refugees and the International Committee of the Red Cross regarding assistance for families inside South Africa. The Secretary-General had announced on 13 March 1964 that the High Commissioner was ready to co-operate in the matter. Arrangements for assistance to families inside South Africa, however, could not be made because of certain difficulties. The Acting Chairman said that the officers of the Special Committee had felt that they should discuss the matter with the Secretary-General in view of the desperate needs of thousands of families in South Africa and consider the desirability of an appeal by the Special Committee to all States and organizations.

116. The Special Committee then decided to request its officers to convey to the Secretary-General its concern over the plight of families persecuted by the South African Government for their opposition to the policies of *apartheid*, to seek information on the progress made in the implementation of resolution 1978 B (XVIII) and to consult with him on the question whether the Committee could be of any assistance in the matter at the present time.

117. Following the meeting with the Secretary-General, the officers suggested that an appeal be addressed by the Special Committee to Member States, through the Secretary-General, and also to appropriate organizations, requesting them to contribute urgently and generously to existing relief organizations pending the conclusion of other appropriate arrangements.

118. The Committee approved the suggestion and on 26 October 1964 adopted the text of an appeal which was circulated as document A/AC.115/L.98. It read in part as follows:

"...

"In spite of all Security Council and General Assembly resolutions demanding the abandonment of the policies of *apartheid*, the Government of the Republic of South Africa has continued to implement its repressive laws providing extremely harsh penalties for belonging to or furthering the aims of the major African political organizations and for

[15] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497, para. 513.

acts of protest and resistance against the Government's racial policies. The implementation of these laws has resulted in the detention of thousands of persons, many of whom are being tried or awaiting trial, thus facing long periods in prison or life imprisonment or even death sentences. Hundreds of persons have been imprisoned under Section 17 of the General Law Amendment Act of 1963, which provides for the detention of persons without trial for periods of ninety days at a time. Numerous persons have been subjected to banishment, house arrest, banning orders and other restrictions which often prevent them from pursuing their occupations. The distress and misery caused by these repressive actions to the families may easily be imagined. Numerous families have been deprived of their breadwinners. Children have been separated from one or both of their parents.

"When brought to trial, many an opponent of the policies of *apartheid* faces financial difficulties and has to rely on benevolent organizations for legal assistance, support of families and payment of bail.

"It appears from communications received by the Special Committee from organizations concerned with relief and assistance to the victims of repression in South Africa that they are in urgent need of funds to provide even minimum legal assistance and relief to numerous persons who have been gaoled or brought to trial under repressive laws.

"The Special Committee is attaching herewith communications received by it from three organizations—Amnesty International, Defence and Aid Fund (International) and Joint Committee on the High Commission Territories—which have been engaged in relief and assistance for the victims of persecution by the Republic of South Africa and which offer their services in implementing the purposes of General Assembly resolution 1978 B (XVIII).

"The Special Committee notes that the Amnesty International, sponsored by eminent personalities from many countries, 'adopts' prisoners and detainees in South Africa who do not advocate violence and also assists refugees from South Africa. The Defence and Aid Fund, established in the United Kingdom in 1956, with Canon L. John Collins as Chairman, has so far contributed about £300,000 to the victims of the policies of *apartheid* and maintains contact with South Africa through local committees. Its efforts have been appreciated by prominent South African opponents of *apartheid,* including Chief Albert Luthuli, winner of the Nobel Peace Prize. The Joint Committee on the High Commission Territories, representative of a number of voluntary organizations, is concerned with the relief and assistance of South African refugees in the High Commission Territories and in Northern Rhodesia.

"The Special Committee also notes that the World Council of Churches has, in July 1964, earmarked $60,000 for legal aid for political prisoners in South Africa and for assistance to their dependants, and is seeking further contributions for this purpose.

"The Special Committee wishes to make an urgent appeal to Member States to contribute generously to the fulfilment of the purposes of General Assembly resolution 1978 B (XVIII) through these voluntary organizations or through other appropriate channels of their choice, and to give the widest publicity to this appeal in order to encourage charitable foundations, organizations and individuals in their countries to make generous contributions."

119. The Committee authorized its Chairman to transmit the appeal to appropriate organizations.

120. By a letter dated 12 November 1964, the Permanent Representative of India to the United Nations informed the Committee that his Government had decided to contribute a sum of 25,000 rupees ($5,250) in response to its appeal (see A/AC.115/L.100).

O. Consideration of papers on the pattern of foreign trade of the Republic of South Africa and foreign investments in that country

121. In October 1964, the Special Committee began consideration of the pattern of foreign trade of the Republic of South Africa and foreign investments in the Republic of South Africa. It had before it papers prepared by the Secretariat on these questions at its request (A/AC.115/L.55 and Add.1 and Add.1/Corr.1 and 2, L/56 and Rev.1).[16]

122. On 20 October (42nd meeting), the Special Committee heard a statement (A/AC.115/L.92) by Mr. Ronald Segal, convener of the International Conference on Economic Sanctions against South Africa, held in London in April 1964.

123. Mr. Segal stated that despite the boycott campaign abroad and the continuing unrest at home, the South African economy was booming. Economic strength had merely added self-assurance to intransigence, and the richer the State, the more repressive and exacting it had become. The vast majority of non-whites were becoming even poorer; indeed, South African prosperity was no more than make-up on the face of a leper. Violence was an increasingly evident and accepted feature of life in South Africa, while well-tried methods of repression were being increasingly pursued.

124. Recalling the findings of the International Conference on Economic Sanctions, Mr. Segal stated that total economic sanctions against South Africa were necessary, urgent, legal, practical and likely to cost South Africa's principal trading partners much less than their representatives had been accustomed to claim. Now that the United Nations had recognized the danger to world peace represented by South Africa's policies, unremitting pressure must be exercised on those States, particularly on the permanent members of the Security Council, which still had close commercial relations with South Africa and Japan which having increased its trade with South Africa by 500 per cent since 1956, was fast taking over from the United States as South Africa's second trading partner. It would not be surprising if countries now boycotting South Africa were to regard continued trading with the Republic by others as an act of hostility to themselves and take punitive actions accordingly.

125. In conclusion, Mr. Segal thought that the recent general election in the United Kingdom provided some small encouragement. He stated:

"The struggle to free the subjugated peoples of South Africa will not be easy or short; but it must succeed, if the world is to survive in racial peace, and we are all to escape the deepening dusk of humanity."

126. During the discussion of the papers on the pattern of foreign trade of the Republic of South Africa and foreign investments in the Republic of South Africa, members of the Committee emphasized the importance of the compliance by all States, particularly by the major trading partners of the Republic of South Africa, with the resolutions of the General

[16] See also communications from the delegations of Ghana (A/AC.115/L.84) and of India (A/AC.115/L.88) with regard to the first of these documents, and comments by the representatives of Ghana and Malaysia at the 43rd meeting (A/AC.115/SR.43), and the statement by the Principal Secretary of the Special Committee at the 44th meeting (A/AC.115/SR.44).

Assembly and the Security Council concerning measures to dissuade the South African Government from its racial policies. Reference was made in this connexion to the resolutions of the Assembly of the Heads of State and Government of the Organization of African Unity and the Second Conference of the Heads of State or Government of the Non-Aligned Countries. Several members expressed regret at the continuing close economic relations with South Africa maintained by a number of countries and declared that such relations constituted an encouragement to the South African Government to continue to pursue its policies.

127. At the conclusion of the discussion, the Committee decided, at the suggestion of the Chairman, that the Special Committee's forthcoming report should recommend an appeal to South Africa's principal financial and trading partners that they comply with the resolutions of the General Assembly and the Security Council and take effective steps to induce the South African Government to change its policies. It also decided that the report should also recommend an invitation to the United Kingdom immediately to cease the supply of arms to South Africa, and to other States to do the same and not to replace the United Kingdom as suppliers of arms.

128. With regard to a proposal by the representative of Guinea to establish a sub-committee to study and report on the economic aspects of the problem, particularly the question of foreign trade of South Africa and foreign investment in South Africa, the Chairman noted that there was general agreement in principle. It was decided, however, to defer action on this matter until the completion of the present report of the Special Committee.

P. Letter to the Secretary-General of the Organization of African Unity

129. With regard to another proposal by the representative of Guinea for the establishment of relations with the Organization of African Unity, the Special Committee decided on 4 November 1964 (46th meeting) that it should convey its desire for constant contact with that Organization and seek such contact through the Secretariat pending the establishment of formal relations between the United Nations and the Organization. It authorized the Chairman to send the following letter to the Secretary-General of the Organization:

"The Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa established by the General Assembly of the United Nations to follow constantly the various aspects of the racial policies of the South African Government and to report to the General Assembly and the Security Council, has taken note of the decisions of the Organization of African Unity on this question. The Special Committee felt that it would be desirable to establish constant contact with the Organization of African Unity in the fulfilment of the task assigned to it by the General Assembly.

"The Chairman intends to discuss with you or any other competent official of your organization, at an appropriate time, the useful measures to be taken in order to meet the wish of the Committee.

"In the meantime, the Special Committee has requested the Secretariat to transmit its various documents to you for your information. In return, it would like to receive from the secretariat of your organization, any documentation relevant to the question of the policies of *apartheid* of the Government of the Republic of South Africa.

Q. Request to the Secretary-General in connexion with arms shipments to South Africa

130. On 17 November 1964 (50th meeting), the Special Committee took note of the declaration by the United Kingdom Government that it had decided to impose an embargo on the export of arms to South Africa, that current contracts would be fulfilled, and that the contract to supply sixteen Buccaneer aircraft was still under review.

131. On 19 November (51st meeting), the Committee took note of press reports regarding approaches by the South African Government to other countries for arms and, on the proposal of the representative of Nigeria, authorized the Chairman to meet with the Secretary-General to request him (*a*) to convey the Special Committee's appreciation to the United Kingdom Government for its decision and its hope that the United Kingdom would take the logical course of cancelling the Buccaneer contract as well; and (*b*) to convey the Special Committee's earnest hope to the Governments of France, Italy and other Powers that they would faithfully implement the decision of the Security Council.

132. The Chairman subsequently informed the Committee that he had conveyed the request to the Secretary-General on 23 November.

R. Consideration of the present report to the General Assembly and the Security Council

133. On 29 October 1964 (45th meeting), the Rapporteur presented to the Special Committee an outline of the draft report which the Committee had decided to submit to the nineteenth session of the General Assembly, including an indication of the main developments to be covered in it. On the basis of this outline, which was accepted by the members, and the drafts of the various sections of the report which were circulated, the Committee began a general discussion with particular emphasis on the conclusions and recommendations.

134. Members of the Committee expressed agreement that the situation in the Republic of South Africa had greatly deteriorated during the period under review and that it was essential that the United Nations organs, particularly the Security Council, should recognize it as a serious threat to the peace and take decisive action. They reiterated that in the present circumstances, economic sanctions were the only peaceful and effective means to resolve the situation. They attached great importance to publicizing the United Nations efforts against the policies of *apartheid* and favoured the strengthening of the Special Committee in order to enable it to discharge its mandate even more effectively.

Chapter II. Review of developments since the report of 13 September 1963

135. The second part of the report which follows is devoted to a review of the developments relating to the policies of *apartheid* in South Africa since 13 September 1963. Before embarking on a detailed narration of the developments, however, it may be desirable briefly to note some of the most important trends of the period under review and to consider their significance in the

light of the international concern over the situation in South Africa.

136. Many leading statesmen have recently expressed serious anxiety over the grave danger of a violent conflict arising from racism in southern Africa and its inevitable international repercussions.

137. The Secretary-General of the United Nations said in an address to the Algerian House of Assembly on 3 February 1964:

"There is the clear prospect that racial conflict, if we cannot curb and finally eliminate it, will grow into a destructive monster compared to which the religious or ideological conflicts of the past and present will seem like small family quarrels. Such a conflict will eat away the possibilities for good of all that mankind has hitherto achieved and reduce men to the lowest and most bestial level of intolerance and hatred. This, for the sake of all our children, whatever their race and colour, must not be permitted to happen."

138. The Group of Experts established in pursuance of the Security Council resolution of 4 December 1963 stated in paragraph 31 of its report:

"Violence and counter-violence in South Africa are only the local aspects of a much wider danger. The coming collision must involve the whole of Africa and indeed the world beyond. No African nation can remain aloof. Moreover a race conflict starting in South Africa must affect race relations elsewhere in the world, and also, in its international repercussions, create a world danger of first magnitude."[17]

139. Sir Alec Douglas-Home, then Prime Minister of the United Kingdom, said at Southampton, England, on 24 April 1964 that "the greatest danger in the world today—as deadly in its way as the atomic bomb—is the threat of racialism".

140. Mr. Dean Rusk, Secretary of State of the United States, said in Washington, D.C., on 26 September 1964, in an address to the American Negro Leadership Conference on Africa:

"A peaceful reconciliation of divergent interests in southern Africa could have a beneficial effect on the current balance of forces in the world.

"The alternative could well be an unwanted and unnecessary period of conflict which could shatter the friendly and mutually beneficial African-European relations that exist throughout the continent today."

141. Sir Hugh Foot (now Lord Caradon), Minister of State for Foreign Affairs of the United Kingdom, said on 23 October 1964, that, in his opinion, the greatest danger facing the world was "racial conflict beginning in southern Africa and involving the whole of Africa, and eventually the whole world".

"This is far beyond anything we have seen before in the Congo or Cyprus or Suez. This is a much bigger possibility of a colour war in which the world will inevitably be involved. It will not be sufficient to have a hastily raised force to deal with the disorders on a vast scale."

142. The explosive situation in South Africa is thus not an isolated phenomenon but one that contains the seeds of a much wider and much more catastrophic conflict.

143. The Special Committee has already drawn attention to the gravity of the situation in South Africa, and its inevitable repercussions, and called for vigorous and decisive measures to put an end to the threat to international peace and security. The General Assembly and the Security Council have recognized that the situation is seriously disturbing international peace and security, called on the South African Government to abandon the policies of *apartheid* and end the régime of ruthless repression by which these policies are imposed, and requested all States to take steps to persuade the South African Government to comply with their decisions.

144. The present report shows clearly that the situation continues to deteriorate as the South African Government has ignored and defied all requests and demands of the competent United Nations organs, continued to violate the fundamental provisions of the Charter, and proceeded with its course of more discrimination and more repression, thus aggravating the danger of a bloody conflict.

145. The South African Government, it may be noted, admits that the present system of domination of 13 million non-whites by 3 million Whites cannot continue. But it clings to the hope that three fifths of the non-whites who live outside the African reserves can be dominated for ever if only world opinion is deceived and Africans divided by an offer to transform these reserves into fraudulent African "states" and the 8 million Africans in the white State proclaimed by fiat as alien labourers.

146. With this policy of working towards the partitioning of South Africa into a white state and several African states, the Prime Minister, Mr. H. F. Verwoerd, claimed on 5 June 1964 that the present South African Government was adjusting to the change in the spirit in the world and in Africa in recent years [18]

147. The Government has hastened to take away the few rights enjoyed by the Africans outside the reserves and, in effect, to denationalize them. The Bantu Laws Amendment Act of 1964 enacts in effect,

[17] See *Official Records of the Security Council, Nineteenth Year, Supplement for April, May and June 1964*, document S/5658, annex.

[18] Mr. Verwoerd declared in the Senate on 5 June 1964:

". . . the situation in the world changed after World War II. A new outlook developed and that new outlook spread across the world and it had the effect of emancipating States in Africa. One cannot escape from it that the change in outlook also reached our country . . . The result was that we all had to take account of it that the old easy arrangement was disappearing and that we now had to give account to ourselves in what direction we should lead and develop South Africa . . . So what did we do? In our opinion we had to seek a solution in a continuation of what was actually the old course, namely, of separation. While, however, seeing separation in the light of the older arrangement as something that ends at a certain point, self-rule under the care of a guardian, we now had to adjust ourselves and be prepared to carry that separation further . . . The facts are that I am prepared to make an adjustment within my policy, but I am not prepared to sacrifice my nation by a process of adjustments against policy.

"I am prepared to make an adjustment by the development of the course I decided upon by working it out more clearly and to carry it further and further to its logical conclusions . . .

"Our object is to ultimately get rid of discrimination by separating black and white increasingly." (*The Senate of the Republic of South Africa, Debates (Official Report)*, 5 June 1964, cols. 4691, 4692 and 4697.)

the Government's contention that the African should be regarded as a mere temporary immigrant in the "white" State, that he should only be permitted to enter the "white" State to minister to the needs of the white man and that he should be entitled to no expectations except the receipt of a proper price for his labour. It provides for complete control over every African in this "State", where he would be without roots or rights and insecure.

148. The Government continues to force racial segregation of Whites, Africans, Indians and Coloureds in the cities and towns through group areas, removal of "black spots," influx control, and a host of other measures. Settled communities where there have been no problems from the presence of different races are disrupted and divided up on racial lines with buffer strips between them. Hundreds of thousands of families are uprooted, businesses ruined and livelihoods jeopardized to satisfy the political plans of the Government.

149. The Government then spends ever more effort on propaganda to justify its injustices, relying at home on the silencing of authentic and representative opposition and abroad on pandering to racial prejudices and on the services of business interests which profit by racial discrimination in South Africa.

150. It claims that its policy is one of "separate development" or "orderly coexistence". Each racial group will exercise its rights within its own sphere and the "sky is the limit" for its advancement within its sphere.[19] The Africans can vote in bantustans, while the Coloured people and the people of Indo-Pakistani origin can vote for separate Councils. Indeed, they will all have "one man, one vote".

151. A closer look at this scheme, as analysed in this and the earlier reports of the Special Committee, lays bare its utterly fraudulent and iniquitous character.

152. The Africans, who constitute three quarters of the population, are expected to find their destiny in the reserves (13 per cent of the area of the country) which are unable to provide sustenance even for two fifths of the African population. These reserves, carved up into eight "nations", are to be the dumping ground for the Africans not wanted in the "white" State, and reservoirs for unskilled labour needed in the "white" State and its "border industries". The fact that the first bantustan in the Transkei can raise no more than a small fraction of its budget from local taxes shows clearly the limits of opportunities for Africans under *apartheid*.

153. The Government has already proceeded to establish a Coloured Persons Representative Council and a National Indian Council and has promised to grant them, in due course, certain legislative powers. But they can be no more than subordinate councils so long as the ultimate authority is in the all-white Parliament, elected only by the Whites except for a handful of seats allotted to white representatives of Coloured voters. They can be no more than instruments to facilitate *apartheid* and perform administrative functions in the segregated communities.

154. These plans for partition and segregation are implemented without consulting the non-white people and, indeed, in the face of their strong opposition. The destiny of all the people is to be decided by a Government elected by Whites alone, with little more than faint opposition from the United Party which is also committed to racial discrimination. They are imposed by increasingly restraining communication across racial lines, by suppressing all resistance to *apartheid* and by banning or gaoling the leaders of the non-white people or forcing them into exile.

155. Repression has become an inseparable complement to the policy of *apartheid* as it ignores the vital interests of the great majority of the people and is directed against them.[20]

156. Year after year the Government has increased its repressive powers. It can now ban, detain or banish any one indefinitely without trial, and keep him entirely outside the protection of the courts and cut off from contact with family and friends. As shown in the present report, it has used these powers with little restraint.

157. Repression is no longer limited to the leaders of the non-white movements and their friends and allies among the Whites. The rights of all men—white and non-white—are whittled away. Many Whites who abhor the policies of *apartheid* have been persecuted. Indeed, the Government and its supporters tend increasingly to claim that any dissent from the official policy is a form of treason.

158. The Government claims that this virtual state of siege is essential to ensure the survival of the Whites, but its legislative and administrative measures to prevent all peaceful resistance to *apartheid* have only tended to provoke violence which may precipitate a bitter conflict which can only endanger their survival. Not only the non-white leaders but many Whites who hate racism have come to accept violence as the only way to secure a non-racial society. Mr. Percy Yutar, prosecutor at the Rivonia trial, said in his concluding address on 25 May 1964: "Were it not for their (South African Police) action South Africa would today have found itself embroiled in a bloody and savage civil war."[21]

159. Violence and fear of violence have been features of the South African scene in the recent period and the Government has countered with the "Sabotage Act" and other arbitrary legislation. Nine persons have been executed in the past year for acts arising from opposition to *apartheid* and thirty-five persons, including one White, await execution. These executions threaten to aggravate the already explosive situation.

160. The South African Government replies to protests by the United Nations and world public opinion against these executions, trials and detentions by claiming that such protests constitute an interference with judicial processes in South Africa. Such a claim is

[19] The Deputy Minister of the Interior, of Education, Arts and Science of Labour and of Immigration, Mr. M. Viljoen, stated on 7 November 1963 that "in the Bantu homelands the sky is the limit to the ambitions and aspirations" of Africans. *South African Digest* (Pretoria), 14 November 1963. The Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, said in an interview in March 1964:

". . . within their own group, their future—like the sky—is unlimited. Everything depends on them." (*The Cape Times*, 28 March 1964.)

[20] As Mrs. Helen Suzman, Member of Parliament and a leader of the Progressive Party, said on 9 March 1964:

"*Apartheid* and the rule of law are incompatible, for where people are governed by consent there can be no discrimination. But if people are not governed by consent they must be governed by force and the rule of law must disappear."

Professor P. V. Pistorius, another leader of the Progressive Party said: "it is impossible to perpetuate white domination unless there is a series of laws to effect repression" (*Rand Daily Mail* (Johannesburg), 10 March 1964).

[21] *The Cape Times*, 26 May 1964.

utterly misleading. The interventions of the United Nations and world opinion are not against the acts of the judiciary, which only interprets and applies the law, but against the arbitrary laws which violate the fundamental principles of justice and limit the discretion of the judiciary, as well as the acts of the executive which utilizes these laws for enforcing racial discrimination.

161. The tensions created by the policies of *apartheid* and repression have led the Government to embark on a massive expansion and strengthening of the security forces at great cost, as described in this report. The defence budget has risen far above the level reached at the height of the Second World War. As the *Pretoria News* commented on 17 March 1964, this is the price paid for the "defence of our right to practice *apartheid* within our borders in the face of mounting world hostility".

162. The revulsion felt by humanity at the racial policies of the South African Government, and the anxiety over the dangers of those policies, have been reflected in the imposition of total diplomatic and economic sanctions against South Africa by many States; the cessation of arms supplies to South Africa by the United States, the United Kingdom and several other States; the world-wide protests against repression in South Africa; boycotts of South African goods in many countries; and the increasing public demands for economic sanctions against South Africa under the auspices of the United Nations.

163. The South African Government, however, has resisted these pressures in the hope that decisive action will not be taken against it because of the reluctance of its major trading partners to implement economic sanctions. It continues on its course on the assumption that it can implement its plans by building up its military power and suppressing all resistance.

164. The increasing pressure of world opinion, the continued intransigence of the South African Government and the eruption of resistance in South Africa into violence have combined to create an ever more serious threat to international peace and security.

A. Non-compliance with resolutions of the General Assembly and the Security Council and reaffirmation of the policies of *apartheid*

(a) *Non-compliance with resolutions of the General Assembly and the Security Council*

165. During the period under review, the Government of the Republic of South Africa has continued to refuse to comply with the decisions of the General Assembly and the Security Council on the question of the policies of *apartheid,* and has persisted in its hostile attitude towards the United Nations.

166. It may be recalled that on 7 August 1963 the Security Council expressed its conviction that the situation in South Africa was seriously disturbing international peace and security; strongly deprecated the policies of the South African Government in its perpetuation of racial discrimination as being inconsistent with the principles contained in the United Nations Charter and contrary to its obligations as a Member State of the United Nations; and called upon that Government to abandon the policies of *apartheid* and discrimination, and to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid.*

167. The Government of the Republic of South Africa claimed, in a communication of 11 October 1963, that the Security Council did not have the juridical power to take the action envisaged by its resolution of 7 August 1963 and that the resolution could not have any binding effect on the Republic of South Africa or any other Member State.

168. On 11 October 1963 the General Assembly took note of reports that the South African Government was arranging the trial of a large number of political prisoners under arbitrary laws prescribing the death sentence and considered that such a trial would lead to a further deterioration of the already explosive situation in South Africa, thereby further disturbing international peace and security. By a vote of 106 in favour, with South Africa alone voting against, the General Assembly adopted resolution 1881 (XVIII) condemning the South African Government for its failure to comply with the resolutions of the General Assembly and the Security Council calling for an end to the repression of persons opposing *apartheid;* and requesting it to abandon the arbitrary trial and forthwith grant unconditional release to all political prisoners and to all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid.*

169. The South African Government, however, stated in a note dated 14 November 1963,[22] addressed to the Secretary-General, that no reply could be expected to General Assembly resolution 1881 (XVIII) as it constituted flagrant interference in South Africa's judiciary and was beyond the competence of the United Nations.

170. As the South African Government proceeded with its course of increased *apartheid* and increased repression despite the above resolutions, the Security Council on 4 December 1963 unanimously adopted a resolution, in which it, *inter alia,* urgently requested the South African Government to cease forthwith its continued imposition of discriminatory and repressive measures which were contrary to the principles and purposes of the Charter and which were in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights; condemned the non-compliance by the South African Government with the appeals contained in the resolutions of the General Assembly and the Security Council; and again called upon the South African Government to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid.* The Security Council also requested the Secretary-General to establish, under his direction, a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed.

171. The South African Government again failed to comply with the Security Council resolution and, in a communication dated 5 February 1964, described it as an "unparalleled attempt at deliberate interference" in the internal affairs of the Republic and "yet another flagrant example of the application of the 'double standard' ". It added that any form of co-operation with

[22] *Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 30, document A/5614, para. 3.

the Group of Experts established under the resolution was out of the question.[23]

172. On 27 March 1964 the Secretary-General drew the attention of the Permanent Representative of South Africa to the death sentence recently passed on three leaders of the African National Congress in Port Elizabeth and to several trials in the country, involving a number of leaders of the African National Congress and other political organizations, under legislation which provides for death sentences. In the light of the resolutions of the General Assembly and the Security Council, and the recommendations of the Special Committee, he requested the Permanent Representative of South Africa "to convey my urgent and earnest appeal to your Government to spare the lives of those facing execution or death sentences for acts arising from their opposition to the Government's racial policies, so as to prevent an aggravation of the situation and to facilitate peaceful efforts to resolve the situation" (see United Nations Press Release SG/SM/48, 30 March 1964).

173. In a reply dated 18 May 1964 the Permanent Representative of South Africa took exception to the Secretary-General's humanitarian appeal on the grounds that it "could be construed as casting suspicion on, or bringing into disrepute, the South African judiciary and South African judicial processes", and the matter was *sub judice* as the three accused had been granted leave to appeal against both the verdict and the sentence imposed, and that the appeal constituted intervention in a matter of purely domestic concern of South Africa (see United Nations Press Release SG/SM/74, 18 May 1964).

174. On 20 April 1964, the Secretary-General transmitted to the Security Council the report of the Group of Experts which recommended, *inter alia,* that "all efforts should be directed toward the establishment of a national convention, fully representative of the whole population of South Africa, to set a new course for the future", and made suggestions concerning "the establishment of such a national convention, the assistance which the United Nations and other international organizations may offer to the people of South Africa to help them resolve the present situation and the means to concert pressure on the South African Government to accept a peaceful and democratic solution through a National Convention".[24]

175. In a letter dated 22 May 1964, the Permanent Representative of South Africa claimed that the report of the Group of Experts "consists to a large extent of inaccuracies, distortions and erroneous conclusions on false premises", and declared that "for obvious reasons the South African Government can see no useful purpose in commenting on the detailed proposals for a national convention and its agenda".[25]

176. On 9 June 1964 the Security Council adopted resolution S/5761 urging the South African Government to renounce the execution of the persons sentenced to death for acts resulting from the opposition to the policies of *apartheid*; to end forthwith the trial in progress, instituted within the framework of the arbitrary laws of *apartheid*; and to grant an amnesty to all persons already imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid,* and particularly to the defendants in the Rivonia trial.

177. In a reply dated 13 July 1964,[26] the Permanent Representative of South Africa reiterated that "South Africa regards intervention by the United Nations in the judicial processes of a Member State as completely illegal and *ultra vires* the United Nations Charter". Transmitting the judgement given in the Rivonia trial, "without prejudice . . . to the legal position of the South African Government in this matter", he added:

> "It is evident both from the discussion in the Council and from the text of the Council's resolution that deliberate attempts have been made to distort, in the eyes of the United Nations and of world public opinion, the nature of the case against the defendants in the Rivonia trial and to represent the trial as an executive act undertaken by the South African Government to secure the imprisonment of certain individuals for having opposed the policy of *apartheid.*
>
> "The South African Government rejects with contempt the imputations against the South African judiciary which are inherent in this misrepresentation. It is confident that a perusal of the judgement in the Rivonia trial will enable any impartial observer to appreciate that the charge that the defendants in the Rivonia trial were prosecuted 'for having opposed the policy of *apartheid*' is a perversion of the facts."

178. On 18 June 1964 the Security Council adopted a resolution reiterating its appeal to the Government of the Republic of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid.* It urgently appealed to the South African Government:

> "(*a*) To renounce the execution of any persons sentenced to death for their opposition to the policy of *apartheid*;
>
> "(*b*) To grant immediate amnesty to all persons detained or on trial, as well as clemency to all persons sentenced for their opposition to the Government's racial policies;
>
> "(*c*) To abolish the practice of imprisonment without charges, without access to counsel or without the right of prompt trial."

It invited the South African Government to accept the main conclusion of the Group of Experts that "all the people of South Africa should be brought into consultation and should thus be enabled to decide the future of their country at a national level", to co-operate with the Secretary-General in promoting such consultation among representatives of all elements of the population in South Africa and to submit its views to him with respect to such consultation by 30 November 1964.

179. On 16 November 1964, the Permanent Representative of South Africa transmitted a letter from the Minister of Foreign Affairs describing the resolution as intervention in matters falling within the domestic jurisdiction of a Member State and as seeking the abdication of its sovereignty in favour of the United Nations. The Minister of Foreign Affairs refrained from responding to the appeal and invitation to the South African Government.[27]

180. Meanwhile, on 6 November 1964, Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba were exe-

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[23] *Official Records of the Security Council, Nineteenth Year, Supplement for April, May and June 1964,* document S/5658.

[24] *Ibid.*

[25] *Ibid.*, document S/5723.

[26] *Ibid., Nineteenth Year, Supplement for July, August and September 1964,* document S/5817.

[27] *Ibid., Supplement for October, November and December 1964,* document S/6053.

cuted in defiance of the resolutions of the General Assembly and the Security Council and despite the urgent appeals by the Secretary-General, the Special Committee, the African group at the United Nations, the Second Conference of the Heads of State or Government of the Non-Aligned Countries and numerous international organizations.

(b) *Rebellious attitude and hostility towards the United Nations, and scorn of world public opinion*

181. While the South African Government continued to refuse to comply with the decisions of the principal organs of the United Nations, its leaders have attacked the United Nations and its decisions and the attitude of Member States towards the policies of *apartheid* in the Republic of South Africa, and rejected any policy changes in response to world opinion.

182. Some of the statements of the South African leaders are summarized below:

183. On 18 September 1963 Mr. Eric Louw, then Minister of Foreign Affairs, stated that if the United Nations ceased to exist it would be a "blessing".[28]

184. In regard to the Security Council resolution of 4 December 1963, the Minister of Posts and Telegraphs and of Health, Mr. A. Hertzog, stated on 16 December:

"The object of our enemies is to obliterate the white man... The struggle of today is practically the same as that of our ancestors, except that it is being waged more ruthlessly. The enemies of today are like those of long ago... [who] tried to ban arms consignments to the Voortrekkers..."[29]

185. In his review of international affairs at the end of the year 1963, Mr. Eric H. Louw, then Minister of Foreign Affairs, declared:

"The question is often put to me: 'How do you see the future of the United Nations?' My reply invariably is that if it continues on its present course, and if the General Assembly continues to be used as a forum for airing grievances and for attacking Member States, then the Organization will sooner or later come to an inglorious end—'unwept, unhonoured and unsung'—except perhaps by the Afro-Asians, who will have lost a useful weapon of attack."[30]

186. Speaking in the House of Assembly on 21 January 1964, the Prime Minister, Mr. H. F. Verwoerd criticized the "obsession" of bodies like the United Nations with the relationship between Whites and non-whites, and declared:

"I contend therefore that present-day international politics prove that the world is sick, and that it is not up to South Africa to allow herself to be dragged into that sickbed. It is white South Africa's duty to ensure her survival, even though she is accused of being isolated under such a policy...

"Furthermore, I contend that the West is sick and not only the world as a whole. The West is closest to us. There we find our natural friends... The tragedy of the present time is that in this crucial stage of present-day history, the white race is not playing the role which it is called upon to play and which only the white race is competent to fulfil. If the Whites of America and of Europe and of South Africa were dissolved in the stream of the black masses, what would become of the future of the world and of the human race? What would become of its science, its knowledge, its form of civilization, its growth, its peace, etc.?

"What we are dealing with here is the preservation of the white man and of what is his, and only in respect of what is justly his, coupled with the recognition of the other people's rights . . ."[31]

187. Referring to South Africa's withdrawal from the Food and Agriculture Organization of the United Nations on 18 December 1963, he continued:

"... the Republic, at a time when there was no demand that South Africa should withdraw but when our friends created difficulties, decided of its own free volition no longer to remain a member of a body in which in any event South Africa had no particular self-interest. In the same way we shall use our judgment in a sensible and careful manner in respect to other world organizations. That also applies to the United Nations."[32]

188. With regard to South Africa's membership in the United Nations, the Prime Minister stated in the House of Assembly on 24 April 1964:

"... South Africa's membership of various bodies is dependent upon what is in the best interests of South Africa in the opinion of the Government... I reject as absolutely incorrect and untrue the insinuation that continued membership is the only proof of our readiness to fight for South Africa and that we are leaving South Africa in the lurch when we give up our membership under certain circumstances. There are circumstances in which one serves the best interests of one's country by not being a member of a particular body and in which one serves the best interests of one's country... by choosing one's own methods of fighting. The same thing applies to the United Nations. The policy of South Africa is to remain a member of the UN as long as it is considered to be in the interests of South Africa. If circumstances should arise under which it will no longer be in the interests of South Africa, then she will no longer remain a member."[33]

189. On 25 April 1964 the Prime Minister declared at a National Party rally at Paarl that South Africa would stand firm in the face of outside pressure. He said there were two reasons for confidence, first, the path chosen by the Government satisfied the basic requirements of justice to all sections of the population, and second, South Africa was one of the bastions of white civilization and Christendom: "The whole world is dependent on... the white nations. Africa will fall into chaos and disorder without the protecting hand of the white nations." He added that the Western Powers were willing to make concessions to the African States on one point after another to win their votes in the United Nations, and expected the South African Government to make the same sort of concessions. South Africa, he said, would be sacrificing her existence once she started to make concessions.

"I believe that there will come a time when the Powers will draw the line and will refuse to be pushed any further... It seems that the boycotts and other threats are bringing the Western Powers

[28] Reuters, 18 September 1963.

[29] *The Cape Times,* 17 December 1963.

[30] *Southern Africa* (London), 3 January 1964.

[31] Republic of South Africa, *House of Assembly Debates (Hansard),* 21 January 1964, cols. 53 and 54.

[32] *Ibid.,* cols. 60 and 61.

[33] *Ibid.,* 24 April 1964, cols. 4899 and 4900.

to a point where they will eventually have to decide whether they can make further concessions."[34]

(c) *Reaffirmation of the policies of* apartheid

190. As may be seen from the above review of responses to United Nations decisions, the Government of the Republic of South Africa has continued to reaffirm its racial policies and has rejected any modification in the direction af racial harmony based on racial equality.

191. In a statement in the House of Assembly on 23 April 1964, that is, three days after the publication of the report of the Group of Experts established in pursuance of the Security Council resolution of 4 December 1963, the Prime Minister, Mr. H. F. Verwoerd, stated that in any attempt to "link up the various racial groups in one multiracial society, the majority group will and must eventually become the dominant group ... From a multiracial society we can expect no other result than ... one man, one vote, or black domination ... If South Africa wants to achieve its objective of remaining white, there is only one method, and that is to segregate the Whites and the Blacks".[35] He continued:

"Integration has proved an outright failure ... We shall be able to prove that it is only by creating separate nations that discrimination will in fact disappear in the long run ... They (the African States) want their ideas to triumph in our country so that the white man can disappear from this country ..."[36]

192. Indeed, the Prime Minister declared at a Nationalist Party rally at Klerksdorp in November 1963:

"Once one started to make concessions one would have to go all the way and that would never succeed in South Africa.

"Even some of our own people are now advocating a change in our point of view, saying that it will have to come sooner or later. This is particularly so in clerical circles.

"But I want to warn these people that they are on the wrong track."[37]

193. In a New Year's Eve broadcast, the Prime Minister described South Africa's course as the giving of each racial group "attainable ideals in its own community under its own leaders". He added that loss of control by the white man would ruin the economy and bring misery to all sections of the population. The Whites were, therefore, justified in refusing to commit national suicide and in fighting for self-preservation.[38]

194. The Minister of Transport, Mr. B. J. Schoeman, told the House of Assembly on 23 January 1964: "The policy of this party is to discriminate. That is why we discriminate."[39]

195. Whatever policy adjustments have been made by the South African Government, and these are noted in subsequent sections of this report, they are entirely within the framework of the fundamental principles of *apartheid* and are only meant to facilitate the imposition of *apartheid.*

(d) *New propaganda line*

196. The South African Government, however, has continued to present the policy of *apartheid*—the policy of "separate development" or "orderly coexistence" as it is described—as reasonable and just or as the only practicable policy which can satisfy the interests of the Whites and also provide some benefits to the non-whites. It has attempted to persuade non-whites to accept this policy as the only attainable objective since racial equality would be resisted. It has sought to argue that it was willing to grant equal rights to non-whites, but that the controversy was only as to when and where these rights would be exercised. It has made assiduous efforts to project these propaganda lines in an effort to confuse opinion at home and abroad.

197. A few statements by Government spokesmen during the past year are illustrative.

198. The Minister of Bantu Administration and Development, Mr. M. D. C. de Wet Nel, said at the opening of the Transkei Legislative Assembly in December 1963:

"We have one fatherland and we all belong to South Africa. White and Bantu need each other and must help each other. Our technical knowledge and competence are necessary for the development of your area. Our prosperity is your prosperity and our strength is your strength. Likewise is our safety your safety and towards the outside world we stand together as children of South Africa."[40]

199. The South African Ambassador to the United Kingdom, Mr. Carel de Wet, stated in March 1964:

"It seems to me that separate development and happiness with progress for all are bedfellows ...

"My Government stands immovable on our birthright as a distinct white nation to survive and rule in those parts of South Africa which we have settled and civilized ...[41]

"We are working with black nationalism, not against it ... The sun is shining for all in the Republic of South Africa."[42]

200. The Minister of Economic Affairs and of Mines, Mr. N. Diederichs, said at the United Nations Conference on Trade and Development in Geneva on 8 April 1964:

"The experience of my country, which extends to as great a diversity of peoples as can be found in any land, indicates that capacity for development is found among all peoples.

"It is indeed our policy freely to extend the process of development among all the peoples of South Africa and notable successes have been achieved among all of them."[43]

201. The Prime Minister said in a Republic Day broadcast on 31 May 1964:

"It (the Republic) is planning for a happy and prosperous coexistence for all its peoples ...

"It seeks to embark the peoples entrusted to its care on their own adventurous future and will not

[34] *The Cape Times*, 27 April 1964; *South African Digest* (Pretoria), 1 May 1964.

[35] Republic of South Africa, *House of Assembly Debates (Hansard)*, 23 April 1964, col. 4816.

[36] *Ibid.*, cols. 4814-4821.

[37] *The Cape Times*, 4 November 1963.

[38] *Ibid.*, 1 January 1964; *Southern Africa* (London), 3 January 1964.

[39] Republic of South Africa, *House of Assembly Debates (Hansard)*, 23 January 1964, col. 171.

[40] *Southern Africa* (London), 20 December 1963.

[41] *South African Digest* (Pretoria), 26 March 1964.

[42] Quoted in *The Observer* (London), 22 March 1964.

[43] *The Cape Times*, 9 April 1964.

clutch greedily at their land which is theirs to govern and to develop."[44]

202. The Minister of Foreign Affairs, Mr. H. Muller, speaking in the House of Assembly on 8 June 1964, described the Government's policy as one of freeing nations—a process which would give each population group what it deserved as its own.[45]

203. The Prime Minister said in Vryburg on 8 August 1964 that it was a fallacy to say that racial friction and clashes were the results of the Government's policy. The aim of the policy of separation was to eliminate friction and discrimination. Discrimination could only be eliminated if every race was allowed to develop to its fullest capacity within its own sphere. Once one started to make concessions in a State with more than one race group, the pressure for further concessions became stronger and stronger. Such a policy would lead to discrimination. Only through separate development could discrimination be eliminated.[46]

204. The Minister of Foreign Affairs, Mr. Muller, said in Cologne, Germany, on 30 September 1964: "Full implementation of our policy will bring about a situation in which discrimination will disappear."[47]

205. The South African Government describes its racial policy as a "four-stream policy" for the parallel development of the four main racial groups—the Whites, the Coloured people, the people of Indo-Pakistan origin and the Africans. The Africans would exercise political rights in the reserves which constitute less than 13 per cent of the territory. The Whites would exercise sovereignty in the rest of the country, while the other two racial groups would be granted certain legislative and administrative powers through the establishment of national and local councils.

206. Central to this policy is the view that the population of South Africa does not constitute a single nation, but several nations and that the ultimate objective should be a commonwealth of nations in which no nation would dominate another. For instance, the Prime Minister said, as quoted in the communication of 22 May 1964, from the Permanent Representative of South Africa to the President of the Security Council:

"We want each of our population groups to control and to govern themselves as is the case with other nations. Then they can co-operate in a commonwealth—in an economic association with the Republic and with each other. . .

"I envisage development along the lines similar to that of the Commonwealth. In other words, I perceive the development of a Commonwealth of South Africa, in which the white State and the black States can co-operate together, without being joined in a federation, and therefore without being under a central government, but co-operating as separate and independent States. In such an association no State will lord it over any other. They will live rather as good neighbours."[48]

207. The main reason for the rejection of the possibility of a unified Stated was explained in June 1964 by *Die Burger,* a pro-government newspaper, which noted in reference to the report of the Group of Experts established in pursuance of the Security Council resolution of 4 December 1963:

"They want us to stand for a united South Africa, for then they have us in the crush-pen that leads to black majority government. After all, if under such circumstances we should resist that final result, then their charge of permanent supremacy is proved beyond doubt.

"... the truth is that standpoints which presuppose an undivided South Africa are at present playing into the hands of our enemies. South Africa can no longer be defended on that basis in the international council chambers. If we say that we are going to remain undivided, then they say that we must accept the consequences of that, namely progress in the direction of 'one man, one vote' and black majority government . . . But they cannot get past the principle of separate freedom, as a principle."[49]

B. Pursuit of *apartheid*

208. The essence of the racial policy of the South African Government, as indicated earlier, is to deprive the African of all rights in 87 per cent of the area of the country, which is to form the "white" State, in return for limited self-government and promise of eventual self-government in the scattered African reserves, which account for 13 per cent of the area of the country, reconstituted as several "national homelands". All Africans would be regarded as citizens of these "homelands". The majority of Africans, however, live in the "white" area and greatly outnumber the Whites: their status would be that of alien labourers with no rights, and they can expect nothing more than payment for their labour, housing and perhaps consultation on municipal affairs.

209. The Coloured people and the Indians who constitute more than a third of the population in the "white" area would be minorities, but they too would have no right of representation in the sovereign Parliament. They would be entitled only to segregated councils which would eventually receive powers to legislate for certain matters affecting their own communities.

210. In implementation of this policy, the Government has adopted significant measures during the past year. The Bantu Laws Amendment Act. No. 42, 1964, has been promulgated to deprive the Africans of all rights of residence, movement and employment outside the reserves and place them under total administrative control. The Coloured Persons Representative Council Act, No. 49, 1964, has been promulgated and the National Indian Council set up as a step towards the fulfilment of the promise of segregated and subordinate legislative bodies. Meanwhile, under the Group Areas Act, No. 41, 1950, all urban areas are being divided on racial lines at the cost of uprooting hundreds of thousands of non-white families. Large numbers of Africans, especially women and children, are being expelled from towns and sent to the reserves. Racial separation is being enforced in every sphere of activity, including education, sports and scientific associations. A "bantustan" has been established in the Transkei and others are being prepared.

These developments are reviewed below under the following heads:

(*a*) The Bantu Laws Amendment Act of 1964 (Act No. 42 of 1964).

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[44] *Ibid.,* 1 June 1964.

[45] *Ibid.,* 9 June 1964.

[46] *Ibid.,* 10 August 1964.

[47] *Ibid.,* 1 October 1964.

[48] *Official Records of the Security Council, Nineteenth Year, Supplement for April, May and June 1964,* document S/5723.

[49] *The Cape Times,* 3 June 1964.

(*b*) Residential segregation and related measures outside the African reserves.

(*c*) Establishment of councils and committees for non-white racial groups.

(*d*) Other *apartheid* measures outside the African reserves.

(*e*) Developments in the Transkei and other African reserves.

(a) *The Bantu Laws Amendment Act of 1964 (Act No. 42 of 1964)*

211. The Bantu Laws Amendment Bill of 1964[50] was introduced in Parliament on 18 February 1964, passed in the House of Assembly on 7 April and in the Senate on 15 May, and assented to by the State President on 15 May. The Act not only consolidates a number of existing legislative provisions concerning Africans outside the reserves, but adds significantly to previous legislation in order to ensure total administrative control over their residence, movement and employment.

212. The essence of the legislation was explained by Mr. M. C. Botha, Deputy Minister of Bantu Administration and Development, in the House of Assembly on 7 April 1964 as follows: "Dominating all this is the one aspect of our policy, namely that the Bantu's presence in the urban areas is justified by the labour he does . . .[51]

"Every Bantu must obtain permission to enter and to live in an urban area or a proclaimed area; he must obtain permission at the Bureau to work there or he must obtain permission to enter from the local authority official concerned. That is fundamentally necessary in each case."[52]

213. Mr. Greyling, a National Party member of the House of Assembly, explained on 4 March 1964:

"... there is no such thing as 'the rights of a Bantu' in the white area. The only rights he has are those which he acquires by performing certain duties. Those duties which he performs give him the right of sojourn here. The officials in these labour bureaux, in considering whether they are going to allow a Bantu to remain here, will have to give priority to the consideration as to whether that Bantu has carried out his duties as a worker, and not whether he has a supposed right which has been invented for him by members of the United Party."[53]

(i) *Main provisions of the Act*

214. In terms of this Act, all urban areas and any other areas the Minister so proclaims would be "prescribed areas". A network of municipal, district and regional labour bureaux would be established in the offices of the Bantu Affairs Commissioners. No African who is not seeking work may remain in these prescribed areas without obtaining permission from the district or municipal labour officer. Any person employing in a prescribed area an African who has not been granted such permission, is liable to three months' imprisonment.

215. The district or municipal labour officer may grant or refuse permission for an African to be in a "prescribed area". He may refuse to sanction the employment or the continued employment of any African and cancel the contract of employment between any employer and any African if he is satisfied, *inter alia,* that the contract is not *bona fide*; that the African has not been released from the obligation of rendering service to his previous employer; that he refuses to submit himself to a medical examination; or that such employment "impairs or is likely to impair the safety of the State or of the public or of a section thereof or threatens or is likely to threaten the maintenance of public order, provided the Secretary (for Bantu Administration and Development) concurs in such refusal or cancellation".

216. Any African who is refused permission by the municipal officer to take up employment or whose contract has been cancelled may be referred to an "aid centre" or to the district officer who may offer him "suitable work" either in his area or in another area or may require him and his dependants to leave the prescribed area within a period determined by him.[54] The Bantu Affairs Commissioner may hold a court in an "aid centre" and exercise jurisdiction over the employment and repatriation of an African to his home, last place of residence, settlement, rehabilitation scheme or "any other place".

217. An African who fails to comply with an order received at an "aid centre" may be endorsed out of an urban area. Appeals can be made to the Chief Bantu Affairs Commissioner against a removal order, but it is left to the discretion of the Bantu Affairs Commissioner to permit the African to remain in the prescribed area pending his appeal.

218. Any authorized officer may arrest without warrant any African in a prescribed area if he has reason to believe that the latter is an "idle or undesirable person" and take him before a Bantu Affairs Commissioner. The definition of an "idle person" has been widened and includes any African who is unemployed, though capable of being employed; fails to provide support to his dependants; who has refused suitable employment offered to him by a labour bureau on three consecutive occasions; who has on more than two consecutive occasions failed to keep employment for at least one month due to his own "misconduct, neglect, intemperance or laziness"; who has been discharged on more than three occasions during any period of one year due to his own misconduct; or who fails to depart from the area concerned within the specified period after he was ordered to depart. *Bona fide* housewives, women over 60 and men over 65 are exempt from this provision.

219. The definition of an "undesirable person" includes any African who has been convicted (*a*) more than once over any period of five years of an offence such as rape, robbery, arson and fraud, included in the third schedule of the Criminal Procedure Act, No. 56, 1955; (*b*) more than once in a period of three years of the use of habit-forming drugs or the illegal sale of intoxicating liquor; (*c*) of an offence involving public

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[50] The Bantu Laws Amendment Bill was originally published in February 1963 and aroused widespread opposition. An abridged version was enacted as Act No. 76 of 1963, and was reviewed in the report of the Special Committee of 13 September 1963 (see *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497, paras. 190-194 and 222-227). The remaining provisions, as revised, were introduced on 18 February 1964.

[51] Republic of South Africa, *House of Assembly Debates (Hansard)*, 7 April 1964, col. 3809.

[52] *Ibid.*, col. 3808.

[53] *Ibid.*, 4 March 1964, col. 2463.

[54] The Act states that an African shall not be detained at an "aid centre", but that nothing shall prevent any African who is unemployed or who is in an area unlawfully from being admitted to an aid centre at his own request.

violence or violence to an officer concerned with Bantu Affairs Administration while he was carrying out his duties; (*d*) of possession of unlicensed firearms; or (*e*) of political offences such as riotous assembly, membership of banned organizations or sabotage.

220. If an African is declared "idle" or "undesirable" and cannot prove otherwise, he may be removed to "any place" indicated by the Bantu Affairs Commissioner or detained in custody pending his removal, or "detained" in a "retreat" or "farm colony" and made to perform labour as prescribed.

221. The Act lays down a number of conditions to be complied with for an African woman to be allowed to enter or remain in prescribed areas.[55]

222. The Act authorizes the State President to make regulations on a wide variety of aspects of an African's life including the control and siting of housing, facilities, recruitment and "treatment and disposal".

(ii) *Opposition to the Act*

223. The Bill was strongly opposed in Parliament by the United Party and the sole member of the Progressive Party. They pointed out that under previous legislation, Africans in urban areas acquired residence rights if they had been born in the area and had lived there continuously, or had worked for one employer for not less than ten years and had continuously resided there lawfully for not less than fifteen years.[56] Even these limited rights were now removed as they were left to the discretion of the Chief Bantu Commissioner. The right of an African to sell his labour freely and the right to have his wife and family with him were also taken away. The assurances of the Government that the new Act would be administered humanely and that the intention was merely to ensure better co-ordination and control, failed to allay the fears of the opposition.[57]

224. Sir de Villiers Graaff, leader of the United Party, said on 18 February 1964 that the Bill would turn all Africans outside the reserves into a "vast floating pool of labour, from which individual units could be detached from time to time".[58] He stated on 7 April that the Bill "is placing officials in a place where they are invading the sphere of the courts... and there are virtually no safeguards as to how those powers are going to be exercised".[59]

225. Mrs. Suzman, Progressive Party member of the House of Assembly, charged:

> "... The Government does not consider the black man as a human being. It does not regard him as a person with the normal aspirations of a human being and the normal aspiration to have a secure family life."[60]

She said on 7 April that the Government appeared to imagine the African as a "disembodied pair of black hands", present in the "white" areas to work for the white man as long as required, without normal wants and natural demands of a human being.[61]

226. Senator R. D. Pilkington Jordan (United Party) stated on 4 May that the Bill "converted the Bantu into labour slaves". He said it was the death warrant of a host of rights Africans had enjoyed as citizens of South Africa, and gave wide powers to junior officials against which there was no right of appeal except to other officials.[62]

227. *The Star* (Johannesburg) commented on 24 February 1964:

> "The Bantu Laws Amendment Bill is being represented by some as merely a tightening of influx control. It is, of course, something much more fundamental than that. It is an attempt to change, once and for all, the whole status of the urban African to conform with the *apartheid* theory.
>
> "Some forty years ago the Stallard Commission on Native Labour laid down the principle on which this Bill is based. 'The native should be allowed to enter urban areas, which are essentially the white man's creation, when he is willing to enter and to minister to the needs of the white man, and should depart therefrom when he ceases to minister.'
>
> "As a factual statement of the situation this was hardly true then, and nearly half a century of urban progress and rural decay has destroyed any validity it may have had.
>
> "There is now a large permanent urban African class whose members, to quote one of them, were 'born, bred and buttered' in the towns and know no other home or way of life. To attempt to destroy such a class by legislation is humanly and economically indefensible.
>
> "Economically, because its stability and the skills that depend on stability are urgently needed in the towns (and

[55] By the repeal of section 23 (*d*) (ii) of the original Act, African women have been deprived of the statutory right to enter an urban area to visit their husbands for a period of 72 hours (usually known as a "conception visit") if their husbands had been in the area for two years.

[56] Native (Urban Areas) Consolidation Act, 1945, sub-section (1) of section 10.

[57] See, for instance, the following passage from the letter of 22 May 1964 from the Permanent Representative of South Africa to the United Nations to the President of the Security Council:

"A detailed exposition of the objectives of the legislation would fill many pages, but by way of illustration it can be said that Bantu employed in "white" areas will continue to be so employed, that those who lose employment in "white" areas will be placed in employment by the Bantu labour bureaux in "white" areas wherever employment is available, and that only if employment is not available will the question arise of resettlement in the Bantu homelands There is no denial of the freedom of the Bantu to work and live in "white" areas in so far as employment is available. Indeed, large numbers of Bantu are recruited for employment in "white" areas and others are assisted in various ways to obtain such employment. The over-all objective is to co-ordinate and canalize all faucets of labour supply and demand, in order to avoid flooding of the labour market, unemployment and inadequate housing.

"It remains to be seen whether the hardships which the critics of the legislation envisage, will in fact be experienced by the Bantu concerned. The South African Government is confident that time and experience will provide the proof of the good intentions underlying the legislation." (*Official Records of the Security Council, Nineteenth Year, Supplement for April, May and June 1964*, document S/5723).

[58] Republic of South Africa, *House of Assembly Debates (Hansard)*, 18 February 1964, col. 1517.

[59] *Ibid.*, 7 April 1964, col. 3759.

[60] *Ibid.*, 25 February 1964, col. 1952.

[61] *Ibid.*, 7 April 1964, col. 3795.

[62] *The Senate of the Republic of South Africa, Debates (Official Report)*, 4 May 1964, cols. 3184 and 3185.

On 24 February 1964, the Deputy Minister of Bantu Administration and Development, Mr. M. C. Botha, argued that it was not correct to say that the "so-called rights" of Africans were being removed. The Act affected only the Africans who were in "white" areas illegally, or who were "work-shy", "idle", "undesirable" or "superfluous". Such persons could be removed under the previous legislation. The new Act only extended the definition of persons who could be removed. He objected to the contention that the Act removed the citizenship rights of the Africans in urban areas. Fundamentally, he said, all Africans were restricted from residence in urban areas without special permission. Certain categories had been exempted from this restriction, under Section 10 of the Native Urban Areas Act, but these exemptions from restrictions were not "rights of citizenship" or "any rights" but simply arrangements for Africans to remain in urban areas. (Republic of South Africa, *House of Assembly Debates* (*Hansard*), 7 April 1964, cols. 1861-1864 and 3809).

never more so than now) and because there is no comparable demand in the 'homelands' nor any prospect of such a demand arising in the present generation.

"The Government is not in fact attempting directly to reduce the number of urban Africans. It is trying instead to convert them into a rotating labour force, with no permanent roots or family life in the towns.

"The cost in human terms of this policy if logically applied will be incalculable. It may in practice not be so applied, simply because the disruption it would cause would throw the whole of South Africa's rising economy out of gear and create unmanageable difficulties in the 'homelands'.

"The individual hardship will, nevertheless, be immediate and the insecurity general and paralysing."

228. The South African Institute of Race Relations stated on 28 February 1964:

"The Institute is convinced that by its contemplated actions the Govenrment will cause a further deterioration of race relations and by imperiling the security of the majority of Africans imperil the security of all peoples in the Republic... It is of the opinion that in addition to undermining security, it will heighten instability, discourage Africans from acquiring that sense of belonging to a community which is essential to the development of ordered social life, and inhibit the growth of an African middle class."[63]

229. The Christian Council of South Africa, representing twenty-eight churches, said in March that the Bantu Laws Amendment Bill "infringes on certain basic Christian concepts concerning family life and the dignity of the individual".[64]

230. The Conference of Roman Catholic Bishops of South Africa condemned the Bill on 17 March 1964 as "a negation of social morality and Christian thinking". The Conference stated that the Bill:

"...is an invasion of primary human rights... deprives African citizens of a strict right to residence, movement and employment outside the Bantu areas, that is, in four fifths of the entire Republic. It would strip the African of his basic freedoms in the country of his birth, making him dependent upon the possession of a permit to explain his presence anywhere, and at any time, outside the 'Bantu homelands'. This is not consonant with any concept of the dignity of the human person."[65]

231. The Roman Catholic Archbishop of Cape Town, the Most Rev. Owen McCann, stated on 1 May 1964:

"The Bantu Laws Amendment Act treats the Bantu as a labour unit, not considering his personal dignity and the rights flowing from this dignity. It disregards the family obligations he may have, and in fact continues the sad break-up of family life which is one of the evils of the system. We know it is disastrous to family life—that it induces instability of marriage, mal-education of the offspring and delinquency and leads to immorality."[66]

232. The Interdenominational African Ministers' Association of Southern Africa, an organization of African ministers of all denominations, representing four million South African Christians, said in a press statement in May that it was convinced, in spite of the ministers' assurance to the contrary, that the Bantu Laws Amendment Act would disrupt African family life:

"We wish to emphasize that the African ministers of all denominations have been law abiding and have always opposed disobedience to the laws of the State, but have now reached a point where legislation such as this places the African minister in an unenviable position of standing for Christian justice and at the same time having to convince the Africans that such laws are for their good."

In a memorandum to the Minister, the association asked that the Bill be amended and that there be no hindrances in the way of husbands and wives coming together and living with their children.[67]

(b) *Residential segregation and related measures outside the African reserves*

(i) *Implementation of the Group Areas Act, No. 41, 1950*

233. The Group Areas Act, No. 41, 1950, which provides for the forcible separation of racial groups, continues to be implemented actively though the General Assembly has repeatedly called upon the South African Government to refrain from enforcing its provisions (see General Assembly resolution 395 (V) of 2 December 1950, 511 (VI) of 12 January 1952, 615 (VII) of 5 December 1952 and 719 (VIII) of 11 November 1953).

234. Numerous group area declarations have again been published during the period under review, ordering the clearing of a number of settled communities.[68]

[63] *Race Relations News* (Johannesburg), March 1964.

[64] *Rand Daily Mail* (Johannesburg), 4 March 1964.

[65] Reuters, 17 March 1964.

[66] *The Cape Times*, 2 May 1964.

[67] *Ibid.*, 19 May 1964.

[68] The declarations issued between 6 November 1962 and 30 August 1963 were listed in the report of 13 September 1963 (see *Official Records of the General Assembly, Eighteenth Session*, addendum to agenda item 30, document A/5497, para. 162).

The following declarations of group areas have been issued since 30 August 1963 and published in the *Government Gazette* on the dates indicated:

13 September 1963—Group areas for Coloureds and Indians at Ermalo, Transvaal; for Whites at Ottoshoop, Transvaal;

18 October 1963—Group areas for Coloureds at Hawston, Cape;

25 October 1963—Group area for Indians at Mountain Rise, Natal;

1 November 1963—Group areas for Whites and Coloureds at Riversdale, Cape; for Whites at Algon Park, Port Elizabeth, Cape; for Whites and Indians at Krugersdorp, Transvaal; for Whites at Randfontein, Transvaal; for Whites and Coloureds at Roodespoort, Transvaal;

22 November 1963—Group area for Whites at Somerset West, Cape;

6 December 1963—Group areas for Whites and Coloureds at Tarkastad, Cape; for Whites and Coloureds at Malmesbury, Cape;

3 January 1964—Group areas for Coloureds at Ventersburg, Orange Free State;

7 February 1964—Group areas for Coloureds at Fauresmith, Orange Free State;

21 February 1964—Group area for Whites at Springs, Transvaal;

28 February 1964—Group area for Whites and Coloureds at Piketberg, Cape;

13 March 1964—Group areas for Whites and Coloureds at Swellendam, Cape;

20 March 1964—Group areas for Whites and Indians at Greytown, Natal;

26 March 1964—Group areas for Whites, Coloureds and Indians at Standerton, Transvaal;

10 April 1964—Group areas for Whites at Victoria West, Cape; for Whites and Coloureds at Villiersdorp; for Whites and Coloureds at Upington, Cape;

24 April 1964—Group areas for Whites at Dullstroom, Transvaal; for Whites at Belfast, Transvaal; for Whites at

The Minister of Planning, of Economic Affairs and of Mines, Mr. J. F. W. Haak, announced on 10 September 1964 that 771 group areas had been proclaimed for different races in 183 centres by the end of July. These orders required the removal of hundreds of thousands of non-whites from areas in which they had resided, in many cases, for several generations.

235. The proclamations in Durban alone, issued on 4 October 1963, involved the eviction of nearly 10,000 families.[69] The recent proclamations in Transvaal are designed to resettle virtually all of the 38,000 Indians[70] on the Rand, thus enforcing almost total residential segregation of Indians in the Transvaal.[71]

236. The declarations, as a rule, reserve the central areas of the town to Whites, and require the relocation of non-whites in communities on the outskirts with buffer zones separating each community from the other. The non-whites have repeatedly complained that such moves ruin their businesses and necessitate long journeys to work.[72]

237. Relatively few Whites are affected by group areas proclamations.[73]

238. The group areas declaration for Standerton, issued in March 1964, reserves the central area for the Whites and requires the Indians and the Coloured people to move about a mile from the town centre. Four hundred Indian families, some of whom settled there seventy-five years ago, are affected. They claimed that the move would mean complete ruin for their trade, as their white customers are not likely to go to shop in the segregated area.[74]

239. A ten-block area in the centre of Stellenbosch, the home of 2,000 Coloured people, was declared a "white" area in August 1964. Coloured people had lived in this area for about two centuries. A spokesman for the Coloured community said that the decision affects, in addition to the homes, six schools (including the only Coloured secondary school in the area), four churches, a mosque, a cinema and about ten shops and businesses. The order was reported to have embittered the Coloured community.[75]

240. The Indian and Coloured communities of the three Eastern Transvaal towns of Belfast, Dullstroom and Machadodorp became "displaced" persons as a result of a group areas proclamation designating the three towns as all white. The Department of Community Development said that no group areas were being proclaimed for Coloured people and Indians because there were so few of them.[76] Waterval Boven was also declared white and no area was set aside for the Indians who had settled there thirty years ago.

241. The residents of District Six of Cape Town had expected the area to be declared a Coloured group area as a result of a public investigation held on 29 January 1962, but an order for reinvestigation of the area, issued in March 1964, aroused serious concern in the community. Dr. M. A. Ebrahim, chairman of the Workers' Civic League, said on 6 March 1964:

"This whole area has been the cradle of the Coloured people for 300 years. If it is declared "white", the losses to the Coloured people will be very great indeed.

"The majority in the area are hard-working people who live near their place of employment. If they are forced to move they will suffer economically.

"It is a fact that where an area has been declared anything but a non-white area, the non-white properties are bought for next to nothing.

"However, when they are forced to move to a declared area, the prices of land are fantastically higher than the municipal or market valuation.

"If people are forced to move from this area, it means they will lose their places of worship, their mosques and their schools—quite a few of which have been started with the money of the people.

"This area has always been a multiracial area where everybody has lived together in harmony."[77]

242. Group areas under consideration in the Cape have evoked strong protests from the residents. Both

Machadodorp, Transvaal; for Whites and Coloureds at Jansenville, Cape;
8 May 1964—Group area for Whites at Carletonville, Transvaal;
5 June 1964—Group areas for Whites at Athlone, District of Wynberg; for Whites at Southfield, Cape;
19 June 1964—Group areas for Whites and Coloureds at Griquatown, Cape; for Whites and Coloureds at Ritchie, Cape;
26 June 1964—Group areas for Whites and Coloureds at Napier, Cape;
24 July 1964—Group areas for Whites at Naboomspruit, Transvaal; for Whites and Coloureds at Cape Peninsula, Cape;
31 July 1964—Group area for Coloureds at Pietermaritzburg, Natal;
7 August 1964—Group areas for Whites, Coloureds and Indians at Potchefstroom, Transvaal; for Whites and Coloureds at Calvinia, Cape; for Whites and Coloureds at Heidelburg, Cape;
28 August 1964—Group area for Whites at Stellenbosch, Cape;
9 October 1964—Group area for Coloureds at Riviersonderend, Cape;
23 October 1964—Group areas for Whites at Kimberley, Cape; and for Whites at Waterval-Boven, Cape;
30 October 1964—Group areas for Whites and Coloureds at French Hock, Cape; and for Whites and Coloureds at Bredasdorp, Cape;
13 November 1964—Group areas for Whites at Nigel, Transvaal; and for Whites and Coloureds at Sutherland, Cape.

[69] *The New York Times*, 7 October 1963. A deputation of persons of Indian and Pakistan origin from Cato Manor, Durban, complained to the Minister of Coloured Affairs, of Community Development, and of Housing, Mr. P. W. Botha, on 21 November 1963, that although their community made up only a tenth of the non-African population, it had been obliged to make nine tenths of the sacrifices under the Group Areas Act. They stated that 125,000 persons of Indian and Pakistan origin had been affected, compared with 4,000 Whites and 10,000 Coloureds (*Rand Daily Mail* (Johannesburg), 22 November 1963; *The Cape Times*, 22 November 1963).

[70] The term "Indian" is commonly used to refer to people of Indo-Pakistan origin.

[71] *The Star* (Johannesburg), weekly edition, 5 October 1963.

[72] Mr. S. Lotter, a delegate to the annual conference of the Trade Union Council of South Africa, proposed on 14 April 1964 that the Government should consider paying a travelling allowance to non-white workers who were forced to live long distances from their jobs through the implementation of the Group Areas Act. He pointed out that the train and bus fares represented a serious hardship to lower income groups (*The Cape Times*, 15 April 1964).

[73] An exception was Residencia, a town 12 miles from Vereeniging, with a population of 2,000 Whites. The town was proclaimed a white area in 1962, but the residents protested because there was no buffer between it and Evaton with a population of 65,000 Africans. The Cabinet decided in August 1964 to buy out Residencia and declare it a non-white area. The Chairman of the village council commented: "The Cabinet's decision is generally welcome, but by many with tears in their eyes because of the deep roots they will have to pull out so painfully" (*The Cape Times*, 14 August 1964).

[74] *The Cape Times*, 2 April 1964.

[75] *Ibid.*, 14 and 15 September 1964.

[76] *The Star* (Johannesburg), weekly edition, 27 April 1964.

[77] *The Cape Times*, 7 March 1964.

Whites and Coloured people have opposed proposals to proclaim group areas in the Faure-Firgrove-Macassar Beach district. A Moslem priest expressed particular concern as Sheikh Joseph's tomb, the most sacred place in South Africa for Moslems, was in the area.[78]

243. The Schotche Kloof Islamic Brotherhood Society condemned the move to clear the Malay quarter and Schotche Kloof, Cape Town, of "disqualified persons" as "cruel and inhuman" and charged that it would destroy the "exemplary coexistence" of Moslems and Christians in the two areas.[79]

244. In connexion with reports that an area round Claremont, Cape Town, which includes two mosques, may be declared "white," Iman Haron of Claremont said on 6 October 1964 that Malays had lived in the area before the Whites. He added: "Many years ago the Pharaoh tried to uproot a people, and he ended up in the sea. I wish our honourable Prime Minister would take heed of this."[80]

245. In Transvaal, members of the Hindu community observed 15 November 1963 as "a day of anguish and sorrow in thousands of homes". A statement issued in that connexion said that Indians were entering "a moment of crisis" caused by the Group Areas Act and that it was "a solemn and religious duty to say that mass uprooting of people, no matter what colour, is against all moral and religious scruples".[81] More than 100 Indian school children were caned for having stayed away from classes on that day.[82]

246. Police used police dogs to disperse several hundred Indian women who had come from many parts of the Transvaal to Pretoria on Human Rights Day, 10 December 1963, to present a protest to the Prime Minister on the application of the Group Areas Act. They had carried a memorandum which read in part:

"The ruthless application of *apartheid* is causing grave concern to our people. Its implementation in the form of group area, job reservation and other measures involves loss of homes, impoverishment and assault on our dignity and self-respect.

"As a woman, I request you to take steps that will restore security to a people whose only 'crime' is colour and race."[83]

247. Several Indians continued to resist orders under the Group Areas Act. In Ventersdorp, three Indians —Dr. Mahmood Motara, Mr. Ebrahim Amodjee and Mr. Bhula Lakhoo—defied a notice to move to a new Indian area in the bare veld outside the town. They served one month's imprisonment and declared on their release in November 1963 that they stood by their convictions even if it meant going back to gaol. Dr. Motara was again sentenced to four months' imprisonment in March 1964 for refusing to vacate his home and consulting rooms. Ventersdorp Indians closed their shops on the day of his conviction.[84]

(ii) *Expulsion of Africans from "white" areas*

248. The Government has continued to expel thousands of Africans from the urban areas to the reserves under the influx control regulations which require Africans to obtain permits or exemption to remain outside the reserves.

249. On 5 November 1963, the Deputy Minister of Bantu Administration and Development, Mr. M. C. Botha, urgently appealed to white employers to help the Department limit the number of Africans in "white" areas to a minimum. He stated that measures would have to be taken against employers if the necessary co-operation was not obtained.[85]

250. On 28 January 1964, the Minister of Bantu Administration and Development, Mr. M. D. C. de Wet Nel, stated that in 1963, 3,103 Africans had been endorsed out of the Cape Town municipal area, 660 out of the Cape Divisional Council area and 19,650 out of the Johannesburg municipal area.[86]

251. He told the House of Assembly on 24 January 1964:

"... think of the industrial development that has taken place over those [past] ten years. All that development demands a terrific labour force. It was a miracle that we managed to put a stop to the uncontrolled flow of Bantu to South Africa. We put a stop to it. And the tide has already started to turn. The year before last 100,000 Bantu had already left the "white" areas. Do you know, Sir, that we have sent back a considerable number of foreign Bantu over the past two years? ... Just think of the 2,000 Rhodesian Bantu whom I removed from the vicinity of Port Elizabeth. Approximately 20,000 foreign Bantu have passed through our border posts, Bantu who will not return to South Africa ... Bantu are daily returning to their own areas ... You have the Mdondtzani project near East London where 60,000 have been resettled in the Bantu area. We are busy with that; we shall shortly start in Pietersburg; there are 180,000 at Durban who will shortly be settled in the Bantu area; Dalmeny 75,000; Pietermaritzburg 38,000; Rustenburg, 9,000; Potgietersrust 6,000 (already settled); Newcastle over 12,000; Pretoria over 50,000. Just think of these few projects, and more are in process of development. That will mean that within the following few years over 550,000 Bantu, from the "white" areas, will be settled in their own areas."[87]

252. Many of the Africans who have been expelled from urban areas as unqualified have been in those areas for long periods and have lost contact with the reserves. Frequently, the men are permitted to remain, but the wives are told to leave with their children.

253. The Press reported the case of Mr. Charles Dyidi, a 57-year-old African plumber, who had lived for more than fifteen years in Paarl. He was injured while working in a forest outside Gonda and returned to Paarl where he earned a meagre income from miscellaneous jobs. He and his wife were taken to court in April 1964, fined and ordered to return to Cala, his birthplace, where they and their three children would have to share a morgen (about 2.1 acres) of land with nine other persons.[88]

[78] *Ibid.*, 14 and 15 May 1964.
[79] *Ibid.*, 7 October 1964.
[80] *Ibid*, 16 October 1964.
[81] South African Press Association, 4 November 1963.
[82] *Rand Daily Mail* (Johannesburg), 23 November 1963.
[83] *Ibid.*, 11 December 1963.
[84] *Ibid.*, 19 November 1963 and 10 March 1964.
[85] *South African Digest* (Pretoria), 21 November 1963.
[86] Republic of South Africa, *House of Assembly Debates (Hansard)*, 28 January 1964, col. 403.
[87] *Ibid.*, 24 January 1964, cols. 282 and 283.
[88] *The Cape Times*, 22 April 1964.

254. The Government is proceeding with its plan to remove Africans from the Western Cape in order to reserve the area for Whites and the Coloured people.[89]

255. While the Government has been "endorsing out" Africans in pursuance of this plan, however, the number of African workers has actually been increasing as a result of industrial expansion and new construction. Migrant workers, without families, are substituted for these resident for many years.

256. Mr. Oscar Wollheim, Chairman of the South African Institute of Race Relations, Cape Western Region, in a statement on 23 July 1964, warned of the consequences of this situation:

"The Institute is gravely concerned about the growing restlessness of the African population of the Western Cape.

"It cannot be expected that people with no security of tenure and liable to be removed at any time should develop a sense of responsibility towards and a stake in their environment and the community of which they are a part.

"Figures which have been quoted recently indicate that 3,103 Africans were endorsed out of the Cape Peninsula in 1963.

"In the first five months of 1964, 2,250 Africans were introduced into the same area—which works out at about 5,400 a year.

"If you are going to need 5,400, why send 3,103 home? All this travelling is at the expense of the African himself who is the lowest paid person in the whole economy.

"Very many of those endorsed out were living and working here with their families. They are replaced by 'single' migrants on contract.

"Or they themselves, after going through a cumbersome and long-drawn-out administrative procedure, may get permission to come back on a contract basis without their families.

"All this effort is not reducing the African population of the Western Cape which is, in fact, increasing as the demand for labour from commerce, industry and agriculture increases.

"The only difference is that the disparity of numbers between African men and women is increasing and has now reached the dangerous figure of about seven to two in the Cape Peninsula.

"The Medical Officer of Health of the Cape Town City Council has reported that the number of illegitimate African births exceeded legitimate African births in the peninsula in the past three years.

"In this situation, without the steadying influence of their wives and children and a home environment, men can easily turn to violence in their frustration.

"The Government's policy of removing Africans from the Western Cape is manifestly impossible of achievement, but the attempts to implement this policy are resulting in ever-increasing social and economic disruption both in the Cape and in the 'homelands'."[90]

(iii) *Removal of "black spots"*

257. The Government has continued its efforts to eliminate "black spots" (African owned land outside the reserves).

258. The Government recently ordered 280 members of the Bapedi tribe to move from the Dornkop farm about twelve miles from Middleburg in Eastern Transvaal, to farms in Sekukuniland. The Bapedi, who had bought the land in 1905 and built schools, churches and a cemetery, refused to move and the Government decided to expropriate the land. The Chieftainess of the tribe, Miriam Ramaube, refused to hand over the books relating to the ownership of land to the Bantu Affairs Department: she said that the books belonged to the tribe and that the tribe had asked her not to hand them over. In May 1964, she was given a suspended sentence on condition that she handed over the books.[91]

(c) *Establishment of councils and committees for non-white racial groups*

259. To counteract criticism that the policy of *apartheid* denies any place in the Government of the country to Indians and the Coloured people, as well as the Africans in the "white" area, the Government has established separate advisory and administrative bodies for these racial groups. These bodies are now partly or wholly nominated by the Government, and are purely advisory, but it has indicated that they would become elective and would gradually be endowed with legislative powers. The Government claims that by instituting elections on universal franchise for these bodies, it would satisfy the desire for "one man, one vote" in separate racial spheres. "White" control would be retained as the electoral roll for Parliamentary elections would remain almost wholly white.

260. The major non-white political organizations have strongly opposed the establishment of segregated councils as designed to facilitate the imposition of *apartheid*, and their supporters have boycotted these councils.

261. The Government, however, has proceeded with its plans. The Coloured Persons Representative Council Act, No. 49, 1964, has been passed and the National Indian Council set up. The first urban Bantu local council has been established. These and other developments are briefly reviewed below.

(i) *The Coloured Persons Representative Council Act of 1964 (Act No. 49 of 1964)*

262. The Coloured Persons Representative Council Bill was introduced in the House of Assembly on 26 February and was promulgated on 26 May 1964.[92] It provides for the establishment of a Coloured Persons Representative Council in the place of the present Council for Coloured Affairs.

263. The declared intention of the Government is to establish the Council to care for the special interests of the Coloured population while retaining only token representation for them in Parliament through white members. Prime Minister Verwoerd told the House of Assembly on 21 January 1964:

"... Our policy is that there will be a Coloured Legislative Council which will care for the interests of the Coloureds; the leaders ... will form an execu-

[89] Over 250,000 Africans are now employed in this area. The Government reiterated that the removal would be accomplished gradually without dislocation of the economy.

[90] *The Cape Times*, 24 July 1964.

[91] *Ibid.*, 23 April 1964; *Rand Daily Mail* (Johannesburg), 21 May 1964.

[92] The Act came into operation on 2 October 1964 (*Government Gazette*, 2 October 1964).

tive body. This Council will deal with matters affecting the Coloureds only. The other matters, affecting the country as a whole, will be dealt with by this Parliament as it is constituted at present, and the representatives of the Coloureds will remain white, as they are now. That is our policy."[93]

264. The Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, stated on 10 April 1964 that the object of the Bill was to establish "a representative Coloured council for the Republic which, with its executive committee, can be the mouthpiece of the Coloured population; which can serve as a means to consultation between the Republican Government and the Coloured population, and can serve as an instrument by means of which Coloured leaders in the sphere of local government, education, communal welfare and rural areas can lead and serve their community."[94] He added:

> "... I must reject the standpoint that the only basis for proper consultation and goodwill is an equal franchise on the same Voters' Roll ... The safety and good order and progress of South Africa as a State with a Christian character are closely dependent on the continued existence of this white nation with its strong position of power in southern Africa. The continued existence of the white man is also the best guarantee for the safety and progress of the Coloureds as a minority group in the area of white South Africa."[95]

He described the Bill as "a serious attempt along the road which we regard as the only possible one, the road of neighbourliness with diversity and the recognition of each section's rights in its own circle, the preservation of the rights of the Whites, but also the right of emancipation for those who are under our tutelage and who must be taught to assume greater responsibilities towards their own people."[96]

265. The Act provides for the establishment, with effect from a date to be determined by the State President, of a Coloured Persons Representative Council of South Africa with thirty elected members and sixteen members nominated by the State President. Coloured persons who are South African citizens and over the age of twenty-one years, and not disqualified, are entitled to register on the Coloured voters' list and vote in the elections to the Council.[97]

266. The Council is authorized to advise the Government, on request, in regard to all matters affecting the economic, social, educational and political interests of the Coloured population of the Republic, and generally to serve as a link and means of contact and consultation between the Government and the Coloured population.

267. The Act also provides for the establishment of an executive committee of the Council consisting of five of its members. The Chairman of the executive committee is to be designated by the State President and the four members elected by the Council. The executive committee is to carry out the functions of the Council, except in so far as the making of laws is concerned, while the Council is not in session, and deal with the following matters in so far as they affect Coloured persons: (*a*) finance; (*b*) local government; (*c*) education; (*d*) community welfare and pensions; and (*e*) rural areas and settlements for Coloureds.

268. The management of finance is assigned to the Chairman. The executive committee is to designate one of its elected members to exercise and perform, on its behalf and under its directions, the powers, functions and duties incidental to each of the remaining four matters.

269. The State President may by proclamation in the *Government Gazette* confer upon the Council the power to make laws in respect of any of the above five specialized subjects. No bill may be introduced in the Council, however, except with the approval of the Minister of Coloured Affairs, of Community Development and of Housing, to be granted after consultation with the Minister of Finance and the Administrators. Every bill passed by the Council is subject to assent by the State President. A law assented to by the State President and promulgated by the Secretary for Coloured Affairs would have the force of law as long and as far only as it is not repugnant to any Act of Parliament.

270. The Minister of Coloured Affairs, of Community Development and of Housing told the House of Assembly on 10 April 1964 that for the present the Council is to have no powers except to advise the Government at its request. He stressed that the Coloured people were now for the first time being given universal franchise, and added:

> "... there can be no objection to the principle of one man, one vote, if it applies to a population group and within its own circle. There can only be objection to the principle of one man, one vote, if it means that the 'one man, one vote' of other population groups is used to decide the fate of a particular population group, in this case the Whites, whose existence in this country guarantees the safety also of the other groups."[98]

271. The Bill was opposed by the Opposition parties and the representatives of the Coloured people in the House of Assembly.

272. The United Party opposed the Bill on the grounds that it was another step on the road of "separate development" and that it would estrange the Coloured people from the Whites. The leader of the Opposition, Sir de Villiers Graaff, said that the Bill gave the Coloured people, "... the most Westernized group amongst the non-European peoples, a definitely inferior type of council, a council with lesser powers and fewer powers than the Legislative Assembly now being created in the bantustan, in the Transkei."[99]

273. Mr. A. Bloomberg, a Coloured representative in the House of Assembly, said that the Bill perpetuated the status of the Coloured people as "second-rate citizens in their own country". He called on the Government to restore common franchise rights to the Coloured people as ordinary citizens and "enable them to be directly represented in this Central Parliament as full

[93] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, Col. 71.
[94] *Ibid.*, 10 April 1964, col. 3999.
[95] *Ibid.*, col. 3994.
[96] *Ibid.*, col. 4003.
[97] The Minister of Coloured Affairs, of Community Development and of Housing, Mr. P. W. Botha, stated that the first election to the Council would be held in 1966 (*South African Digest* (Pretoria), 5 March 1964).

[98] Republic of South Africa, *House of Assembly Debates (Hansard)*, 10 April 1964, col. 4000.
[99] *Ibid.*, 30 April 1964, col. 5228.

citizens of South Africa in common with their fellow Whites..."[100]

274. Mr. C. Barnett, another Coloured representative, said that the Bill was "a farce and a mockery" which offered no political future to the Coloured people because political rights, to be of any value had to be rights equal to those of the Whites and entitling them to have a direct say in the country's government.[101]

275. Mrs. Helen Suzman (Progressive Party) said on 14 April 1964:

"To represent this Bill which gives the Coloured people universal franchise to elect an utterly impotent body (which is what the Coloured Representative Council is) as a worth-while substitute for Common Roll rights to elect members to represent them in this Parliament... is a hollow sham. The real things that matter to the Coloured people such as group areas, job reservation and things of that nature, will never fall within the province of the Coloured Representative Council. They will only be discussed in this Parliament... What the Coloured man wants and needs, is exactly the same as the white man wants and gets in South Africa. In other words, education, free, compulsory and universal, so that their children may be able to develop, to the greatest possible extent, their potential abilities. Secondly, unrestricted economic opportunity so that they may thereafter use their training and their ability to the greatest possible extent. Thirdly... real political power which will mean something to them; that means a vote on the Common Roll for the Parliament that makes the laws that govern the lives of these people."[102]

276. The Bill was also criticized by many Coloured leaders outside the Parliament. Mr. M. D. Arendse, a member of the Council for Coloured Affairs said:

"While the Bill purports to give some legislative authority to the proposed new Representative Council, such power will be so restricted and hamstrung that the council will not be able to initiate legislation, let alone assist legislatively.

"In fact the Bill, as it stands, will confer virtual dictatorial powers on the Minister of Coloured Affairs, enabling him firmly to control the new Council and indirectly all aspects of the life of the Coloured people, from the cradle to the grave."[103]

277. Mr. Norman Daniels, a Coloured member of the Cape Town City Council, said:

"The Coloured people have never asked for a separate parliament, advisory or otherwise.

"The Coloured people have shown their strong feelings against the present Council for Coloured Affairs by boycotting the so-called elections for the Council. I am sure the same thing will happen when people are asked for a separate Coloured 'parliament'."[104]

278. Mr. Barney Desai, President of the Coloured Peoples Congress of South Africa, stated before the delegation of the Special Committee on 13 April 1964 that the Bill was a "fraud" and "just a matter of constitutional hocus pocus" (see A/AC.115/L.65).

(ii) *Establishment of a National Indian Council*

279. The Government has also set up an advisory body for people of Indian and Pakistani origin.

280. The Minister of Bantu Education and of Indian Affairs, Mr. W. A. Maree, announced on 26 November 1963:

"It is the intention, in accordance with government policy, to establish in the course of time a representative Indian council which will eventually consist of elected representatives with legislative and administrative powers in all matters affecting directly the Indian community...".[105]

281. Representatives of the community refused to co-operate,[106] but the Government arranged a conference of senior officers of the Department of Indian Affairs and about 100 "delegates"[107] in Pretoria on 10 and 11 December 1963 as an initial step towards the creation of a consultative machinery.

282. The Minister told the conference that he had invited them as democratically elected leaders of the Indian community could scarcely be found because of "agitation, intimidation and internal strife" and as there was a "dire need for consultation". He continued:

"If the required co-operation is still withheld it will not mean that I shall refrain from going ahead with the task entrusted to me. But I shall do so as I see fit and nobody will be entitled to accuse me then of taking matters into my own hands without first having consulted you."

The Minister warned the people of Indian and Pakistani origin that the Government had difficulty in engendering an adjustment of outlook among its followers "who for many years were used to saying that the Indians are a foreign people who should go back to their countries of origin".[108]

283. The Conference was reported to have accepted the Government's plans for the formation of a National Indian Council.[109]

284. On 3 February 1964 the Minister announced the establishment of a National Indian Council of twenty-one members (to be increased to twenty-five) as "purely an administrative arrangement to provide the machinery for contact between the Government and the Indian community. In due course, and after neces-

[100] *Ibid.*, col. 5250.

[101] Address to the Institute of Citizenship, reported in *The Cape Times*, 15 May 1964.

[102] Republic of South Africa, *House of Assembly Debates (Hansard)*, 14 April 1964, cols. 4208 and 4209.

[103] *The Cape Times*, 15 April 1964.

[104] *Ibid.*

[105] South African Information Service, 25 November 1963.

[106] The Transvaal Indian Congress declared, for instance, that "no self-respecting Indian will serve on a body designed to implement *apartheid*". (Reuters, 10 December 1963).

[107] The Minister of Bantu Education and of Indian Affairs stated that it had been decided to invite persons who had proved by their actions that they had the interests of the community at heart (*Rand Daily Mail* (Johannesburg), 13 November 1963).

[108] *Southern Africa* (London), 20 December 1963. Mr. Maree said the proposed council could "pave the way for an eventual democratically elected council," which in time would control those affairs of the Indian community that might be delegated to it by Parliament . . . Among matters upon which the council would be consulted were: (1) how it could be developed into an elected body with powers to legislate and administer; (2) improvement of school facilities; (3) establishment of local government for Indians and by Indians in their own cities, towns and residential areas; (4) giving Indians a share in industrial development; (5) establishing Indian-run hospitals; (6) care for the aged and infirm; and (7) creation of more employment facilities."

[109] *Southern Africa* (London), 3 January 1964.

sary consultation, legislation will be introduced for the creation of a statutory council." He added that the establishment of the Council created an official link between the Government and the Indian community and showed "proof of the Government's willingness and desire to cater for the needs of Indians in the same way as the needs of other sections of the population are being catered for".[110]

285. Mr. J. H. van der Merwe was appointed Chairman of the Council.

286. The first meeting of the Council was held in Cape Town from 23 to 25 March 1964. The Minister told the Council that it "will go a long way towards relieving the frustration which might have existed in the past". He added that if Indians felt frustrated they might well ask to what extent their plight was due to the reckless and irresponsible words and actions of some of their compatriots.[111]

287. The National Indian Council has had little support from the Indian community.

288. Mr. R. N. Bhoolia, Vice-President of the Transvaal Indian Congress said in February 1964: "The National Indian Council is worthless and is an attempt to give false hopes to our people. The Indian people will never accept *apartheid* and have always regarded themselves as an integral part of the South African population. The only acceptable solution is to put us on a general voters' roll—not to separate us."[112]

289. He added that the National Indian Council was "a racialist group Council based on *apartheid* ideologies".

"It can only work within the framework of *apartheid*. It cannot create any material changes in the position of the Indian community. In the past fifteen years of *apartheid* many have lost homes and businesses.

"The Council is an instrument of *apartheid*. The Government is trying to implement its *apartheid* legislation against the Indians under the guise that some Indians approve of this, thus hoping to mislead world opinion that the Indians in South Africa accept their present position."[113]

290. Three members of the National Indian Council—Mr. Jack Naidoo (Vice-Principal of the M. L. Sultan College, Durban), Mr. B. Rambirith (lecturer at the Indian University College at Salisbury Island), and Mr. A. S. Kajee (businessman from Durban)—were booed by most of about 500 people when they made their first public appearance as Council members at the Merebank Indian Ratepayers' Association.[114]

291. The executive committee of the Cape Peninsula Traders Association unanimously decided to "reject the creation of the Government-sponsored National Indian Council as a representative of the Indian people".[115]

(iii) *Establishment of urban Bantu councils and boards*

292. The first urban Bantu council was established at Welkom (Orange Free State) on 8 November 1963. The council consists of eight elected and four appointed members representing various ethnic groups.[116]

293. In Cape Town, however, for the third time in three consecutive years, the City Council was unable to find enough interested Africans in the Langa township to enable the Langa Native Advisory Board to function. Notices were distributed in the township asking for nominations for election to the eight seats, but none was received.[117]

(iv) *Establishment of consultative and management committees for the Coloured people and Indians*

294. Consultative and management committees are being established for the Coloured people and the Indians in segregated communities set up for them under the Group Areas Act, No. 41, 1950. These committees are seen as a prelude to the eventual formation of town councils in these communities. Meanwhile, they are consulted by City Councils on proposals affecting the respective communities, but their advice is not binding.

295. On 14 April 1964, the first Indian Consultative Committee of five members was appointed at Laudium, a township established under the Group Areas Act for Indians evicted from Johannesburg.[118]

296. In Transvaal, the first Coloured management committee of five members was appointed by the Provincial Administrator in September 1964. One of the members refused to accept the appointment.[119]

297. As the Cape Town City Council did not nominate members for the three Coloured management committees in the City, the Provincial Administrator appointed the members.[120]

298. The Minister of Coloured Affairs, of Community Development and of Housing told the House of Assembly on 31 January 1964:

"... In the Transvaal two consultative committees were established on 15 October 1963 in terms of the relative ordinance in the Coloured areas of Eersterus at Pretoria and Alabama at Klerksdorp. Approval was also granted in principle for three consultative committees to be established in the Indian areas of Laudium at Pretoria, Lenasia at Johannesburg and Primindia at Brits. In the Cape Province approval in principle was granted for the establishment of three management committees in the Coloured areas at Bellville, Goodwood and Paarl as well as for ten consultative committees in the Coloured areas at Aliwal North, Forth Beaufort, Fraserburg, Moorreesburg, Piketberg, Prieska, Richmond, Saldanha Bay, Victoria West and Vryburg. The establishment of further committees is being considered."[121]

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110 Agence France Presse, 3 February 1964.

111 *South African Digest* (Pretoria), 3 April 1964.

112 *Ibid.*, 13 February 1964.

113 *Sunday Times* (Johannesburg), 9 February 1964; quoted in *Spotlight on South Africa* (Dar es Salaam), 28 February 1964.

114 *The Cape Times*, 1 June 1964.

115 *Ibid.*

116 *South African Digest* (Pretoria), 7 November 1964.

117 The board is to have twelve members—the chairman and three other members appointed by the Council and eight elected by the residents. To comply with the law, the Council has every year appointed the chairman of its Bantu Affairs Committee and three Africans to represent it on the board. Since the Langa and Sharpeville riots in 1960, possible candidates were reported to have been nervous about public participation in an election for an official consultative body (*The Cape Times*, 10 April 1964).

118 South African Information Service, 15 April 1964; *South African Digest* (Pretoria), 24 April 1964.

119 *The Cape Times*, 24 September 1964.

120 *Ibid.*, 24 June 1964.

121 Republic of South Africa, *House of Assembly Debates (Hansard)*, 31 January 1964, cols. 544 and 545.

(d) *Other* apartheid *measures outside the African reserves*

299. Meanwhile, the Government has continued not only to implement but to further extend *apartheid* measures to separate racial groups and restrict inter-racial communication.

300. Pass laws to control the movement of Africans continue to be enforced and mass raids conducted in African locations. As a result, the average number of Africans in prisons increased to more than 51,000, the highest since 1948.[122]

301. The classification of persons under the Population Registration Act, No. 30, 1950, continues. Complaints are received from many families in which some members are classified as white and others as Coloured, and from many others who claim to have been wrongly classified and thus subjected to serious difficulties.

302. Prosecutions continue under the Immorality Act of 1957, as amended, which prohibits carnal intercourse between members of different groups: 745 persons were prosecuted under this Act in 1963, and 364 convicted.[123]

303. A few of the other significant developments in this respect are briefly noted below.

(i) Apartheid *in education*

304. Segregation in education is being extended and completed. It was reported that a faculty of medicine would be established at the University College of the North. African students would be enrolled in this segregated institution in early 1965, and would then be barred from the medical schools of the Universities of the Witwatersrand, Cape Town and Natal.[124]

305. African pupils are being removed from Coloured schools in Cape Town from 1 January 1965 though African schools are not adequate and the syllabus in these schools is quite different.[125]

306. In January 1964, when the principal of the Trafalgar High School, Claremont, was told to remove the nine African pupils in the school, 600 of the 650 pupils went on a protest strike.[126]

307. Growing evidence of falling standards as a result of the segregated education and other reasons has continued to cause concern. The total enrolment of African pupils has increased but the funds devoted to their education have not proportionately increased. While the white children receive free education, the Government grant for African education is set at a fixed amount so that additional funds have to be collected from taxes on Africans.

308. The Minister of Bantu Education and of Indian Affairs, Mr. W. A. Maree, told the House of Assembly, in answer to questions on 4 February 1964, that 1,710,-857 African pupils were enrolled in primary schools. Only 53,683 African pupils, however, were in secondary schools; 5,720 in vocational and technical schools, and 630 in university colleges. Of the total number of African pupils, only 2.27 per cent were in standard VII and 0.06 per cent in standard X.[127]

309. The Minister stated on 29 May 1964 that of the 211,629 African children who began school in 1951, only 19,970 reached high school and only 1,040 reached matriculation in 1963.[128]

310. Though the non-whites constitute a large majority of the population, there were only 3,682 non-white students in the universities in 1963 compared with 45,705 white students.[129]

(ii) Apartheid *in employment*

311. Job reservation, intended mainly to reserve certain professions to whites, continues in force.

312. A *Government Gazette Extraordinary* issued in October 1964 reserved all supervisory and control jobs and some skilled jobs in the motor assembly industry to Whites. It laid down the minimum percentage of Whites who must be employed in the motor assembly industry: the percentage varies between twenty and sixty-five in different towns.[130] It is reported that at least 150 Coloured and Indian workers at an assembly plant in Durban may be dismissed as a result of this order.[131]

313. Some of the results of job reservation are disclosed in information provided by the Minister of Transport in answer to two questions in the House of Assembly: (*a*) in the road motor transport service, 1,222 white drivers are employed but no non-white is employed as a driver;[132] (*b*) in the railways administration, all skilled jobs are held by Whites.[133]

314. Job reservation was again criticized at the annual conference of the Trade Union Council of South Africa on the ground that one racial group was being favoured at the expense of others. The conference unanimously passed a resolution to petition the Government to end job reservation.[134]

315. Opening the congress of the Co-ordinating Council of South African Trade Unions on 7 November 1963, the Deputy Minister of the Interior, of Education, Arts and Sciences, of Labour and of Immigration, Mr. Marais Viljoen, said that the Government would not relax the job reservation laws despite the scarcity of manpower.[135]

316. The Local Road Transportation Board of the Cape decided on 25 July 1963 that white taxi owners could employ only white drivers who could carry only white passengers and that Coloured taxi owners could employ only Coloured drivers who could carry only Coloured passengers. More than 100 Coloured taxi

[122] *The Cape Times*, 11 June 1964.

[123] Republic of South Africa, *House of Assembly Debates (Hansard)*, 19 June 1964, col. 8638.

[124] *The Star* (Johannesburg), weekly edition, 9 November 1963.

[125] There is only one African High School in Cape Town and no Indian High School (*The Cape Times*, 26 October 1964).

[126] *The Cape Times*, 26 October 1964.

[127] Republic of South Africa, *House of Assembly Debates (Hansard)*, 4 February 1964, col. 713.

[128] *Ibid.*, 29 May 1964, col. 6850. Mrs. Suzman commented that this drastic fall was caused by several factors: children being taken away from school at an early age so that they can earn money to augment the family income; the drastic weeding out through denial of continuation certificates; and a serious scarcity of accommodation in high schools (*The Cape Times*, 30 May 1964).

[129] The non-whites included 1,471 Africans, 1,428 Asians and 783 Coloureds (replies by the Minister of the Interior and of Education, Arts and Sciences, to questions in the House of Assembly; see Republic of South Africa, *House of Assembly Debates (Hansard)*, 18 February 1964, col. 1492).

[130] *The Cape Times*, 20 October 1964.

[131] *Ibid.*, 30 October 1964.

[132] Republic of South Africa, *House of Assembly Debates (Hansard)*, 25 February 1964, col. 1919.

[133] *Ibid.*, 28 February 1964, cols. 2146 and 2147.

[134] *The Cape Times*, 16 April 1964.

[135] *Ibid.*, 8 November 1964.

drivers were dismissed in Cape Town as a result of this regulation.[136] The decision, moreover, caused legal confusion as the Cape Town municipal regulation required taxi drivers to carry any passengers if requested to do so.

317. The decision of the Local Road Transportation Board was appealed both by the drivers and by taxi owners who complained of difficulty in finding white drivers. The National Transport Commission decided on 27 April 1964 that white taxi owners may employ Coloured drivers so long as only passengers of the owner's race were conveyed.[137]

318. Several taxi drivers were arrested on 19 May 1964 for violating the regulations and a spontaneous strike of taxi drivers took place. The charges against those arrested were subsequently withdrawn.[138]

319. Five taxi operators were ordered to appear before the Local Road Transportation Board to show cause why their certificates should not be cancelled or suspended for violating the regulation. Their attorney, Mr. S. L. Gross, argued that it was difficult for a driver to decide in a fraction of a second to which race the prospective passenger belonged .He said "the driver must take a decision which in higher circles is causing great difficulty". The Chairman of the Board, Mr. J. H. Lasky, warned the taxi owners that it was their responsibility to watch the drivers and be on the look-out all the time.[139]

(iii) Apartheid *in sports*

320. The Minister of the Interior and of Education, Arts and Science, Senator J. de Klerk, reaffirmed the Government's position, stated in 1962, that it would not approve South African teams composed of white and non-white sportsmen competing abroad or foreign teams so composed entering South Africa. Separate teams of different racial groups from South Africa may compete with any team abroad. Within the Republic, however, Whites must compete only against Whites, and non-whites against non-whites.[140]

321. The South African Press has reported that the Minister intends to introduce the Protection of Race Relations Bill to enforce rigid *apartheid* in virtually all cultural, sporting and entertainment fields.

322. In June 1964, the South Africa Athletic Union sent a contingent of nine white and two non-white athletes to Europe, but the president of the Union, Mr. Matt Mare, made it clear that they were not being sent as a South African team and that "the Whites will represent the Whites of South Africa and the non-whites the non-white population".[141]

323. The segregation in sports has led to international protests. Protest demonstrations took place in London, Oslo and other cities when South African athletes appeared in international competitions. The invitation to South Africa to compete at the eighteenth Olympic Games in Tokyo was withdrawn in August 1964 as the South African Olympic Committee declined to dissociate itself publicly from the Government's policy of banning interracial sports events.

324. The International Football Federation decided on 8 October 1964 to suspend South Africa indefinitely because of its *apartheid* policy. A proposal to expel South Africa was also presented at the meeting of the International Amateur Athletic Federation Congress in Tokyo on 22 October 1964, but it was rejected by 145 votes to 82.

(iv) Apartheid *in scientific organizations*

325. Mr. Jack Basson (United Party) said in the House of Assembly that scientists were worried about the Government circular sent to scientific organizations in 1962 warning them that grants-in-aid would be withdrawn if they did not follow the Government's policy of racial separation. Most of the seventeen scientific organizations in the country had no non-white members: only about fourteen of a total membership of about 14,000 were non-white. But many of them were also affiliated to organizations abroad, and scientists were exceedingly worried lest the Government's policy lead to further isolation from the rest of the world.[142]

326. The Minister of the Interior, and of Education, Arts and Science, however, declared that the Government would not deviate from its policy that associations should arrange their affairs separately for Whites and non-whites and that the necessary contact should be created only at their highest level by way of affiliation, federation or other means. Subsidies for the financial year 1964-1965 would be paid as previously, but would not be renewed after that year to associations which did not give effect to the Government's policy.[143]

327. Professor W. J. Talbot, Secretary of the Royal Society of South Africa, said that seven societies had decided not to alter their constitutions: one had decided not to reapply for a grant and six were adopting a "wait and see" attitude.[144]

(v) Apartheid *in recreational and cultural facilities*

328. The imposition of *apartheid* on the beaches, in libraries, recreational facilities and civic buildings in Cape Town is indicative of the Government's anxiety to hasten maximum separation of the races.

329. In January 1964, the Administrator of the Cape, Mr. Malan, gave notice to the Cape Town City Council that unless it put up notices by 22 February 1964 that certain beaches were reserved for Whites, he would be compelled to act in accordance with the Separate Amenities Ordinance of 1955 and put up notices at the cost of the Council.[145] The Council, however, could not designate alternate beaches for non-whites because the whole question was "bedevilled by the Group Area Act" and available areas were reserved by the Government for

[136] *The Cape Times*, 22 November 1963. *Apartheid* in connexion with taxi passengers was introduced in Cape Town as early as 1950, when the policy was laid down that holders of existing taxi licences would be allowed to carry both white and non-white passengers, but new applicants for licences would be allowed to carry passengers of one racial group only unless they gave good reasons for exemption. Very few new licences have been granted since that time for the conveyance of all races (*The Cape Times*, 12 June 1964).

[137] *The Cape Times*, 28 April 1964.

[138] *Ibid.*, 20 and 30 May, 2 and 12 June 1964.

[139] *Ibid.*, 13 June 1964.

[140] Associated Press, 21 October 1964.

[141] *The Cape Times*, 9 June 1964.

[142] Republic of South Africa, *House of Assembly Debates (Hansard)*, 13 May 1964, cols. 5959 and 5960.

[143] *Ibid.*, 14 May 1964, col. 5989.

[144] *The Cape Times*, 23 May 1964.

[145] The Department of Community Affairs had ruled that non-whites could no longer use several beaches which had been traditionally used by them because they were in white group areas. The deadline was subsequently extended pending further discussions (*The Cape Times*, 1, 8, 10 and 25 April 1964).

other purposes. The deadline was extended pending further discussions.[146]

330. The Administrator warned the City Council on 12 April 1964 that, unless it introduced *apartheid* in all the libraries by 1965, as contemplated by the Provincial Library Service Ordinance No. 4 of 1955, the subsidy for free library services would be withdrawn.[147]

331. The Department of Housing, the approval of which is required for the construction of new civic buildings in "group areas" has usually insisted that such buildings be for one race only. Cape Town's plan for a Civic Hall and Library at Three Anchor Bay was approved only on such a condition. Members of the City Council protested that this policy, requiring the duplication of civic halls and amenities, made costs prohibitive.

332. The Administrator of the Cape also announced that the proposed opera house on the Cape Town Foreshore would be reserved only for Whites. This aroused strong opposition from many organizations and individuals who pointed to the great interest of the Coloured people in the opera and their significant contribution to opera in South Africa.[148]

(vi) *Curtailment of interracial communication*

333. The Government is using all its powers to curtail interracial communication except at the level and in the form approved by it.

334. An important development in this respect was the declaration by the Prime Minister, Mr. H. F. Verwoerd on 8 September 1964 that Whites had no right to interfere in the politics of non-white racial groups which were being granted separate councils. He referred in particular to the activity of the Progressive Party.[149]

335. Permission was refused for a Progressive Party meeting at Genadendal in the South Cape Coloured Representatives' constituency, where the Party ran a candidate to the Provincial Assembly. The Secretary for Coloured Affairs stated that parties led or controlled by Whites would not obtain permission for such meetings.[150]

336. The Government is reported to be planning legislation to prohibit political parties controlled by Whites from taking part in elections for non-white Councils or engaging in political activities in non-white communities. Individual white candidates will, however, be allowed to participate if nominated by non-white parties, as only Whites can represent the Coloured people in the Parliament and the Cape Provincial Council.[151]

337. Both the Progressive Party and the Liberal Party, which admit non-white members, denounced the proposed move.

338. The Prime Minister reaffirmed on 23 April 1964 that Government officials would not attend multiracial parties given by the Diplomatic Corps.[152]

339. The Minister of Defence said on 7 April 1964 that members of the Defence Force had been told not to accept invitations to multiracial social gatherings, including the National Day celebrations where one gathering was arranged for Whites and another for all races.[153]

(e) *Developments in the Transkei and other African reserves*

340. In its report of 13 September 1963, the Special Committee analysed the moves to establish limited self-government in the African reserve of Transkei as a step towards the creation of a series of "bantustans". It pointed out in conclusion:

"145. These moves are engineered by a Government in which the African people concerned have no voice and are aimed at the separation of the races and the denial of rights to the African population in six-sevenths of the territory of the Republic of South Africa in return for promises of self-government for the Africans in scattered reserves which account for one-seventh of the territory.

"146. These reserves contain less than two-fifths of the African population of the Republic, while many of the Africans in the rest of the country are largely detribalized and have little attachment to the reserves.

"147. The bantustans were not demanded by African leaders, but were imposed against their wishes. The leaders of the African people are silenced, entry into reserves by Whites is controlled by permit, and, under Proclamation 400, the Transkeians are denied freedom of assembly and speech.

"148. The self-government granted to Transkei at present is limited in many ways...

"149. The scheme aims at reinforcing tribalism and utilizing the tribal system against African aspirations for equality.

"150. The 'national units', made up of scattered reserves, are not economically viable. They do not provide a minimum standard of living even for the existing population of less than four million... They have few known mineral resources, and they are almost devoid of industries. Their economies depend largely on the export of their labour to the 'white' areas, at the rate of over half a million migrant labourers a year. The Transkei is dependent on Government grants even for its administrative costs...

"...

"153. The creation of bantustans may, therefore, be regarded as designed to reinforce white supremacy in the Republic by strengthening the position of tribal chiefs, dividing the African people through the offer of opportunities for a limited number of Africans, and deceiving public opinion."[154]

(i) *Elections to the Transkei Legislative Assembly*

341. Elections to the Transkei Legislative Assembly took place on 20 November 1963. Under the provisions of the Transkei Constitution Act, only forty-five out of the 109 members of the Assembly were elected; the four paramount chiefs and the sixty chiefs of the Transkei, appointed and paid by the Government of

[146] *The Cape Times*, 28 May 1964.

[147] The Cape Town City Council has provided separate facilities in most libraries, but not yet in the Central Library. The library service is heavily dependent on subsidy (*The Cape Times*, 18 April 1964).

[148] *The Cape Times*, 15 and 16 June 1964.

[149] *Ibid.*, 9 September 1964.

[150] *Ibid.*, 11 September 1964.

[151] *The Star* (Johannesburg), weekly edition, 19 September 1964.

[152] *The Cape Times*, 24 April 1964.

[153] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 7 April 1964, cols. 3737 and 3738.

[154] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497.

the Republic, were automatically members of the Assembly.

342. The Government announced that 880,425 persons—414,238 men and 466,187 women—had registered as voters. Of the total registered voters, about 610,000 had registered in the Transkei and about 270,000 outside the territory.[155]

343. One hundred and eighty candidates were nominated for the forty-five seats. The election contest was mainly between supporters of Chief Kaiser Matanzima, head of Emigrant Tembuland, who supported the policy of "separate development" or *apartheid*, and the supporters of Paramount Chief Victor Poto of Western Pondoland, who opposed that policy in principle, and called for multiracialism and a more democratic legislature.[156] The issues in the elections, however, were rather unreal as the Government had made it clear that multiracialism could not be allowed in the Transkei. Paramount Chief Victor Poto stated that though he was in favour of a multiracial Transkei, he realized that he would not be able to do much to promote it before the Transkei was totally independent.[157]

344. Moreover, the elections were conducted under a State of Emergency and with many of the most prominent leaders like Nelson Mandela, Walter Sisulu and Govan Mbeki in gaol and others like Oliver Tambo in exile.

345. Despite the clear evidence of the Government's support for Chief Matanzima, and the repression of the opponents of *apartheid*, two thirds of all the elected seats were won by supporters of Paramount Chief Poto. This was widely interpreted as a repudiation of *apartheid* by the Xhosa people.

346. Chief Matanzima, however, was elected Chief Minister on 6 December 1963 by 54 votes to 49, having obtained the support of a large majority of the chiefs.[158] A Cabinet of six members was announced on 11 December.[159]

(ii) *Establishment of the Democratic Party and the Transkei National Independence Party*

347. The two major groups in the Legislative Assembly proceeded to form political parties.

348. On 7 February 1964, the supporters of Paramount Chief Victor Poto formed the Democratic Party and declared that its objects included retention of the Transkei as an integral part of South Africa, together with the development of a non-racial loyalty to the Government of the Transkei, as well as the South African Government. Membership was to be open to all races. The party decided not to link up with any other political party or movement in South Africa.[160] Paramount Chief Poto said the objective of the party was "democracy and multiracialism for all in the Transkei and eventually all in South Africa".[161]

349. At a conference in April 1964, the party elected Paramount Chief Victor Poto as its leader and Mr. Knowledge Guzana, an attorney, as National Chairman. The conference called on the party leaders to seek the repeal of Proclamation 400 of 1960 (the Transkei Emergency Regulations), the abolition of the 90-day detention clause, the repeal of all "discriminatory" laws, the recognition of African trade unions, and the establishment of factories in the territory.[162]

350. Paramount Chief Victor Poto called for African representatives in the South African Parliament. He said:

> "The partial self-government in the Transkei, what we now have, is only the beginning of our dream to get to the central government."

He added that the present Government in the Transkei had a basic defect: it aimed at further consolidating separate development on the "evil basis" that "directs us to drive away the Europeans with whom we have developed the Transkei".[163]

351. In his first speech in the Legislative Assembly, Paramount Chief Poto said that it had always been wrong to separate people, and that segregation had never been accepted by the people, but forced down their throats by the Governments.[164]

352. Meanwhile, Chief Kaiser Matanzima announced in March 1964 that his group would be known as the Transkei National Independence Party. He declared that the party would contest any attempt to alter the principle of separate development to one of integrated multiracialism.

353. The programme of the Transkei National Independence Party stated that it recognized the Transkei constitution as its statutory basis, and would only alter the constitution "when it becomes necessary for the more efficient functioning of administrative action". It was convinced that commercial concerns now in the hands of Whites "must progressively be taken over by the Bantu with the co-operation of the Government of the Republic of South Africa".[165]

(iii) *First session of the Transkei Legislative Assembly*

354. The Transkei Legislative Assembly was opened on 5 May 1964 by State President Swart who said that after gradual development over the years, the people of the Transkei now had an "all Westernized system of government together with its attendant institutions", and that this was "another important milestone on the road to the development of the Bantu people". He assured the Assembly that the Republic of South Africa would continue to assist the Transkei and that

[155] Under the Transkei Constitution Act, No. 48, 1963, all Africans born in the Transkei, all Xhosa-speaking persons in South Africa and all Sotho-speaking persons linked with Sotho elements in the Transkei were regarded as "citizens" of Transkei.

[156] For a summary of the main points of the manifestos of Chief Matanzima and Paramount Chief Poto, see document A/5692, annex II, para. 59 and footnote 45.

[157] *South African Digest* (Pretoria), 21 November 1963.

[158] On 7 August 1964, Chief Sigwebo Mhlango, a member of the Legislative Assembly, announced that he was joining the Opposition Democratic Party and stated that he had earlier supported Chief Kaiser because of threats by certain Government officials that he would otherwise lose his rights as a traditional chief. He claimed that most of the chiefs who had supported Chief Kaiser had also been intimidated (*The Cape Times*, 8 August 1964).

[159] The opposition members objected to the appointment of Chief George Matanzima, brother of Chief Kaiser, as Minister of Justice on the ground that he had been struck off the roll of attorneys on 6 June 1963 by the Supreme Court at Grahamstown which had found him guilty of misconduct in the administration of trust funds. The Minister of Bantu Administration and Development, Mr. M. D. C. de Wet Nel defended Chief George Matanzima and said that he had repaid all his debts. (*Southern Africa* (London) 24 January 1964; *Die Burger* (Cape Town), 11 February 1964.)

[160] *The Star* (Johannesburg), weekly edition, 8 February 1964.

[161] Reuters, 9 February 1964.

[162] *The Cape Times*, 6 April 1964.

[163] *The Star* (Johannesburg), weekly edition, 2 May 1964.

[164] *The Cape Times*, 7 May 1964.

[165] *South African Digest* (Pretoria), 26 March 1964.

South African civil servants would train their successors in office.

355. The first piece of legislation before the Assembly was the Appropriations Bill for 1964-1965. It provided for an expenditure of R15,510,000 ($21,714,000).

356. The revenue was estimated at R16,126,000 ($22,576,400) of this, R13 million ($18.2 million) was the grant from the Government of the Republic and R1 million ($1.4 million) was to be derived from a general tax to be collected by the Government of the Republic from Transkeian "citizens" living or working outside the Transkei.[166] The Appropriations Bill was approved on 26 May by 55 votes, with the Democratic Party abstaining from the vote.[167]

357. Another bill adopted at this session was the Transkei Education Bill. The debate reflected the unpopularity of "Bantu education" introduced by the South African Government. Following a series of motions by the members of the Democratic Party, the Legislative Assembly set up a Select Committee and subsequently approved its recommendations that the "Bantu education" syllabus be abandoned and that the official language (English or Afrikaans) of the parents' choice be introduced as the medium of instruction from standard III on.[168]

358. The Assembly also considered several other motions by the Democratic Party. A motion recommending the immediate repeal of Proclamation R.400 of 1960 (the Transkei Emergency Regulations) was opposed by the Minister of Justice, who pointed out that the matter was entirely within the competence of the Government of the Republic, and was rejected by 52 votes to 40.[169]

359. Another motion to ask the Republican Government to relax the influx-control regulations which restrict the freedom of movement of the Africans was passed with the agreement of the Chief Minister. Mr. B. S. Rajuili, a Democratic Party member, told the Chief Minister: "Even if it means you must go on your knees, and plead, please plead for the relaxation of these nefarious regulations."[170] A third motion that "rehabilitation schemes" be introduced in the Transkei only with the consent of the local people, was carried by one vote as a number of supporters of the Government abstained on the vote, or were absent.[171]

(iv) *Developments in other reserves*

360. The Government is continuing its efforts to establish "bantustans" in other African reserves.

361. The Press reported in February 1964 that plans for a "zulustan" for the 2 million Zulus in Natal had met with resistance, particularly from Chief Gatsha Buthelezi and Chief Ntando Magwaza.[172] Zulu chiefs and leaders protested strongly against a letter received from the Secretary of Bantu Administration and Development in January 1964 indicating that the Zulus had no power "to accept or reject" the establishment of Bantu authorities under the Bantu Authorities Act of 1951.[173]

362. The Minister of Bantu Administration and Development, Mr. M. D. C. de Wet Nel, said on 3 March 1964, in reply to questions in Parliament, that following consultations with the tribes in Natal and Zululand, 111 tribes had asked for the establishment of the authorities, thirty-eight were not in favour and ninety had not yet decided on the matter.[174] He rejected a referendum on the question of the establishment of a "zulustan".[175]

363. The Minister stated, however, that his policy was not to impose the Bantu authorities on unwilling tribes.[176] After the Chief Bantu Affairs Commissioner had reiterated this assurance and had appealed to Chief Buthelezi and his traditional Council to co-operate with the Government, it was reported that Chief Buthelezi had agreed not to oppose the Bantu authority system.[177]

364. The Minister of Bantu Administration and Development said on 19 August 1964 that the report of the interdepartmental committee on State lands in Zululand would be available soon and that it would then be possible to decide finally the borders of the Zulu homeland.[178]

365. The Minister was reported to have stated in September 1964 that the next bantustan would be established in "Tswanaland", a patchwork of reserves near Bechuanaland, within about two years. The Min-

[166] *The Cape Times*, 14 May 1964. The South African Minister of Finance said in his budget statement in March 1964 that, in addition to the grant to the Transkei, a total of R1,298,000 ($1,817,200) would be paid to officials of the Department of Bantu Administration stationed in the Transkei.

[167] *The Cape Times*, 27 May 1964.

[168] The Commission of Inquiry into the Teaching of the Official Languages and the Use of the Mother Tongue as Medium of Instruction in Transkeian Primary Schools (known as the Cingo Commission), appointed by the South African Government in 1963, had reported strongly in favour of instruction in the mother-tongue. African educators and parents had complained that such instruction, especially in higher grades, separated Africans on tribal lines and caused a fall in educational standards. They had suggested that instruction in an official language of the Republic be introduced at an early age and that the choice of the official language be left to the parents (*Liberal Opinion* (Pietermaritzburg), July 1964; *South African Digest* (Pretoria), 3 July 1964).

Opposition members also criticized the appropriation of R4,176,000 ($5,846,400) for education as inadequate though somewhat higher than the expenditure in the previous year which was R3,832,000 ($5,364,800).

Mr. Knowledge Guzana, national chairman of the Democratic Party, said that it was "a drop in the ocean" considering the population of the Transkei. He suggested that the Transkei should appeal to Western countries for help if the South African Government did not have enough money for a "proper" education system in the Transkei (*The Star* (Johannesburg), weekly edition, 9 May 1964).

[169] *The Cape Times*, 28 May 1964.

[170] *Ibid.*, 11 June 1964.

[171] *Liberal Opinion* (Pietermaritzburg), July 1964. These schemes for soil conservation have been unpopular as they involved demolition and removal of homes without compensation, compulsory labour and, in some cases, reduction or loss of fields by administrative decision.

[172] Quoted in *Spotlight on South Africa* (Dar es Salaam), 6 March 1964. Paramount Chief Cyprian was reported to have accepted the bantustan policy in principle, but faced considerable opposition from the Zulus. At a meeting of the Zulu chiefs in March 1963, Chief Buthelezi, a cousin of Paramount Chief Cyprian, demanded a referendum on whether the people wished to participate in the Bantu Authority system.

[173] *The Cape Times*, 12 March 1964.

[174] The establishment of local Bantu authorities and a territorial authority for the area is a prerequisite to the establishment of a "zulustan" on the lines followed in the Transkei.

[175] *The Senate of the Republic of South Africa, Debates (Official Report)*, 3 March 1964, cols. 1674 and 1675; Republic of South Africa, *House of Assembly Debates* (*Hansard*), 3 March 1964, cols. 2323 and 2324.

[176] *Ibid.*

[177] *The Cape Times*, 12 March 1964.

[178] *Ibid.*, 20 August 1964.

ister indicated that it may be granted self-government even before the various reserves were consolidated.[179]

C. Danger of violent conflict

366. The promulgation of legislation closing all avenues for peaceful protest against the Government's racial policies, and the ruthless repressive measures instituted against all opponents of the policies of *apartheid*, have increasingly persuaded non-white leaders and white opponents of *apartheid* that the only available and effective means within South Africa for registering protest and securing change is underground activity and violence. The struggle for equality has been carried on in South Africa for many years, and the leaders of the non-whites have shown a strong attachment to non-violent means. From 1961, however, leaders and supporters of the African National Congress and the Pan-Africanist Congress were reported to have been converted rapidly to an acceptance of violence as an inevitable and justifiable element in the struggle as the Government met peaceful demands with force and in view of the danger of the spread of terrorism by isolated groups which would have further intensified racial tension. Since then, other elements seem to have accepted this view.

367. As Dr. Joost de Blank, until recently Anglican Archbishop of Cape Town, said in January 1964: "Repressive legislation leads to more violence and more repressive legislation until such time as it reaches a pitch when it will have to blow."[180]

368. He told the delegation of the Special Committee in London in April 1964:

> "What ... is amazing to the person who lives in South Africa, is the continuing patience and ... the continuing goodwill of the African towards white people in the country where he is exploited and discriminated against day in and day out, month after month, year after year ...
>
> "... unless this legislation can be brought to an end in the foreseeable future, no one can look for anything but bloody violence in South Africa. This, it seems to me, is unavoidable and inescapable" (see A/AC.115/L.65).

369. It may be recalled that the South African Government alleged that an underground organization called the Poqo, associated with the Pan-Africanist Congress, was responsible for the many acts of violence, including disturbances at Paarl, the killing of five Whites at Bashee Bridge and the attempted violence at Queenstown in 1962. It charged that the Umkonto we Sizwe ("Spear of the Nation"), established by leaders of the African National Congress, had organized a large number of acts of sabotage beginning in December 1961.[181]

370. The existence of a new underground organization called the African Resistance Movement (ARM), composed mainly of white liberals, was reported in the summer of 1964.[182]

371. Spokesmen of the Pan-Africanist Congress and leaders of the Umkonto we Sizwe admitted that they had resorted to underground activity, involving sabotage or certain forms of violence, since 1961 by which time the two major African organizations had been banned.

372. *Panafrica*, bulletin of the Pan-Africanist Congress published in Algiers, stated on 15 September 1964:

> "After Sharpeville, the country sank into silence. All the known leaders of all the liberation movements were imprisoned. However, the Pan-Africanist Congress continued its operations, for a great many of its leaders were not known to the police. Moreover, two years later several high-ranking PAC leaders were released, having served their sentences.
>
> "Slowly, and with the greatest circumspection, the local committees were re-formed. Since the name Pan-Africanist Congress was banned, the PAC called itself the Poqo. Recruitment and preparations were going on everywhere. The centre of preparations was Maseru, the capital of Lesotho (Basutoland), where Potlako K. Leballo, general secretary of the movement and the Presidential Council, established their headquarters. The PAC decided to launch a full-scale armed attack on the settlers, and, in particular on the *gendarmerie* stations.
>
> "Unfortunately, the Government discovered the plan and as a result thousands of Africans were arrested. Despite this setback, the PAC succeeded in carrying out several attacks, in the course of which a number of policemen and Government puppets were killed ...
>
> "The Poqo campaign was thus both a victory and a defeat in the struggle for freedom. On the one hand the PAC shook the Government to its foundations and showed that the time for moderation and non-violence was over. On the other hand, the movement lost in this campaign a great many of its finest sons, who were executed or imprisoned.
>
> "What is certain is that the people have not lost heart, that the moderate movements no longer have a place in the South African situation, and that the PAC has survived and is gaining increasing popular support."

373. It may be recalled that many of the accused in the Rivonia trial, including several prominent leaders of the African National Congress, were charged with leadership of the Umkonto we Sizwe and responsibility for acts of sabotage from December 1961. The defendants stated that the Umkonto we Sizwe had been established in 1961 and that it was distinct from the African National Congress though subject to political guidance from the latter. Nelson Mandela said on 20 April 1964:

> "4. ... I do not, however, deny that I planned sabotage. I did not plan it in a spirit of recklessness, nor because I

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[179] The weekly edition of *The Star* (Johannesburg) stated on 19 September 1964:

"The area known as Tswanaland consists of at least six large and many more small African reserves dotted about the far Western Transvaal and the Northern Cape.

"A process of consolidation—often against the wishes of the tribesmen themselves—has been going on for some years, but essentially the areas, inhabited by the Tswana ethnic group, are sprawling, scattered reserves impossible to consolidate completely without radical movement of Whites."

[180] Quoted in *Spotlight on South Africa* (Dar es Salaam), 25 January 1964.

[181] The Minister of Justice said on 10 March 1964 that there had been 203 serious cases of sabotage since December 1961. (*The Senate of the Republic of South Africa, Debates* (*Official Report*), 10 March 1964, col. 1980.)

[182] An anonymous caller telephoned *The Cape Times* on 19 June 1964 and said: "This is the African Resistance Movement—the ARM. We have struck our first blow against South Africa" (*The Cape Times*, 20 June 1964). On 22 June, *The Cape Times* received a circular purporting to come from the ARM (*ibid.*, 23 June 1964). A telephone call to the Press in Johannesburg on 10 September claimed that a fire near Jeppe railway station on 9 September was a reprisal by ARM for the death of Mr. Suliman Saloojee (*ibid.*, 11 September 1964).

have any love of violence. I planned it as a result of a calm and sober assessment of the political situation that had arisen after many years of tyranny, exploitation and oppression of my people by the Whites...

"...

"6. ...Firstly, we believed that as a result of Government policy, violence by the African people had become inevitable, and that unless responsible leadership was given to canalise and control the feelings of our people, there would be outbreaks of terrorism which would produce an intensity of bitterness and hostility between the various races of this country which is not produced even by war. Secondly, we felt that without violence there would be no way open to the African people to succeed in their struggle against the principle of white supremacy. All lawful modes of expressing opposition to this principle had been closed by legislation, and we were placed in a position in which we had either to accept a permanent state of inferiority, or to defy the Government. We chose to defy the law. We first broke the law in a way which avoided any recourse to violence; when this form was legislated against, and when the Government resorted to a show of force to crush opposition to its policies, only then did we decide to answer violence with violence.

"7. But the violence which we chose to adopt was not terrorism. We who formed Umkonto were all members of the African National Congress, and had behind us the ANC tradition of non-violence and negotiation as a means of solving political disputes. We believed that South Africa belonged to all the people who lived in it, and not to one group, be it black or white. We did not want an inter-racial war, and tried to avoid it to the last minute...

"17. ...The hard facts were that fitfy years of non-violence had brought the African people nothing but more and more repressive legislation, and fewer rights. It may not be easy for this Court to understand, but it is a fact that for a long time the people had been talking of violence —of the day when they would fight the white man and win back their country, and we, the leaders of the African National Congress, had nevertheless always prevailed upon them to avoid violence and to pursue peaceful methods. When some of us discussed this in May and June of 1961, it could not be denied that our policy to achieve a non-racial state by non-violence had achieved nothing, and that our followers were beginning to lose confidence in this policy and were developing disturbing ideas of terrorism...

"...

"19. At the beginning of June 1961, after a long and anxious assessment of the South African situation I and some colleagues came to the conclusion that as violence in this country was inevitable, it would be unrealistic and wrong for African leaders to continue preaching peace and non-violence at a time when the Government met our peaceful demands with force.

"20. This conclusion was not easily arrived at. It was only when all else had failed, when all channels of peaceful protest had been barred to us, that the decision was made to embark on violent forms of political struggle, and to form Umkonto we Sizwe. We did so not because we desired such a course, but solely because the Government had left us with no other choice...

"...

"23. ...we felt that the country was drifting towards a civil war in which Blacks and Whites would fight each other. We viewed the situation with alarm. Civil war could mean the destruction of what the ANC stood for; with civil war racial peace would be more difficult than ever to achieve . . ." (see A/AC.115/L.67).

374. A number of other trials, which are briefly reviewed in this report, show that acts of sabotage were organized all over the country and that the organizers included men and women of all races who had patiently struggled by non-violent means for a long time and were not daunted by persecution.

375. A wave of sabotage followed the conviction of the accused in the Rivonia trial.

376. On 14 June 1964, two days after the sentences in the Rivonia trial, a "pipe bomb" planted at the post office at Vrededorp, a suburb of Johannesburg, blew out the windows and damaged the ceilings of the building.[183]

377. On 19 June 1964, two 100-foot steel pylons in the Western Cape, near Durbanville and at Vlottenberg, were wrecked by dynamite. Another explosion brought down a high-voltage pylon in Sundra, Transvaal. There was another blast near Pretoria.[184]

378. On 22 June 1964, a series of explosions brought down a power pylon on a farm near Stellenbosch, about thirty miles east of Cape Town.[185]

379. On 3 July 1964, a telephone booth at the Plimville post office was blasted and there was extensive damage to the main building.[186]

380. The Minister of Justice, Mr. B. J. Vorster, said in a statement on 5 July 1964, after extensive police raids and detentions in the main cities, that the police had succeeded in detecting and finding in Johannesburg a very powerful radio transmitter, certain time-bomb mechanisms and related elements which could be used for sabotage purposes.[187] He disclosed on 9 July 1964 that another radio transmitter, 100 lb. of dynamite, and a large variety of other sabotage material had been discovered by the police in Cape Town.[188]

381. On 10 August 1964, railway signal cables were cut between Muldersvlei and Krasifontein in Cape Town and two Coloured men were arrested.[189]

382. On 24 July 1964, a time-bomb in a suitcase exploded on the main concourse of the Johannesburg station and at least twenty-five persons were injured.[190]

383. The Commissioner of Police, Lieut.-Gen. J. M. Keevy, said on 26 July 1964 that the Security Police had found two secret arsenals and detained forty persons in the previous three weeks and had broken the back of the new sabotage organization, the African Resistance Movement, which was active mainly in the Witwatersrand and Cape Town.[191]

384. Early in August 1964, a time-bomb was thrown into the Matroosfrontein post office in the Cape but failed to explode.[192]

385. On 19 September 1964, saboteurs made unsuccessful attempts to blow up two post offices in Dube and Jabavu, Johannesburg. Explosions occurred in both places but the damage was slight.[193]

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[183] Reuters, 15 June 1964.

[184] *The Cape Times*, 20 June 1964; *The New York Times*, 20 June 1964. *Die Burger* stated that these two acts of sabotage "are the biggest yet experienced in the Western Cape . . . This is the first time that saboteurs have succeeded in blowing up the giant power pylons of Escom". Quoted in *The Observer* (London), 21 June 1964.

[185] Reuters, 22 June 1964; *The New York Times*, 23 June 1964.

[186] *The Star* (Johannesburg), weekly edition, 4 July 1964.

[187] *The Cape Times*, 6 May 1964.

[188] *Ibid.*, 10 July 1964.

[189] *Ibid.*, 11 August 1964.

[190] *Ibid.*, 25 July 1964.

[191] *Ibid.*, 27 July 1964.

[192] *Ibid.*, 14 August 1964.

[193] *Ibid.*, 21 September 1964.

386. The Government countered this underground activity and violence by massive repression. It claimed that repression had succeeded in putting down such activity.

387. Statements by the leaders of Opposition parties and others seem to reflect some doubts about such claims.

388. After the judgement in the Rivonia trial, the leader of the Opposition, Sir de Villiers Graaff, expressed concern that the accused men seemed to have had a "significant degree of support from the voteless section of our population. It is my sincere conviction—and I believe it is the sincere conviction of my party—that probably one of the major reasons for the support of this underground, political seething in South Africa is the fact that millions of the people of South Africa are denied legitimate political outlets". He warned that by denying a voice to all racial groups in Parliament, the Government was imperilling South Africa.[194]

389. In July 1964, after the raids on hundreds of homes, Sir de Villiers Graaff noted that the homes of a number of very distinguished persons had been raided and asked whether there was an abuse of power by the police or "suspicions of plots involving such important sections of our people that the very existence of the State is threatened".[195] He added:

"The tragic fact is that efficient Security Police and a busy Minister may well not solve our problems till the Government faces the basic facts of the South African situation and asks itself why these underground activities are getting the alarming measures of support they appear to have done from both black and white."[196]

390. Moreover, while the Government claims that it has the situation under control, its statements and actions imply that the danger has not passed.

391. The Minister of Justice stated on 10 March 1964 that a large number of persons had left South Africa for training in sabotage and were trying to return. Estimates of those who had left varied from 900 to 5,000. More than 150 had been caught on their return.[197]

392. Police were said to have been troubled by many of the detainees who had elected to stay in gaol rather than answer any questions.[198]

393. Finally, many observers, as indicated below, have stated that the danger of violence would exist so long as the Government's racial policies continued.

394. After the explosion at the Johannesburg Station, Mr. B. Zackon, Chairman of the Cape Branch of the Liberal Party, issued a statement reaffirming the Party's condemnation of violence as a solution to the racial ills of the Republic, and adding:

"Until the Government changes its policies, or the voters change the Government, we fear these irresponsible protests will continue and no amount of police action will stop them."[199]

395. The Chief Rabbi, Israel Abrahams, said in Cape Town that the "outrage" had taken place "only since peaceful protests of non-white organizations have been outlawed and no heed paid to Opposition criticisms" and appealed to the Government "to institute discussions with freely elected representatives of all sections of the community before more outrages of this kind finally ruin all hopes of a peaceful solution to the race problems of South Africa".[200]

396. The Cape Western region of the "Black Sash" also reiterated its abhorrence of violence and said that the cause of the incidents of sabotage and terrorism was the "repeated refusal by successive Governments to redress basic injustices and the indignities suffered by the vast majority of the people in this multiracial South Africa".[201]

397. Another source of serious concern during the period under review has been the evidence of intimidation and violence by private individuals and groups against opponents of the policies of *apartheid*.

398. Several acts of intimidation have been reported at the University of Cape Town.

399. On 17 October 1964, shots were fired through the windows of the homes of Mr. Peter Hjul, banned chairman of the Liberal Party in the Western Cape, Mr. Fred Carneson, banned former editor of *New Age*, and Mr. R. Tabakin. All three asked for police protection.[202]

400. There has also been considerable evidence of activity by South African vigilante groups in neighbouring territories. *Forward*, Pretoria (October 1964) gave the following list of incidents in these territories in the previous year:

"On 11 August 1963, Kenneth Abrahams, a 26-year-old Coloured doctor from Cape Town, was kidnapped in Bechuanaland, while on his way from Ghanzi to Lobatsi.

"On 29 August 1963, a chartered East African Airways Dakota, chartered to fly fugitives Arthur Goldreich and Harold Wolpe from Francistown, was mysteriously blown up on the airstrip.

"On 26 July 1964, the new refugee centre, known as the White House, two miles from Francistown, was blown up.

"On 10 August 1964, Mrs. Rosemary Wentzel disappeared from her home in Big Bend, Swaziland, and was later detained by the police at Ermelo, Transvaal and held under the 90-day law.

"On 28 August, Dennis Higgs, former lecturer at the University of the Witwatersrand, was forcibly taken from his house at Lusaka, and left bound and gagged in a motor van at the Zoo Lake, Johannesburg, where he was arrested by the Security Police."

The paper added:

"Mystery telephone calls to Johannesburg newspapers by a man who claimed to be the leader of the group which kidnapped Higgs, said it was 30 strong, had no name, and operated from the Protectorates.

"Whoever they are, the kidnappers and wreckers have displayed an uncanny insight into police investigations and

[194] Republic of South Africa, *House of Assembly Debates (Hansard)*, 15 June 1964, col. 8187.

[195] *The Cape Times*, 6 July 1964.

[196] *Ibid.*, 13 July 1964.

[197] Republic of South Africa, *House of Assembly Debates (Hansard)*, 10 March 1964, col. 1938. Commanding General P. H. Grobbelaar said in a broadcast in September 1964 that the South African Defence Force had intensively studied guerrilla warfare since 1956 and could ensure that guerrillas would not meet with the same success in South Africa as they had in some other countries (*Spotlight on South Africa* (Dar es Salaam), 2 October 1964).

[198] *The Cape Times*, 13 July 1964.

[199] *Ibid.*, 28 July 1964.

[200] *Ibid.*

[201] *Ibid.*

[202] *Ibid.*, 19 and 20 October 1964.

a remarkable knowledge of persons wanted by the Security Police.

"Not until Higgs was kidnapped did the public know that he was on the list of police suspects in connexion with recent alleged acts of sabotage.

"It is obvious that there exists a highly organized, well-informed, expertly trained, abundantly financed 'cloak and dagger' group, dedicated to act against alleged saboteurs and refugees in areas beyond the normal scope of the South African police."

401. It may be noted that no person is reported to have been arrested in connexion with the above incidents.

D. BUILD-UP OF MILITARY AND POLICE FORCES

402. In its previous reports, the Special Committee has reviewed the tremendous expansion of military and police forces in South Africa to meet the grave situation caused by the imposition of the policies of *apartheid* and indicated that this expansion is itself likely to have serious international repercussions.

403. The build-up of military and police forces has continued during the period under review.

404. State President C. R. Swart declared in his opening address to Parliament on 17 January 1964:

"It is gratifying to be able to mention that the programme to equip our Defence Force is proceeding according to plan, and that defence research and local production of defence requirements are progressing satisfactorily... It is also encouraging to note that the expansion of the Defence Force enjoys the general support of the nation."[203]

405. Although the Minister of Finance, Mr. T. E. Dönges, claimed on 17 September 1963 that South Africa could cope with any "Army of Liberation" which did not receive financial and military support from at least two great Powers,[204] the defence budget was greatly increased in 1964-1965.

406. Defence expenditure has almost quintupled since 1960-1961 when the large-scale expansion of military forces and the purchase of modern equipment began, and now far exceeds the expenditure incurred in the Second World War.

407. A document entitled "White Paper on Defence, 1964-1965", tabled by the Minister of Defence in the House of Assembly on 3 June 1964, indicated that this expansion followed a military appreciation made in 1960 of the possible threat to South Africa's peaceful existence and safety "as a result of unsettled world conditions". The Government sought to ensure that the Defence Force could act "immediately, efficiently and uninterruptedly" whenever that might be considered necessary. In the first phase of the naval expansion programme, which had been almost completed, major equipment worth more than R130 million ($182 million) had been purchased or ordered since 1960, "and further orders are envisaged". Strategic airfields for operational purposes were being constructed in various parts of South Africa in addition to the existing military airfields. Defence materials and fuels were being stored at strategic centres to be issued without delay in times of mobilization. More and more men were being sent overseas to study the handling of munitions and techniques of modern warfare "and to keep in touch with military opinion in other countries".[205]

408. The Minister of Defence, Mr. J. J. Fouché, said on 26 September 1964 that the naval expansion programme carried out under the Simonstown Agreement had been concluded. Because of financial and other obligations regarding this expansion, South Africa had not been able to expand its naval air force as rapidly as it would have wished to do. But orders had been placed for naval strike aircraft and naval reconnaissance aircraft. South Africa would "obviously require more major strategical equipment in future, as the defence of a country cannot be allowed to become static". He expressed the hope that "circumstances will again enable us to do big business with the United Kingdom to our mutual advantage". He added that a possible embargo on the sale of major armaments to South Africa could not only "weaken the defence of an acknowledged Western outpost" but would deprive South Africa of "the essential means to fulfil our moral obligation to Western allies during a general war".[206]

409. In view of widespread international opposition against arms deliveries to South Africa, the South African Government has been anxious to deny that the import of arms was intended for internal purposes. Meanwhile, it has tremendously expanded the manufacture of arms and ammunition within the country.

(a) *Increase in defence and police budget*

410. On 16 March 1964 the Minister of Finance, Mr. Dönges, introduced a record defence budget totalling R210 million (or $294 million), and stated that the increase was to "discourage foreign aggression" and counter "threats which have been hurled at our country, threats, which at another time would have called down the condemnation of the civilized world. If I do not believe that these threats will be translated into action, it is only because I know—and those who threaten us know—that our defences are strong and getting stronger by the day".[207-8]

411 The budget estimate for police also represented an increase of over 7 per cent.

412. A comparison of the budget estimates shows that the estimates for defence have nearly quintupled in the past five years from R43,591,000 ($61,027,400) to R210 million ($294 million), and the total security budget has more than tripled from R79,791,000 ($111,707,400) to R259,129,000 ($362,868,800).

[203] *The Senate of the Republic of South Africa, Debates (Official Report)*, 17 January 1964, col. 9.

[204] *The Cape Times*, 18 September 1963.

[205] *Ibid.*, 5 June 1964; *The Star* (Johannesburg), 3 June 1964.

[206] *The Cape Times*, 29 September 1964.

[207-8] Republic of South Africa, *House of Assembly Debates (Hansard)*, 16 March 1964, col. 3041.

ESTIMATES OF EXPENDITURE FOR DEFENCE AND POLICE

	1960-1961		1963-1964		1964-1965	
	Rand	Dollars	Rand	Dollars	Rand	Dollars
Defence	43,591,000	(61,027,400)	121,604,000[a]	(170,245,600)	210,000,000	(294,000,000)
Police	36,200,000	(50,680,000)	45,870,000	(64,218,000)	49,192,000	(68,868,800)
TOTAL	79,791,000	(111,707,400)	167,474,000	(234,463,600)	259,192,000	(362,868,800)

SOURCE: Republic (Union) of South Africa, *Estimates of the Expenditure to be defrayed from Revenue Account during the years ending 31 March 1961, 1964 and 1965.*

[a] To this should be added R26,111,000 ($36,555,400) provided from the Loan Account as contribution to Defence Special Equipment Account and R10 million ($14 million) provided in an additional estimate for defence. The Minister of Finance stated on 28 April 1964 that the Department of Defence had not spent about R15 million ($21 million) of its appropriation for 1963-1964 as a result of delay in the completion of certain large contracts. (Republic of South Africa, *House of Assembly Debates (Hansard),* 28 April 1964, col. 5101.)

413. In addition, the Minister of Finance announced on 28 April 1964 that R20 million ($28 million) from the surplus for the financial year 1963-1964 would be added to the Defence Special Equipment Account.[209]

414. The appropriations for 1964-1965 were R230 million ($322 million) for Defence and R51,792,000 ($72,508,800) for police.

415. Some of the items of expenditure where increases in budget estimates have been impressive are indicated below:

	1963-1964		1964-1965	
	Rand	Dollars	Rand	Dollars
Army Stores, services and equipment	7,607,000	(10,649,800)	17,152,500	(24,013,500)
Aircraft, aircraft stores, services and equipment	10,225,000	(14,315,000)	15,008,000	(21,011,200)
Naval stores, services and equipment	3,914,000	(5,479,600)	6,803,000	(9,524,200)
Bombs, ammunition and pyrotechnics	13,428,500	(18,799,900)	17,938,500	(25,113,900)
Mechanical transport, horses and dogs	5,229,000	(7,320,600)	18,860,500	(26,404,700)
Special equipment and reserve stocks[a]	29,511,000	(41,315,400)	58,812,500	(82,337,500)
Manufacture of munitions	23,572,000	(33,000,800)	33,002,500	(46,203,500)

SOURCE: Republic (Union) of South Africa, *Estimates of the Expenditure to be defrayed from Revenue Account during the years ending 31 March 1961, 1964 and 1965.*

[a] The figure for 1963-1964 includes R26,111,000 ($36,555,400) from Loan Account. The figure for 1964-1965 includes appropriation of R20 million ($28 million) from the previous year's budget surplus.

(b) *Increase in strength of the military and police forces*

416. The South African Defence Force consists of:

(*a*) The Permanent Force, or the standing army (the army, air force and navy);

(*b*) The Citizen Force, comprising volunteers and citizens drawn by ballot and enrolled in the force; and

(*c*) The Commandos, comprising volunteers and citizens not drawn by ballot for enrolment in the Citizen Force.

417. The Permanent Force is kept relatively low but has undergone a steady expansion. It is planned to increase it to 14,926 during the current year.

STRENGTH OF THE PERMANENT FORCE

	1960-1961	1963-1964	1964-1965
Officers	1,275	2,079	2,271
Other ranks	7,744	11,699	12,655
TOTAL	9,019	13,778	14,926

SOURCE: *Estimates of Expenditure,* 1960-1961, 1963-1964, 1964-1965.

418. The Citizen Force consists of men called to service annually to serve for four years. According to the White Paper on Defence, published by the Government in June 1964, the number of men called up for the Citizen Force increased from 2,000 in 1960 when the training period was only two months, to 16,527 in 1965 with a training period of nine months.[210] The recruits would be attached to four new regiments after the completion of their training.[211]

419. The strength of the Commandos has been increased from 48,281 officers and men in 1960 to 51,487 this year.[212] The Minister of Defence, Mr. Fouché, announced at the end of May 1964 that, in the future, all members of Commando units would have to serve for four years and would have to undergo special training courses. Commando members would no longer have to pay for their weapons, but would be issued with rifles, bayonets and uniforms. In other words, they would become almost the same as the pre-war Active Citizen Force soldiers.[213]

[209] He stated that it was not the intention that this money should be spent during the financial year 1964-1965 (Republic of South Africa, *House of Assembly Debates* (*Hansard*), 28 April 1964, col. 5101).

[210] *The Cape Times,* 4 June 1964; *The Star* (Johannesburg), 4 June 1964. Under the Defence Amendment Act of 1961, the period of training of members of this Force was increased to nine months in the first year and three months in the following years.

[211] *Southern Africa* (London), 10 April 1964.

[212] White Paper on Defence; *The Cape Times,* 4 June 1964.

[213] *The Cape Times,* 9 June 1964.

420. The Minister of Defence announced on 13 July 1964 that the planning of Air Commando squadrons was nearly complete and that he had authorized the establishment of twelve squadrons.[214] He also assured support for civilian flying clubs as these clubs, their pilots and aircraft, would form an integral part of the defence system in time of war.[215]

421. It may be noted that the Defence Force is entirely white, except for the Coloured Corps established recently. Instructors for this Corps are now being trained. It is intended that they will be able to take over more and more of the administrative jobs such as drivers, storemen, clerks, stretcher-bearers. The camp of the Coloured Corps in Cape Town is being prepared to accommodate 600 to 700 men for training.[216]

422 The police force has not been greatly increased, but has been supplemented by a large police reserve and assured of support by the Armed Forces in dealing with internal disturbances.

STRENGTH OF POLICE FORCE

	1960-1961	1963-1964	1964-1965
Whites	13,452	14,560	14,862
Non-whites	14,635	14,783	14,784
TOTAL	28,087	29,343	29,646

SOURCE: *Estimates of Expenditure*, 1960-1961, 1963-1964, 1964-1965.

423. According to the annual report of the Commissioner of Police for 1963, the actual number of policemen was 27,440, including 13,770 Whites and 13,673 non-whites. There were, however, 3,573 white sergeants and only 1,116 African sergeants.[217] African policemen, moreover, do not carry firearms. White control over the police is further strengthened by the police reserve.

424. The Minister of Justice stated on 3 March 1964 that the strength of the police reserve was 19,663, out of which 19,313 were Whites, 231 Coloureds and 119 Indians.[218]

425. A spokesman at Police Headquarters, Pretoria, said on 18 August 1964 that the strength of the police reserve had reached 17,554 and that reservists were attached to almost every police station in South Africa. He said that the scheme was proving a big success and that the police were well satisfied with the work done by the reservists. The reserve, which now exceeds the total strength of the regular white police force, consists of four groups:

(*a*) Group A men would be regarded as full-time police in times of emergency. They would be paid if called up and would carry out normal police duties;

(*b*) Group B reservists are the "home guard" men who would do two hours police duty a day in their own residential areas during emergencies;

(*c*) Group C reservists are employees responsible in emergencies for the security of important installations and services at their places of work; and

(*d*) Group D men are plattelanders who would constitute a civilian riot force carrying out police duties in the initial stages of any emergency until regular police arrive in sufficient strength.

There are 4,981 men in group A; 8,960 in group B; 2,530 in group C and 1,083 in group D. Many of the reservists are doing two hours and more duty a month with the police at present.[219]

426. The Police Amendment Act, No. 64, 1964 provides for a police reserve of officers who have retired or resigned from the force. Under this Act, the Commissioner of Police, or any commissioned officer acting under his authority, is authorized to employ any member of the police reserve of officers in the police force.

427. Large numbers of civilians are being trained in the use of firearms. The Minister of Justice, Mr. B. J. Vorster, stated on 11 September 1963 that 27,250 women in South Africa belonged to pistol clubs where they received instruction from police officers.[220]

428. The widespread ownership of firearms appears to be creating difficulties. Brigadier L. J. Steyn, Divisional Commissioner of Police for the Witwatersrand, was reported to have stated in August 1964 that people in Johannesburg were too trigger-happy. Shooting incidents were reported almost daily in the city.[221]

(c) *Civil defence plans*

429. Press reports indicated that, in April 1964, the Government had drawn up a master plan for civil defence in the event of riots or war. The plan would provide for reception centres for civilians, hospital facilities and the concentration of rescue workers at points near "target areas".[222]

430. Senior officials of the office of the Director of Emergency Planning were subsequently reported to have visited major cities to make preliminary arrangements such as first-aid training.[223]

431. The Press has also reported the approval by the Government of a national survival plan to ensure the safety of South Africa in the event of war, uprisings or any other emergency. It includes special steps to protect strategic installations, including harbours, petrol storage depots, power stations and other key points. Fences would be put up around all places declared to be of strategic importance, and they would be subject

[214] *The Star* (Johannesburg), 13 July 1964. The Air Commando, announced in 1963, is designed to give air reconnaissance support to Commando units.

[215] *The Star* (Johannesburg), 13 July 1964.

[216] *The Cape Times*, 18 June 1964.

[217] *Ibid.*, 30 May 1964.

[218] Of these, 16,220 Whites, 187 Coloureds and 87 Indians had already completed their basic training and were doing duty on a temporary and voluntary basis to gain the requisite practical experience; and 3,093 Whites, 44 Coloureds and 32 Indians were undergoing training. The Minister stated that branches had been established for Whites, Coloureds and Indians, and that a branch for Africans would be considered when it was deemed expedient. He recalled that the police reserve had originally been planned at a total of 5,000 but stated that in view of the interest displayed, the ultimate strength would not be determined at that stage. (Republic of South Africa, *House of Assembly Debates (Hansard)*, 3 March 1964, cols. 2314 and 2315.)

[219] *The Star* (Johannesburg), 18 August 1964.

[220] *Ibid.*, 11 September 1963.

[221] It was estimated in 1960 that there were 100,000 firearms in Johannesburg—one to every four white men, women and children. Since then several thousand more licenses have been issued for firearms (*The Star* (Johannesburg), 11 August 1964). About half of South Africa's three million Whites are reported to possess firearms (*The New York Times*, 8 June 1964).

[222] *Sunday Times* (Johannesburg), 26 April 1964.

[223] *The Cape Times*, 19 May, 1 June, 24 June and 13 August 1964.

to security controls as stringent as those imposed during World War II.

432. The Government has set up a special committee of police and defence experts to compile a list of military and strategic installations which would be declared "protected areas" in case of emergency in terms of the General Law Amendment Act, No. 37, 1963. Under this Act, the Minister of Justice may declare protected areas by notice in the *Government Gazette* and direct the owners of such areas to erect security fences, refuse admittance to all persons not authorized by the Minister and institute other precautionary measures at their own expense. He may also designate any person "in the service of the State", and specifically military personnel, to take charge of any such installation. The Minister of Defence stated that special units of the Commandos would be responsible for the security of strategic installations, and that Africans would be excluded from all duties connected with the security of such installations.

433. The Commissioner of Police, General J. M. Keevy, announced on 24 August 1964 that the police had completed their list of strategic installations.[224]

(d) *Defence research*

434. Defence research, begun in 1962 with the collaboration of the Council for Scientific and Industrial Research (CSIR) and the Defence Force, was actively promoted and expanded. Close contact was maintained with industry and the universities.[225]

435. Early in September 1963, it was announced that the CSIR was recruiting highly qualified scientists to be sent overseas for two years for the necessary training to conduct research into the construction of rockets.[226]

436. On 27 October 1963, Professor L. J. le Roux, Vice-President of the CSIR, said that South Africa was perfecting methods to combat internal danger and repel possible surprise attacks from without. He added that the newly established Rocket Research and Development Institute was developing a rocket-propelled ground-to-air missile. He also indicated that a naval research institute would soon be established to study scientific methods to protect the Republic's harbour and coastline.[227]

437. Professor le Roux stated on 7 November 1963 that the South African Government was studying recent developments in airborne weapons, including poison gases known to be capable of massive devastation, in order to strengthen defences against surprise attacks from the air. He said that gas was coming back as a low-cost weapon of frightening power and added:

> "We appreciate that these poisons are capable of being delivered in vast quantity by aircraft or long-range missile and they can have a destructive effect similar to that of a nuclear bomb of 20 megatons. These gases are ten times more poisonous than any other substance you can name... We must be alert to such dangers."[228]

[224] *Ibid.*, 26 August 1964. The listed installations include certain factories, petrol storage points, power stations, etc. Anyone who enters a protected area without authority can be gaoled for periods of up to fifteen years.

[225] *South African Digest* (Pretoria), 31 October 1963.

[226] *Ibid.*, 5 September 1963.

[227] *Ibid.*, 31 October 1963; *The New York Times*, 28 October 1963; Agence France Presse, 28 October 1963.

[228] Reuters, 7 November 1963.

438. On 23 August 1964, *The Sunday News* (New York), reported that Professor W. E. Schilz, Dean of Science at Pretoria University, had recently told an Air Force meeting in Johannesburg that chemical weapons might be the nation's only effective answer to aggression by neighbouring countries. "Schilz said that considering the viciousness of all weapons, chemicals might be considered relatively humane. He also pointed out that the rural character and dispersed population of South Africa's neighbours would make their natives almost invulnerable to normal weapons if war came."

(e) *Manufacture of arms and ammunition in South Africa*

439. Manufacture of weapons and munitions in South Africa has been greatly expanded in recent years. The budget provision for the manufacture of munitions has increased almost a hundredfold over the past five years as follows:

	Rand	*Dollars*
1960-1961	368,000	(515,200)
1961-1962	3,341,000	(4,677,400)
1962-1963	14,289,000	(20,004,600)
1963-1964	23,572,000	(33,000,800)
1964-1965	33,002,500	(46,203,500)

SOURCE: *Estimates of Expenditure*, 1960-1961, 1961-1962, 1962-1963, 1963-1964, 1964-1965.

440. The Minister of Defence, Mr. J. J. Fouché, said in September 1963 that South Africa still needed certain types of arms, but that so much progress had been made with the production of arms and ammunition that South Africa was now almost independent of foreign sources of supply. If the threats of certain countries to stop supplies to South Africa were carried out, he foresaw great progress in the manufacture of arms in the country. He claimed that South Africa's problem was no longer to persuade arms manufacturers of other countries to produce arms in South Africa, but rather to decide whose requests for the establishment of factories should be accepted.[229]

441. Mr. Fouché added on 14 October 1963 that South African production of arms, ammunition and explosives had risen 80 per cent in the past four years and that the variety of arms and ammunition manufactured was three times as great as during World War II, despite the greater complexity of modern weapons.[230] He said in December 1963 that South Africa had not been buying arms for internal use for some time and that it either had, or was manufacturing, all arms needed for internal security.[231]

442. He stated at a Republic Day meeting on 30 May 1964 that South Africa needed no arms from abroad "to maintain internal security". It would be "an eye-opener" to opponents of South Africa to see what arms were being manufactured.[232]

443. According to statements in Parliament and also press reports,[233] South Africa is self-sufficient in

[229] *South African Digest* (Pretoria), 19 September 1963.

[230] Agence France Presse, 14 October 1963; *The Cape Times*, 15 October 1963.

[231] *Southern Africa* (London), 20 December 1963.

[232] *The New York Times*, 31 May 1964.

[233] Statement by the Minister of Defence in the Senate (*Senate of the Republic of South Africa, Debates (Official Report)*, 26 April 1961, cols. 3691 and 3692). See also *Komando* (Pretoria), December 1960; *The New York Times*, 26 March and 4 June 1964; *Rand Daily Mail* (Johannesburg), 8 August 1964.

the production of small arms and ammunition. These are produced by the South African Mint, the Defence Ordinance factories and the three factories set up by the African Explosive and Chemical Industries Ltd., a private company with a capital of R10 million ($14 million) from Imperial Chemical Industries of the United Kingdom and R10 million ($14 million) from de Beers Consolidated Mines Ltd. Tear gas and ammunition for small arms used by the South African army are manufactured in these factories. The Defence Ordinance Workshop at Lyttleton, near Pretoria, manufactures 3.5 inch anti-tank rockets and 3-inch aircraft rockets.

444. Moreover, the FN 7.62 automatic rifles, manufactured under a Belgian licence, have been produced this year.[234] On the occasion of the presentation of the first rifle to the Prime Minister, the Minister of Defence welcomed the representative of the Belgian FN munition factory, Mr. de Gunst, and said: "We are indeed glad that you are here to share our joy on this occasion."[235]

445. South Africa has also undertaken manufacture of the Panhard armoured car under licence from France.[236]

446. A notable development in this connexion is the recent decision to manufacture aircraft in South Africa.

447. For some time, there have been reports of plans to manufacture jet trainers in South Africa to replace the ageing Harvard propeller-driven trainers.

448. The Miles Aircraft Company of the United Kingdom registered a South African subsidiary in 1964 with plans to establish a factory in Cape Town at a cost of R1,500,000 ($2,100,000) to build Mark II Miles Student aircraft.[237] It was noted that this move "could short-circuit any political interference from a hostile British ruling political party".[238]

449 In August 1964, the Prime Minister and the Minister of Defence announced that an aircraft industry would be established in South Africa, and that jet trainers for the Air Force would be the first aircraft to be manufactured locally.[239]

450. The Press reported that the Government had given closest consideration to the French Fouga-Magister CM-170 and to the Italian Macchi, and had decided to manufacture the Macchi under licence. The transaction was reported to involve more than £15 million sterling.[240]

451. The Atlas Aircraft Corporation has been formed by the Bonus Investment Corporation (BONUSKOR) and other companies with a capital of R10 million ($14 million).[241] Mr. M. S. Louw, Chairman of Bonuskor, said in September 1964 that the factory would be in production within two years. He added: "We have established contacts all over the world, and will be bringing in technicians and scientists from abroad in the very near future."[242]

452. Meanwhile, the Munitions Production Act, No. 87, 1964, was promulgated in June to provide for the establishment of a Munitions Production Board empowered to manufacture and supply any munitions required by the State.[243]

(f) *Import of military equipment*

453. The South African Government has continued to import military equipment from abroad. Delivery of the three modern anti-submarine frigates ordered by the South African Navy in the United Kingdom has been completed. The *President Steyn* arrived in Cape Town in September 1963 and the *President Pretorius* in September 1964. South Africa has also commissioned two refitted destroyers, the *Simon van der Stel* and the *Jan van Riebeeck*. It is expanding dockyard facilities at Simonstown for the Republic's war fleet [244]

454. The South African Government was reported to have ordered sixteen Buccaneer Mark II naval strike aircraft, and the equivalent of four more in spares, in October 1963 at a cost of more than £20 million sterling. *The Daily Telegraph*, London, reported in September 1964 that an order for sixteen more of the aircraft was under negotiation.[245]

455. A spokesman for the manufacturers of these aircraft was reported to have stated in September 1964 that a possible change in the United Kingdom Government would not affect the early delivery of the Buccaneers to South Africa. He added that the exact delivery date was kept secret, at the request of the South African Government, but "they will be handed over within months".[246]

456 The South African Government was also reported to have negotiated for the purchase of Bloodhound Mark II anti-aircraft missiles from the United Kingdom. *The Sunday Times* of London quoted an official of the British Aircraft Corporation as having confirmed on 15 August 1964 that negotiations for a £15 million order had been going on for many months and had reached an advanced stage. After discussion with the United Kingdom Government, however, the company decided to delay the negotiations until after the general election.[247]

457. The victory of the Labour Party in the general election in the United Kingdom in October 1964 led to uncertainty as to the further shipments of arms from the United Kingdom to South Africa.

458. The South African Minister of Defence, Mr. J. J. Fouché, said on 16 October 1964, however, that he did not think that the change of government in the United Kingdom would have any adverse effect on South African weapon purchases. He said:

[234] The FN 7.62 automatic rifles were first purchased by South Africa in 1960 and the licence to manufacture obtained. Assembly and partial manufacture of the rifles began in 1961 and the first rifles made fully in South Africa tested in 1964 (*Komando* (Pretoria), December 1960, and *Rand Daily Mail* (Johannesburg), 8 August 1964).

[235] *Northern News*, 25 September 1964, quoted in *Spotlight on South Africa* (Dar es Salaam), 9 October 1964.

[236] *The New York Times*, 26 March and 4 June 1964.

[237] The engine of this aircraft is French and is made by the same company which produces the jets for the Alouette helicopters used by the South African Air Force.

[238] *The Cape Times*, 25 June 1964.

[239] *Ibid.*, 3 August 1964; *The Star* (Johannesburg), 30 August 1964.

[240] *Le Monde* (Paris), 17 August 1964. The engines for Macchi jets are made in the United Kingdom.

[241] *The Cape Times*, 10 September and 11 November 1964.

[242] *Sunday Express* (Johannesburg), 13 September 1964, quoted in *Spotlight on South Africa* (Dar es Salaam), 9 October 1964.

[243] *Government Gazette Extraordinary*, 7 July 1964. The composition of the Board was announced on 21 September 1964 (*The Cape Times*, 22 September 1964).

[244] *South African Digest* (Pretoria), 3 April 1964.

[245] *The Cape Times*, 4 September 1964.

[246] *The Star* (Johannesburg), weekly edition, 19 September 1964.

[247] *The Cape Times*, 17 August 1964.

"I know that Mr. Wilson has said that he will not deliver anything to South Africa in that line. But if Mr. Wilson decides not to, South Africa will simply have to turn to some other country to buy the weapons which she intended to buy in Britain for 90-odd millions."[248]

459. On 15 November 1964, the Prime Minister, Mr. H. F. Verwoerd stated that if the United Kingdom did not fulfil the contract for the delivery of Buccaneer aircraft, "then the Simonstown Agreement[249] can no longer be maintained". He added that if the United Kingdom withheld arms from South Africa, "we shall be forced to buy them on the black market".[250]

460. On 17 November 1964, the Prime Minister of the United Kingdom, Mr. Harold Wilson announced:

"The Government have decided to impose an embargo on the export of arms to South Africa.

"Since the Government took office no licences for the export of arms to South Africa have been issued. It has now been decided that all outstanding licences should be revoked except where these are known to relate to current contracts with the South African Government. The contract to supply 16 Buccaneer aircraft is still under review.

"Outstanding commitments by the Ministry of Defence will be fulfilled, but as from today no new contracts will be accepted for the supply of military equipment. The Ministry of Defence will proceed with manufacturing agreements that have already been concluded but not yet executed.

"Licences for the export of sporting weapons and ammunition will be revoked and shipment will be stopped forthwith. In other cases when licences are revoked, fresh licences will be issued to the extent necessary to permit the execution of current contracts.

"These decisions bring the Government's policy into line with United Nations resolutions on this question, the latest of which was the Security Council resolution of June 18."

461. On 25 November 1964, the Prime Minister of the United Kingdom announced that the shipment of sixteen Buccaneers would be sanctioned, but no further South African contracts would be entered into. He added that shipment of spares for the sixteen Buccaneers would be allowed as and when required.

462. Meanwhile, the South African Government has continued to seek arms from other countries.

463. The Swiss Federal Cabinet announced in November 1963 that it had authorized a Swiss firm, Oerlikon, to deliver several anti-aircraft guns and explosives to South Africa. It stated that export of these weapons had been permitted because they were exclusively for air defence.[251]

464. South Africa was also reported to have received a squadron of Mirage III-C jet fighters from France during the period under review.[252]

(g) *Military co-operation with other countries*

465. Despite the resolutions of the Security Council and the General Assembly, and the universal condemnation of the military and police build-up in South Africa, some other States have co-operated with the South African Government in the military field.

466. As indicated earlier, South Africa has been able to import large quantities of military equipment. South African nationals have obtained training in the use of this equipment and the country has received licences, capital and capital equipment for the local manufacture of arms.

467. South Africa has maintained amicable relations, in the military field, with Portugal. The commander of the South African Air Force visited Lourenço Marques in November 1963 at the invitation of the commander of the air force in Mozambique. The Commander-in-Chief of the South African armed forces, Commandant-General P. H. Grobbelaar, visited Mozambique in May 1964 at the invitation of the Commander-in-Chief of the armed forces in Mozambique, Rear Admiral Sarmento Rodrigues.[253] General João Carrasco, officer commanding the military area of Mozambique, visited South Africa in October 1964.[254]

468. South Africa participates in the annual naval exercises around the Cape, known as "Exercise Capex". The United Kingdom and Portugal took part in the latest exercise organized by the South African Navy in May 1964. The exercise involved anti-submarine, anti-aircraft and convoy operations designed to gain experience of local conditions in the defence of the sea routes around Southern Africa.[255]

(h) *International concern over the military build-up in South Africa*

469. Widespread international concern over the military build-up in South Africa was reflected in the

[248] *Ibid.*, 17 October 1964. *The Daily Telegraph* (London) reported on 8 October 1964:

"The South African Government is waiting until after the General Election to place in Britain a 'huge' order for military equipment, possibly worth £75 million, over the next few years. The order will be given at once if the Conservatives win.

"It will be for 15 more Buccaneer Mark IIs, about 200 training aircraft to be built in South Africa under licence but fitted with Bristol-Siddeley engines, and some anti-submarine helicopters.

"South Africa also wants to order two submarines and naval equipment of an anti-submarine nature, including weapons.

"...

"Recently six Canberra bombers were flown into South Africa in considerable 'confidence'. This was done to lessen the political repercussions from the delivery flight.

"The Canberras were bought at a very fair price and are fully equipped tactical strike aircraft.

"...

"A senior South African officer made it clear to me that the type of equipment the Republic wanted to buy could not be regarded as 'anti-black'.

"It was because of South Africa's firm desire to contribute towards the military strength of the West that it wanted this sophisticated and costly equipment.

"...

"If South Africa cannot buy British equipment, the order will go to a European country, probably France or Italy. Both have the equipment available and have been trying hard for the sale."

[249] Agreement on the Defence of the Sea Routes round Southern Africa, and Agreement relating to the Transfer of the Simonstown Naval Base, 30 June 1955 (see *Exchanges of Letters between the Governments of the United Kingdom and the Union of South Africa, June 1955,* London, Her Majesty's Stationery Office (Cmd. 9520)).

[250] *The Cape Times*, 16 November 1964.

[251] *South African Digest* (Pretoria), 21 November 1963. Further orders were reported to have been stopped in December 1963.

The South African Press reported that a double-barrelled anti-aircraft gun, fully automatic and radar-controlled, was demonstrated to the Press on 12 October 1964. It is not known whether this new weapon was manufactured in South Africa or imported as the Defence Headquarters instructed the Press to withhold information regarding its make and characteristics (*The Cape Times*, 13 October 1964).

[252] Delivery of these aircraft was reported to have begun in June 1963. The squadron is believed to number seventeen. South Africa had earlier purchased 50 Alouette jet helicopters from France (*The New York Times*, 26 March and 4 June 1964).

[253] *The Cape Times*, 19 May 1964.

[254] *Ibid.*, 28 October 1964.

[255] *South African Digest* (Pretoria), 22 May 1964.

Security Council resolutions of 7 August 1963,[256] 4 December 1963[257] and 18 June 1964;[258] General Assembly resolutions 1761 (XVII) of 6 November 1962 and 1978 (XVIII) of 16 December 1963; and the responses of Member States to the Security Council and General Assembly resolutions, including the decision announced by the United States Government in August 1963 that no arms would be supplied to South Africa beyond the end of 1963.

470. Particularly notable in this connexion has been the recent growth of sentiment against arms shipments to South Africa in the United Kingdom, which has traditionally been the principal supplier of arms to South Africa.

471. It may be recalled that under the Simonstown Agreement of 1955 providing for co-operation in the defence of the sea routes around the Cape, the United Kingdom agreed to supply South Africa with naval vessels. In pursuance of that Agreement, South Africa purchased three anti-submarine frigates which were delivered in 1963 and 1964. Also under this agreement, the United Kingdom supplied Westland Wasp helicopters which can be used on these frigates for submarine spotting.

472. In recent years, in response to concern over the racial situation in South Africa, the United Kingdom Government declared that its policy was not to export to South Africa any arms which would enable the policy of *apartheid* to be enforced.

473. A number of British organizations expressed dissatisfaction with this position and argued that a distinction between weapons which could be used for defence against external attack and weapons which could be used for internal repression could not be maintained. They stated that the United Kingdom continued to supply spare parts for the Saracen armoured personnel carriers, such as those which had been used at Sharpeville in 1960, and that the aircraft supplied by the United Kingdom could be used for internal repression. They called for a total ban on the supply of military equipment as well as spare parts.

474. Opposition to arms shipments increased in 1963 when the Press reported approval by the United Kingdom Government of the sale of Canberra Mark B12 and P.R.3 aircraft and Buccaneer Mark II low-level jet attack aircraft which were not covered by the Simonstown Agreement.

475. Public opposition in the United Kingdom to the supply of arms to South Africa was encouraged by an appeal sent by Chief Albert J. Luthuli in May 1963 and published in London.[259] In this appeal, Chief Luthuli said that the South African Government "has insanely committed itself to rule by the machine-gun and the armoured car; has elected to go down in a messy welter of blood and destruction rather than work out a clean and honourable solution". He stated that it had marshalled "the whole ferocious panoply of war" for that purpose, and added:

"Saddening as this is, there are other features of the situation which increase our sadness. Those who are providing the Government with these terrifying weapons of destruction are countries which allegedly care for human freedom. Certainly, some of them have a proud record in the defence of human liberties. Almost all of them have known the travail of war, of conflict against ruthless oppression; have known the bitterness of race hatred and the wounds of armed conflict. Yet these countries today, and Britain foremost among them, are guilty of arming the savage Nationalist Party régime. The Saracens built in Britain have already left an indelible blot on the history of my country; now it seems that your Buccaneers and your tanks must leave their foul imprint...

"I would ask you in particular to unite in protesting, vociferously and unremittingly, against the shipment of arms to South Africa. On this issue let our voice be clear and untiring: 'No arms for South Africa!'

"When you contemplate the mass of cruelly repressive legislation, when you observe the horrifying, pitiful toll of human suffering and indignity, and when you see the way this fair country is blasted by the racially insane, let your cry be: 'No arms for South Africa!'

"And when you visualise the terrible havoc which may be wreaked on South Africa, havoc of which Sharpeville was the merest minor portent, by the most deadly and destructive military weapons known to modern man, let your cry be: 'No arms for South Africa!'...

"I direct a special appeal to all the workers of the world who share with us, not only the common brotherhood of labour, but who in many instances have shared with us a common suffering and hardship. I appeal to them to make their voices heard and to show their unity with us not only in words but in actions. To those working in the factories where these deadly weapons are manufactured I say, make sure that your labour is not used to produce the weapons which will deal death to the people of my country. And to those having any part in the transaction—the dockworkers, the sailors, the airport workers and all others, I say: 'let your opposition be shown, not only in your cry "No arms for South Africa," but also in your resolute refusal to lend your labour for this foul purpose.'

"Perhaps it is futile to appeal to those who put profits before justice and human lives. Nevertheless, in all sincerity I appeal to them to pause and rethink their sense of values which puts material values before human lives. For this is the meaning of their making available their murderous wares to the South African Government...

"To the nations and governments of the world, particularly those directly or indirectly giving aid and encouragement to this contemptible Nationalist régime, I say: 'Cast aside your hypocrisy and deceit; declare yourself on the side of oppression if that is your secret design. Do not think we will be deceived by your pious protestations as long as you are prepared to condone, assist and actively support the tyranny in our land.'

"The text is your stand on the principle: 'No arms for South Africa!' No expressions of concern, no platitudes about injustice will content us. The text is action—action against oppression."

476. On 16 October 1963, the British Council of Churches expressed concern over the abstention by the United Kingdom on the Security Council resolution of 7 August. After discussion by a delegation of the Council at the Foreign Office, its Executive Committee issued a statement on 16 December calling upon the Government "to reconsider its policy concerning the sale to South Africa of further British-built or licensed military equipment or spare parts of any kind whatsoever, capable of use on land or in the air for purposes of internal repression".

477. The question of arms shipments has been repeatedly raised by Labour Party members in the United

[256] *Official Records of the Security Council, Eighteenth Year, Supplement for July, August and September 1963*, document S/5386.

[257] *Ibid., Supplement for October, November and December 1963*, document S/5471.

[258] *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5773.

[259] *Peace News* (London), 24 May 1963.

Kingdom Parliament.[260] A few recent examples may be noted:

(*a*) On 12 March 1964, Mr. Harold Wilson, leader of the Labour Party, asked for an assurance that there would be no shipment of arms outside those specified in the Simonstown Agreement.

(*b*) On 23 April 1964, Mr. Harold Wilson suggested that the Government's representations to South Africa on repressive measures would be greatly strengthened if the Government ceased its equivocal attitude on an arms embargo on South Africa.

(*c*) On 28 April 1964, Mr. Harold Wilson asked the Prime Minister to publish all the figures of arms shipments to South Africa in 1963.

(*d*) On 16 June 1964, Mr. Patrick Gordon Walker said: "We should forthwith stop all exports of arms. We should go further, I think, and draw up a list, with our allies and, if possible, with other Powers, of strategic goods whose export to South Africa should be banned."

478. The Government, however, took the position that the United Kingdom and South Africa had a common interest in the defence of the sea routes around the Cape, that the arms supplied to South Africa were intended first and foremost for defence against external attack, that the South African Government had not ordered more military equipment than it could reasonably require for this purpose, and that a total ban on arms shipments would harm the economy of the United Kingdom.

479. A change of policy is anticipated with the recent change of government in the United Kingdom. Mr. Patrick Gordon Walker, then Secretary of State for Foreign Affairs, said on 1 October 1964 during the election campaign: "We should stop all arms—anything that could be described as weapons."

480. The South Africa Working Party of the British Council of Churches submitted a report in September 1964 suggesting, *inter alia,* that the supply of any further arms to South Africa be prohibited forthwith. The Council, in a resolution on 20 October, commended the report to the member Churches and decided to seek an early opportunity to discuss the British policy towards South Africa with the Secretary of State for Foreign Affairs.

481. The announcement by the new Government of the United Kingdom on 17 November 1964 that it had decided to impose an embargo on arms to South Africa has aroused hopes for an effective international embargo in fulfilment of the relevant decisions of the Security Council.

E. International opposition to the policies of *apartheid*

482. World-wide opposition to the policies of *apartheid* and the ruthless repressive measures by which these policies have been implemented, reached a new peak during the period under review. The adoption of General Assembly resolutions 1881 (XVIII) of 11 October 1963 and 1978 (XVIII) of 16 December 1963, and the Security Council's resolutions of 4 December 1963, 9 June 1964 and 18 June 1964, by unanimous or nearly unanimous votes, reflected the revulsion felt in all Member States at the racial policies of the South African Government and an awareness of the serious dangers likely to result.

[260] As early as March 1963, Mr. Harold Wilson, leader of the Labour Party, called for a ban on arms shipments.

(a) *Action by Member States*

483. African Member States continued to show grave concern over the matter and a determination to take and promote effective measures to secure the abandonment of the policy of *apartheid.* The Council of Ministers of the Organization of African Unity, at its second regular session, held in Lagos from 24 to 29 February 1964, reaffirmed that "sanctions of every kind represent the only remaining means of peacefully resolving the explosive situation prevailing in South Africa", and submitted recommendations to the Heads of State and Government to promote such a solution (see A/5692, annex III).

484. The Assembly of Heads of State and Government of the Organization of African Unity, at its first ordinary session in Cairo, 17-21 July 1964, endorsing the recommendations made by the second session of the Council of Ministers, reiterated its appeal to all countries to apply in the strictest manner the economic, diplomatic, political and military sanctions already decided by the United Nations General Assembly and Security Council; appealed to the major commercial partners of the South African Government to discontinue the encouragement they were giving to the maintenance of *apartheid* by their investments and commercial relations with the Pretoria Government; and decided to take the necessary steps to refuse any aeroplane or ship or any other means of communication going to or coming from South Africa the right to fly over the territories of Member States or utilize their ports or any other facilities. Moreover, convinced of the necessity of urgently intensifying action to further the application of sanctions against the South African Government, the Assembly appealed to all oil-producing countries to cease, as a matter of urgency, their supply of oil and petroleum products to South Africa; called on all African States to implement the decision of the Summit Conference of Independent African States at Addis Ababa to boycott South African goods and to cease the supply of minerals and other raw materials to South Africa; and requested the co-operation of all countries, and in particular the major trading partners of South Africa, in the boycott of South African goods (for the texts of the resolutions, see document A/AC.115/L.83).

485. The Second Conference of the Heads of State or Government of Non-Aligned Countries, held in Cairo, 5-10 October 1964, stated that the Government and peoples represented at the conference had decided that they would not tolerate much longer the presence of the Republic of South Africa in the comity of nations. It declared that the inhuman racial policies of South Africa constituted a threat to international peace and security. It regretted that the obstinacy of the Pretoria Government in defying the conscience of mankind had been strengthened by the refusal of its friends and allies, particularly some major Powers, to implement United Nations resolutions concerning sanctions against South Africa. The Conference, therefore, called upon all States (*a*) to boycott all South African goods, especially arms, ammunition, oil and minerals to South Africa; and (*b*) to break diplomatic, consular and other relations with South Africa if they had not yet done so. It requested the Governments represented at the Conference to deny airport and overflying facilities to aircraft and port facilities to ships proceeding to and from South Africa, and to discontinue all road or rail-

way traffic with that country (for the text of the resolution, see document A/AC.115/L.91).

486. At the Commonwealth Prime Ministers' meeting, held in London, 8-15 July 1964, several Prime Ministers called for the application of economic sanctions and an arms embargo against South Africa.[261]

487. The action taken by these and many other Member States in response to the resolutions of the General Assembly and the Security Council and the appeal of the Special Committee concerning trials and death sentences in South Africa, showed widespread determination to do all they could to resolve the situation in South Africa.

(b) *Protests against* apartheid *in the specialized agencies and other inter-governmental agencies and conferences*

488. The abhorrence of the policies of *apartheid* by world public opinion and the refusal of the South African Government to pay heed to world opinion has led to the withdrawal of South Africa from a number of international organizations or its expulsion by them.

489. South Africa withdrew from the United Nations Educational, Scientific and Cultural Organization several years ago. During the past two years, South Africa has withdrawn from, or has been suspended or expelled from, the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Economic Commission for Africa, the Commission for Technical Co-operation South of the Sahara and the Council for Science in Africa. South Africa has been excluded from numerous African regional meetings and its presence at various international conferences led to vigorous protests.

490. Some of the main developments during the period since 13 September 1963 are reviewed below.

(i) *Food and Agriculture Organization of the United Nations*

491. At the twelfth session of the Conference of the FAO in Rome, 16 November to 5 December 1963, the Government of Ghana proposed a constitutional amendment to provide for the exclusion of a member or associate member which had persistently violated the principles contained in the preamble to the Constitution of the Organization. The sponsor of the amendment and its supporters stated that the absence of such a provision in the Constitution had precluded the possibility of giving effect to the demand of the African States for the exclusion of South Africa by reason of its policies of *apartheid*. The amendment received 47 votes in favour, 36 against and 11 abstentions, and was not adopted as it failed to receive the required two-thirds majority.

[261] The communiqué issued at the close of the meeting stated: "The Prime Ministers reaffirmed their condemnation of the policy of *apartheid* practised by the Government of the Republic of South Africa. Some Commonwealth Prime Ministers felt very strongly that the only effective means of dealing with the problem of *apartheid* was the application of economic sanctions and an arms embargo. It was recognized, however, that there was a difference of opinion among Commonwealth countries as to the effectiveness of economic sanctions and as to the extent to which they regarded it as right or practicable to seek to secure the abandonment of *apartheid* by coercive action, of whatever kind. But the Prime Ministers were unanimous in calling upon South Africa to bring to an end the practice of *apartheid*, which had been repeatedly condemned by the United Nations and was deplored by public opinion throughout the world."

492. On 5 December 1963, the Conference adopted a resolution, with South Africa alone voting against, to decide that the Republic of South Africa would no longer be invited to participate in any capacity in FAO conferences, meetings, training centres, or other activities in the African region, until the Conference decided otherwise.[262]

493. Subsequently, on 18 December 1963, the South African Government gave notice of withdrawal from membership in the FAO.

(ii) *International Atomic Energy Agency*

494. On 1 October 1963, during the seventh session of the General Conference of IAEA, twenty members from Asia and Africa submitted a joint declaration recalling that membership of the Agency was open to those States which subscribed to and acted in accordance with the principles of the United Nations Charter and noting that the South African Government had continued to maintain the policies of *apartheid* disregarding all United Nations resolutions condemning such policies. They (*a*) condemned the policies of *apartheid* of the South African Government; (*b*) deprecated the South African Government's irresponsible flouting of world opinion by its persistent refusal to put an end to its racial policies; and (*c*) appealed to all Member States to use their utmost endeavours to secure in the shortest possible time a review of South Africa's *apartheid* policy in the context of the work of the Agency.

495. At the eighth session of the General Conference in September 1964, nine African members signed a joint declaration that South Africa could not represent African countries. Several African countries asked that South Africa be removed from the Board of Governors.

(iii) *International Civil Aviation Organization: Africa-Indian Ocean Air Navigation Meeting, November 1964*

496. At the Africa-Indian Ocean Regional Air Navigation meeting which opened on 23 November 1964 in Rome, the representative of the United Arab Republic, speaking on behalf of the African States, expressed regret at the presence of South Africa and stated that they did not desire to participate in any discussion which might be initiated by South Africa.

(iv) *International Labour Organisation*

497. The question of South Africa was considered at the 48th session of the International Labour Conference in Geneva, June-July 1964.

498. On 7 July 1964, the Conference unanimously adopted an instrument of amendment to the Constitution of the Organisation to empower the General Conference to expel from membership any Member which the United Nations had suspended from the exercise of the rights and privileges of membership.

499. On the same day, the Conference adopted, by 253 votes to 24, with 35 abstentions, another instrument of amendment to the Constitution providing for the suspension from the Conference of a Member found by the United Nations to be flagrantly and persistently

[262] Earlier, the second FAO Regional Conference for Africa, which had been convened in Tunis in November 1962, was unable to proceed with its work as the African representatives refused to sit with the representative of South Africa.

pursuing by its legislation a declared policy of racial discrimination such as *apartheid*.

500. On 8 July 1964, the Conference unanimously adopted a "Declaration concerning the Policy of *Apartheid* of the Republic of South Africa" and "An ILO Programme for the Elimination of *Apartheid* in Labour Matters in the Republic of South Africa".

501. The Government of South Africa on 11 March 1964 addressed a communication to the Director-General of the International Labour Office stating that it had decided to withdraw from the Organisation. This communication followed recommendations adopted by the Governing Body of the Organisation, at its session from 13 to 17 February 1964, which formed the basis for the decisions of the Conference.

502. Subsequently, the South African Government was reported to have sent a circular to all State departments and to all State-aided institutions informing them that they should not react to any requests for information or aid of any kind from the International Labour Organisation.[263]

(v) *International Telecommunication Union: African Broadcasting Conference, Geneva, October 1964*

503. At the African Broadcasting Conference convened by the International Telecommunication Union in Geneva, it was decided on 13 October 1964, on the proposal of the delegation of Algeria, that the representatives of South Africa be expelled. The vote was 27 in favour, 9 against and 2 abstentions (thirteen delegations did not participate in the vote).

504. The Conference decided on 19 October 1964 to suspend its work *sine die* following an announcement by the secretariat that it was obliged to withdraw its services as the decision to exclude the South African delegation was contrary to a provision of the International Telecommunication Convention.

(vi) *United Nations Conference on Trade and Development, Geneva, March-June 1964*

505. On 26 March 1964, the representative of India, speaking on behalf of the Afro-Asian Group, Yugoslavia, Trinidad and Tobago, and Jamaica, at the seventh plenary meeting of the United Nations Conference on Trade and Development, said that it was the desire of those delegations that the delegation of South Africa be excluded from participation in the Conference, and that they were determined to ignore the presence of that delegation.

506. In a subsequent communication, the delegations from Eastern Europe associated themselves with the attitude of the above States.

507. The great majority of delegations walked out of the conference room when members of the South African delegation spoke.

(vii) *Universal Postal Union*

508. The Congress of the Universal Postal Union in Vienna, 29 May to 10 July 1964, approved by a simple majority a declaration sponsored by thirty-one member countries from Africa strongly condemning "the policy of *apartheid* and the oppressive measures practised by the South African Government", declaring profound indignation at the presence of the South African delegates, contesting "the minority representation of the South African Government" and demanding "their expulsion from the Universal Postal Union". The President thereupon asked the South African delegation to leave the conference hall.

509. A proposal that South Africa should not be allowed to adhere to the new Constitution and conventions of the Union was rejected on 9 July by 58 votes to 56, with 5 delegations absent.

(viii) *World Health Organization*

510. When the thirteenth session of the Regional Committee for Africa of the World Health Organization opened in Geneva on 23 September 1963, the representative of Mali, speaking on behalf of the African States, recalled the decisions of the Summit Conference of Independent African States held in Addis Ababa, 22-25 May 1963, and stated that it was impossible for the representatives of the African States to sit with those of South Africa. He requested the expulsion of South Africa, failing which the representatives of the African States would be obliged to leave.

511 The session adjourned *sine die* on the next day when the majority of members left the meeting.

512. The Seventeenth World Health Assembly, meeting in Geneva, adopted a resolution on 19 March 1964 suspending the voting privileges of South Africa in WHO in accordance with article 7 of the WHO Constitution which provides for suspension of voting privileges "if a member fails to meet its financial obligations to the organization or in other exceptional circumstances". The resolution also requested the Executive Board and the Director-General of WHO to submit to the Eighteenth World Health Assembly formal proposals with a view to the suspension or exclusion from the organization of any member violating its principles and whose official policy was based on racial discrimination. The vote on the resolution, sponsored by thirty-four Member States from Africa and the eastern Mediterranean region, was 66 in favour, 23 against and 6 abstentions.[264]

513. The South African delegation withdrew from the Assembly after the resolution was adopted.[265]

514. The South African Government did not send a representative to the session of the Regional Committee for Africa, held in Geneva from 14 to 21 September 1964.

(c) *Non-governmental protests and boycotts*

515. During the period under review, there has been a tremendous world-wide demand by non-governmental organizations and individuals for the release of political prisoners in South Africa, and against the Rivonia trial and the death sentences on opponents of the policies of *apartheid* such as Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba. Organizations of churches, workers, women, youth, students, teachers and others, repre-

[263] *The Cape Times*, 6 August 1964.

[264] At the thirty-fourth session of the Executive Board which ended on 29 May 1964, none of the three draft resolutions concerning the formal proposals which the Seventeenth World Health Assembly had requested the Board to make received the required two-thirds majority.

[265] The Prime Minister, Mr. H. F. Verwoerd, told the House of Assembly on 26 March 1964 that South Africa had decided "not to withdraw voluntarily from membership of the World Health Organization, in spite of the provocation which so rightly led its delegation to leave the meeting at which the unjustifiable decision was taken" (Republic of South Africa, *House of Assembly Debates* (*Hansard*), 26 March 1964, col. 3706).

senting hundreds of millions of members, have participated in protests against *apartheid* and repression in South Africa and in demands for an immediate amnesty to all prisoners.[266]

516. Committees to campaign against *apartheid* have been formed in many countries, including Australia, Austria, Canada, France, Germany, India, Ireland, Israel, Japan, Netherlands, Norway and Sweden and the United Kingdom.

517. A number of communities and organizations have boycotted South African goods in protest against the policies of *apartheid*.

518. In the United Kingdom, several town councils have decided to boycott South African goods. Among these are the councils of Aberdeen, Cardiff and the borough of St. Pancras, London. Shops of three large co-operatives in South Wales are boycotting South African goods.[267]

519. In Norway, the State-run Norwegian Wine and Spirits Company announced on 20 April 1964 that it would stop using South African brandy in the production of its popular brands.[268]

520. In Denmark, several chain stores boycotted South African products.[269]

521. In the Netherlands, the campaign of the South African Committee for a boycott of South African products received considerable public support.[270]

522. Many playwrights have declared that they would refuse permission to have their plays performed in South Africa and many artists have refused invitations to visit South Africa.[271]

523. Numerous sports organizations have shown their revulsion against *apartheid* by excluding South African segregated teams from international competitions.

524. Boycotts of South African goods have been organized by dockers in Australia.

525. In May 1964, Sydney waterside workers refused to unload 100 tons of South African haddock from a Norwegian ship *Havflak* and called on the Australian Council of Trade Unions to place a ban on all South African goods so long as the policy of *apartheid* continued.[272] They held several stop-work meetings on this issue.[273] Nearly 100 Sydney waterside workers were dismissed on 3 August 1964 when they refused to work on the Dutch freighter *Straat Madus* which, they claimed, was carrying South African cargo.[274] Sixty Sydney waterside workers refused in September 1964 to work on the freighter *New Zealand Star* which carried 1,000 tons of frozen fish from South Africa, and 4,500 workers stopped work in the port in sympathy with them.[275] Four thousand waterside workers in Sydney stopped working for an hour on 24 September 1964 in protest against South Africa's policy of *apartheid*.[276] Four hundred dock workers in Freemantle, at a meeting on 10 September 1964, reaffirmed their decision to protest against the handling of cargoes to and from South Africa.[277]

526. Public support and demands for economic sanctions against South Africa have been increasing. Communications from a number of organizations, in support of economic sanctions, were published as Committee documents.[278]

527. The International Conference on Economic Sanctions against South Africa, held in London in April 1964, reflected wide support among non-governmental organizations for economic sanctions.

528. Total or partial economic sanctions were recently supported by the Trades Union Congress in the United Kingdom on 9 September 1964; the American Negro Leadership Conference on 28 September 1964; and the British Council of Churches on 21 October 1964.

F. Some economic aspects of the situation in the Republic of South Africa

529. The intransigence of the South African Government has been encouraged by the recent boom conditions in the economy which have tended to prevent widespread realization of the negative effects of racial discrimination on economic growth, and to conceal the reality of the increasing political isolation of the country. This boom is reflected in and supported by the increase in the foreign trade of the Republic, especially with its major trading partners.

530. The Government claims that the country need not be unduly concerned over economic sanctions as it is economically strong and its major trading partners would not participate in such sanctions. It has, however, taken some steps such as the development of arms production and the encouragement of oil prospecting in order to meet any threat of economic sanctions.

(a) *Recent economic growth in South Africa*

531. The South African economy has recently experienced a boom because of the rapid development of secondary industry and the high level of activity maintained by the gold mining industry. The great

266 The documents of the Special Committee contain details on these protests. See, for instance, the letter of June 1964 from Mr. J. Thorpe, M.P., Honorary Secretary of the World Campaign for the Release of South African Prisoners (A/AC.115/L.75).

267 *The Cape Times*, 8 and 11 May 1964, 26 June 1964.

268 *Ibid*., 21 April 1964.

269 *Ibid*., 22 April 1964.

270 *Ibid*., 2 and 17 April 1964.

271 "The Beatles", a British quartet, announced on 10 July 1964 that they would not perform in South Africa because of racial segregation (*The Cape Times*, 11 July 1964).

In Ireland, twenty-eight playwrights, including Mr. John McCann, the Lord Mayor of Dublin, Mr. Samuel Beckett, and the late Mr. Sean O'Casey signed a declaration refusing rights for performing their plays before segregated audiences in South Africa (*The Cape Times*, 23 September 1964).

272 *The Cape Times*, 30 May 1964.

273 *Ibid*., 2 and 17 June 1964.

274 *Ibid*., 4 August 1964.

275 *Ibid*., 11 September 1964.

276 *Ibid*., 25 September 1964.

277 Federal officers of the Australian Waterside Workers' Federation were reported to have explained on 10 September 1964:

"We believe there should be a ban on the handling of all South African goods by Australians, remembering that South African unions have called for such a ban.

"We have called on the Australian Council of Trade Unions to impose sanctions.

"Failing that action, the federation has not applied such a ban, but the members have continued to make their protest at being called upon to handle the goods of a country which is isolated in the world by its refusal to accept world opinion" (*The Cape Times*, 11 September 1964).

278 See communications from the Second Conference of the International Trade Union Committee for Solidarity with the Workers and People of South Africa, Accra, 9-11 March 1964 (A/AC.115/L.63); Trades and Labour Council of Queensland, Australia (A/AC.115/L.72); Irish Anti-apartheid Movement (A/AC.115/L.74); Union of Australian Women, Western Suburbs Branch (A/AC.115/L.74); International Confederation of Free Trade Unions (A/AC.115/L.74); Women's International League for Peace and Freedom (A/AC.115/L.82), and Canadian Union of Students, Ottawa, Canada (A/AC.115/L.86).

increase in the military budget has contributed significantly to this boom.[279]

532. The Minister of Economic Affairs and of Mines, Mr. N. Diederichs, claimed in the Senate on 30 March 1964 that South Africa was enjoying a wave of prosperity such as it had never experienced and such as was being experienced by few countries in the world. In spite of threats of sanctions and the application of boycotts, he said, the economy was one of the most dynamic in the world.[280]

533. Mr. J. B. de K. Wilmot, Deputy Governor of the South African Reserve Bank, said in a broadcast on 26 July 1964 that the gross national product in real terms had risen by 7 per cent in 1962 and 7.5 per cent in 1963.[281]

534. The South African Reserve Bank reported in August 1964, in its annual economic report for the year ended June 1964, that, from the economic and financial point of view, 1964 year was one of the best ever in South Africa. The gross national product, according to the provisional estimate, was about R7,000 million ($9,800 million) compared with R6,330 million ($8,862 million) in the previous year, representing an increase of 10.5 per cent at current prices and about 8 per cent in constant prices. Gross private fixed investment was R800 million ($1,120 million), or an increase of 19 per cent over the previous year. Fixed investment by the Government and other public authorities, excluding public corporations, increased by about 12 per cent to R460 million ($644 million). Manufacturing output was on the average about 16 per cent higher than during the previous year. Merchandise exports increased by R116 million ($162.2 million) to R1,066 million ($1,492.4 million) and the net gold output by R40 million ($56 million) to R699 million ($978.6 million). Private consumption increased by R430 million ($602 million) to about R4,500 million ($6,300 million).[282]

535. There are signs that the growth rate is slowing down as the excess productive capacity is exhausted and the economy begins to face a number of bottle-necks.

536. The Economic Advisory Council met in February and reported, according to a statement issued by the Prime Minister on 2 April 1964, that "the degree of surplus capacity which existed in the economy a year ago, has now almost completely disappeared in respect of unemployed labour and machinery capacity". It added that the inadequacy of railway transport and the bottleneck of trained manpower could retard economic development.

537. The scarcity of skilled manpower is tied up very closely with the policy of *apartheid*. Because of the policy of racial discrimination, skilled jobs are largely reserved to the Whites and the country is not able to make more use of the skills of non-white workers. Thus, there is a scarcity while there are millions of unemployed or under-employed.

538. The scarcity of skilled manpower is acute in the engineering and the building industries, the merchant marine, railways, post offices etc. The Government has encouraged white immigration to meet this scarcity. The Minister of Labour and of Immigration, Mr. A. E. Trollip, said in the House of Assembly on 5 June 1964 that last year the Government brought 1,200 skilled workers to the country as immigrants,[283] but the rate of immigration has proved inadequate to meet the demand.

539. Mr. H. F. Oppenheimer, chairman of the African Explosives and Chemical Industries, said on 5 April 1964 that, because of the acute scarcity of skilled manpower, the company would have to abandon or postpone some of the R90 million ($126 million) worth of projects they were considering for the next few years. He said that there was a scarcity at all levels and in all jobs, not only in the company but in South Africa as a whole. Mr. G. E. Hughes, general manager of the company, added that this lack of skilled manpower had been building up for some years, but had become acute because of the prosperity of the country. Immigration was not an answer to the problem, as it was "just a drop in the bucket". The problem in the country was that it had a very small white population from which it could draw skilled manpower.[284]

540. The policy of *apartheid,* it may be noted, leads to an uneven distribution of the benefits of the current prosperity.

541. The boom has led to a great increase in profits and share prices, particularly of industrial companies. According to a survey of profits of all industrial and commercial companies, the profits in 1963 were on the average 30 per cent over 1962. Share prices increased by an average of 36 per cent during the same period.[285] On the other hand, the president of the Associated Chambers of Commerce, Mr. E. P. Bradlow, stated on 11 September 1963 that "in the midst of a boom great numbers of people are living on or below the breadline". He described the life of the unskilled African worker as "an unlovely struggle against overwhelming odds" and said "the Bantu is fortunate if he can go through life avoiding destitution". He added: "It is no longer possible to cherish the illusion that black men are indifferent to their economic position and that poverty does not arouse in them the same burning resentment as it does in other peoples."[286]

542. The Prime Minister, Mr. H. F. Verwoerd, noted in a statement on 1 April 1964 on the report

[279] The Minister of Defence, Mr. J. J. Fouché, said on 9 September 1964 that defence contracts in the current financial year would earn R.35 million ($49 million) for South African industries. He added: "The fact that Defence is spending so much is one of the greatest inducements for new industrial development" (*The Cape Times,* 10 September 1964).

[280] *The Cape Times,* 4 March 1964.

[281] *Ibid.,* 27 July 1964. Population increase in South Africa is about 2.3 per cent per year, so that the increase in *per capita* income in 1963 is about 5 per cent.

[282] *The Cape Times,* 14 August 1964.

[283] *Ibid.,* 6 June 1964.

The total number of immigrants in 1963 was 37,573 and the number of emigrants 7,225, as against 20,976 immigrants and 8,945 emigrants in 1962 (*ibid.,* 21 March 1964).

The rate of immigration is even higher in 1964: during the first six months of the year, 21,189 immigrants arrived in South Africa compared with 15,176 in the first six months of 1963 (*ibid.,* 16 September 1964).

The Minister of Labour and of Immigration, Mr. Trollip, said in the House of Assembly on 8 June 1964 that at least 40,000 immigrants would come to South Africa in 1964. Prospects were that the number of immigrants would set a record, especially from the United Kingdom (*ibid.,* 9 June 1964).

Authorities in Pretoria were quoted as saying in August 1964 that fears of future anti-white developments in the new African States were increasing immigration to South Africa. Of the 14,986 immigrants who arrived in South Africa in the first four months of 1964, nearly half were from African territories (*ibid.,* 5 August 1964).

[284] *The Cape Times,* 6 April 1964.

[285] *Focus '64* (Rondebosch), March 1964.

[286] *The Star* (Johannesburg), 11 September 1963.

of the Economic Advisory Council, that the economic progress achieved in 1963 was confined mainly to the metropolitan areas. Industries had not developed rapidly in border areas—areas on the borders of African reserves—despite Government encouragement. He continued:

"There are not yet sufficient employment opportunities in the border areas and Bantu homelands to keep pace with the increase in Bantu population.

"In certain areas great poverty exists. This applies particularly to the Ciskei, where there has been economic stagnation for many decades...

"The social problem has reached serious proportions there, while the rate of development has up to the present been low."[287]

543. Government supporters have stressed that African wages in industry had risen in 1963 by an average of 8 per cent while the wages of the white workers had risen by only 5 per cent. But, as Mr. H. F. Oppenheimer pointed out in June 1964, these percentages were meaningless because of the extreme differences between the wage bases. European wages had risen from an average of R1,953 ($2,734) to R2,060 ($2,884), an increase of R107 ($150), while African wages rose from R392 ($549) to R422 ($591), or an increase of R30 ($42).[288] The primary reason for the low increase in non-white wages is the fact that non-white workers are denied trade union rights and freedom of choice with regard to employment.

544. The Government views the current prosperity as not only an opportunity to undertake large development projects such as the Orange River scheme, but as a means to promote *apartheid*. The development plan for South West Africa, the plans for industries on the borders of African reserves and the increased allocations of funds for segregation in the urban areas are designed to strengthen racial separation. Moreover, a large part of the new resources are utilized for increasing the military build-up and for projects to counter possible economic sanctions.

(b) *Increase in the foreign trade of the Republic of South Africa*

545. The economic prosperity of South Africa has been reflected in, and accelerated by, the sharp increase in the country's foreign trade, as shown in the following table.

TOTAL EXPORTS AND IMPORTS OF THE REPUBLIC OF SOUTH AFRICA[a]

(*Millions of dollars, f.o.b.*)

Year	Exports		
	Total	Gold	Exports
1960	2,040.9	802.8	1,554.0
1961	2,018.9	685.7	1,406.4
1962	2,017.4	684.7	1,436.5
1963	2,219.6	832.7	1,696.7

SOURCE: Statistical Office of the United Nations Secretariat.
[a] General trade.

546. An analysis of South Africa's foreign trade in 1963 reveals the following regional distribution:

(*a*) Africa accounts for 6.7 per cent of the imports and 11.8 per cent of the exports. The colonial territories in Africa contribute over half of these imports and about nine tenths of these exports.

(*b*) Europe accounts for 56.2 per cent of the imports and 55.1 per cent of the exports. The Eastern European countries account for less than 1 per cent of the imports and exports.

(*c*) The American continent accounts for 21.7 per cent of the imports and 11.3 per cent of the exports. The United States of America and Canada account for 20.4 per cent of the imports and 10.4 per cent of the exports.

(*d*) Asia accounts for 14 per cent of the imports and 11.4 per cent of the exports. Japan and Iran account for 7.3 per cent of the imports and 7.9 per cent of the exports.

547. A small number of countries account for most of this trade, as shown in the tables below:

EXPORTS[a] BY PRINCIPAL COUNTRIES OF DESTINATION, 1963

Principal countries	*Percentage*	*Cumulative percentage*
United Kingdom of Great Britain and Northern Ireland	30.1	30.1
United States of America	8.9	39.0
Federation of Rhodesia and Nyasaland	8.3	47.3
Japan	7.8	55.1
Italy	5.5	60.6
Federal Republic of Germany	5.4	66.0
Belgium	4.3	70.3
France	3.5	73.8
Netherlands	2.7	76.5
Mozambique	1.5	78.0

SOURCE: Republic of South Africa, Department of Customs and Excise, *Monthly Abstract of Trade Statistics* (Pretoria), January-December 1963.
[a] Excluding gold.

IMPORTS BY PRINCIPAL COUNTRIES OF ORIGIN, 1963

Principal countries	*Percentage*	*Cumulative percentage*
United Kingdom of Great Britain and Northern Ireland	29.8	29.8
United States of America	16.9	46.7
Federal Republic of Germany	10.7	57.4
Japan	4.7	62.1
Canada	3.4	65.5
Italy	2.8	68.3
Federation of Rhodesia and Nyasaland	2.7	71.0
France	2.6	73.6
Iran	2.6	76.2
Netherlands	2.5	78.7

SOURCE: South Africa, Department of Customs and Excise, *Monthly Abstract of Trade Statistics* (Pretoria), January-December 1963.

548. A few countries substantially increased their trade with South Africa in 1963, and accounted for the bulk of the growth in South Africa's foreign trade.

[287] *The Cape Times*, 2 April 1964.
[288] *The Star* (Johannesburg), weekly edition, 27 June 1964.

INCREASES IN TRADE WITH THE REPUBLIC OF SOUTH AFRICA BETWEEN 1962 AND 1963

(*Millions of rand*)

Country	Increase in exports to South Africa	Increase in imports from South Africa[a]
United Kingdom of Great Britain and Northern Ireland	58	30
Federal Republic of Germany	27	6
United States of America	37	2
France	10	—
Italy	5	3
Canada	16	3
Japan	15	—2
Netherlands	5	—2

SOURCE: Republic of South Africa, Department of Customs and Excise, *Monthly Abstract of Trade Statistics* (Pretoria), January-December 1963.

[a] Excluding gold.

549. In view of General Assembly resolution 1899 (XVIII) recommending an end to the supply of petroleum and petroleum products to the Republic of South Africa, and similar resolutions by the Assembly of the Heads of State and Government of the Organization of African Unity and the Second Conference of Non-Aligned Countries, it may be noted that petroleum and petroleum products are imported from a small number of countries.

IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS BY THE REPUBLIC OF SOUTH AFRICA, 1962, BY PRINCIPAL COUNTRIES OF ORIGIN

	Percentage	Cumulative percentage
Petroleum, crude and partly refined:		
Iran	93.6	93.6
Iraq	4.4	98.0
Petroleum products:		
Iran	36.1	36.1
Aden	15.7	51.8
Bahrein	14.3	66.1
United States of America	9.6	75.7
Saudi Arabia	6.4	82.1
Australia	3.7	85.8
United Kingdom of Great Britain and Northern Ireland	3.5	89.3
Netherlands	2.6	91.9
Netherlands Antilles	2.3	94.2
Indonesia	0.9	95.1

550. Foreign capital investment continues to play a significant role in the economic development of the Republic of South Africa (see A/AC.115/L.56/Rev.1). The United Kingdom and the United States are the leading creditor countries by a wide margin.

551. There has been a net outflow of capital—excluding undistributed profits—from the private and public sectors of South Africa since 1959. Private foreign investment, however, has increased because of the high rate of undistributed profits.

552. The flow to South Africa of British private direct investment—including undistributed profits—has averaged about $36 million annually in recent years. In the 1959-1962 period the yearly flow of investment to South Africa represented 7 per cent of total British overseas direct investments. In 1962, the most recent year available, investment amounted to $38 million. This represented a considerable recovery from the depressed level of $22 million in 1961, which marked the low point of the four-year period.

553. Private United States direct investment, though depressed initially, increased rapidly after Sharpeville, reaching a level of $55 million in 1963. The relative size of recent direct investment flows to South Africa is broadly similar to the relative magnitude of United States investment holdings in the country. Thus, both the value of investments at the end of 1963 and average direct investment flows in 1960-1963 amounted to about 1 per cent of the United States total.

554. Earnings from foreign investment in South Africa in recent years have reached very substantial levels. Thus, in each of the years since 1960 payments of interest, dividends and branch profits to foreign investors have exceeded $260 million. The bulk of this outflow has been accounted for by direct investment earnings, though payments on other investments have been also very large.

555. The importance of South Africa to British overseas business has already been suggested in earlier sections. The earnings of companies from direct investment provide an additional measure of the importance of South Africa to British firms as well as an indication of its importance to the country's balance of payments. Earnings of British firms from South African investments rose from $59 million in 1959 to $80 million in 1962, and the proportion of earnings in South Africa to total earnings from 9 to 13 per cent. Earnings from direct investments in South Africa accounted for a considerably higher ratio of total earnings than the ratio of investments in South Africa to the total of British private foreign investments, which amounted to 7 per cent in 1962.

556. United States investors have also found South Africa a source of substantial revenues. Earnings rose from $50 million in 1960 to $86 million in 1963. A rough indication of the relatively high yields obtained from investment in South Africa may be seen in a comparison of the ratio of South African to total United States direct investment earnings with the ratio of the value of South African to total United States direct investment overseas. In 1963 these ratios were 1.9 per cent and 1 per cent, respectively.

557. In short, while there has been, in recent years, a net outflow of capital—excluding undistributed profits—from South Africa, it is apparent that investor confidence was, at least to some degree, restored in the years immediately following Sharpeville. The flow of private direct investment—including reinvested earnings—has been at a substantial level in the case of both of the major investors in South Africa, the United Kingdom and the United States (*ibid.*).

558. Foreign capital investment, it may be noted, is significant not only because of its volume but also because it is accompanied by technological and industrial "know-how", licences and capital equipment.

(c) *South African reaction to proposals for economic sanctions*

559. In view of the growth of the economy and of foreign trade, despite the economic sanctions imposed by a number of States, spokesmen of the South African

Government have been expressing confidence that effective economic sanctions would not be imposed or implemented and that South Africa can survive the expected pressures. They have argued that though South Africa was, to some extent politically isolated, it was not isolated in other fields.

560. Mr. Eric Louw, then Minister of Foreign Affairs, said on 30 October 1963, that it stood to reason that countries like the United Kingdom and the United States of America which had a profitable export trade with South Africa, shipping and air services to South Africa, and large investments in the country, would not be prepared to support proposals for sanctions. He added that the Republic's huge gold production also influenced their attitude.[289]

561. On 21 January 1964 the Prime Minister, Mr. H. F. Verwoerd stated:

"In most spheres of international relations, the relations between South Africa and those states with which it is important for us to keep in touch and to co-operate, and with which we have also had good contacts and sound co-operation through the years, are excellent."[290]

562. *The Cape Times* reported on 4 April 1964 that the Government's top economic advisers confidently believed that South Africa's big trading partners, including the United Kingdom and the United States, would dissociate themselves from any attempt to pressure the South African Government into changing its policies by refusing to buy South African products. Though trade boycotts had cut the limited trade that South Africa carried on with a number of African countries, the expansion of other markets had more than compensated for the loss.

563. The Minister of Economic Affairs and of Mines, Mr. N. Diederichs, said in the House of Assembly on 19 May 1964 that economic sanctions against South Africa would not succeed. As a result of threats and the "psychological war" being waged against South Africa, he said, the country was developing and diversifying its secondary industries and becoming largely self-sufficient. Official and unofficial boycotts of South African goods had not affected the country's economy, but had harmed African countries boycotting South Africa. He added that South Africa was too valuable a market and supplier of raw materials, gold and other minerals to the countries that really counted.

564. The Minister of Foreign Affairs, Mr. H. Muller, said in the House of Assembly on 8 June 1964 that South Africa was actually not as isolated internationally as some people alleged.[291]

565. The Minister of Finance, Mr. T. E. Dönges, said in Hong Kong on 23 September 1964 that the boycott had a "negligible" effect on the South African economy which was "buoyant". He said that South Africa's imports had risen by 46 per cent in the past two years while exports had risen by £58 million to £533 million.[292]

566. The Opposition United Party, however, has been expressing concern that the resistance of major Western Powers toward economic sanctions was weakening and that South Africa would be particularly vulnerable to economic sanctions as foreign trade played an important role in its economy, with exports equivalent to one quarter of the gross national product and imports to one fifth of the gross national product.[293]

567. The Government has taken a number of steps to counter the threat of economic sanctions and to promote self-sufficiency.

568. Reference has been made earlier to the large expenditures for the manufacture of arms and ammunition in South Africa.

569. The Strategic Mineral Resources Act was passed in 1964 to establish an account for the promotion of prospecting and mining of oil and other strategic minerals in the country, and for the processing of such minerals. The account was opened with R15,000,000 ($21 million) from the budgetary surplus for the financial year 1963-1964.

570. In view of South Africa's dependence on imported petroleum and its consequent vulnerability to an embargo on petroleum supplies, the Government has taken vigorous steps to encourage exploration for petroleum in South Africa and South West Africa. The Minister of Economic Affairs and of Mines, Mr. N. Diederichs, said in the House of Assembly on 21 April 1964 that the geological survey section of his Department had been instructed to organize its activities in a manner which would give priority to investigations relating to natural oil and to the granting of assistance to concerns which were actively prospecting for natural oil.[294]

571. Prospecting rights were granted to about a dozen persons or undertakings and the search for oil is proceeding urgently.[295]

572. The capacity of the South African Coal, Oil and Gas Corporation Ltd. (SASOL) plant for the production of oil from coal is being increased and the establishment of another plant is under consideration.

573. Recognizing its vulnerability with regard to shipping, South Africa is expanding its maritime fleet. The South African Marine Corporation has recently acquired four refrigerated ships, increasing its fleet to fourteen. A contract for three ships was signed with shipbuilders in the Netherlands on 29 October 1964, and an order for two more is planned.[296]

Chapter III. Conclusions and recommendations

574. The foregoing review of the developments since the Special Committee's report of 13 September 1963[297] makes it clear that the Government of the Republic of South Africa has continued to reject and defy the

[289] *The Cape Times*, 31 October 1963.

[290] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, col. 52.

[291] He added: "There is, for example, daily contact between South Africa and many countries of the world in practically every sphere. Just take the example of our international trade. In 1963 our exports increased by R35,000,000, an increase of more than 4 per cent. Foreign capital investments in South Africa last year reached a new peak. The investments of the USA increased by 20 per cent since 1961 and British investments in South Africa increased by R200,000,000 in 1963 alone. Then there are continuously missions and groups of businessmen from overseas visiting South Africa, and South Africans who do the same." (Republic of South Africa, *House of Assembly Debates (Hansard)*, 8 June 1964, col. 7375.)

[292] *The Cape Times*, 24 September 1964.

[293] *Ibid.*, 29 April and 15 October 1964.

[294] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 April 1964, cols. 4600 and 4601.

[295] *The Cape Times*, 4 May 1964; *The Star* (Johannesburg), weekly edition, 23 May 1964.

[296] *The Cape Times*, 30 October 1964.

[297] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497.

decisions of the General Assembly and the Security Council on the question of race conflict resulting from its policies of *apartheid*.

575. It has refused to comply with the requests and demands to abandon its policies of *apartheid* which, the General Assembly and the Security Council declared, were contrary to the principles and purposes of the Charter and in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights. Instead, it has extended the imposition of the policies of *apartheid* by such grossly discriminatory legislation as the Bantu Laws Amendment Act, No. 42, 1964.

576. It has not complied with the demands of the General Assembly and the Security Council to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*; to abolish the practice of imprisonment without charges, without access to counsel or without the right to prompt trial; to end forthwith the trials instituted within the framework of the arbitrary laws of *apartheid*; and to renounce the execution of the persons sentenced to death for acts resulting from their opposition to the policy of *apartheid*. Instead, it has greatly intensified the régime of repression by passing new repressive laws, by imprisoning and persecuting large numbers of opponents of the policy of *apartheid* and conducting numerous trials of such persons under arbitrary laws. It has carried out executions in defiance of the decisions of the Security Council, as well as urgent appeals by the Secretary-General and of world public opinion.

577. The Special Committee recalls that, in its reports of 23 March (A/5692) and 25 May 1964 (A/5707), it had expressed the gravest anxiety over the irrevocable consequences likely to result from the carrying out of death sentences against the opponents of the policies of *apartheid* and the imperative need for urgent and decisive action under Chapter VII of the Charter.

578. The Special Committee regards the recent execution of Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba, despite the repeated intervention of the United Nations organs and the appeal made by the Heads of State who were meeting in Cairo at the Second Conference of Non-Aligned Countries, as a direct challenge to the United Nations and the Heads of State who made the appeal, a challenge which the Organization cannot ignore. These executions have seriously aggravated the explosive situation and prove that opportunities for a peaceful solution may cease to exist unless mandatory measures are implemented without delay. The Special Committee expresses serious anxiety over the fate of other persons awaiting execution for acts arising from their opposition to *apartheid*. The Special Committee likewise expresses its apprehension that further executions would give drastic impetus to the rush of events in South Africa towards widespread and open racial conflict which could engulf Africa, and turn the course of events away from all hopes of a peaceful settlement of the crisis.

579. Moreover, by establishing a régime of repression, the South African Government has left the non-white people and even white opponents of racial discrimination with no effective means of defending their vital interests and furthering their convictions except clandestine activity and violence.

580. The South African Government has spurned the invitation of the Security Council to avail itself of the assistance of the Group of Experts, established in pursuance of the Security Council resolution of 4 December 1963,[298] in order to bring about a peaceful and orderly transformation in South Africa through full application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed. It has failed to respond to the invitation of the Security Council to accept the main conclusion of the Group of Experts that "all the people of South Africa should be brought into consultation and should thus be enabled to decide the future of their country at the national level".[299]

581. The South African Government has thus refused to participate in a search for a positive alternative to the policies of *apartheid* by peaceful means and has instead continued to aggravate the explosive situation in the country by the intensified imposition of discriminatory and repressive policies. It has proceeded to expand greatly its military power to crush internal resistance and threaten other States which proclaim a determination to ensure the fulfilment of the purposes of the United Nations Charter in South Africa. The danger of violent conflict in South Africa is graver than ever, as is the threat of a wider conflict resulting therefrom.

582. The Special Committee has expressed its strong conviction that the situation in South Africa constitutes a serious threat to international peace and security. The policies of *apartheid* are a constant and intense provocation to the people of Africa and to the United Nations and the entire humanity. They threaten to provoke an international conflict, the dangerous prospects of which are increased by the growing militarization of South Africa.

583. This assessment of the Special Committee has been confirmed by the report of the Group of Experts and endorsed by a large majority of Member States in their official statements and in conferences such as the Assembly of Heads of State or Government of the Organization of African Unity and the Second Conference of Heads of State or Government of the Non-Aligned Countries.

584. The Special Committee has stated that the situation in South Africa is such that it calls for urgent and energetic action by the General Assembly, the Security Council and other organs of the United Nations and the specialized agencies, as well as other organizations and individuals. It has laid great emphasis on the need to encourage widest awareness of the dangers of the situation and to rally the widest support by Governments and public opinion for decisive action to resolve the situation.

585. In this connexion, the Special Committee has emphasized its firm conviction that the problem in South Africa lies in the fact that the South African Government has established racial discrimination as a state policy. It has stressed that the South African Government has, by seeking to suppress and silence the non-white population, restricted in various degrees the freedoms of all the South African people, endangered the security of the white minority it seeks to represent and tended to precipitate a disastrous conflict. It has rejected as absurd the South African claim to represent

[298] *Official Records of the Security Council, Eighteenth Year, Supplement for October, November and December 1963*, document S/5471.

[299] *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5658, para. 8.

Western or Christian civilization and declared that efforts to resolve the situation in South Africa are not and should not be influenced by extraneous considerations such as the cold war. It has called for international action with the sole aim of securing the vital interests of all the people of South Africa, irrespective of race, colour or creed, in accordance with the purposes and principles of the Charter. It is convinced that the implementation of the principle endorsed by the Security Council that "all the people of South Africa should be brought into consultation and should thus be enabled to decide the future of their country at the national level" represents an appropriate method for a peaceful resolution of the situation.

586. The Special Committee feels that the failure of all efforts to persuade the South African Government by appeals or the exercise of moral pressure and offers of assistance in the search for a peaceful solution, indicated that such efforts can have no positive effect unless they are accompanied by decisive measures to convince the privileged group in South Africa that the international community is determined to oppose the continuation and intensification of discrimination and to frustrate moves towards that end.

587. The Special Committee has, therefore, expressed its firm conviction that the application of economic sanctions under Chapter VII of the Charter is now the only effective peaceful means for assisting to resolve the situation.

588. The Special Committee notes that this view was also shared by the Group of Experts and advocated by the International Conference on Economic Sanctions against South Africa, the Organization of African Unity, the Second Conference of Heads of State or Government of the Non-Aligned Countries and the large majority of Member States.

589. The Special Committee feels that in view of the gravity and the constant aggravation of the situation, such mandatory action should be taken by the United Nations without further delay.

590. In the light of the foregoing considerations, the Special Committee feels that the situation in the Republic of South Africa should be considered again without delay by the General Assembly and the Security Council and that decisive measures should be adopted to meet the dangers to international peace and security. The Special Committee herewith submits a number of recommendations to assist the principal organs in the consideration of the question.

A. Recognition of the threat to international peace and security

591. The Special Committee is firmly convinced that the situation in the Republic of South Africa, which has greatly deteriorated in recent months, constitutes a serious threat to the peace in terms of Article 39 of the Charter. It considers that a clear recognition of this threat by the Security Council is imperative to enable the implementation of decisive mandatory action which is required to resolve the situation before all the possibilities of a peaceful solution are eliminated. The Security Council cannot afford to wait to take action when such foreseeable conflicts as those in South Africa could be prevented by its timely and decisive mandatory action.

592. The Special Committee notes that the Security Council, while expressing its strong conviction that the situation is seriously disturbing the maintenance of international peace and security, has refrained from determining it as a threat to the peace in terms of Article 39 of the United Nations Charter. This failure to define the situation in terms of the appropriate Charter provisions is due mainly to the reluctance of certain permanent members of the Security Council which are also among the major trading partners of South Africa.

593. The Special Committee is convinced that these Powers should recognize the existence of this threat as an objective fact and the ineffectiveness of further action under any provisions of the Charter outside the scope of Chapter VII to resolve the situation. It hopes that they will be persuaded by the influence of the opinion of the vast majority of Member States that, by delaying effective action, they are not only permitting the threat to develop into alarming proportions and erupt into violent conflict, but also weakening the authority, prestige and effectiveness of the United Nations.

594. The Special Committee, therefore, recommends to the General Assembly that, at the earliest practicable date, it record the conviction of the large majority of Member States that the situation in the Republic of South Africa constitutes a serious threat to the peace, thus calling for mandatory measures provided for in Chapter VII of the Charter of the United Nations, and invite the Security Council to take necessary action without delay to resolve the situation.

595. The Special Committee feels that a massive endorsement of such a declaration by all Member States would not only help persuade all the permanent members of the Security Council, but would ensure the widest support for action to be taken by the Security Council.

B. Application of economic sanctions

596. The Special Committee has emphasized that economic sanctions are the only available means for a peaceful solution of the situation in South Africa. It has further emphasized that economic sanctions would be effective if they were implemented by all States, more particularly by all the major trading partners of South Africa (United Kingdom of Great Britain and Northern Ireland, United States of America, Federal Republic of Germany, Japan, Italy, France, Netherlands, Canada, Belgium, Iran, Portugal, Sweden and Switzerland).[300] The Committee feels that the Government of the Republic of South Africa would not be able to carry out its policies of *apartheid* if it did not enjoy the economic support of these trading partners.

597. The Special Committee notes with satisfaction that a large number of States have taken economic measures against South Africa during the period under review, despite the serious sacrifices involved, in pursuance of the provisions of operative paragraph 4 of General Assembly resolution 1761 (XVII).[301] It notes

[300] As indicated in the tables in chapter II, these are the principal countries of destination of South Africa's exports and/or principal countries of origin of South Africa's imports in 1963. Details on the direction of trade of South Africa, in 1963, based on South African official statistics, are given in annex III.

[301] The text of operative paragraph 4 reads as follows:

"4. *Requests* Member States to take the following measures, separately or collectively, in conformity with the Charter, to bring about the abandonment of those policies:

further that a number of States have implemented the decision of the Security Council that they "cease forthwith the sale and shipment to South Africa of arms, ammunition of all types, military vehicles, and equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa".

598. The Special Committee recommends that the States which have taken effective measures in implementation of the decisions of the General Assembly and Security Council be commended, and that all other States be invited to take action and report without delay.

599. The Special Committee notes that the request in operative paragraph 4 of General Assembly resolution 1761 (XVII) reflects the considered opinion of the great majority of Member States, based on the proposals of the opponents of the policies of *apartheid* in South Africa and the decisions of African and other States. It feels that Member States should respect that decision of the General Assembly, consider in good faith and in all seriousness means of complying with that decision, and, above all, refrain from any action contrary to its provisions.

600. The Special Committee, however, notes that several States, including the major trading partners of South Africa, have opposed economic sanctions, or expressed doubts regarding economic sanctions, and advanced various reasons for not abiding by the request in operative paragraph 4 of General Assembly resolution 1761 (XVII).

601 The Special Committee feels that these Powers should be called upon to take note that continued economic and other relations which encourage the intransigence of the Government of the Republic of South Africa are incompatible with opposition to *apartheid* and with concern for the authority of the United Nations; and that such relations are a likely source of friction with many States, particularly in Africa and Asia, which have already implemented economic sanctions and are determined to oppose by every means at their disposal the degradation of non-white people in South Africa.

602. The Special Committee recalls that the International Conference on Economic Sanctions against South Africa, held in London in April 1964, brought together recognized experts in various fields and helped to counter the reasons advanced against economic sanctions. The Conference concluded that economic sanctions were feasible and practicable and that the adverse effect of economic sanctions on the economies of the major trading partners and on international trade would be marginal, though certain special interests might be seriously affected (see A/5707, annex II).[302]

"(*a*) Breaking off diplomatic relations with the Government of the Republic of South Africa or refraining from establishing such relations;

"(*b*) Closing their ports to all vessels flying the South African flag;

"(*c*) Enacting legislation prohibiting their ships from entering South African ports;

"(*d*) Boycotting all South African goods and refraining from exporting goods, including all arms and ammunition, to South Africa;

"(*e*) Refusing landing and passage facilities to all aircraft belonging to the Government of South Africa and companies registered under the laws of South Africa;

". . ."

[302] Many of the papers submitted to the Conference were published in document S/AC.14/L.2. The report by the delegation of the Special Committee, which attended the Conference as observers (see A/5707, annex II) was communicated to the General Assembly and the Security Council on 25 May 1964.

603. The Special Committee expresses the hope that the aggravation of the situation in South Africa, and the recent consideration of the question of economic sanctions in the United Nations and outside, will persuade all States, particularly the major trading partners of South Africa, of the desirability, appropriateness and urgency of economic sanctions against South Africa. It further expresses the hope that the technical study by the Committee of Experts established in pursuance of the Security Council resolution of 18 June 1964 will facilitate an early mandatory decision by the Council for effective economic sanctions to be applied by all States under the auspices of the United Nations.

604. The Special Committee, meanwhile, reiterates its grave concern that certain States have increased their trade with the Republic of South Africa, despite the provisions of General Assembly resolution 1761 (XVII), thus frustrating the effect of the sacrifices of other States, and that some States continue to fail to implement fully the decisions of the Security Council, having made reservations or qualifications concerning compliance with those decisions. The Special Committee considers that such an attitude constitutes an encouragement to the South African Government to continue its present racial policies and challenge the authority of the United Nations.

605. The Special Committee notes in this connexion that it had expressed its appreciation for the decision of the United States Government in August 1963 and the United Kingdom Government on 17 November 1964 to stop the supply of arms to the Republic of South Africa and the hope that these Governments would take further vigorous steps to dissuade the South African Government from continuing with its racial policies.[303]

606. The Special Committee considers that the United Nations should insist that all States, which have not yet done so, follow the example of these two major suppliers of arms to South Africa. The United Nations should, moreover, make it clear to all States that continued supplies of arms to the Republic of South Africa, and any moves to replace the United States of America and the United Kingdom as suppliers of arms, would constitute a challenge to the authority of the United Nations and a step towards the intensification of the threat to international peace.

607. The Special Committee therefore recommends to the General Assembly and the Security Council that they express regret at the actions of States which have not complied with the provisions of operative paragraph 4 of General Assembly resolution 1761 (XVII) or have failed to implement the decisions in operative paragraph 3 of the Security Council resolution of 7 August 1963,[304] reaffirmed and elaborated in operative paragraphs 1 and 5 of its resolution of 4 December 1963[305] and operative paragraph 12 of its resolution of 18 June 1964.[306]

[303] The Special Committee expresses its regret that the United Kingdom Government subsequently announced that it would allow the supply of Buccaneer aircraft to the Republic of South Africa under the outstanding contract.

[304] *Official Records of the Security Council, Eighteenth Year, Supplement for July, August and September 1963*, document S/5386.

[305] *Ibid., Supplement for October, November and December 1963*, document S/5471.

[306] *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5773.

608 With regard to the shipments of arms to the Republic of South Africa, the Special Committee is convinced that a distinction between arms for internal security and arms for external purposes is unjustifiable. The Special Committee cannot accept the view that South Africa has the right under Article 51 of the Charter to obtain arms from abroad. The Special Committee believes that any increment to the armed strength of South Africa, especially if this increase comes in the form of the most modern and murderous weapons, whether denominated as for external defence or not, will only serve to bolster the arrogant self-confidence of the South African Government in its ability to continue its repressive measures in support of the policies of *apartheid* and intensify its defiance of the United Nations and world public opinion with impunity.

609. The Special Committee recalls that, in its earlier reports, it made certain specific recommendations on the basis of the decisions of the Security Council and the General Assembly (see paragraphs 23 and 24 above). It wishes to reiterate and elaborate these recommendations for the consideration of the General Assembly and the Security Council.

610. With regard to the request to all States by the Security Council in its resolutions of 9 August and 4 December 1963, respectively, to cease forthwith the sale and shipment to South Africa of arms, ammunition of all types, military vehicles, and equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa, the Special Committee recommends that all States be requested:

(*a*) To prohibit the provision of technical assistance or capital and the granting of licences for the manufacture of arms and ammunition in South Africa;

(*b*) To prohibit any assistance in the manufacture in South Africa of aircraft, naval craft or military vehicles;

(*c*) To deny training facilities to members of the South African armed forces;

(*d*) To refrain from joint military exercises with the South African armed forces.

611. The Special Committee further suggests for the consideration of the General Assembly and the Security Council that

(*a*) All international agencies, in particular the specialized agencies, including the International Bank for Reconstruction and Development and the International Monetary Fund, be requested to take all necessary steps to deny economic or technical assistance to the Government of the Republic of South Africa without precluding, however, humanitarian assistance to the victims of the policies of *apartheid*;

(*b*) All States be requested to prohibit or discourage investments by their nationals in the Republic of South Africa, and the granting of loans and credits to the South African Government and South African companies;

(*c*) All States be requested to deny facilities for all ships and aircraft destined to or returning from the Republic of South Africa;

(*d*) All States be requested to prohibit or discourage the emigration of their nationals to the Republic of South Africa.

612. The Special Committee further recalls that it had recommended a study of means to ensure an effective embargo on the supply of petroleum to the Republic of South Africa, including a blockade, if necessary, under the auspices of the United Nations.

613. Taking note of the discussion of this question at the International Conference on Economic Sanctions against South Africa, the decisions of the Organization of African Unity and the Second Conference of Heads of State or Government of the Non-Aligned Countries and the communiqué of 12 November 1964 by the Committee of Experts set up by the Security Council (see United Nations Press Release SC/2654, 12 November 1964) as well as the Committee's own consideration of the question, the Special Committee feels that action on this matter is now appropriate, timely and essential.

614. The Special Committee, therefore, recommends that all States be requested to take immediate steps to prohibit the supply of petroleum and petroleum products to the Republic of South Africa and that all oil-exporting countries be requested to co-operate in this action. The Special Committee, moreover, recommends that all States be requested:

(*a*) To prohibit the petroleum companies and shipping companies registered in their countries from carrying supplies of petroleum and petroleum products to South Africa;

(*b*) To take appropriate measures to discourage and prevent such companies from any action which helps to circumvent the embargo;

(*c*) To prohibit the supply of machinery, technical assistance and capital for the production of petroleum and petroleum products as well as synthetic substitutes within South Africa.

615. The Special Committee, moreover, feels that urgent consideration should be given to other measures such as an embargo on the supply of rubber, chemicals, minerals and other raw materials to South Africa, and on the purchase of gold, diamonds, iron ore and other minerals from South Africa; the blacklisting of companies assisting in the manufacture of arms and ammunition in South Africa; and the denial of all technical assistance, capital and machinery for the manufacture of motor vehicles and rolling stock in South Africa.

616. In connexion with the question of economic sanctions, the Special Committee expresses its conviction that total economic sanctions, universally applied and fully implemented, constitute the only effective means for achieving a peaceful solution. It has given particular consideration to certain specific measures in the hope that such measures, along with a declaration of determination to impose total economic sanctions, would persuade the South African Government to take steps to comply with the resolutions of the General Assembly and the Security Council, such as a general amnesty to all persons persecuted for acts arising from their opposition to *apartheid* and an agreement to convoke a national convention of the genuine representatives of all the people of South Africa to decide the destiny of the country in free discussion.

617. The Special Committee therefore recommends to the General Assembly and the Security Council that they:

(*a*) Decide on total economic sanctions against the Republic of South Africa until the South African Government agrees to comply with its obligations under the Charter of the United Nations;

(*b*) Institute the measures indicated earlier, as a matter of urgency, to persuade the South African Government to take steps to comply with the resolutions of the General Assembly and the Security Council.

C. Other measures

(a) *Relief and assistance to the families of all persons persecuted by the Government of the Republic of South Africa for acts resulting from their opposition to the policies of* apartheid

618. The Special Committee reaffirms its recommendation that the international community, for humanitarian reasons, should provide relief and assistance to the thousands of South African nationals who have been persecuted for their opposition to the policies of *apartheid* and whose families face serious hardship.

619. The General Assembly endorsed this recommendation in resolution 1978 B (XVIII) of 16 December 1963 and, after consultation with the Secretary-General, the Special Committee addressed an urgent appeal to Member States to contribute generously to the fulfilment of the purposes of this resolution through the existing voluntary organization or through other appropriate channels of their choice, and to give the widest publicity to the appeal in order to encourage charitable foundations, organizations and individuals in their countries to make generous contributions.

620. The Special Committee feels that action in this respect is urgent and imperative in view of the massive repression of the opponents of the policies of *apartheid* during the past year as detailed in the present report.

621. The Special Committee therefore recommends to the General Assembly that it invite all States and organizations to contribute generously to the relief and assistance of all persons persecuted by the South African Government for acts resulting from their opposition to the policies of *apartheid* and to their families.

622. The Special Committee regards this as a humanitarian gesture which should in no way weaken the international concern to secure a general amnesty for all opponents of *apartheid* persecuted by the South African Government.

(b) *Investigation of treatment of prisoners*

623. The Special Committee has been gravely concerned over the numerous charges of ill-treatment and torture of opponents of the policies of *apartheid* in police custody and in prisons in South Africa. It has received copies of sworn affidavits by many former prisoners and has taken note of statements of former prisoners who escaped from South Africa concerning brutalities inflicted on them and on their colleagues. The present report contains some details on such charges published in the press or submitted to South African courts.

624. The Special Committee notes that the charges concern many prisons and police stations in South Africa and have led to inferences that torture and third degree methods have become a common practice or are condoned by the Executive. It feels that the volume of evidence and the gravity of charges are such that an impartial international investigation is called for in order to establish the truth and ensure the punishment of the guilty.

625. The Special Committee, therefore, recommends that:

(*a*) An international commission composed of eminent jurists and prison officials be set up to investigate charges of torture and ill-treatment of prisoners in South Africa;

(*b*) This commission be authorized to investigate the affidavits by former prisoners, interview present and former prisoners and look into the conditions in prisons, and report as soon as possible;

(*c*) The Government of the Republic of South Africa be invited to provide facilities for such an impartial investigation.

(c) *Publicity for United Nations efforts against the policies of* apartheid *and the informing of world opinion of the dangers of the policies of* apartheid

626. The Special Committee, considering the problem of *apartheid* as a matter of concern to all humanity, has always emphasized the need for the widest publicity for United Nations efforts to resolve the situation in South Africa. It has attached the greatest importance to informing people all over the world of the United Nations concern over the matter and to obtaining their support for effective United Nations action.

627. The Special Committee regards it as crucial for the future of the United Nations and for amicable race relations everywhere that there should be full awareness of the dangers of racialism in South Africa and of the imperative need to promote an end to racial discrimination. It considers it essential that every effort should be made to counteract the racialist propaganda conducted by the South African Government and its defenders. It regards it as imperative that these interests, which profit from racial discrimination and oppression in South Africa, should be exposed fully to the pressure of public opinion.

628. The Special Committee feels that the specialized agencies of the United Nations can contribute greatly, each within its own field of competence, in increasing public awareness of the consequences of the policies of *apartheid* in South Africa and the means to bring about a society based on racial equality. The United Nations Educational, Scientific and Cultural Organization, with its experience in combating racial prejudice, can make a significant contribution by devoting adequate resources to the question of *apartheid* in the Republic of South Africa. The International Labour Organisation can play a very useful role by vigorously implementing its "Programme for the Elimination of *Apartheid* in Labour Matters in the Republic of South Africa".

629. The Special Committee has welcomed observers from the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and the International Atomic Energy Agency to its meetings. It hopes that this contact will encourage concerted and vigorous activity by these agencies regarding the question of *apartheid* and that such activity will also be promoted through arrangements for co-ordination between the United Nations and its specialized agencies.

630. The Special Committee feels that Member States can make a significant contribution by disseminating information to organizations and individuals on the seriousness of race conflict in South Africa. They can, moreover, provide broadcasting and other facilities for organizations opposed to the policies of *apartheid*

so that they may be enabled to reach the widest audiences in South Africa and outside.

631. While expressing its great appreciation to the Secretary-General for his co-operation in publicizing the Special Committee's activities, the Committee feels that he may be requested to use his influence to encourage international organizations to participate actively in combating the policies of *apartheid*.

632 The Special Committee attaches great importance to the participation of United Nations associations, UNESCO national commissions and national and international organizations of churches, workers, teachers, students, sportsmen and others in this activity.

633. The Committee finds it essential that sufficient budgetary and other resources should be made available to enable it to collect and disseminate all relevant information, to maintain constant contact with non-governmental organizations concerned with the question and to promote the fullest awareness of United Nations efforts on this matter.

634. The Special Committee attaches the greatest importance to the above measures because of its conviction that the United Nations should play a positive and active role in this matter as it affects the purposes and principles of the Organization and its authority. It feels that, because of the great dangers of racialism, there should be full public awareness and support of United Nations action on this question. The United Nations must actively show that the policies of *apartheid* threaten to bring about a disastrous and widespread conflict and make clear that the United Nations seeks the security and prosperity of all the people of South Africa, including the white people, in a non-racial society.

635. The Special Committee, therefore, recommends to the General Assembly that it:

(*a*) Invite Member States to encourage and provide facilities for the widest dissemination of information to promote awareness of the dangers of the policies of *apartheid* and support for the United Nations activities on this question;

(*b*) Invite the specialized agencies to take concerted and active measures, in co-operation with the Secretary-General and the Special Committee, to promote the dissemination of such information;

(*c*) Request the Secretary-General to encourage international organizations to disseminate such information;

(*d*) Allocate adequate budgetary and other support for the efforts of the Special Committee in this field.

636. The Special Committee recalls the recommendation of the Group of Experts that the Security Council should invite all concerned to communicate their views on the agenda for the national convention, fully representative of all the people of South Africa, to set a new course for the future, which was suggested by the Group. The Group recommended that such an invitation should be addressed to all representative groups including political parties, congresses at present banned under the Unlawful Organizations Act, No. 34, 1960, and other South African organizations such as the churches, universities, trade unions, associations of employers, chambers of commerce, bar associations, institutes of race relations, the Press and all other representative groups.[307]

[307] *Ibid.*, document S/5658, annex, para. 119.

637. In view of the refusal of the South African Government to entertain this suggestion of the Group of Experts, the Special Committee feels that the United Nations should encourage consultations and discussions among all available groups, particularly those subscribing to the purposes and principles of the Charter, regarding the future of the country. The Special Committee has been in contact with many representative South African organizations and prominent South African nationals, and feels that these contacts should be further extended and efforts made to promote the consultations and discussions suggested above. The Special Committee feels, moreover, that the United Nations should seek the assistance and advice of international organizations concerned with race relations in promoting such consultations and discussions.

(d) *Enlargement of the Special Committee*

638. Finally, the Special Committee considers it essential that it be strengthened to fulfil more effectively the important mandate assigned to it by the General Assembly. It feels that the full participation in the Committee of the permanent members of the Security Council, who bear a special responsibility for the maintenance of international peace and security, is essential for that purpose. While hoping that the major trading partners of South Africa who bear a special responsibility for the perpetuation of the policies of *apartheid* will soon implement effective measures to comply with the decisions of the General Assembly and the Security Council, the Special Committee feels that the participation in its activities would be useful. The Committee further considers that a wider geographical distribution of membership can contribute greatly to the effectiveness of the Committee. It considers that the Secretariat should also be proportionately strengthened to ensure adequate services to facilitate greater activity by the Special Committee in promoting a peaceful solution to the grave problem of the policies of *apartheid* of the Government of the Republic of South Africa.

639. The Special Committee, therefore, recommends that its membership be enlarged to include permanent members of the Security Council and the present major trading partners of the Republic of South Africa, and to ensure a wider geographical distribution in its membership.

D. Summary of recommendations

640. The Special Committee recommends to the General Assembly that, at the earliest practicable date, it:

(*a*) Record the conviction of the large majority of Member States that the situation in the Republic of South Africa constitutes a serious threat to the peace, thus calling for the mandatory measures provided for in Chapter VII of the Charter, and that economic sanctions are the only available means for a peaceful solution of the situation;

(*b*) Invite the Security Council to take necessary action without delay to resolve the situation.

641. The Special Committee recommends, for the consideration of the General Assembly and the Security Council, that they:

(*a*) Decide on total economic sanctions against the Republic of South Africa until the South African Government agrees to comply with its obligations under the Charter of the United Nations, and institute the

measures indicated below, to persuade the South African Government to take steps to comply with the resolutions of the General Assembly and the Security Council;

(*b*) Commend the States which have taken effective measures in implementation of the decisions of the General Assembly and the Security Council on this question; and invite all other States to take action in implementation of these decisions and report without delay;

(*c*) Express regret at the actions of States which have not complied with the provisions of operative paragraph 4 of General Assembly resolution 1761 (XVII) or have failed to implement the decisions on military assistance to the Republic of South Africa in operative paragraph 3 of the Security Council resolution of 7 August 1963, reaffirmed and elaborated in operative paragraphs 1 and 5 of the resolution of 4 December 1963 and operative paragraph 12 of the resolution of 18 June 1963;

(*d*) Request all States:

(i) To prohibit the provision of technical assistance or capital for the manufacture of arms and ammunition in South Africa;

(ii) To prohibit any assistance in the manufacture in South Africa of aircraft, naval craft or military vehicles;

(iii) To deny training facilities to members of the South African armed forces;

(iv) To refrain from joint military exercises with the South African armed forces;

(*e*) Request all international agencies, in particular the specialized agencies, including the International Bank for Reconstruction and Development and the International Monetary Fund, to take all necessary steps to deny economic or technical assistance to the Government of the Republic of South Africa without precluding, however, humanitarian assistance to the victims of the policies of *apartheid*;

(*f*) Request all States to prohibit or discourage investments by their nationals in the Republic of South Africa, and the granting of loans and credits to the South African Government and South African companies;

(*g*) Request all States to deny facilities for all ships and aircraft destined to or returning from the Republic of South Africa;

(*h*) Request all States to prohibit or discourage the emigration of their nationals to the Republic of South Africa;

(*i*) Request all States:

(i) To prohibit the supply of petroleum and petroleum products to the Republic of South Africa, with a special appeal to all oil exporting countries to cooperate in this action;

(ii) To prohibit the petroleum companies and shipping companies registered in their countries from carrying supplies of petroleum and petroleum products to South Africa;

(iii) To take appropriate measures to discourage and prevent such companies from any action which helps to circumvent the embargo;

(iv) To prohibit the supply of machinery, technical assistance and capital for the production of petroleum and petroleum products, as well as synthetic substitutes, within the Republic of South Africa;

(*j*) Request all States to prohibit the supply of rubber, chemicals, minerals and other raw materials to South Africa, and the importation from South Africa of gold, diamonds, iron ore or other minerals;

(*k*) Request all States to refuse all technical assistance, capital and machinery for the manufacture of motor vehicles and rolling stock in the Republic of South Africa;

(*l*) Invite all States and organizations to contribute generously to the relief and assistance of all persons persecuted by the South African Government for acts resulting from their opposition to the policies of *apartheid* and to their families;

(*m*) Establish an international commission to investigate charges of ill-treatment and torture of prisoners in the Republic of South Africa; authorize the commission to investigate affidavits by former prisoners, interview present and former prisoners and look into the conditions in the prisons, and report as soon as possible; and invite the Government of the Republic of South Africa to provide facilities for such an impartial investigation;

(*n*) Invite Member States to encourage and provide facilities for the widest dissemination of information to promote awareness of the dangers of the policies of *apartheid* and support for the United Nations activities on this question; invite the specialized agencies to take concerted and active measures, in co-operation with the Secretary-General and the Special Committee, to promote the dissemination of such information; request the Secretary-General to encourage international organizations to disseminate such information; and allocate adequate budgetary and other support for the efforts of the Special Committee in this field;

(*o*) Enlarge the membership of the Special Committee to include permanent members of the Security Council and the present major trading partners of the Republic of South Africa, and to ensure a wider geographical distribution in its membership.

Annexes

ANNEX I

Replies received from Member States to the appeal by the Special Committee, dated 23 March 1964, in connexion with the trials and death sentences in the Republic of South Africa*

ALBANIA

Extract from a letter dated 21 July 1964 from the Chairman of the Presidium of the People's Assembly of the People's Republic of Albania

[*Original text: French*]

The Government of the People's Republic of Albania has constantly requested that everything possible should be done to put an end to the shameful racial discrimination and the inhuman policy of *apartheid* in South Africa. It maintains no relations with the Government of South Africa, nor does it intend to establish relations with South Africa until the latter's Government abandons its policy of *apartheid*.

Reiterating our firm opposition to all racial discrimination and to the policy of *apartheid* of the Government of South Africa, and the determination of the people and the Government of the People's Republic of Albania to contribute to the abolition of that discrimination and that policy, we ask the

* The substantive parts of the communications are reproduced here. The full texts of replies are reproduced in documents A/AC.115/L.70 and Add.1-4.

United Nations to take effective measures to force the racist Government of South Africa to cease immediately the persecution of the opponents of *apartheid* and to abandon that policy.

We hope the work of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa will prove useful in this respect (A/AC.115/L.70/Add.4).

Algeria

Extract from a letter dated 12 June 1964 from the President of the Republic of Algeria

[*Original text: French*][1]

In May 1963, at the Conference of Heads of African States and Governments, certain decisions were taken with a view to defeating the racist policies of the Pretoria Government. The Algerian Government immediately carried out those decisions. More recently, by an absolute majority, the Algerian National Assembly decided to break off completely all economic relations with South Africa. This practical step only reaffirms the determination of the Algerian Government and people to continue the fight all are already waging.

True, some results were obtained at the International Labour Conference, and the Conference of the Food and Agriculture Organization. However, the present criminal behaviour of the Pretoria authorities justifies the concern which prevails on our continent and explains the increasingly vigilant attitude of all African States. The challenge hurled at Africa and the entire world must be answered by means other than resolutions. Practical solutions must be found and carried out. Any passive attitude can only encourage the most reactionary and sinister forces to persist in their fatal designs, which constitute a serious threat to the future of the United Nations.

Consequently, you will understand, Sir, why the Algerian Government hastens to reiterate to you its determination to do everything in its power to ensure the victory of the legitimate aspirations of its sister people of South Africa, and to give it total and unconditional support until such time as an end is put to all domination or discrimination, all exploitation of man by man, all humiliation, bullying and torture. That attitude, in addition to making for an era of justice throughout Africa, can only strengthen peace and ensure the maintenance of international balance (A/AC.115/L.70/Add.2).

Belgium

Extract from a letter dated 24 June 1964 from the Permanent Representative of Belgium to the United Nations

[*Original text: French*]

The authorities of my country have repeatedly condemned all policies of racial discrimination. In his statement at the eighteenth session of the General Assembly, on 8 October 1963, Mr. P. H. Spaak, Vice-Premier and Minister for Foreign Affairs, said, *inter alia*, on the subject of the policies of *apartheid* of South Africa:

> "... there are some policies which cannot prevail and some principles which cannot be accepted ... The problem of South Africa is even more serious, for here we are not concerned simply with a policy that is probably doomed to failure: it is a question of the United Nations making clear its disapproval of principles that run counter to the fundamental principles of the Charter ..." [1233rd meeting, paras. 117 and 118].

What is more, in his replies of 27 September 1963 and 29 January 1964 to the letters from the Secretary-General of the United Nations on the implementation of the Security Council resolutions concerning the shipment of arms to South Africa, Mr. Spaak once again emphasized that the Belgian Government and Belgian public opinion alike condemned the policies of *apartheid* pursued by the Government of South Africa.

I am also authorized to inform you that the Belgian authorities will take advantage of any appropriate opportunity to remind the Pretoria Government once again that Belgium is opposed to the policies of *apartheid* and wants human rights respected throughout the world (A/AC.115/L.70/Add.2).

Bulgaria

Appeal addressed to the President of the Republic of South Africa by the Chairman of the Presidium of the National Assembly of the People's Republic of Bulgaria (communicated by letter dated 22 May 1964 from the Permanent Representative of Bulgaria to the United Nations)

[*Original text: French*]

Having learnt of the death sentences passed on the South African militants Vuyisile Mini, Zinakile Mkaba and Wilson Khayinga, who are fighting for human rights in the spirit of the decisions of the United Nations, I appeal to your humanitarian feelings and your feelings of human justice to take whatever action may prove necessary for the annulment of the death sentences passed on these South African citizens, and also for the release of all the other militants who have taken part in the struggle for human rights and are now in prison.

Such action on your part would be welcomed with great relief and gratification by public opinion in my country, and, I am sure, throughout the world.

I am convinced, Mr. President, that you will take action to spare the lives of these South African citizens (A/AC.115/L.70).

Byelorussian Soviet Socialist Republic

Appeal dated 15 June 1964 addressed to the President of the Republic of South Africa by the President of the Presidium of the Supreme Soviet of the Byelorussian Soviet Socialist Republic (communicated by letter dated 2 July 1964 from the Permanent Representative of the Byelorussian Soviet Socialist Republic to the United Nations)

[*Original text: Russian*]

It is with a feeling of deep alarm that I have learned of the numerous death sentences pronounced against citizens of the Republic of South Africa, including Vuyisile Mini, Zinakile Mkaba, Wilson Khayinga and other active participants in the movement to secure human rights and freedoms in accordance with United Nations decisions.

Inspired by feelings of humanity and justice, I urgently appeal to you on behalf of the Byelorussian people to do everything in your power to obtain the revocation of the death sentences pronounced against the above-mentioned individuals and the release of all those participants in the movement for human rights who are now held in prison. The adoption of a decision along these lines and action to comply with other United Nations resolutions would meet the most pressing demands of public opinion throughout the world (A/AC.115/L.70/Add.3).

Cambodia

Message from the Head of State of Cambodia to the President of the Republic of South Africa (communicated by letter dated 3 July 1964 from the Permanent Representative of Cambodia to the United Nations)

[*Original text: French*]

Cambodia is most disturbed about the fact that the South African authorities are continuing their policy of *apartheid*, which is contrary to the United Nations Charter and to human rights, and in particular about the repressive measures that have been unleashed against opponents of that policy.

[1] Summit Conference of Independent African States, held at Addis Ababa, 22-25 May 1963.

On behalf of Cambodia and the Khmer people, I request Your Excellency not to continue a policy which is contrary to all laws both human and divine, to refrain from executing political leaders opposed to *apartheid*, and to liberate all whose only crime is to declare that all men are brothers (A/AC.115/L.70/Add.3).

CANADA

Extract from a note dated 6 November 1963 from the Permanent Representative of Canada to the United Nations addressed to the Secretary-General (enclosed in a letter dated 11 May 1964 from that representative)

[*Original text: English*]

Canada... will support any proposals or measures which offer hope of a constructive and lasting solution to the problem of racial relations in South Africa... The Canadian Government is deeply concerned over the failure of the South African Government to abandon its *apartheid* policies and in particular over intensification in the past year of repressive measures against individuals in South Africa who oppose these policies. Canada, therefore, joined with 106 Members of the United Nations in voting in favour of resolution 1881 (XVIII).

On a number of occasions during the past year and in particular since the beginning of the eighteenth session of the General Assembly, the Canadian Government has made clear to representatives of the South African Government Canada's urgent desire to see a change in the policy of the South African Government and an end to repressive measures including the arbitrary trials and arrests of individuals for political offences which were referred to in resolution 1881 (A/AC.115/L.70).

CHILE

Cable dated 28 April 1964 addressed to the President of the Republic of South Africa by the President of Chile (communicated by letter dated 29 April 1964 from the Permanent Representative of Chile to the United Nations)

[*Original text: Spanish*]

Guided solely by the deep conviction of the Chilean people and Government that human rights and fundamental freedoms must be protected and all forms of racial discrimination eliminated from the world, and with no intention of intervening in the internal affairs of South Africa, I appeal to you to use your exalted influence in order that the political leaders opposed to *apartheid* may be spared the death penalty. It is also my hope that racial harmony based on equality before the law, without any discrimination on grounds of colour or ethnic origin, may prevail in the Republic of South Africa, so that the country may take a glorious part in the advancement of the international community, in conformity with the principles of the United Nations Charter (A/AC.115/L.70).

CHINA

Message from the Minister of Foreign Affairs of China (communicated by a letter dated 9 June 1964 from the Acting Permanent Representative of China to the United Nations)

[*Original text: English*]

My Government's views on the *apartheid* policy are well known. Racial discrimination in any form and under whatever guise is repugnant to the Chinese people. It is entirely alien to the Chinese culture and tradition. In the General Assembly, in the Security Council, as well as in other organs of the United Nations, the representatives of China have made it unmistakably clear that China is unalterably opposed to racism and all its manifestations.

In accordance with this consistent position, the Chinese delegation has supported General Assembly resolution 1881 (XVIII) of 11 October 1963 and Security Council resolution S/5471 of 4 December 1963, in which appeals were made to the Government of South Africa to abandon the arbitrary trials and grant unconditional release to all political prisoners, and to cease forthwith its imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter.

The Chinese Government will continue to co-operate with your Committee and other organs of the United Nations in their efforts to bring about the compliance of the Government of South Africa with the above-mentioned resolutions (A/AC.115/L.70/Add.4).

COSTA RICA

Extract from a letter dated 30 May 1964 from the President of the Republic of Costa Rica

[*Original text: Spanish*]

[In view of the developments in South Africa] I, as chief executive of a country where respect for human life and the equality of human beings are fundamental principles of the Constitution, very respectfully urge you to ask the South African Government, through the United Nations:

(1) To refrain from executing the condemned political leaders and to spare the lives of the persons threatened with the death penalty;

(2) To put an end to the tortures and the various humiliations inflicted on the opponents of *apartheid* in South Africa;

(3) To liberate the political prisoners whose only crime is their opposition to the South African Government's policy of *apartheid*;

(4) To abandon its policy of *apartheid*, which is contrary to the United Nations Charter and the Universal Declaration of Human Rights.

This petition is based on elementary ethics and on the profound humanitarian sentiments of the Costa Rican people, and has no other aim than to see that justice is done where it has so far been lacking (A/AC.115/L.70/Add.4).

CUBA

Extract from a letter dated 12 May 1964 from the President of the Republic of Cuba

[*Original text: Spanish*]

... The Cuban Government supported the recommendations in resolution S/5471 of the United Nations Security Council and undertook not to maintain diplomatic, consular or trade relations with the Government of South Africa.

In full agreement with the spirit of the said resolution and in conformity with the principles of racial equality, the Cuban Government also offered its support for any measure aimed at eradicating in any part of the world the brutal policy of discrimination, which is a blemish on the face of humanity.

The Revolutionary Government of Cuba maintains no relations of any kind with the Republic of South Africa and is therefore unable individually to exert any influence upon the Government of that country. For the same reason, I am unable personally to take any action of that kind. However, both the Cuban Government and I are prepared to join our voices and actions to the effective measures aimed at preventing the Government of the Republic of South Africa by peaceful means from continuing to apply the brutal laws of *apartheid* and to endanger, because of their international repercussions, the peace and security of nations (A/AC.115/L.70/Add.1).

DENMARK

Extract from a communiqué issued after the meeting of the Foreign Ministers of the Nordic Countries in Copenhagen on 13-14 April 1964 (enclosed in a letter dated 22 May 1964 from the Permanent Representative of Denmark to the United Nations)

[*Original text: English*]

... The Ministers ... expressed deep concern over the South African Government's continued unwillingness to co-operate with the United Nations. They supported the United Nations urgent appeals to the South African Government to refrain from execution of persons sentenced to death, to end trials now proceeding and to release the political prisoners.

The Ministers noted that, since they last considered the problem of *apartheid* in the autumn of 1963, the Security Council had in December 1963 unanimously passed a resolution which *inter alia* established a group of experts to examine the various aspects of the problem. They found it of great significance that the Security Council now is seized with the question. It is their hope that the report of the group of experts, which is expected in the near future, will provide a useful basis for the Council's further consideration of the question... (A/AC.115/L.70).

Ecuador

Extract from a letter dated 30 April 1964 from the Permanent Representative of Ecuador to the United Nations

[*Original text: Spanish*]

The Ecuadorian Government has no diplomatic or consular relations with the Republic of South Africa. For this reason, it is unable to exert its influence directly with the Government of that State. However, I have been given instructions, which I have carried out, to inform the Permanent Representative of the Republic of South Africa in a friendly way of the concern felt by the Ecuadorian Government over the possible imposition of the death penalty on political leaders, a proceeding which would be contrary to the principles which Ecuador has unswervingly followed ever since this penalty was abolished in the nineteenth century (A/AC.115/L.70).

Guatemala

Extract from a letter dated 13 May 1964 from the Minister for Foreign Affairs of Guatemala

[*Original text: Spanish*]

The Committee's concern is fully shared by the Guatemalan Government, which has given permanent instructions to its delegation to the United Nations to keep a vigilant watch on the distressing situation which has arisen in that country. The Government and people of Guatemala have repudiated and will always repudiate racial discrimination, which prevents *rapprochement* between peoples and intelligent and brotherly coexistence.

Concerned at the magnitude of these problems which you are endeavouring to solve in a manner favourable to the majority of the black population of the Republic of South Africa, I should like to inform you that the Guatemalan Government will do its utmost to assist the United Nations in its efforts to find a solution to this situation and thus alleviate the suffering of a people which deserves the esteem and respect of all the free nations of the world (A/AC.115/L.70).

Guinea

Extract from a letter dated 8 June 1964 from the President of the Republic of Guinea

[*Original text: French*]

The South African authorities would certainly have already abandoned their inhuman policies of *apartheid* if all the economic sanctions recommended by the United Nations had been applied by Member States, particularly by those which have trade relations with South Africa. Yet international public opinion is aware of the dangers to international peace and security from policies based on alleged racial superiority, oppression and enslavement.

It is also aware that such policies seriously jeopardize the efforts being made by all peace-loving and freedom-loving nations of the world for better understanding among men and peaceful coexistence among States.

World opinion therefore insists that the repression against African nationalists in South Africa should cease. Accordingly, we demand energetic practical measures, which should no longer be mere recommendations. We welcome the decisions taken by the Council of Ministers of the Organization of African Unity at Lagos and by the London Conference on *apartheid* and we want the sanctions recommended to be applied immediately by all States Members of the United Nations.

The time has therefore come for concerted and unflinching action by all African Heads of State, supported by their peoples. The time has also come for practical action by all men who really love peace and justice. No more shedding of crocodile tears over the misery of our brothers in South Africa and the monstrosities of *apartheid* but united action by all to put an end to this disgrace to mankind (A/AC.115/L.70/Add.2).

Haiti

Extract from a letter dated 16 May 1964 from the President of the Republic of Haiti

[*Original text: French*]

In my personal capacity, as leader of the New Haitian Revolution, which calls for more social justice and general wellbeing for the masses;

On behalf of the proud Haitian nation, which because of its revolutionary mission, enriched with the blood and sweat of its past struggles against slavery, has always, throughout its history, supported measures for the emancipation of the peoples of America and fostered a living and unselfish solidarity;

I condemn the policy of *apartheid* practised by the Government of the Republic of South Africa against my courageous African brothers who have been too long oppressed through the enthronement of an outmoded concept;

I reaffirm my strongest and most whole-hearted support for all measures and all efforts embodied in an action by the Organization which has the high and imperative mission of safeguarding the universality of the principles of the United Nations Charter and the Universal Declaration of Human Rights.

Let the South African Government, in this year of grace of our era of progress and human conquests, confronted by an international conscience thirsting for justice, peace and fraternity, abandon the inhuman system of anachronistic and degrading colonialism and, by complying with the recommendations of the United Nations Special Committee on the Policies of *apartheid*, bring about the triumph, to its greater glory, of the principle of the equality of all races (A/AC.115/L.70/Add.1).

Hungary

Appeal addressed to the President of the Republic of South Africa by the President of the Presidential Council of the Hungarian People's Republic (transmitted by letter dated 14 May 1964 from the Minister for Foreign Affairs)

[*Original text: English*]

I have been deeply shocked to learn that the authorities of the Republic of South Africa are keeping in prison and torturing numerous patriots whose only crime is their opposition to the *apartheid* policies of the Government and their adherence to progressive ideas. In a series of actions instituted against such patriots in court and otherwise, even death sentences have already been passed.

In the name of the dignity of human personality, in view of the lofty principles of equality of races laid down in the Charter of the United Nations Organization, in the Universal Declaration of Human Rights, and in a number of decisions adopted by the United Nations General Assembly and the Security Council, I ask you, Mr. President, to use your influence with the Government of the Republic of South Africa to annul without delay the death sentences pronounced in the case of the patriots opposing the policies of racial persecution, to release the political prisoners fighting for racial equality and other progressive ideas, to stop the proceedings taken against them and to put an end to the policies of *apartheid*. This step would afford relief to world public opinion and promote the lessening of the great tension prevailing on the African continent because of *apartheid* policies.

I sincerely hope, Mr. President, that you will not ignore my request (A/AC.115/L.70).

INDIA

Extract from a letter dated 10 August 1964 from the Permanent Representative of India to the United Nations

[*Original text: English*]

The Government of India do not maintain diplomatic, consular, trade or any other relations with South Africa. We have already fully implemented all the various resolutions of the United Nations in this behalf.

The Government of India will, however, continue to maintain a total boycott of relations with South Africa. We have always extended, and will continue to extend, our fullest co-operation to other States as also the Special Committee in securing the implementation of measures designed to liquidate the inhuman and immoral policies of *apartheid* of the Government of the Republic of South Africa and towards the attainment of justice, freedom, equality and dignity for all the people of South Africa (A/AC.115/L.70/Add.4).

INDONESIA

Extract from a letter dated 3 May 1964 from the First Deputy Prime Minister and Minister for Foreign Affairs of Indonesia.

[*Original text: English*]

You are aware, Mr. Chairman, of the fact that the Indonesian Government has supported every effective measure to induce the Government of the Republic of South Africa to abandon its policies of *apartheid* which are contrary to the United Nations Charter and the Universal Declaration of Human Rights.

The Indonesian Government has taken all appropriate measures requested by the United Nations and the Security Council resolutions on the policies of *apartheid* of the Government of the Republic of South Africa.

It is indeed a difficult and tedious undertaking to secure compliance of said resolutions by the Government of the Republic of South Africa, but we shall all persevere until our common objective has been achieved...

His Excellency, President Soekarno, has expressed his keen personal interest in this problem and wishes me to convey the assurance to you that the Government of the Republic of Indonesia will not cease giving this problem its full attention in a constant endeavour to find a more effective way to implement the relevant United Nations resolutions, the main substance of which are summarized in the four points mentioned in your letter.

In this connexion the Government of the Republic of Indonesia will use its influence wherever and whenever it has the utmost effect (A/AC.115/L.70/Add.3).

ITALY

Extract from a letter dated 16 June 1964 from the Permanent Representative of Italy to the United Nations

[*Original text: English*]

Italy, which has never concealed its firm opposition to all forms of racial discrimination, follows with deep concern the development of events in South Africa and, besides taking all necessary measures for the application of the relevant resolutions of the Security Council, has on many occasions expressed its views and used its influence in the hope of contributing to a peaceful solution of the problems of *apartheid.*

As to the trials which are being held in South Africa against the people who are opposed to the policies of *apartheid,* may I reiterate that my country shares the concern and the feelings of the Committee and of all the countless personalities who have expressed their views thereon. In particular Italy, which in its Constitution has abolished capital punishment and solemnly reaffirmed the political freedom of all its citizens, will continue to co-operate in all appropriate ways with the Special Committee, and with the other United Nations bodies entrusted with the study of this issue, with a view to solving, in accordance with the spirit of the Charter of San Francisco, the problems created by the policies of *apartheid* of the Government of South Africa (A/AC.115/L.70/Add.2).

JAMAICA

Extract from a letter dated 29 April 1694 from the Ministry of External Affairs of Jamaica

[*Original text: English*]

Jamaica has neither diplomatic, consular nor trade relations with South Africa, and does not intend that such relations should be initiated or restored until the policies of *apartheid* of that Government have been abandoned. Furthermore, the Government of Jamaica does not believe that the rulers of South Africa are likely to heed any appeals addressed to them and will, it is felt, only respond to more tangible action (A/AC.115/L.70).

JAPAN

Extract from a letter dated 17 July 1964 from the Deputy Permanent Representative of Japan to the United Nations

[*Original text: English*]

The basic position of the Government of Japan with regard to the trials in South Africa of the leaders of the anti-*apartheid* movement is fully reflected in its reply dated 9 December 1963, to the inquiry of the Secretary-General in connexion with resolution 1881 (XVIII), (A/5614/Add.3, S/5457/Add.3). The Government of Japan is gravely concerned about subsequent developments of the situation in South Africa and wishes to take this occasion to reaffirm its preparedness to avail itself of every opportunity to appeal to the Government of South Africa to abandon forthwith the policies of *apartheid* and also its readiness to support any proposal which will bring about a peaceful solution of the problems of racial strife (A/AC.115/L.70/Add.3).

NETHERLANDS

Extract from a letter dated 18 July 1964 from the Permanent Representative of the Netherlands to the United Nations

[*Original text: English*]

The Government of the Kingdom of the Netherlands continues to reject categorically the policy of *apartheid* and is deeply concerned with the situation developing in the Republic of South Africa. During successive sessions of the General Assembly, the Government of the Kingdom of the Netherlands has never failed to state beyond any doubt its feelings in this regard, reflecting the profound convictions of the Netherlands people.

The Netherlands Government is of the opinion that only through collective action within the framework of the United Nations can the Government of the Republic of South Africa be induced to abandon its policy of *apartheid.* The Kingdom of the Netherlands will continue to give its full support to any constructive proposal to this effect (A/AC.115/L.70/Add.3).

NEW ZEALAND

Extract from a note dated 15 July 1964 from the Permanent Representative of New Zealand to the United Nations addressed to the Secretary-General (communicated by letter dated 25 August 1964 from that representative)

[*Original text: English*]

Both by its support of United Nations resolutions, including, in particular, General Assembly resolution 1881 (XVIII), and through independent representations, the New Zealand Government has sought to appeal to the Government of South Africa concerning the application of this policy and the treatment of opponents of it. In conformity with resolution S/5761, the New Zealand Government will take any appropriate occasion to make further representations on this matter to the South African Government (A/AC.115/L.70/Add.4).

PHILIPPINES

Letter dated 29 June 1964 from the Secretary of Foreign Affairs (enclosed in a letter dated 20 July 1964 from the Permanent Representative of the Philippines to the United Nations)

[*Original text: English*]

The Philippines remains unalterably opposed to the policy of *apartheid* which is contrary to the ideals of justice and freedom and violates the United Nations Charter and the Universal Declaration of Human Rights. This opposition has been manifested in the United Nations through consistent support by the Philippines of resolutions condemning *apartheid* in the General Assembly and in the Security Council.

The Philippines views with grave concern the present potentially dangerous situation fostered by South Africa's policy of *apartheid* and therefore stands ready to exert diligence within the United Nations towards the formulation of measures to deter the Government of South Africa from carrying on a policy which is deplored and condemned by the majority of mankind (A/AC.115/L.70/Add.4).

POLAND

Extract from a letter dated 22 May 1964 from the Permanent Representative of Poland to the United Nations

[*Original text: English*]

I should like to inform you, Excellency, that Mr. Aleksander Zawadski, President of the Council of State of the Polish People's Republic, sent an appeal to Mr. Charles Robert Swart, President of the Republic of South Africa, on 30 April 1964, asking him to take all necessary steps to revoke the death penalty passed on the three distinguished leaders of the movement for respect of human rights, Messrs. Vuyisile Mini, Zinakile Mkaba and Wilson Khayinga (A/AC.115/L.70).

ROMANIA

Extract from a letter dated 16 July 1964 from the Chargé d'affaires, Permanent Mission of Romania to the United Nations

[*Original text: English*]

The Romanian People's Republic, according to its consequent stand of rejection of the *apartheid* policy promoted by the Government of the South African Republic, does not maintain any kind of relations with the South African Republic and condemns the arbitrary actions, the racial discriminatory policy of this Government and the repression to which the militants for the abolition of the *apartheid* policy in the South African Republic are subjected.

The Government of the Romanian People's Republic, supporting the objectives of resolutions 1761, S/5386 and S/5471 of the United Nations General Assembly and Security Council, considers that the strict implementation by all States of the measures advocated by them would deprive the South African Government of support and encouragement in promoting its *apartheid* policy (A/AC.115/L.70/Add.3).

RWANDA

Extract from a letter dated 6 May 1964 from the President of the Republic of Rwanda

[*Original text: French*]

My Government, as it has always done in the past, will continue its unremitting struggle on behalf of the coloured peoples of South Africa, especially within the framework of the Organization of African Unity.

We cannot refrain from pointing out how important it is to find an adequate means of preventing the various economic, diplomatic and other sanctions taken against South Africa from being turned exclusively to the disadvantage of the Bantu peoples of that country. We feel that, without such guarantees, the actions contemplated might achieve an effect opposite to that which we desire, namely to ensure respect for the non-whites and justice and equality among all social and ethnic groups in the country.

This consideration, naturally, should not retard the efforts which are being made throughout the world to improve the lot of coloured people (A/AC.115/L.70).

SOMALIA

Extract from a letter dated 12 May 1964 from the President of the Somali Republic (transmitted by letter dated 21 May 1964 from the Permanent Representative of Somalia to the United Nations)

[*Original text: English*]

The Somali Government has consistently endeavoured, and will continue to do so, at all sessions of the United Nations, Afro-Asian Group, the Organization of African Unity and other international conferences, to attack these policies of the South African Government. Furthermore in this context, the Somali Republic, on attaining its independence, immediately severed all diplomatic and other relations with the Government of South Africa.

In 1962, my Government issued decrees forbidding any white South African citizen to enter this Republic; prohibiting any Somali citizen to travel in South African ships or aircraft; prohibiting South African aircraft to overfly the Somali Republic, and banning the importation of goods into this territory, or the exportation of goods from this Republic into South Africa.

I and my Government can assure Your Excellency and the members of the Special Committee, that we will do all that is possible to implement any measures designed to deter the South African Government from carrying on their present policies of brutal oppression against the indigenous inhabitants of South Africa.

The Somali people are linked with all other freedom-loving nations in their total abhorrence of *apartheid*, and racial discrimination, and we sincerely hope that other Governments will genuinely observe and give their full support to the resolutions of your Committee (A/AC.115/L.70).

SUDAN

Extract from a note verbale** *dated 29 June 1964 from the Permanent Representative of Sudan to the United Nations*

[*Original text: English*]

The Sudan Government, in its condemnation of the persistence of the Government of the Republic of South Africa in its policies of *apartheid*, maintains a complete diplomatic, economic and commercial boycott of that Government.

... The Sudan Government will spare no effort to induce the Government of the Republic of South Africa to give effect to the purposes and objectives outlined in the letter dated 23 March 1964 of the Chairman and Officers of the Special Committee referred to above (A/AC.115/L.70/Add.3).

SYRIA

Extract from a note verbale *dated 17 June 1964 from the Permanent Representative of Syria to the United Nations*

[*Original text: English*]

The Syrian Mission is pleased to inform the Chairman of the Special Committee that the Syrian Government agreed on 12 September 1963 to implement fully the provisions of resolution 1761 (XVII) adopted by the General Assembly at its seventeenth session, as well as all the provisions of resolution S/5386 of the Security Council dated 9 August 1963. Furthermore, the Syrian Government has neither diplomatic relations nor bilateral agreement with the Government of South Africa.

** A copy of the South Africa Boycott Act, No. 30, 1963, was attached to the *note verbale*.

The Syrian Government will always co-operate in applying all the resolutions and recommendations by the different organs of the United Nations (A/AC.115/L.70/Add.4).

THAILAND

Extract from a letter dated 6 July 1964 from the Director-General, International Organizations Department, Ministry of Foreign Affairs of Thailand

[*Original text: English*]

[The Government of Thailand] has always opposed the policy of *apartheid* of the Government of the Republic of South Africa and has all along extended its co-operation to the United Nations in dealing with this matter. Consequently His Majesty's Government will continue to make every effort to act in conformity with the resolutions or decisions adopted by the United Nations (A/AC.115/L.70/Add.3).

UKRAINIAN SOVIET SOCIALIST REPULIC

Appeal addressed to the President of the Republic of South Africa by the President of the Presidium of the Supreme Soviet of the Ukrainian Soviet Socialist Republic (communicated by letter dated 25 May 1964 from the Permanent Mission of the Ukrainian Soviet Socialist Republic to the United Nations)

[*Original text: Russian*]

The Ukrainian people have learnt with profound alarm and concern that Vuyisile Mini, Zinakile Mkaba and Wilson Khayinga, citizens of the Republic of South Africa, have been sentenced to death for taking part in the movement for securing human rights in accordance with United Nations resolutions.

On behalf of the Ukrainian people, I appeal to you in the name of compassion and humanity to use your authority to commute the death sentences passed on Vuyisile Mini, Zinakile Mkaba and Wilson Khayinga. I also appeal to you to assist in obtaining the release from imprisonment of all other participants in the movement for human rights.

Action on your part in the spirit of these appeals will undoubtedly meet with universal understanding and satisfaction (A/AC.115/L.70).

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Extract from a letter dated 23 April 1964 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations

[*Original text: English*]

I am instructed by Her Majesty's Government in the United Kingdom to inform you that they have, in representations to the South African Government, made clear the repugnance which they and the British people feel for the policy of *apartheid* and the measures used to enforce it. In this connexion I have been asked to invite your attention to the speeches by Her Majesty's Minister of State for Foreign Affairs at the 1238th plenary meeting on 11 October last year, when Her Majesty's Government voted for General Assembly resolution 1881 on political trials in South Africa, and on 17 October last year at the Special Political Committee of the United Nations (A/AC.115/L.70).

UNITED STATES OF AMERICA

Extract from a letter dated 11 May 1964 from the Permanent Representative of the United States of America to the United Nations

[*Original text: English*]

The United States supported General Assembly resolution 1881. On that occasion, Ambassador Plimpton declared that 'the United States is uncompromisingly and irrevocably opposed to legislation such as the legislation under which these defendants are being tried, which permits incarceration—and which puts on the defendant the burden of proving himself innocent.' The United States Government also recognized, as Ambassador Plimpton said at the time, the right of any country to conduct the defence of its citizens against violence, with proper safeguards for the accused.

The United States has repeatedly supported appeals to the South African Government to liberate persons imprisoned for opposing *apartheid*. It voted for Security Council resolution S/5386 of 7 August 1963, which calls upon the Government of South Africa 'to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*.' It also supported Security Council resolution S/5471 of 4 December 1963, which reiterated that appeal. It continues to support it.

May I reiterate that the United States shares the concern of the Committee over the circumstances giving rise to the security trials in South Africa, the laws under which opponents of *apartheid* are being detained and the consequences that could ensue both from the trials and from persisting in the policies of which the trials are an aspect. I can assure you that the United States will continue to examine carefully the circumstances and opportunities to assist in a humane and just resolution of these pressing problems (A/AC.115/L.70).

UPPER VOLTA

Extract from a letter dated 14 July 1964 from the President of the Republic of Upper Volta

[*Original text: French*]

[The situation in South Africa] which flouts the most elementary principles of humanity, cannot last; what remains to be done, therefore, is to organize swiftly the active solidarity of all countries which are really anxious to see the principles of the United Nations Charter upheld. This, however, is probably one of the cases where great declarations of intention can be seen falling short of practical application.

The long-advocated solution of concerted economic pressure would have brought the Pretoria Government to terms long before this; in practice, however, we find that those who describe themselves as our best friends are the very ones to supply that Government with the bulk of its war arsenal and the military means for its acts of provocation.

These considerations ought not, it is true, to prevent positive and decisive solutions from being worked out and—more important—applied, by the United Nations; but experience tends to show that, here again, an additional goad is needed, generally in the form of a 'trouble spot'.

At all events, a spur to effective action might be provided by a sharper awareness, among the independent African States as a whole, of present-day realities in South Africa; for not least among paradoxes is the fact that the excesses described in the Special Committee's report are largely unknown to the general public who, generally speaking, view the South African problems as something 'ideological', distant and even unreal (A/AC.115/L.70/Add.4).

HOLY SEE

Communication dated 30 April 1964 from the Secretary of State

[*Original text: French*]

I have the honour to acknowledge receipt of the letter which Your Excellencies addressed to His Holiness Paul VI on 23 March 1964 asking him to intervene in favour of victims of racial conflict in South Africa and to encourage the protection and recognition of human rights in that country.

The Sovereign Pontiff, who has examined your letter, will not fail to use his good offices, as in similar cases in the past, within the limits of his possibilities and of methods in keeping with his spiritual mission, in order that the lives of persons threatened with execution may be spared and the rights of the human person respected.

The Encyclical of Pope John XXIII—*Pacem in Terris*—states that relations between political communities must be harmonized in truth and freedom... A common origin, an equal Redemption, a similar fate unites all men and calls upon them to form together a single Christian family.

These principles of justice, of freedom and of peace, based on the natural law and on the message of the Gospel, which constitute a basic element of the magisterium of the Church, are also deeply implanted in the United Nations Charter and the Universal Declaration of Human Rights.

ANNEX II

List of documents (excluding reports of the Special Committee) circulated between 13 September 1963 and 30 November 1964

A/AC.115/L.32	Letter dated 9 September 1963 from Mr. Barry F. Mason, Ithaca, New York, USA
A/AC.115/L.33	Report of the Sub-Committee
A/AC.115/L.34	Letter dated 11 September 1963 from the General Secretary of the International Confederation of Free Trade Unions to the Secretary-General of the United Nations
A/AC.115/L.35	Letter dated 4 September 1963 addressed to the "British Secretary of State" by the Bechuanaland People's Party
A/AC.115/L.36	Press statement dated 18 September 1963 by the African National Congress, London
A/AC.115/L.37	Report of the Sub-Committee
A/AC.115/L.38	Letter dated 30 September 1963 from the Pan-Africanist Congress of South Africa, Maseru, Basutoland, regarding the suggestion to partition South Africa
A/AC.115/L.39	Letter dated 26 November 1963 from the Pan-Africanist Congress of South Africa, Maseru, Basutoland: Sobukwe's life in jeopardy
A/AC.115/L.40	Report of the Sub-Committee
A/AC.115/L.41	Letter dated 19 November 1963 from the Pan-Africanist Congress of South Africa, Maseru, Basutoland
A/AC.115/L.42	Communication received from a group of persons in Germany
A/AC.115/L.43	Statement issued by the Meeting of the Bishops of the Church of Norway, November 1963 (communicated by the Permanent Mission of Norway to the United Nations)
A/AC.115/L.44	Report of the Sub-Committee
A/AC.115/L.45 and Add.1	Letter dated 20 February 1964 from Mr. Noel H. Salter, Secretary, International Department, the British Council of Churches, London
A/AC.115/L.46	Letter dated 21 February 1964 from Mr. John Lang, Director, Defence and Aid Fund, Christian Action, London
A/AC.115/L.47	Letter dated 21 February 1964 from the Reverend Michael Scott, the Africa Bureau, London
A/AC.115/L.48[1]	Note on repressive measures against opponents of the policy of *apartheid* in the Republic of South Africa
A/AC.115/L.49 and Add.1-4	Communications from the specialized agencies of the United Nations
A/AC.115/L.50	Report of the Sub-Committee
A/AC.115/L.51	Letter dated 22 February 1964 from Mr. B. Smith, Secretary, South African Peace Council, Johannesburg, South Africa
A/AC.115/L.52	Letter dated 26 February 1964 from Mr. John Lang, Director, Defence and Aid Fund, Christian Action, London
A/AC.115/L.53	Letter dated 3 March 1964 from Mr. George Houser, Executive Director, American Committee on Africa, New York (enclosing copies of statements by South Africans detained under the ninety-day Detention Act)
A/AC.115/L.54[2]	Note on developments since the report of the Special Committee to the General Assembly at its eighteenth session
A/AC.115/L.55	The pattern of foreign trade of the Republic of South Africa: prepared by the Secretariat at the request of the Special Committee
A/AC.115/L.55/Add.1 and Add.1/Corr.1 and 2	The pattern of foreign trade of the Republic of South Africa—revised statistical tables (prepared by the Secretariat at the request of the Special Committee)
A/AC.115/L.56 and Rev.1	Foreign investment in the Republic of South Africa (prepared by the Secretariat at the request of the Special Committee)
A/AC.115/L.57	Letter dated 2 March 1964 from Mr. Peter Benenson, Secretary, Amnesty International, London
A/AC.115/L.58	Resolution on *apartheid* adopted at the second regular session of the Council of Ministers of the Organization of African Unity

[1] See A/5692, annex I.
[2] *Ibid.*, annex II.

A/AC.115/L.59	Letter dated 13 February 1964 from Mr. Duma Nokwe, Secretary-General of the African National Congress of South Africa, addressed to the Secretary-General
A/AC.115/L.60	Text of declaration signed by 143 international personalities in connexion with the trials in South Africa
A/AC.115/L.61	Three cables concerning death sentences in Port Elizabeth, South Africa
A/AC.115/L.62	Letter dated 24 March 1964 from Mr. Raymond Kunene, London representative, African National Congress of South Africa
A/AC.115/L.63	Letter dated 17 March 1964 from Mr. John K. Tettegah, Secretary-General, Ghana Trade Union Congress, enclosing a memorandum adopted by the Second Conference of the International Trade Union Committee for Solidarity with the Workers and People of South Africa held in Accra, Ghana, from 9 to 11 March 1964
A/AC.115/L.64	Letter dated 31 March 1964 from Mr. Robert Serpell, Chairman, Oxford University Joint Action Committee against Racial Intolerance (United Kingdom) addressed to the Secretary-General
A/AC.115/L.65	Report of the delegation of the Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa on the hearing of petitioners in London, 13 and 18 April 1964
A/AC.115/L.66	Report of the Sub-Committee
A/AC.115/L.67	Text of letter dated 27 April 1964 from Miss Mary Benson enclosing the statement by Mr. Nelson Mandela at his trial in Pretoria on 20 April 1964
A/AC.115/L.68[3]	Report of the delegation of the Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa on the International Conference on Economic Sanctions against South Africa, London, 14-17 April 1964
A/AC.115/L.69	Letter dated 5 May 1964 from the Permanent Representative of Hungary addressed to the Chairman of the Special Committee
A/AC.115/L.70 and Add.1-4	Appeal to Member States in connexion with the trials and death sentences in the Republic of South Africa and replies thereto
A/AC.115/L.71	Index of documents published between 30 July 1963 and 10 June 1964
A/AC.115/L.72	Report of the Sub-Committee
A/AC.115/L.73	Letter dated 12 May 1964 from Mrs. Ruth First, London
A/AC.115/L.74	Report of the Sub-Committee
A/AC.115/L.75	Letter from Mr. J. Thorpe, M.P., Honorary Secretary of the World Campaign for the Release of South African Prisoners, addressed to the Secretary-General of the United Nations
A/AC.115/L.76	Report of the Sub-Committee
A/AC.115/L.77	Letter dated 25 June 1964 from Canon L. John Collins, Chairman, Defence and Aid Fund (International), London
A/AC.115/L.78	Extracts from a letter dated 30 June 1964 from Miss Margaret Roberts, Honorary Secretary, Joint Committee on the High Commission Territories, Richmond, United Kingdom
A/AC.115/L.79	Statement by His Excellency, Mr. Diallo Telli, Chairman of the Special Committee, at the 38th meeting on 30 July 1964
A/AC.115/L.80	Report of the Sub-Committee
A/AC.115/L.81	Letter dated 3 September 1964 from the representative of the African National Congress of South Africa, London
A/AC.115/L.82	Letters dated August 1964 from the International Chairman of the Women's International League for Peace and Freedom, Geneva, Switzerland
A/AC.115/L.83	Resolutions adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its first ordinary session in Cairo, 17-21 July 1964, on "*apartheid* in South Africa" and on "*apartheid* and racial discrimination"
A/AC.115/L.84	Letter dated 5 October 1964 from the Permanent Mission of Ghana
A/AC.115/L.85	Report of the Sub-Committee
A/AC.115/L.86	Resolution on South Africa transmitted by a letter dated 2 October 1964 from the Canadian Union of Students, Ottawa, Canada
A/AC.115/L.87	Memorandum dated 30 September from the World Campaign for the Release of South African Prisoners, London
A/AC.115/L.88	Letter dated 7 October 1964 from the Permanent Representative of India
A/AC.115/L.89	Statement by the Chairman of the Sub-Committee at the 41st meeting on 9 October 1964

[3] See A/5707, annex II.

A/AC.115/L.90	Letter dated 16 October 1964 addressed to the Chairman of the Special Committee by the Permanent Representative of Hungary
A/AC.115/L.91	Resolution adopted by the Second Conference of the Heads of State or Government of Non-Aligned Countries, in Cairo, 5-10 October 1964, on "racial discrimination and the policy of *apartheid*"
A/AC.115/L.92	Statement by Mr. Ronald Segal at the 42nd meeting on 20 October 1964
A/AC.115/L.93	Letter dated 22 October 1964 addressed to Chairman of the Special Committee by the Secretary-General of the United Nations
A/AC.115/L.94	Statement by Mrs. Mary-Louise Hooper at the 45th meeting on 29 October 1964
A/AC.115/L.95	Report of the Sub-Committee
A/AC.115/L.96	Letter dated 9 October 1964 from S. Abdul, Honorary Secretary, the Anti-apartheid Movement, London
A/AC.115/L.97	Memorandum dated 31 October 1964 from Dr. Hans Meidner and Mrs. Marion Friedmann, former members of the Liberal Party of South Africa now resident in the United Kingdom
A/AC.115/L.98	Appeal to Member States concerning relief and assistance to families of persons persecuted by the South African Government for their opposition to the policies of *apartheid*
A/AC.115/L.99	Note on repressive measures against opponents of the policies of *apartheid*
A/AC.115/L.100	Letter dated 12 November 1964 from the Permanent Representative of India to the United Nations
A/AC.115/L.101	Report of the Sub-Committee

SUMMARY RECORDS OF THE SPECIAL COMMITTEE

A/AC.115/SR.22-53[4]

HEARINGS OF PETITIONERS

26th meeting	9 March 1964	Miss Miriam Makeba (South African singer)
28th meeting	11 March 1964	Miss Mary Benson (South African writer)
29th meeting	12 March 1964	Mr. Oliver Tambo and Mr. Tennyson Makiwane (representatives of the African National Congress of South Africa)
	13 April 1964	Mrs. Barbara Castle, M.P., accompanied by Mr. S. Abdul, representing the Anti-apartheid Movement, London[5]
		Canon L. John Collins (Chairman, Defence and Aid Fund, London)[5]
		Mr. Barney Desai (President of the Coloured Peoples Congress of South Africa)[5]
		Mrs. Ruth First (journalist)[5]
	18 April 1964	Dr. Joost de Blank, former Archbishop of Cape Town and currently Canon of Westminster Abbey, London[5]
		Mr. A. Manchanda, accompanied by Mr. Rashid Yousuf and Mr. Mohamed Tickley, representing the Committee of Afro-Asian Caribbean Organizations, London[5]

[4] The summary records of the 22nd, 23rd, 24th, 25th, 32nd, 35th, 36th, 47th, the second part of the 48th, 49th, 52nd, and the first part of the 53rd meetings are restricted, as these meetings, devoted to the consideration of reports by the Special Committee and to the organization of its work, were closed.

[5] See A/AC.115/L.65—report of the delegation of the Special Committee on the policies of *apartheid* of the Government of the Republic of South Africa on the hearing of petitioners in London, 13 and 18 April 1964 containing memoranda and written statements from:
the Anti-apartheid Movement, London;
Mr. Barney Desai, President of the Coloured Peoples Congress of South Africa;
Mrs. Ruth First, journalist;
Mr. A. Manchanda, Mr. Rashid Yousuf, Mr. Mohamed Tickley, Mr. Somahlenga Mokhonoana, Mr. Ted Stagg and Mr. Brian Hamilton of the Committee of Afro-Asian Caribbean Organizations;
Dr. Yusuf M. Dadoo, representative of the South African Indian Congress;
Mr. Leon Levy, National President and official representative abroad of the South African Congress of Trade Unions;
Mrs. Rosalynde Ainslie and Miss Dorothy Robinson, of the Anti-apartheid Movement, London.

29th meeting (*continued*)	18 April 1964	Mr. Thabo Mbeki, son of the African leader, Mr. Govan Mbeki, now on trial in Pretoria[5]
		Dr. Yusuf M. Dadoo, representative of the South African Indian Congress[5]
		Mr. Leon Levy, National President and official representative abroad of the South African Congress of Trade Unions[5]
42nd meeting	20 October 1964	Mr. Ronald Segal, convener of the International Conference on Economic Sanctions against South Africa held in London, 14-17 April 1964[6]
45th meeting	29 October 1964	Mrs. Mary-Louise Hooper, American Committee on Africa, New York[7]

[6] See A/AC.115/L.92.
[7] See A/AC.115/L.94.

ANNEX III

Direction of imports and exports of the Republic of South Africa

1. The following tables, on the direction of the imports and exports of the Republic of South Africa, are taken from the *Monthly Abstract of Trade Statistics* compiled by the Department of Customs and Excise of the Republic of South Africa.

2. In considering these statistics, the following notes from the *Monthly Abstract* should be taken into account:

"*Statistical territory*—The statistical territory in respect of the external trade statistics of the Republic of South Africa does not coincide with its political boundaries, but it does include the High Commission Territories of Basutoland, Swaziland and the Bechuanaland Protectorate, as well as the Territory of South West Africa.

"*Country of destination* means country of destination as far as can be ascertained at the time of shipment. A proportion of the goods declared to be for export to any one country may be distributed from that country to other countries, but as the ultimate destination is unknown when the consignment leaves South Africa the export figures are credited to the country declared on bills of entry (export).

"*Country of origin*—Imports are credited, where possible, to the country in which the goods have been grown, produced, or manufactured. Where the particulars of the origin are not available the goods are credited to the country whence shipped.

"*Value—imports*—The value recorded of goods imported is the free on board cost of the goods to the importer.

"*Value—exports*—The value of goods exported is the price of those goods free on board at the place of dispatch."

TABLE 1. REPUBLIC OF SOUTH AFRICA: IMPORTS—COUNTRIES

Summary of imports (including government stores) by countries of origin, reflecting the percentage that each country bears to the total imports together with comparative figures for the corresponding period of the previous year

Country of origin	*1963*		*1962*	
	*Rand**	*Per cent*	*Rand*	*Per cent*
AFRICA				
Morocco	1,399,956	0.1	2,306,485	0.2
Congo (Brazzaville)	732,165	0.1	951,771	0.1
Congo (Leopoldville)	21,601,943	1.8	22,540,830	2.3
Angola	1,481,515	0.1	856,750	0.1
South Africa	2,287,145	0.2	1,241,459	0.1
Rhodesia and Nyasaland	32,816,008	2.7	27,478,471	2.7
Mozambique	6,092,091	0.5	2,769,783	0.3
Kenya	4,161,197	0.3	2,423,324	0.2
Other Africa	10,226,493	0.9	9,930,870	1.0
TOTAL, AFRICA	80,798,513	6.7	70,499,743	7.0
EUROPE				
Norway	4,565,939	0.4	3,582,713	0.4
Sweden	22,023,798	1.8	18,051,652	1.8
Denmark	4,633,599	0.4	3,605,282	0.4
United Kingdom of Great Britain and Northern Ireland	361,434,208	30.1	303,040,918	30.3
Belgium	13,746,151	1.1	12,438,655	1.2
Netherlands	30,095,780	2.5	24,823,669	2.5
Federal Republic of Germany	129,675,983	10.8	102,243,323	10.2
France	31,316,398	2.6	21,045,586	2.1
Switzerland	19,615,067	1.6	15,897,824	1.6
Austria	7,052,425	0.6	6,230,671	0.6
Portugal	2,236,597	0.2	2,402,169	0.2
Spain	1,674,481	0.1	1,232,272	0.1
Italy	34,096,546	2.8	28,811,079	2.9
Finland	5,665,843	0.5	4,621,627	0.5
Eastern Germany	1,785,380	0.1	899,269	0.1

TABLE 1 (*continued*)

Country of origin	1963 Rand*	1963 Per cent	1962 Rand	1962 Per cent
EUROPE (*continued*)				
Poland	767,797	0.1	409,473	
Czechoslovakia	3,491,128	0.3	2,697,341	0.3
Hungary	951,244	0.1	799,361	0.1
Other Europe	913,788	0.1	706,863	0.1
TOTAL, EUROPE	675,742,152	56.2	553,539,747	55.3
AMERICA				
Canada	40,614,763	3.4	24,933,628	2.5
United States of America	204,519,560	17.0	166,762,610	16.7
Mexico	2,537,926	0.2	2,392,824	0.2
Netherlands Antilles	2,192,035	0.2	1,485,100	0.1
Venezuela	529,793		1,209,250	0.1
Brazil	6,194,277	0.5	4,716,456	0.5
Uruguay	1,141,688	0.1	1,084,397	0.1
Argentina	1,399,665	0.1	2,400,812	0.2
Peru	650,018	0.1	658,703	0.1
Other America	1,306,086	0.1	1,353,799	0.1
TOTAL, AMERICA	261,085,811	21.7	206,997,579	20.7
ASIA				
Israel	1,171,223	0.1	1,179,848	0.1
Saudi Arabia	2,637,309	0.2	3,720,121	0.4
Aden	8,444,896	0.7	10,007,034	1.0
Qatar	2,323,092	0.2		
Bahrain	9,565,680	0.8	9,343,577	0.9
Iraq	1,804,160	0.2	874,020	0.1
Iran	31,063,582	2.6	36,736,892	3.7
Pakistan	12,771,389	1.1	17,019,071	1.7
Ceylon	13,254,567	1.1	12,879,598	1.3
Thailand	663,178	0.1	860,161	0.1
British Borneo	628,222	0.1	502,006	0.1
Hong Kong	7,496,571	0.6	4,493,652	0.4
China	1,815,913	0.2	962,911	0.1
Japan	56,420,036	4.7	41,464,245	4.1
Other Asia	18,135,649	1.5	13,884,491	1.4
TOTAL, ASIA	168,195,467	14.0	153,927,627	15.4
OCEANIA				
Australia	12,419,872	1.0	13,739,463	1.4
New Zealand	1,738,651	0.1	1,646,703	0.2
Other Oceania	11,766		29,780	
TOTAL, OCEANIA	14,170,289	1.2	15,415,946	1.5
TOTAL, ALL COUNTRIES	1,199,992,232	100.0	1,000,380,642	100.0
Unallocated imports through the post	2,917,545		2,654,685	
Customs value of immigrants' effects	9,765,506		4,760,411	
GRAND TOTAL	1,212,675,283		1,007,795,738	

* 1 rand = $1.40.

TABLE 2. REPUBLIC OF SOUTH AFRICA: EXPORTS—COUNTRIES

Summary of exports of South African produce (excluding specie) according to countries of destination, reflecting the percentage that each country bears to the total exports, along with comparative figures for the corresponding period of the previous year

Country of destination	1963 Rand	1963 Per cent	1962 Rand	1962 Per cent
AFRICA				
United Arab Republic	401,548		627,337	0.1
Congo (Leopoldville)	6,137,725	0.7	7,473,293	0.8
Angola	1,346,462	0.1	1,021,245	0.1
Rhodesia and Nyasaland	75,142,477	8.3	84,670,008	9.7
Mozambique	13,705,665	1.5	12,131,767	1.4
Mauritius	3,480,756	0.4	4,173,849	0.5

TABLE 2 (*continued*)

Country of destination	1963 Rand	1963 Per cent	1962 Rand	1962 Per cent
AFRICA (*continued*)				
Kenya	3,850,870	0.4	5,474,023	0.6
Other Africa	3,302,793	0.4	4,032,629	0.5
TOTAL, AFRICA	107,368,296	11.8	119,604,151	13.8
EUROPE				
Norway	1,957,284	0.2	2,704,552	0.3
Sweden	5,066,322	0.6	5,562,867	0.6
Denmark	784,544	0.1	1,457,992	0.2
Ireland	3,278,218	0.4	1,669,173	0.2
United Kingdom of Great Britain and Northern Ireland	272,028,414	29.9	241,933,604	27.8
Belgium	38,566,483	4.3	37,866,598	4.4
Netherlands	24,526,870	2.7	25,180,720	2.9
Federal Republic of Germany	49,114,892	5.4	42,759,300	4.9
France	31,422,934	3.5	31,306,238	3.6
Switzerland	5,009,194	0.6	5,713,683	0.2
Austria	1,470,311	0.2	3,045,867	0.3
Portugal	3,403,088	0.4	1,591,375	0.2
Spain	5,948,381	0.7	3,843,817	0.4
Italy	49,322,960	5.4	44,258,626	5.1
Finland	903,683	0.1	1,568,963	0.2
Eastern Germany	2,082,418	0.2	1,627,694	0.2
Poland	2,436,761	0.3	2,122,388	0.2
Czechoslovakia	770,670	0.1	581,463	0.1
Albania	648,955	0.1		
Greece	1,074,442	0.1	1,053,302	0.1
Other Europe	676,512	0.1	1,021,937	0.1
TOTAL, EUROPE	500,493,399	55.1	456,870,159	52.1
AMERICA				
Canada	13,290,111	1.5	10,385,104	1.2
United States of America	80,575,740	8.9	78,107,917	9.0
Mexico	4,768,949	0.5	379,474	
Colombia	430,757		660,778	0.1
Chile	451,670		530,431	0.1
Argentina	1,213,783	0.1	1,578,994	0.2
Other America	1,806,913	0.2	1,934,649	0.3
TOTAL, AMERICA	102,537,923	11.3	93,577,347	10.8
ASIA				
Turkey	1,330,435	0.2	1,012,280	0.1
Israel	2,838,517	0.3	2,886,724	0.3
Aden	583,945	0.1	339,664	
Iraq	451,486		802,044	0.1
Iran	613,268	0.1	2,448,111	0.3
Pakistan	794,592	0.1	1,545,140	0.2
Ceylon	1,224,099	0.1	1,768,885	0.2
Thailand	483,629	0.1	468,493	0.1
Hong Kong	8,539,854	0.9	8,627,925	1.0
China	4,263,359	0.5	938,346	0.1
Japan	70,518,246	7.8	72,394,653	8.3
Republic of Korea	129,221		492,251	0.1
Other Asia	11,746,478	1.3	13,749,906	1.6
TOTAL, ASIA	103,517,129	11.4	107,474,422	12.5
OCEANIA				
Australia	11,717,016	1.3	8,667,957	1.0
British Pacific Islands	357,551		429,169	0.1
New Zealand	1,628,075	0.2	1,619,888	0.2
Other Oceania	53,903		46,237	
TOTAL, OCEANIA	13,756,545	1.5	10,763,251	1.2
Optional	66,953,956	7.4	74,390,652	8.5
Ship stores	9,174,281	1.0	7,431,151	0.8
Parcel post	1,452,045	0.2	1,396,535	0.2
Customs value of emigrants' effects	1,714,280	0.2	2,137,097	0.2
GRAND TOTAL	906,967,854	100.0	873,644,765	100.0

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Repressive measures against opponents of the policies of *apartheid*

[*Original text: English*]
[*10 December 1964*]

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Introduction

1. The United Nations organs have been greatly concerned during recent years over the régime of repression instituted by the South African Government in order to silence and intimidate all leaders of non-white organizations and all militant opponents of the policies of *apartheid* and thus to paralyse all resistance to its policies. They have expressed grave concern over such legislation and actions as the mass arrests after the Sharpeville and Langa incidents in 1960; the proclamation of emergency regulations in the Transkei in 1960; the banning of the African National Congress and the Pan-Africanist Congress and the promulgation of the Unlawful Organizations Act in 1960; the promulgation of the General Law Amendment Act (Sabotage Act) in 1962; the widespread arrests of alleged supporters of banned organizations in 1963; the promulgation of the General Law Amendment Act, No. 37, 1963 providing for the detention of persons without trial, and the detentions under this Act of hundreds of persons, including well-known leaders of political organizations opposed to the policies of *apartheid*; the institution of a large number of trials under the Sabotage Act and other repressive legislation; and the reports of ill-treatment and torture of persons in gaol.

2. The reports of the Special Committee in 1963 gave an account of the mass of repressive legislation in South Africa and its implementation.[308] The present document covers the developments since those reports.

Principal repressive legislation

3. The principal legislation under which thousands of persons have been tried and convicted may be recalled:

(*a*) Under the Suppression of Communism Act, No. 44, 1950, as amended, "Communism" is defined not only as it is commonly understood but also as any doctrine or scheme "which aims at bringing about any political, industrial, social or economic change within the Republic of South Africa by the promotion of disturbance or disorder, by unlawful acts or omissions or by threats of such acts or omissions or by means which include the promotion of disturbances or disorder, or such acts or omissions or threats" or "which aims at the encouragement of feelings of hostility between the European and non-European races of the Union the consequences of which are calculated to further the achievement of any object" indicated earlier in that section. As Mr. Gerald Gardiner, Q.C. (now Lord Gardiner, Lord Chancellor of the United Kingdom) observed: "It is not inappropriate to comment that if the Government passes a law which discriminates against non-Europeans... that is not 'communism', but if anybody protest against

[308] *Official Records of the General Assembly, Annexes*, addendum to agenda item 30, documents A/5497 and Add.1.

that law in a manner which causes disorder, that is 'communism'."[309] The definition of a "Communist" includes a person who is deemed by the State President to be a Communist on the ground that he had, at any time, before or after the commencement of this Act, advocated, advised, defended or encouraged the achievement of any of the objects of communism or any act or omission which is calculated to further the achievement of any such object. Mr. Gardiner commented: "So if you were a communist forty years ago, you are a communist today. And, whether you are a communist or not, you are a communist if the Governor-General[310] says that you are."[311]

(*b*) The Unlawful Organizations Act, No. 34, 1960, under which several organizations, including the two leading African political organizations, the African National Congress and the Pan-Africanist Congress, were banned, provides severe penalties for belonging to banned organizations or furthering their objects.

(*c*) The General Law Amendment Act, No. 76, 1962, created a new crime of "sabotage", punishable by a minimum sentence of five years' imprisonment and a maximum of death. The definition of sabotage is so wide that it includes any wrongful and wilful act whereby the accused damages or tampers with any property or any person or the State. The burden of the proof is shifted to the accused: he is guilty of sabotage unless he can prove that his offence was not committed to further or encourage the object specified in vague terms in the Act. The International Commission of Jurists commented that the sinister provisions of this Act brought to mind similar provisions introduced under the totalitarian régime of Nazi Germany.[312]

Action by United Nations organs

4. Considering that such repressive measures are not only contrary to the fundamental principles of human rights and justice, but deny all avenues of peaceful change and increase the danger of a violent conflict in the country, the General Assembly and the Security Council have called on the South African Government to end repression against the opponents of the policies of *apartheid* and to seek a peaceful solution in consultation with the representatives of all the people of South Africa and with the assistance of the United Nations.

5. By resolution 1761 (XVII) of 6 November 1962, the General Assembly strongly deprecated the aggravation of racial issues by the South African Government by enforcing measures of increasing ruthlessness involving violence and bloodshed.

6. By its resolution of 7 August 1963,[313] the Security Council called upon the South African Government to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*.

7. By resolution 1881 (XVIII) of 11 October 1963, adopted on the eve of the trials of a large number of political leaders under arbitrary laws prescribing the death sentence, the General Assembly condemned the South African Government for its failure to comply with the repeated resolutions of the General Assembly and the Security Council calling for an end to the repression of persons opposing *apartheid*, and requested it to abandon the arbitrary trials then in progress and forthwith to grant unconditional release to all political prisoners and to all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of *apartheid*.

8. By its resolution of 4 December 1963,[314] the Security Council urgently requested the South African Government to cease forthwith its continued imposition of discriminatory and repressive measures which were contrary to the principles and purposes of the Charter and in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights; condemned the non-compliance by the South African Government with the appeals contained in General Assembly and Security Council resolutions; and again called upon the South African Government to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*.

9. On 27 March 1964, in view of the passing of death sentences on certain leaders of the African National Congress and the continued trials of a number of leaders of political organizations under legislation which provides for death sentences, the Secretary-General requested the Permanent Representative of South Africa to the United Nations to convey his urgent and earnest appeal to the South African Government to spare the lives of those facing execution or death sentences for acts arising from their opposition to the Government's racial policies, so as to prevent an aggravation of the situation and to facilitate peaceful efforts to resolve the situation.

10. By its resolution of 9 June 1964,[315] the Security Council noted with grave concern that the imminent verdict to be delivered in the Rivonia trial instituted against the leaders of the anti-*apartheid* movement, under arbitrary laws prescribing long terms of imprisonment and the death sentence, may have serious consequences, and urged the South African Government:

"(*a*) To renounce the execution of the persons sentenced to death for acts resulting from their opposition to the policy of *apartheid*;

"(*b*) To end forthwith the trial in progress, instituted within the framework of the arbitrary laws of *apartheid*;

"(*c*) To grant an amnesty to all persons already imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*, and particularly to the defendants in the Rivonia trial."

11. Further, by its resolution of 18 June 1964,[316] the Security Council condemned the *apartheid* policies of the South African Government and the legislation supporting these policies, such as the General Law Amendment Act, and in particular its ninety-day detention clause; urgently reiterated its appeal to the South African Government to liberate all persons imprisoned, interned or subjected to other restrictions

[309] Quoted by the International Commission of Jurists in *South Africa and the Rule of Law* (Geneva, 1960), pp. 50-51.
[310] Now "State President".
[311] International Commission of Jurists, *South Africa and the Rule of Law* (Geneva, 1960), p. 51.
[312] International Commission of Jurists, press statement on the South African Sabotage Bill, 21 June 1962.
[313] *Official Records of the Security Council, Eighteenth Year, Supplement for July, August and September 1963*, document S/5386.
[314] *Ibid., Supplement for October, November and December 1963*, document S/5471.
[315] *Ibid., Nineteenth Year, Supplement for April, May and June 1964*, document S/5761.
[316] *Ibid.*, document S/5773.

for having opposed the policies of *apartheid*; and urgently appealed to the South African Government:

"(*a*) To renounce the execution of any persons sentenced to death for their opposition to the policy of *apartheid*;

"(*b*) To grant immediate amnesty to all persons detained or on trial, as well as clemency to all persons sentenced for their opposition to the Government's racial policies;

"(*c*) To abolish the practice of imprisonment without charges, without access to counsel or without the right of prompt trial."

Stringent repressive measures

12. Despite the unanimous demands of the principal organs of the United Nations, the South African Government has employed ever more stringent repressive measures against an increasing number of persons and organizations.

13. During the period since 13 September 1963, the South African Government has made extensive use of the arbitrary powers acquired by it to detain persons without trial, to place them under house arrest and to serve them with banning orders. It has also launched a series of trials under the General Law Amendment Act, No. 76, 1962, especially its provisions on "sabotage" which provide for death sentences, and earlier legislation such as the Suppression of Communism Act, No. 44, 1950, the Riotous Assemblies Act, No. 17, 1956, and the Unlawful Organizations Act, No. 34, 1960. Charges of maltreatment and torture of prisoners have become widespread.

14. Several persons found guilty of acts of violence, arising from political reasons, have been executed during this period. One person was executed on 14 October 1963 and three others on 1 November for alleged offences during the Paarl riot of 22 November 1962; four were executed on 8 November 1963 for planning to murder Chief Kaiser Matanzima; four others were executed on 11 February 1964 on charges of sabotage and murder at Queenstown. It may be noted in this connexion that the legislation enacted since 1962 has extended the list of crimes for which the death sentence may be imposed.

15. The Minister of Justice stated in reply to questions in the House of Assembly on 21 and 24 January 1964 that 3,355 persons had been detained under security legislation in 1963: 1,186 under Proclamation R.400 of 1960 and under section 17 of the General Law Amendment Act, No. 37, 1963, which provide for detention without trial; and 2,169 under other laws. These included at least 201 juveniles.[317]

16. The Minister stated on 10 June 1964, that 1,635 persons had been convicted of sabotage and violence.[318]

17. Sentences in all security trials have been extremely severe. According to the information compiled by the monthly *Forward*, covering 115 political trials involving 1,315 persons concluded in 1963 and the first six months of 1964, forty-four persons were sentenced to death; fourteen to life imprisonment; and 894 to a total of 5,713 years' imprisonment or an average of nearly six years and five months. One was sentenced to six cuts.[319]

18. The severity of sentences is particularly striking as a majority of the accused were charged merely with belonging to or furthering the objectives of banned organizations, particularly the African National Congress or the Pan-Africanist Congress.

19 A serious source of concern is the evidence of secret trials, despite official assertions that trials were open to the public. In September 1963, when seven Africans were sentenced to twenty years' imprisonment each for allegedly receiving military training in Ethiopia, the Press reported that "until sentence was passed, the nature of the charges and the evidence were heard behind locked doors". The accused had not been represented by counsel even though the charges carried the death penalty.[320]

20. The large number of acquittals, when the accused were able to obtain counsel or allowed to appeal, seems to indicate that many persons had been convicted due to their inability to procure legal assistance. Frequently, however, persons acquitted by the courts have been re-arrested under legislation providing for detention without trial.

21. A significant aspect of the repressive measures during the period under review is the fact that the categories of victims have become wider.

22. Until 1964, the brunt of repression was borne by the leaders and members of the Pan-Africanist Congress, the African National Congress, the organizations allied with the latter in the "Congress Alliance" —the South African Indian Congress, the Coloured People's Congress, the South African Congress of Trade Unions and the Congress of Democrats—and the two underground organizations known as Poqo and Umkonto we Sizwe ("Spear of the Nation"). Some other supporters of non-racialism, such as members of the Liberal Party, were warned or served with banning orders but few were gaoled.

23. After the Rivonia trial and the acts of sabotage and violence which followed, however, the Government detained or banned a large number of leaders of the Liberal Party and the National Union of South African Students, most of them white.[321] Hundreds of homes were searched. A large number of professors and students, and numerous professional men who could not be accused of sympathy for communism or with acceptance of violence as a means of struggle were affected. Among those whose homes were raided were some who were highly reputed in white society and others who, though politically inactive, apparently became targets of the police mainly because of their personal friendships.

24. During these incidents and investigations, the existence of another underground sabotage organization known as the African Resistance Movement (ARM) came to light. It is reported to have been a rather small organization composed mainly of white intellec-

[317] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, cols. 14, 20 and 21; *ibid.*, 24 January 1964, cols. 263 and 264.

[318] *Ibid.*, 10 June 1964, cols. 7634-7636.

[319] *Forward* (Johannesburg), August 1964. Three hundred and forty were acquitted or discharged, eighteen were remanded, while the sentences on four are unknown.

[320] *The Cape Argus*, 1 October 1963.

[321] The Minister of Justice said on 27 July 1964 that the Government was closing in on white people who were the "brains" behind the wave of sabotage and subversion in the country. He described them as communists who posed as liberals (*The Cape Times*, 28 July 1964).

tuals and students.[322] On 25 September 1964, the State President declared the ARM—also known as the African Freedom Movement, the National Committee for Liberation, National Liberation Committee and the Socialist League—an unlawful organization.[323]

25. The victimization of a large number of young men and women, as well as the Government's suspicions concerning some older men highly respected in white society, raises the question posed by the Leader of the Opposition, Sir de Villiers Graaff, as to why the "underground activities are getting the alarming measure of support they appear to have done from both black and white".[324] It further raises the question whether an increasing number of Whites feel compelled to engage in underground activities or contemplate violence because of their sense of justice and their revulsion at the atmosphere created by the repressive and discriminatory measures.

26. Not only leaders and supporters of political movements but many others have suffered enormously from the repressive measures. Innocent men are gaoled or placed under house arrest or banned for long periods. Though guilty of no crime even under the South African laws, they are often deprived of their jobs and means of livelihood. Charges of ill-treatment and torture of prisoners have frequently been made in the courts and published in the Press. Appearance in court has become a privilege to be granted by the police. Bails are high when allowed and the costs of defence and appeal are beyond the resources of many of the victims.

27. Above all, these repressive measures tend to increase the tension in the country and bring closer the dread prospect of a bitter and violent conflict.

Recent repressive legislation

28. Despite the universal condemnation of the draconian repressive legislation on the statute books, the Government has proceeded to enact and contemplate further repressive measures.

29 In June 1964, the General Law Amendment Act, No. 80, 1964, was passed. This new Act extends for another year, until 30 June 1965, the operation of section 4 of the General Law Amendment Act, No. 37, 1963 under which Robert Sobukwe was detained after serving his term of imprisonment.

30. The Act further extends the scope of earlier legislation providing heavy penalties, including death, for undergoing military training. While previous legislation was limited to military training outside South Africa, the present Act makes it a crime to undergo military training inside the Republic, or to "attempt, consent or take any steps to undergo", or "incite, instigate, command, aid, advise, encourage or procure", any other person to undergo military training. Like the previous legislation, the present Act is retroactive to 1950.

31. The present Act also makes the refusal of a witness to answer any questions put to him by a court in any criminal proceedings a crime punishable by imprisonment for up to twelve months. The person may be dealt with under this provision again and again in the event of further refusal. (Prior to this Act, a person could be held in gaol for periods of up to eight days for refusing to answer questions.) If a witness produced by the prosecutor is, in his opinion, an accomplice, principal or accessory, to the commission of the offence alleged in the charge, the Court may compel such witness to give evidence and to answer questions, notwithstanding that the answers may tend to incriminate him. A witness who answers such questions is discharged from liability to prosecution but such liability may be restored on the refusal of the witness to testify at the trial of any person charged for the commission of the offence.[325]

32. Another Act adopted at the current session of Parliament, the Attorneys, Notaries and Conveyancers Admission Amendment Act, provides that only a South African citizen or person "lawfully admitted to the Republic for permanent residence therein and is ordinarily resident in the Republic" will be entitled to enrol as an attorney. It lays down that in future a person must have passed in both official languages in the Matriculation examination before he can be allowed to practise as an attorney. Moreover, it prescribes circumstances under which certain attorneys may be struck off the roll or suspended from practising.[326] This legislation has caused some concern as it may make it more difficult for the accused in political trials to obtain counsel.

33. Moreover, the Government has announced plans to prevent persons who are officially listed as communists from practising at the Bar or Side Bar.[327]

34. Another cause for concern has been a draft Criminal Procedure Amendment Bill circulated by the Minister of Justice to the legal profession for comment. While the bill has not been published it is reported that it provides for the replacement of preparatory examinations by a system of pre-trial interrogation in some circumstances *in camera*.[328] The General Council of the Bar of South Africa expressed complete opposition to the proposed amendments.[329]

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[322] Eleven persons have been accused in recent trials involving the ARM and twenty-five named as co-conspirators. The Government claimed that the organization had been broken up.

[323] *Government Gazette Extraordinary*, 25 September 1964.

[324] *The Cape Times*, 13 July 1964.

[325] Justifying this provision, the Minister of Justice recalled on 19 June 1964 that in the Cape Town sabotage trial of Neville Alexander and others, three State witnesses had refused to be sworn in stating that they were accomplices.

[326] *The Cape Times*, 30 June 1964.

[327] *Ibid.*, 3 April 1964.

The Minister of Justice said at the Congress of the National Party of the Free State at Bloemfontein on 17 September 1964 that the Government had taken a firm decision that communists should not be allowed to practise law or teach in the universities.

"No attorney or advocate who is a communist will be allowed to practice longer than next year and no communist will be allowed to teach at educational institutions.

"As from 1 January, no communist will be allowed to teach at our universities."

He said the list of members of the Communist Party drawn up by the Government was of active communists and not of people whom the Government merely regarded as communist. Persons on the list had been given the opportunity to apply for removal of their names and some names had been removed where there were sound reasons. But people whose names were now on the list should not complain in future if their lives in South Africa were no longer pleasant. "If I were one of them I would pack up my things and would leave the country" (*The Cape Times*, 18 September 1964).

[328] According to a statement issued by the Cape Town Side Bar Association on 10 August 1964, the draft bill is based on an article by Mr. Justice V. G. Hiemstra in the *South African Law Journal* of May 1963 entitled "Abolition of the right not to be questioned—a practical suggestion for reform in criminal procedure" (*The Cape Times*, 11 August 1964).

[329] *The Cape Times*, 13 August 1964.

35. The Government has also hinted that further restrictions would be imposed on the Press. On 27 April 1964 the Prime Minister, Mr. H. F. Verwoerd, stated that English-language newspapers went near the border of treason against South Africa by placing the Republic in a vulnerable position to be attacked from the outside world. The Government, he said, would not be prevented from taking action in the best interest of the safety of South Africa.[330]

36. On 11 May 1964, the South African Press Commission published a massive report criticizing the foreign Press and news agencies for biased coverage of South African developments, especially in the fields of politics and race relations. It recommended the establishment of a statutory Press Council for the "self-control and discipline" of the South African Press and journalists. Owners of journals and journalists would be required to register with the proposed council. It would be an offence for them not to register. Unregistered journalists would be denied cabling authority. The Council would have the power to try journalists and owners of journals for breaches of the proposed Press Code. It would be authorized to reprimand, or order its findings to be published or impose unlimited fines. The fine would be imposed only on the owner of a journal and only if publication of the matter complained about had materially increased its circulation. There would be no appeal from the council's decisions.[331]

37. The Commission's proposals provoked strong condemnation in South Africa and abroad. Mrs. Helen Suzman, Progressive Party, stated on 12 May in the House of Assembly that the Commission's report was "part and parcel of the whole cold war that has been waged by the Government against the concept of freedom of expression in South Africa". She added: "But I cannot think of anything more calculated to make us the laughing stock of the civilized world."[332] Sir de Villiers Graaff, leader of the United Party, called for the rejection of the recommendation to establish a press council. Mr. Jan Steytler, leader of the Progressive Party, stated: "The entire report of the Press Commission is based upon the premise that white supremacy is sacred."[333]

38. On 14 May 1964, the International Press Institute, Zurich, described the Commission's proposals as "a step toward the political control of the Press". It said the proposed Press council would:

> "not be a safeguard of the freedom of the Press but an infringement of that freedom. The compulsory registration of journalists would constitute a permanent threat to their livelihood and freedom of operation. Such a measure would seriously interfere with the flow of uncensored news".[334]

The Commonwealth Press Union supported the protest of the International Press Institute.[335]

39. Meanwhile, the opposition Press and journalists have been harassed. Early in March 1964, the offices of the review *New African* were raided by the police who removed even address plates and subscription lists and all copies of the review. The address plates were returned only after six weeks.[336] The offices were raided again on 24 April 1964.[337] *Focus*, a commentary published in Rondebosch, was banned on 10 July 1964 and the ban was lifted in August 1964.[338] *Contact*, a liberal political journal, was harassed by the successive bannings of its editors—Patrick Duncan, Peter Hjul and Miss Anne Tobias—prohibiting them from journalism.[339] The Cape Executive of the Liberal Party said in a statement on 2 October 1964:

> "It is clear that it is now the Government's policy to ban editors and journalists rather than newspapers. Thus in a more subtle way, the freedom of the Press will ultimately be destroyed."[340]

40. Thus, the policies of *apartheid* are being implemented by rapid whittling down of the fundamental freedoms of all the people of South Africa.

Chapter I. Trials and convictions of opponents of *apartheid*

Introduction

41. A large number of persons—including some of the most prominent leaders of the people—have been tried and convicted under security laws during the period under review (since 13 September 1963), despite the decisions of the General Assembly and the Security Council calling on the South African Government to end such trials and liberate persons imprisoned for acts arising from their opposition to the policies of *apartheid*.

42. The Minister of Justice stated on 24 January 1964, in reply to questions in the House of Assembly, that 2,169 persons had been detained in 1963 under the Suppression of Communism Act, 1950, the Riotous Assemblies Act, 1956, the Unlawful Organizations Act, 1960, and the General Law Amendment Act, 1962.[341] Of these, 722 had been released without trial, and 1,447 had been brought to trial. Of the latter, 922 had been convicted and 421 found not guilty, and 104 were awaiting trial.[342]

43. On 4 February 1964, the Minister of the Interior and of Education, Arts and Science, told the Senate that 354 cases had been brought to trial in 1963 on charges of sabotage or for offences under the Suppression of Communism Act: 1,316 persons had been convicted and 411 acquitted as a result of these trials.[343]

44. The Minister of Justice told the Senate on 10 March 1964 that, since the wave of sabotage and violence began in December 1961, 62 persons had been found guilty of murder, 258 guilty of sabotage and 1,466 guilty of crimes of a subversive nature—a grand total of 1,786.[344]

45. The Minister of Justice told the House of Assembly on 10 June 1964 that 1,162 members of Poqo had been charged and convicted; 269 persons belonging to the African National Congress or the Umkonto

[330] *Ibid.*, 28 April 1964.

[331] *Ibid.*, 12 May 1964. The Commission had been established in November 1950.

[332] Republic of South Africa, *House of Assembly Debates (Hansard)*, 12 May 1964, cols. 5847 and 5848.

[333] Reuters, 12 May 1964.

[334] *The New York Times*, 15 May 1964.

[335] *The Star* (Johannesburg), weekly edition, 23 May 1964.

[336] *The Cape Times*, 23 April 1964.

[337] *Ibid.*, 25 April 1964.

[338] *Ibid.*, 24 August 1964.

[339] *Ibid.*, 3 October 1964. Harold Head was also banned but after he ceased to be editor.

[340] *The Cape Times*, 3 October 1964.

[341] This figure excludes 1,186 persons detained under Proclamation R.400 of 1960 and section 17 of the General Law Amendment Act, No. 37, 1963.

[342] Republic of South Africa, *House of Assembly Debates (Hansard)*, 24 January 1964, cols. 263 and 264.

[343] *Senate of the Republic of South Africa, Debates (Official Report)*, 4 February 1964, cols. 418 and 419.

[344] *Ibid.*, 10 March 1964, cols. 1982 and 1983.

we Sizwe had been convicted of sabotage and 150 found guilty on minor charges; and 126 persons had been found guilty in connexion with recruitment for sabotage training abroad. Moreover, since the last session of Parliament, 78 persons had been found guilty of murder, 6 of conspiracy to murder and 6 of attempted murder.[345]

46. A significant feature of these trials is that the accused are often kept in custody for long periods before being brought to trial. The Minister of the Interior and of Education, Arts and Science told the Senate on 4 February 1964 that of the 1,727 persons whose trials were concluded in 1963 on charges of sabotage and offences under the Suppression of Communism Act, 530 had been remanded in custody for periods in excess of three months before having been brought to trial; 129 persons, the charges against whom were withdrawn, had been held in custody for a period of three months or longer.[346]

47. Many of the trials were summary trials and some were held *in camera*. In several trials, part of the evidence was taken *in camera*. The accused often could not secure adequate defence as they had been remanded for long periods without bail and their friends and relatives were also restricted or imprisoned. Trials were often held away from the homes of the accused. The accused had difficulty in obtaining counsel both because of lack of funds and because of the atmosphere in which the trials were conducted.

48. Despite these difficulties, a large percentage of the prisoners were acquitted by the courts, or had charges against them withdrawn by the State. As noted earlier, the Minister of Justice stated on 24 January 1964 that of the 1,343 persons whose trials under four security laws were concluded in 1963, 922 were convicted and 421 found not guilty. The Minister of Interior stated on 4 February 1964, that, in 1963, 1,316 persons were convicted of charges of sabotage and offences under the Suppression of Communism Act, and 411 were acquitted and 129 had the charges against them withdrawn.

49. Of the 197 persons who were awaiting trial on 25 June 1963 in connexion with the disturbances at Paarl in November 1962, only forty-one were convicted; nine were discharged and 147 were released without trial or had the charges against them withdrawn.[347]

50. These facts would indicate that hundreds of innocent persons are held in prisons, some for long periods, without evidence adequate to obtain convictions in courts. They also raise the question whether many more persons might have obtained acquittals if they were ensured adequate facilities for legal defence.

51. A few of the trials during the period since September 1963 are reviewed below. A brief review of the results of the security trials reported in the Press is given in the annex to this report.

A. The trial of Nelson Mandela, Walter Sisulu and others (the Rivonia trial)

52. It may be recalled that General Assembly resolution 1881 (XVIII) of 11 October 1963 followed the charging of eleven prominent leaders of the people and other opponents of *apartheid* on 9 October 1963 with sabotage and other offences. The trial came to be known as the Rivonia trial as most of the accused had been arrested in a raid on the Goldreich farm in Rivonia.

53. The following were accused: Nelson Mandela, Walter Sisulu, Denis Goldberg, Govan Mbeki, Ahmed Mohamed Kathrada, Lionel Bernstein, Raymond Mhlaba, James Kantor, Elias Matsoaledi, Andrew Mlangeni and Bob Alexander Hepple.[348]

54. The indictment of 9 October 1963 alleged that the accused had committed 222 acts of sabotage throughout the country against railway, post office and radio installations and the offices of the Bantu Affairs Commissioner between 10 August 1961 and 5 August 1963 in preparation for guerrilla warfare. On 30 October 1963 Justice Quartus de Wet upheld defence objections, quashed the indictment as "fatally defective" and reprimanded the prosecutor for lack of specific allegations against the accused. He said it was most improper, when the accused asked for particulars of the charges, to tell them that this was a matter they knew all about.

55. Ten of the accused, except Hepple, the charges against whom were withdrawn, were immediately rearrested.[349]

56. A new indictment was served on 12 November 1963 charging two counts of sabotage and two other counts.

57. The first count of sabotage alleged that the accused, acting in concert with a number of persons and through their agents and servants, (*a*) recruited persons for instruction in the manufacture and use of explosives and for military training inside and outside South Africa; and (*b*) committed 154 acts of sabotage listed in the indictment. Accused one to seven were charged both in their personal capacities and as members of the National High Command of the Umkonto we Sizwe ("Spear of the Nation"). Mr. James Kantor was charged both in his personal capacity and as a member of a law firm in partnership with his brother-in-law, Harold Wolpe.[350] Named as co-conspirators were twenty-two individuals[351] and three organizations —the South African Communist Party, the African National Congress and the Umkonto we Sizwe.

58. The second count alleged further acts of recruitment of persons and thirty-nine other acts of violence and sabotage, as well as a conspiracy to commit acts of guerrilla warfare and violent revolution.

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[345] Republic of South Africa, *House of Assembly Debates (Hansard)*, 10 June 1964, cols. 7634-7636.

[346] *Senate of the Republic of South Africa, Debates (Official Report)*, 4 February 1964, cols. 418 and 419.

[347] Republic of South Africa, *House of Assembly Debates (Hansard)*, January 1964, col. 261.

[348] On 30 October 1963, charges were withdrawn against Hepple who, it was announced, would serve as a State witness. Hepple subsequently fled from South Africa and stated in Dar es Salaam that he had escaped "because I am not prepared to testify for the State in a political prosecution of this kind" (*The Star* (Johannesburg), weekly edition, 30 November 1963).

[349] The prisoners were denied bail, except for James Kantor who was granted bail of R10,000 on 20 December 1963 after two previous applications. Bail for Kantor was cancelled on 17 February 1964.

[350] Harold Wolpe, an attorney, was arrested and placed under ninety-day detention on 17 June 1963. He escaped from police headquarters, Johannesburg, on 11 August 1963 and subsequently from South Africa. On 23 September 1963 he was granted temporary permission to remain in the United Kingdom.

[351] Arthur Joseph Goldreich, Harold Wolpe, Vivian Ezra, Julius First, Michael Harmel, Bob Alexander Hepple, Percy John (Jack) Hodgson, Ronald Kasrils, Moses Kotane, Arthur Letele, Tennyson Makiwane, John Joseph Marks, Johannes Modise, George Naicker, Billy Nair, Looksmart Solwandle Ngudle, Philemon Duma Nokwe, James Jobe Radebe, Benjamin Turok and Cecil George Williams.

59. The third count alleged that such acts were calculated to further the achievement of one or more of the objects of communism. The fourth count alleged that the accused solicited, accepted, received and paid out money to various persons to enable or assist them to commit sabotage.

The case for the prosecution

60. The prosecutor stated that the accused had plotted to commit sabotage, violence and destruction as a prelude to guerrilla warfare, armed invasion of South Africa and the violent overthrow of the Government in a war of liberation planned for 1963. The plot was the work of the African National Congress which, by the latter half of 1961, had decided on a policy of violence, and for that purpose formed a military wing, the Umkonto we Sizwe. The headquarters of the organization were at Lilliesleaf Farm, Rivonia, the home of Arthur Goldreich.

61. Basing his presentation largely on a document called "Operation Mayibuye" found at the farm, the prosecutor claimed that the accused planned guerrilla warfare and had intended to produce or acquire large quantities of arms, ammunition and explosives.

62. He charged that Denis Goldberg had assisted in the preparation for the manufacture of explosives, arms and weapons, and in the training of men for warfare, and that Elias Matsoaledi and Andrew Mlangeni had played a prominent part in recruiting young men for military training, especially outside South Africa.

63. He alleged that the firm of James Kantor and partners had acted as a "conduit pipe" for the receipt and disbursement of funds to further the campaign by which the accused planned to overthrow the Government.

64. The prosecutor said that sabotage began in 1961. "The whole purpose of this, the first stage of their campaign, was to produce chaos, disorder and turmoil, and so pave the way for the second stage." The second stage was the plotting and waging of guerrilla warfare. Thousands of guerrilla units were to be deployed throughout the country to "accentuate a state of chaos, disorder and turmoil and so facilitate acts of assistance to military units of foreign countries when invading South Africa. They were promised military and financial aid from several African States and even by countries across the seas." The final stage of the second phase would come when the Government had been brought to its knees and the accused could set up a provisional revolutionary Government to take over the country.

65. The prosecutor presented 173 witnesses and about 500 documents in evidence against the accused.

The case for the defence

66. Counsel for the defendants admitted a number of charges made against a majority of the accused, but denied that "Operation Mayibuye" for guerrilla warfare had been adopted. They stated that it was merely a plan under preparation or discussion. They made three concessions, however: (*a*) the Umkonto we Sizwe had decided, in June 1962, to make preparations for guerrilla warfare and, to this end, recruited men and sent them out of the country for military training; (*b*) the national executive of the African National Congress had agreed to allow its secretariat and external missions to help the Umkonto we Sizwe; and (*c*) the purpose of these preparations was to ensure that the Umkonto we Sizwe would be ready should guerrilla warfare be decided on.

67. The defence counsel argued that the case against Kathrada, Bernstein and Mhlaba had not been proved. It made concessions regarding some of the charges against the other six accused.

Statements by defendants

68. The defendants made statements to the Court, and several appeared for cross-examination, explaining their role in the liberation movement and their attitude towards violence in the struggle for a non-racial democracy.

69. In his statement on 20 April 1964 (see A/AC.115/L.67) Nelson Mandela said that he was one of the persons who helped form Umkonto we Sizwe.

70. He traced the long struggle of the African National Congress to secure the rights of the African people by non-violent means. When the African National Congress was banned in 1960, he and his colleagues had decided, after long consideration, not to obey this decree but to go underground.

71. Mandela continued that after the Government met the stay-at-home strike of May 1961 with harsher laws and a massive show of force, thus indicating that it had decided to rule by force alone, new methods of continuing the fight had to be devised. He and his colleagues felt that the policy of attempting to achieve a non-racial state by non-violence had failed and that the followers of the African National Congress were beginning to lose confidence in this policy and were developing disturbing ideas of terrorism. They came to the conclusion that it would be unrealistic and wrong for African leaders to continue preaching peace and non-violence at a time when the Government met their peaceful demands with force. They consulted with the leaders of various organizations, including the African National Congress, and formed the Umkonto we Sizwe in November 1961.

72. The Umkonto was distinct from the African National Congress which was a mass organization which could not and would not undertake violence. The African National Congress, however, was prepared to depart from its fifty-year-old policy of non-violence to the extent that it would no longer disapprove of properly controlled violence and would not subject members who undertook such activity to disciplinary action. The Umkonto, however, was to be subject to the political guidance of the African National Congress.

73. The Umkonto chose to adopt the method of sabotage and to exhaust it before taking a decision on guerrilla warfare or other plans. Sabotage was chosen because it did not involve loss of life, would keep racial bitterness to the minimum, and would attract the widest sympathy. Strict instructions had been given to the Umkonto members that on no account were they to injure or kill people in planning or carrying out operations.

74. The Umkonto organized the first operation on 16 December 1961 when Government buildings in Johannesburg, Port Elizabeth and Durban were attacked. In the manifesto issued on that day, the Umkonto said:

"We of Umkonto we Sizwe have always sought to achieve liberation without bloodshed and civil clash. We hope, even at this late hour, that our first actions

will awaken everyone to a realization of the disastrous situation to which the Nationalist policy is leading. We hope that we will bring the Government and its supporters to their senses before it is too late, so that both the Government and its policies can be changed before matters reach the desperate stage of civil war."

75. Mandela continued that in 1962 he had undertaken a successful tour of African States to obtain facilities for the training of soldiers and scholarships for higher education of Africans. The African National Congress was willing to depart from its original decision and permit its offices outside South Africa to co-operate in this project. But for this exception, great care had been taken to keep the activities of the Umkonto and the African National Congress distinct.

76. Mandela described the struggle of the African National Congress against racial domination and for African rights, and concluded:

"During my lifetime I have dedicated myself to this struggle of the African people. I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die."

77. Walter Sisulu, former Secretary-General of the African National Congress, said that the Congress had allowed its members to participate in acts of sabotage under the leadership of the Umkonto. He was aware of the formation of the Umkonto, but did not join it because it was not considered politic for him to do so and because he did not feel any aptitude for that kind of work. He did, however, keep in touch with the leaders of the Umkonto on political questions and attended some of the organization's meetings.

78. Sisulu said that "Operation Mayibuye", the guerrilla warfare plan, had been drawn up by Arthur Goldreich. It had not been approved; after examination by the National High Command of the Umkonto, and by the secretariat and the national executive of the African National Congress, it had been referred back in July 1963 as incomplete. He and his colleagues had felt that conditions were not ripe for "Operation Mayibuye". Some of them felt that mass action might well prove effective without guerrilla warfare.

79. Kathrada, a young leader of the Indian community, said he had been active in political affairs since the age of eleven. He had been arrested at the age of seventeen and on sixteen other occasions since that time. He had been placed under house arrest in October 1962. He chose to go underground after the enactment of the legislation for ninety-day detention without trial. While underground at Rivonia, he had done typing and other work for his political colleagues. He had not been connected with the Umkonto and had some misgivings about guerrilla warfare.

80. Mhlaba said that he was a member of the African National Congress and had worked in the Communist Party until 1950. He denied membership in Umkonto, but said he would have joined it if he had been asked to do so.

81. Bernstein, a member of the South African Communist Party, denied membership in the Umkonto.

82. Mbeki, a leader of the African National Congress, said that he had been appointed to the High Command of Umkonto in April 1963. He had taken part in the activities listed in the indictment but was not prepared to plead guilty as he did not feel that any moral guilt attached to his actions.

83. Mbeki added that the guerrilla warfare plan had not been adopted because some pre-conditions, such as support for it by the mass of the people, had not been fulfilled and because its implementation might alienate some Whites who had recognized the claims of non-whites.

84. Goldberg said he had done whatever he could in the past ten years to further his belief in the political and social equality of the races and had been harassed and imprisoned by the police. He denied that he had been a member of the Umkonto, but admitted that he had investigated the possibility of a campaign of guerrilla warfare at the request of Goldreich. He had concluded that the problems involved could not be solved at six months' notice.

85. Mlangeni said that he had not been a member of the Umkonto but had agreed to carry messages for the Umkonto and had co-operated with it in other ways.

86. Matsoaledi said that he had joined the Umkonto in 1962 and had helped to recruit men for training overseas.

Conviction and sentence

87. Delivering judgement[352] on 11 June 1964, Mr. Justice de Wet held that it had not been proved that the plan for "Operation Mayibuye"—involving preparation for guerrilla warfare and acts of assistance to military units of foreign countries—had gone beyond the preparation stage. He, therefore, dismissed paragraphs 3, 4 and 5 of count 3 of the indictment. He found James Kantor, one of the accused who had been discharged at the end of the prosecution's case on 4 March 1964, and Lionel Bernstein not guilty.[353] The other eight accused were found guilty. (Kathrada, however, was found guilty only on the second count.)

88. On 12 June 1964, after hearing a plea in mitigation by Alan Paton, writer and leader of the Liberal Party, Mr. Justice de Wet sentenced the eight accused to life imprisonment.

89. After the sentence, the crowd outside the court shouted *Amandhla Ngawethu!*[354] broke into song and unfolded posters which read: "You will not serve these sentences as long as we live", "We are proud of our leaders, no tears will be shed", and "Sentence or no sentence, we stand by our leaders".

90. The non-white prisoners were then sent to the maximum security prison on Robben Island and Denis Goldberg to the Pretoria gaol.[355]

91. On 24 June 1964, Counsel for the Defence issued a statement that the prisoners had decided not to appeal their convictions or sentences. The statement read as follows:

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[352] The text of the judgement is reproduced in document S/5817 (mimeographed).

[353] Bernstein was immediately rearrested on charges under the Suppression of Communism Act. He was granted bail of R2,000 on 26 June and escaped to the United Kingdom.

[354] *Amandhla Ngawethu!* ("Power to the People") is the slogan of the African National Congress.

[355] Goldberg was not sent to Robben Island, as the prison there is for non-whites only.

"The accused in the Rivonia trial have considered the verdict and sentence in their case and have discussed the question of an appeal with their legal advisers.

"Mr. Mandela, Mr. Sisulu and Mr. Mbeki have throughout the trial accepted full responsibility for their actions. Accordingly, no question of an appeal arises in their cases.

"The rest of the accused have been advised that they have prospects of appealing successfully either against their convictions or against their sentences, or against both. In their view, because of the existing legislation in this country, a successful appeal against the convictions would mean the immediate rearrest and recharging of the accused.

"In cases where an appeal would lead to a reduction in the length of the sentences, no purpose would be served by appealing because of the power vested in the Minister of Justice to detain for indefinite periods persons who have served their sentences.

"In all these circumstances, the accused have instructed their legal advisers not to note any appeal, either against their conviction, or against their sentence.

"They would prefer that any funds which might become available for their appeals should be devoted to the defence of others charged with political offences, or should go towards the support of the families of those already sentenced." [356]

Protest at the trial and the sentences

92. The Rivonia trial aroused world-wide interest and one of the largest international protests against political persecution. Documents of the Special Committee contain some details on these protests (see A/AC.115/L.40, L.51, L.60, L.64, L.65, L.66, L.70 and Add.1-4, L.72, L.75, L.76, L.80, L.82, L.83).

93. In connexion with the sentences in the Rivonia trial, a statement issued by Chief Albert J. Luthuli on 12 June 1964 deserves attention:

"Sentences of life imprisonment have been pronounced on Nelson Mandela, Walter Sisulu, Ahmed Kathrada, Govan Mbeki, Denis Goldberg, Raymond Mhlaba, Elias Matsoaledi and Andrew Mlangeni in the Rivonia trial in Pretoria.

"Over the long years these leaders advocated a policy of racial co-operation, of goodwill, and of peaceful struggle that made the South African liberation movement one of the most ethical and responsible of our time. In the face of the most bitter racial persecution, they resolutely set themselves against racialism; in the face of continued provocation, they consistently chose the path of reason.

"The African National Congress, with allied organizations representing all racial sections, sought every possible means of redress for intolerable conditions and held consistently to a policy of using militant, non-violent means of struggle. Their common aim was to create a South Africa in which all South Africans would live and work together as fellow-citizens, enjoying equal rights without discrimination on grounds of race, colour or creed.

"To this end, they used every accepted method: propaganda, public meetings and rallies, petitions, stay-at-home-strikes, appeals, boycotts. So carefully did they educate the people that in the four-year-long treason trial, one police witness after another voluntarily testified to this emphasis on non-violent methods of struggle in all aspects of their activities.

"But finally all avenues of resistance were closed. The African National Congress and other organizations were made illegal; their leaders jailed, exiled or forced underground. The government sharpened its oppression of the peoples of South Africa, using its all-white parliament as the vehicle for making repression legal, and utilizing every weapon of this highly industrialized and modern state to enforce that 'legality'. The stage was even reached where a white spokesman for the disenfranchised Africans was regarded by the Government as a traitor. In addition, sporadic acts of uncontrolled violence were increasing throughout the country. At first in one place, then in another, there were spontaneous eruptions against intolerable conditions; many of these acts increasingly assumed a racial character.

"The African National Congress never abandoned its method of a militant, non-violent struggle, and of creating in the process a spirit of militancy in the people. However, in the face of the uncompromising white refusal to abandon a policy which denies the African and other oppressed South Africans their rightful heritage—freedom—no one can blame brave just men for seeking justice by the use of violent methods; nor could they be blamed if they tried to create an organized force in order to ultimately establish peace and racial harmony.

"For this, they are sentenced to be shut away for long years in the brutal and degrading prisons of South Africa. With them will be interred this country's hopes for racial co-operation. They will leave a vacuum in leadership that may only be filled by bitter hate and racial strife.

"They represent the highest in morality and ethics in the South African political struggle; this morality and ethics have been sentenced to an imprisonment it may never survive. Their policies are in accordance with the deepest international principles of brotherhood and humanity; without their leadership, brotherhood and humanity may be blasted out of existence in South Africa for long decades to come. They believe profoundly in justice and reason; when they are locked away, justice and reason will have departed from the South African scene.

"This is an appeal to save these men, not merely as individuals, but for what they stand for. In the name of justice, of hope, of truth and of peace, I appeal to South Africa's strongest allies, Britain and America. In the name of what we have come to believe Britain and America stand for, I appeal to those two powerful countries to take decisive action for full-scale action for sanctions that would precipitate the end of the hateful system of *apartheid*.

"I appeal to all governments throughout the world, to people everywhere, to organizations and institutions in every land and at every level, to act now to impose such sanctions on South Africa that will bring about the vital necessary change and avert what can become the greatest African tragedy of our times."

94. Also on 12 June 1964, the African Group at the United Nations issued a communiqué in which it stated:

"We cannot but express our profound indignation at the brutal sentence of life imprisonment imposed on the leaders of the African people in South Africa and their colleagues in the struggle against the racist policies of *apartheid* which are condemned by civilized humanity. That these men have not been given the maximum sentence of death is cause for some relief, but does not basically change the situation.

"The pretence of legality advanced by the South African Government will deceive no one as the great majority of people of the country have been denied all peaceful means of protest and redress against the barbarous racial policies, and arbitrary laws have been passed by an all-white Parliament to make opposition to *apartheid* a crime subject to severest penalties.

"These men have struggled bravely and patiently for many years, despite the most ruthless repressive laws, for the ideals of racial equality and co-operation among all persons irrespective of race.

"Nelson Mandela, Walter Sisulu and the other patriots of South Africa have not sought pity and have not asked for mercy from their executioners. Their statements to the court are a testimony to their courage and a ringing declaration

[356] *The Cape Times*, 25 June 1964. The Press has reported that Mrs. Winnie Mandela, Mrs. Albertina Sisulu and Mrs. Caroline Matsoaledi, wives of the accused, whose movements are restricted, were allowed in August to visit their husbands on Robben Island, one thousand miles away from Johannesburg. They were, however, prohibited from travelling on the same train to Cape Town, and were allowed to see their husbands only for thirty minutes.

of their faith in the victory of sanity which deserves the attention of all civilized men.

"These men should not spend their lives in the dungeons of South Africa.

"The present sentences are likely to have the gravest repercussions on race relations in South Africa and beyond.

"The sentences are a provocation and a challenge flung by the racist rulers of South Africa against all the peoples of Africa who pledged at the historic Addis Ababa Conference last year that the cause of the oppresssd peoples of South Africa is the vital concern of all Africa.

"These sentences are also a direct challenge to the United Nations—both to the General Assembly which called for the ending of this trial by an overwhelming vote on 11 October 1963 and to the Security Council which demanded the liberation of all prisoners on August 7 and December 4, 1963, and again on June 9, 1964. It is a challenge that the United Nations cannot afford to ignore.

"We hope that peoples, organizations and governments around the world will redouble their efforts to secure the liberation of these courageous leaders who should not only be free but should be allowed to play their rightful role in the Government of the country."

95. The Archbishop of Canterbury, the Most Rev. Dr. A. M. Ramsey, commented as follows on the convictions and sentences:

"The men were guilty of sabotage and other offences against the law as it exists, but their actions were the outcome of conscience, and wherever in the world there is respect for conscience and hatred of the policy of *apartheid*, there will be understanding of Mr. Mandela's words that he acted from 'a calm and sober assessment of the situation after many years of oppression and tyranny of my people by the Whites'. If he is guilty before the existing law, the guilt before heaven belongs to the policy which the law is designed to enforce. The ideal and practice of *apartheid* is a denial of God's law of the relation of man to man as, irrespective of colour, created in the image of God.

"The voice of Christendom everywhere must continue to say that *apartheid* is wrong and evil . . .

"Our prayers for South Africa must urgently continue. We must pray for its Government, that whenever the occasion arises it will show the clemency which sows the seeds of reconciliation in soil however unpromising. We must pray with its peoples and for its peoples, white and black, that passion may be restrained. We must pray for those who suffer under harsh laws, that they may be sustained. We must pray with the Churches in South Africa that they may bear their difficult witness to the worth of every man. We must pray for Mr. Mandela, thankful that his life has been spared and that one day perhaps he may be seen playing that role of reconciliation for which his character and experience will have fitted him." [357]

B. The Cape Town sabotage trial of Neville Alexander and others

96. Ten Coloureds and one African were charged in the Cape division of the Supreme Court on 1 November 1963 with a plot to overthrow the Government by violent revolution, guerrilla warfare and sabotage. The accused were: Neville Alexander, a doctor of philosophy described as one of Cape Town's most brilliant graduates; Miss Dorothy Alexander, a school-teacher and sister of Mr. Alexander; Fikele Bam, a law student; Lionel Davis, a clerk; Miss Dulcie September, a school-teacher; Miss Doris van der Heyden, a librarian; Ian Leslie van der Heyden, a school-teacher; Miss Elizabeth van der Heyden, a teacher; the Rev. Don Davis, a Pentecostal preacher; Marcus Solomons, a teacher; and Gordon Hendricks. (Fikele Bam was the only African in the group.)

97. The principal charge alleged that the accused held meetings and gatherings between 1 April 1962 and 12 July 1963, and conspired to overthrow the Government by means of a violent revolution. The second charge alleged that they committed sabotage by inciting, instigating, commanding, advising or encouraging other persons to commit wrongful and wilful acts. Two further charges alleged that they contravened the Suppression of Communism Act by supporting or advocating support of a doctrine which aimed at bringing about a political, social or economic change in South Africa by promoting disturbance or disorder, and that they were members of the Yu Chi Chan (guerrilla warfare) club, later known as the National Liberation Front.

98. The prosecution's case consisted largely of evidence that the accused had felt that the Coloured people had to stand up for their rights and that armed struggle to liberate the non-whites should be contemplated. Evidence was submitted that they attempted to persuade various persons to their point of view and formed cells. The prosecution read to the Court more than fifty documents found in the possession of the accused as evidence of sabotage, including: Mao Tse-tung, *Strategic Problems of the Anti-Japanese Guerilla War*;[358] V. I. Lenin, *The Paris Commune*;[359] and issues of *Liberation*, alleged organ of the National Liberation Front. The witnesses included one Coloured policeman, Constable Jacobus Kotzee, disguised as an insurance salesman, and a paid police informer, Cecil Dempster. At least three state witnesses refused to give evidence against the accused, despite threats that they might be regarded as accomplices.[360]

99. The defence counsel argued that the National Liberation Front was not a revolutionary organization but merely a study group. On 15 April 1964, Mr. Justice Van Heerden found all the accused guilty. He said that the State had proved that the aim of the National Front, to which the accused belonged, was to overthrow the Government by means of a violent revolution, guerrilla warfare and sabotage.

100. The Court then heard a plea in mitigation of sentence by the defence counsel who said that no serious crime had been committed, that no specific acts of sabotage had been planned and that no arms or bombs had been found. "The accused are intellectuals and the motive of the crime must have stemmed from some deep wound of the spirit and some deep sense of frustration." [361]

101. Taking this plea into consideration, the judge sentenced Neville Alexander, the Rev. Don Davis, Marcus Solomons, Miss Elizabeth van der Heyden and Fikele Bam to ten years' imprisonment each for leading the National Liberation Front. Lionel Davis and Gordon Hendricks were sentenced to seven years' imprisonment on charges of being members of the Regional Committee of the National Liberation Front. Ian Leslie van der Heyden, Miss Dulcie September, Miss Dorothy Alex-

[357] *Canterbury Diocesan News*, July 1964.

[358] Peking, Foreign Languages Press, 1954.

[359] New York, International Publishers, 1934.

[360] On 17 December 1963, three witnesses who refused to give evidence were charged with sabotage (*The Cape Times*, 3, 4 and 18 December 1964). Reginald Francke, a teacher on the same staff as Neville Alexander, who gave evidence for the State, told the Court that his "solitary confinement" really started after he was released from detention (*ibid.*, 16 April 1964).

[361] *The Cape Times*, 16 April 1964.

ander, and Miss Doris van der Heyden were sentenced to five years' imprisonment each on charges of being ordinary members of the Front (the minimum sentence under the law for sabotage is five years).

102. On 27 May 1964, Mr. Justice Van Heerden refused an application for leave to appeal. An appeal to the Chief Justice of the Republic was rejected on 21 August 1964.

103. The trial attracted considerable attention in South Africa and abroad as it involved a number of intellectuals from the Coloured community and reflected the spread of serious dissatisfaction within that community.

104. There were several protests in Germany where Neville Alexander was known, having been the first non-white student to gain the Alexander von Humboldt-Stiftung bursary at the University of Tubingen. Lecturers and students at that University collected £2,000 for his defence. A large protest meeting was organized by Berlin students and a petition for the freedom of the accused was signed by 1,500 leading personalities.[362]

C. Pietermaritzburg sabotage trial of Billy Nair and others

105. In Pietermaritzburg, ten Africans and nine Indians were accused on 12 November 1963 of twenty-eight acts of sabotage, committed in Natal between June 1962 and June 1963, including the blowing up of railway lines, several houses of persons believed to be collaborating with the Government, telephone poles, signal boxes and the printing works of *Die Nataller,* an Afrikaans newspaper in Durban.

106. The following were accused: Ebrahim Ismail, Girja Singh, N. Barbenia, Billy Nair, K. Doorsammy, Kisten Moonsammy, George Naicker, R. Kistensammy, Siva Pillay, Curnick Ndhlovu, Riot Mkwanazi, Alfred Duma, M. Mapumalo, B. Nkosi, Z. Mdhlalose, Mathews Meyiwa, Joshua Zulu, M. D. Mkize and David Ndawonde.

107. The defendants had been detained in June, July and August 1963. Soon after being charged, they went on a five-day hunger strike to protest a Government ban which prohibited their attorney, Roley Arenstein of Durban, from attending the trial.[363]

108. The State closed its case on 4 February 1964 after calling 139 witnesses, including several alleged accomplices whose identities were kept secret. At the end of the State's case, one of the accused, Ragavan Kistensammy, was acquitted.

109. The defence tendered a plea of guilty on behalf of six of the accused on some counts.

110. On 28 February 1964, the Judge sentenced Billy Nair and Curnick Ndhlovu, who had admitted being members of the Natal Regional Command of the Umkonto we Sizwe ("Spear of the Nation"), to twenty years' imprisonment each; Natvarial Barbenia to sixteen years; Ebrahim Ismail to fifteen years; and Kisten Moonsammy and George Naicker to fourteen years each. One of the accused was sentenced to twelve years, five to ten years each, five to eight years each, and one to the minimum penalty of five years. Leave to appeal against the convictions was granted in respect of eight of those sentenced: Kisten Moonsammy, Kisten Doorsammy, David Ndawonde, Mfoyani Bernard Nkosi, Zakela Mdhlalose, Mathews Meyiwa, Joshua Zulu and Siva Pillay.[364] Their appeals, however, were dismissed by the Appeals Court on 24 September 1964.[365]

D. Port Alfred sabotage case of Vuyisile Mini and others

111. Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba, three Africans from Port Elizabeth, were charged in Port Alfred on twenty-five counts, including seventeen of sabotage and six of recruiting men for military training in foreign countries. They were also accused of the murder of Sipo Mange, who was to have been a State witness in various sabotage cases.[366] The sabotage charges included the cutting of forty-two telephone wires and two telephone poles during the period between 21 October 1962 and 16 January 1963, and the possession of twenty-three bombs in July 1963.

112. The three accused were sentenced to death on 16 March 1964. The appeal against the conviction and sentence was rejected on 1 October 1964.

113. The African National Congress, in a letter to the Special Committee dated 24 March 1964, gave the following information on the trial and the accused:

"...

"They were tried in the isolated village of Port Alfred, hundreds of miles from their homes in Port Elizabeth and the venue of the trial in itself created tremendous difficulties for the defence.

"...

"The charges under which the three men were condemned to die were framed under the General Laws Amendment Act 1962. Many of the witnesses were men detained under the 90-day system trial. When these witnesses were broken down in solitary confinement they were then considered suitable to give evidence.

"Vuyisile Mini, the most well known of the three, was born in 1920 and grew up in Korsten, an African township near Port Elizabeth. By 1937 Mini had already taken part in local protests against higher rents and bus fares and later

[362] *Spotlight on South Africa* (Dar es Salaam), 29 November 1963. See also A/AC.115/L.42.

[363] Reuters, 12 November 1963. Arenstein was under "house arrest" in Durban and, as a banned person, not allowed to communicate with two of the accused who had also been banned. Two advocates briefed to defend the accused could also not be present at the trial because they were confined to the magisterial district of Durban under banning orders.

[364] *Spotlight on South Africa* (13 March 1964) published by the African National Congress in Dar es Salaam, noted that ten of those sentenced were former members of the banned African National Congress and eight were members of the Natal Indian Congress.

"Curnick Ndhlovu, aged 28, was a popular and fiery leader. He was secretary of the Durban Railway Workers' Union which is affiliated to the South African Congress of Trade Unions and also Secretary of the KWA Mashu Residents' Association. He is married.

"Billy Nair, aged 33, is a well-known South African trade unionist of great experience. He is banned from belonging to a number of organizations including the non-racial South African Congress of Trade Unions. Billy was the provincial secretary of SACTU before he was banned from taking part in its activities. He was an accused in the abortive treason trial of 1956-61 and was detained during the 1960 state of emergency. He is married.

"Bernard Nkosi was Secretary of the African Iron and Steel Workers' Union in Durban; Ebrahim Ismail was a student-journalist who worked on *New Age* and *Spark* (now banned), and Chairman of the Natal Indian Youth Congress; David Ndawonde is a factory worker and well-known as a dynamic organizer for better working conditions and Siva Pillay, aged 17, was a first-year University student who took an active part in Congress and student activities."

[365] *The Star* (Johannesburg), 25 September 1964.

[366] Sipo Mange was shot in January 1963, a day before he was to have testified in a case.

became secretary of the local African Dockworkers' Union and a prominent member of the South African Congress of Trade Unions. He was also Secretary of the Cape region of the African National Congress before it was banned.

"He was prominent in resisting the mass removal of residents from Korsten and in 1952 went to gaol for three months for his part in the defiance campaign.

"In 1956 Mini was arrested and charged with 156 others in the treason trial which was to end in acquittal after nearly fours years. Before being charged in the present trial Mini was also held in solitary confinement for months under the 90-day law.

"He is also a well-known singer and composer and many of his freedom songs are still sung in South Africa" (see A/AC.115/L.62).

In a press statement issued on 2 September 1964, the African National Congress of South Africa said:

"...

"Initially, these men had been charged with 17 counts of sabotage, for propagating the aims of the banned African National Congress by recruiting members with the object of sending them to foreign countries for military training and for murder in that, it is alleged they ordered 4 others (witnesses against them who, after long, tortuous and secret questioning which will never be known, had themselves been held for continuous periods of 90-day solitary detention since about June, 1963) to kill a man who was to be a State witness. We do not propose to belabour you with matters of common knowledge relating to the inadvisability of calling and the unreliability of most 90-day detainees witnesses in State prosecutions . . .

"These men, whose lives have been standing under the shadows of gallows for 6 months are not ordinary criminals as the South African Government would like the world to believe. By preferring a charge of murder against them, the South African Authorities did so in an attempt to obscure the political nature of the case against them. They were not charged because any one of them is alleged to have taken part in any act of murder.

"These men are leading members of the African National Congress in the Eastern Cape as well as members of the South African Congress of Trade Unions, whose lives have been dedicated to the struggle of the African people for human dignity, freedom and the right to live—an ideal of a democratic and free society—in our country. As in the case of Nelson Mandela and the other Rivonia men who are today serving sentences of life imprisonment, they are also political leaders who are in danger of being hanged for their political work in support of their political belief.

"The fate of these patriots is one that should arouse all opponents of *apartheid* to immediate action to save their lives. Along with their's will go the fate of their 13 children whose ages range between 1 and 11 years. These children will be rendered orphans not because of natural forces but because of the fear the white man has allowed to stand in the way of the only solution with guarantees for racial harmony and freedom for all in South Africa" (see A/AC.115/L.81).

114. It may be recalled that the Special Committee took note of these death sentences in its urgent report of 23 March 1964 to the Security Council (S/5621) and the General Assembly (A/5692). The Secretary-General, on 27 March, appealed to the South African Government "to spare the lives of those facing execution or death sentences for acts arising from their opposition to the Government's racial policies". In reply to the Secretary-General's appeal, the South African representative stated on 15 May 1964 that the three men had been convicted on a charge of murder, on a number of charges of sabotage, and on certain lesser charges.

"With reference to the murder charge, it was alleged by the prosecution that the accused were responsible for the killing of one Sipo Mange on or about 13th January 1963. All three of the accused were found guilty on this charge and the Court came to the conclusion that there were no extenuating circumstances present in connection with the killing, 'which was a planned, deliberate act of violence committed with the express object of removing a witness whose testimony might incriminate members of the secret organization known as Umkonto we Sizwe ("The Spear of the Nation")' . . . 'whose object was by the use of force and violence, to overthrow the lawfully constituted Government of the Republic of South Africa'.

"Further, the sabotage charges comprised eight counts of burning or attempting to burn dwellings, a shop and industrial premises, eight counts of cutting down telephone wires and one count of unlawful possession of incendiary bombs. The indictment also included a charge of breaking into and entering an explosives magazine and charges of theft and that they recruited a number of persons for military training outside South Africa to enable them to take up arms against the Republic.

"All the accused were found not guilty of one of the sabotage charges. Vuyisile Mini was also found not guilty of seven of the sabotage charges on which the other two accused were convicted and all accused were found guilty of the remaining sabotage charges. The Court also found that the offences in the indictment were committed in the course of giving effect to the aims of the organization—'the Spear of the Nation'—already referred to.

"With reference to the question of whether any extenuating circumstances were present in relation to the charge and conviction on the count of murder, the Court's finding included the following: '. . . the Court has borne in mind the fact that this was a killing not for purposes of private and personal gain or greed but that it was done in pursuance of what may be called a political objective. No doubt there are circumstances in which a killing for misguided political motives may be regarded as extenuating but we are satisfied that that is not the position in this case. The three accused and the fourth member of the Committee were men dedicated to the use of violence and determined to flout the authority of the law and to undermine the safety and security of the individual. The killing of Sipo Mange, who, whatever his previous criminal activities may have been, was performing a public duty in giving evidence for the State, was premeditated and carefully planned. The accused in the course of their criminal defiance of the authority of the State took it upon themselves to direct the extinction of a human life . . .". (United Nations Press Release SG/SM/74, 18 May 1964).

115. On 9 October 1964, after the rejection of the appeal, the Special Committee issued the following communiqué and requested the Secretary-General to convey to the South African Government its grave concern over the matter and its earnest hope that the lives of the three persons would be spared.

"At a special meeting today, the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa expresses its grave concern over the news that the appeals of Mr. Vuyisile Mini, Mr. Wilson Khayinga and Mr. Zinakile Mkaba, leaders of the African National Congress in Port Elizabeth, against the death sentences passed on them in March 1964 have been rejected.

"It notes that the trial of these militant opponents of the policies of *apartheid* is in violation of the repeated resolutions of the General Assembly and the Security Council calling on the South African Government to end its ruthless repressive measures against the opponents of the policies of *apartheid* and seek a peaceful solution based on racial equality. It recalls that the Security Council, in its resolution S/5761 of June 1964, urged the South African Government 'to renounce the execution of the persons sentenced to death for acts resulting from their opposition to the policy of *apartheid*'.

"The Special Committee, therefore, urgently demands that the South African Government refrain from the execution of the death sentences, which would seriously aggravate the situation in South Africa, and take steps to comply with the resolutions of the General Assembly and the Security Council.

"The Special Committee urgently appeals to all States, organizations and individuals to utilize all their influence to save the lives of Mr. Vuyisile Mini, Mr. Wilson Khayinga and Mr. Zinakile Mkaba and to persuade the South African Government to grant amnesty to all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of *apartheid*" (United Nations Press Release GA/AP/38 of 9 October 1964).

116. On the same day, the Secretary-General conveyed the Special Committee's request to the Permanent Representative of South Africa, together with a telegram from President Gamal Abdel Nasser of the United Arab Republic, on behalf of the Second Conference of Heads of State or Government of Non-Aligned Countries, and a letter from the Chairman of the African Group at the United Nations. He expressed the hope that the South African Government would see fit to exercise its clemency in the spirit of the Security Council's resolution of 9 June 1964 (United Nations Press Release SG/SM/166 of 12 October 1964).

117. The South African Government rejected these and a number of other appeals from Governments and organizations[367] and executed the three men on 6 November 1964.

118. The Special Committee expressed its shock and profound indignation at this act which was a flagrant violation of the resolutions of the General Assembly and the Security Council. Numerous Governments and organizations protested against the executions.[368]

E. Sabotage trials in Queenstown of Washington Bongco and others

119. A number of persons from East London were tried in the Queenstown Circuit Court on sabotage charges.

120. In one of the trials, five persons were charged with sabotage and other offences. Judgement was delivered on 23 March 1964.

121. All the accused were found guilty of membership in the banned African National Congress, of soliciting money for the organization, and taking an active part in it.

122. Washington Bongco, alleged volunteer-in-chief of the regional committee of the African National Congress in East London, was also found guilty of six of the thirteen counts of sabotage. Included in these counts was a petrol bomb attack on the home of Domboti Inkie Hoyi, during December 1962, in which Hoyi and his 11-year old daughter suffered burns. Hoyi's niece, Daphne, subsequently died of burns.

123. Mr. Justice Cloete sentenced Bongco to death, describing him as "one of the evil genuises behind the acts of sabotage in East London" and as responsible for the petrol bomb attack.

124. A second accused, Malcomes Kondoti, was found guilty of one count of sabotage. He was sentenced to eighteen years' imprisonment on the sabotage count and fifteen years on the other three counts, the sentences to run concurrently.

125. The other accused—Douglas Sparks, Stephen Tshwete and Lungelo Dwaba—were acquitted of all sabotage charges but found guilty on the other counts and sentenced to fifteen years' imprisonment each.[369]

126. Mr. Justice Cloete delivered judgement on another related case on the same day.

127. He sentenced Feliz Mlanda and Brian Mjo to twenty years' imprisonment each for murder in connexion with the petrol bomb attack on the home of Hoyi. The Judge said that both men had been acting under the influence of Washington Bongco, and that he would have sentenced them to death but for their youth.[370]

128. After the sentence, Feliz Mlanda gave the African National Congress salute by raising his clenched first, and shouting *Amandhla*!

129. Washington Bongco subsequently sued the Minister of Justice and three detectives for damages of R4,000 ($5,600) alleging that he had been handcuffed and hung behind a door, beaten and kicked on 16 February 1963 during questioning. The suit was dismissed by the Supreme Court in East London on 17 November 1964.[371]

F. Trial of alleged supporters of African National Congress in Cape Town

130. The trial of thirty-nine African men and two African women began at the Goodwood Regional Court, Cape Town, in May 1964 on charges of belonging to the banned African National Congress.[372] The accused had already spent an average of nearly nine months in gaol. The two women had spent over ten months in gaol.

131. Among the accused was Mrs. Mildred Lesiea, an African mother of three and a domestic servant until she became the secretary of the Trade Union of Brick, Cement and Quarry Workers. She had been detained from 26 June 1963 and was charged on 16 November 1963 with belonging to the African National Congress. Between November 1963 and January 1964, she appeared several times in the Bellville Magistrate's court but was each time remanded and refused bail. She again applied for bail in the Cape Town Supreme Court on 27 February 1964 but it was refused after the State prosecutor claimed that sabotage charges might be preferred against her and that there were reasonable grounds to believe that she would abscond.[373]

132. Another accused was Mrs. Lettie Sibeko. She had been detained in solitary confinement for 160 days from 25 June 1963 to 15 November 1963, when she was charged with membership in the banned African National Congress. She was pregnant, but

[367] The Minister of Justice disclosed that he had received 2,000 letters and cables from all over the world protesting the death sentence (*The Cape Times*, 7 November 1964).

[368] See *Official Records of the Security Council, Nineteenth Year, Supplement for October, November and December 1964*, documents S/6039 and S/6043; also documents A/AC.115/SR.50 and A/AC.115/L.101.

[369] *The Cape Times*, 24 March 1964.

[370] Two other accused, Mbozi Ralani and Manganiso Mdemke, were acquitted during the trial. Monde Mkunqwana and Michael Kahle Kahla were found not guilty at the end of the trial on 23 March 1964.

[371] *The Cape Times*, 11, 12 and 18 November 1964.

[372] Originally forty-five persons were to have appeared, but on 4 May the prosecutor withdrew charges against four persons.

[373] *The Cape Times*, 28 February 1964.

bail was refused by the magistrate. She was in gaol until 19 February 1964, ten days before her child was born, when the Supreme Court granted her bail on condition that she report to a police station twice a week.

133. Another accused was Elijah Loza, a trade union leader, who was detained for more than 182 days before being charged on 7 November 1963, and remanded in custody on that date.

134. Bail was refused to all the accused except Mrs. Lettie Sibeko.

135. The prosecutor claimed that the African National Congress had continued to operate after it was banned, under a new name as the African Youth League, and that the accused belonged to the organization. He called fifty-one witnesses and placed 199 documents in evidence. One of the main witnesses was an African member of the Security Branch who said that he had joined the African National Congress and become the Secretary of the Langa Branch. He claimed to have become a leader of the African Youth League and worked in it until the end of 1962.[374]

136. At the end of the State's case, eight of the accused were acquitted.

137. On 26 August 1964, the Judge acquitted ten more of the accused and sentenced sixteen to six years' imprisonment each and seven to three years' imprisonment each (Elijah Loza was sentenced to six years and Mrs. Mildred Lesiea to three years. Mrs. Lettie Sibeko was acquitted).

138. The defence gave notice of appeal. The accused were granted bail at R500 to R1,000 each and required to report to a police station twice daily.

G. Pretoria sabotage trial of Andrew Mashaba and others

139. Ten Africans were indicted in July 1964 in Pretoria on charges of sabotage.

140. The State alleged that the accused were members or supporters of the Umkoto we Sizwe and that they conspired with other persons, among them Elias Matsoaledi, one of those convicted in the Rivonia trial, to commit sabotage. During the period from 23 June 1962 to 27 January 1964 they were alleged to have committeed four acts of sabotage in the Pretoria area: (*a*) the setting off of explosives in the office of the Minister of Agriculture in October 1962; (*b*) the detonation of explosives in the Innesdal Post Office building in February 1963; (*c*) an attempted explosion in the "Old Synagogue" building in January 1963 when it was used for sittings of the Supreme Court; and (*d*) an explosion in the Brooklyn telephone exchange, in December 1963.

141. The accused were also alleged to have contemplated, but not committed, fourteen acts of sabotage in the Pretoria area, including the damaging of (*a*) three ministerial residences; (*b*) two post offices; (*c*) the premises of the Government Printer; (*d*) a magistrate's office; (*e*) the offices of the Department of Bantu Administration and Development; (*f*) a South African Railways signal cabin; (*g*) installations of Iscor; and (*h*) the African guest houses at Mamelodi. They were also alleged to have contemplated the murder of two African detectives.

[374] *Ibid.*, 12 May 1964.

142. The indictment further alleged that the accused manufactured gunpowder and prepared time bombs.

143. Their common purpose, it said, was the "liberation" of the non-white people of South Africa "by the intimidation caused by the said wrongful and wilful acts".[375]

144. When the trial began on 17 August 1964, charges were withdrawn against one of the accused, Johannes Mogatjane, as his health was such that he could not stand trial. Another accused, Andries Seoma, was released on 27 August at the end of the case for the prosecution.

145. Tseleng John Mosupye, one of the alleged conspirators, gave evidence against the accused.

146. Eight of the accused were found guilty on 17 September 1964 and sentenced on 18 September 1964.

147. Andrew Mashaba was found to have been the liaison between Umkonto we Sizwe in Johannesburg and Pretoria. He was found to have supplied explosives for sabotage, demonstrated the manufacture of gunpowder and administered the Umkonto oath. He was sentenced to fifteen years' imprisonment.

148. Peter Mogano was found to have been the Pretoria leader who was instrumental in the formation of Umkonto cells in Pretoria. He was also sentenced to fifteen years' imprisonment.

149. Levy Moses Molefe was found to have been the chief executive in Pretoria and as such one of the most active saboteurs. He was sentenced to twelve years' imprisonment.

150. Nelson Diale, Jackson Ntsoane and Alphaes Bokaba were found to have participated in acts of sabotage and were each sentenced to eight years' imprisonment. Petrus Nchabaleng, who was found to have attended an Umkonto meeting on Easter Monday 1963, and subsequently to have demonstrated the manufacture of gunpowder to others, was also sentenced to eight years' imprisonment.

151. Enoch Matibela was also found to have attended the Umkonto meeting but no acts of sabotage were proved against him. He was sentenced to five years' imprisonment.

152. Application for leave to appeal was granted only to Enoch Matibela.

153. After the sentence, all the accused except Mr. Matibela raised clenched right fists and saluted the non-white gallery with the African National Congress slogan of *Amandhla Ngawethu!*[376]

H. Johannesburg sabotage trial of Louis Marius Schoon and others

154. On 22 July 1954, two white men, Louis Marius Schoon, 27, and Raymond James Thoms, 28, and an African, Michael Ngubeni, 30, were charged in Johannesburg with sabotage.

155. The case was connected with the alleged finding of a quantity of explosive at about 2 a.m. at the Hospital Hill police station. No explosion had taken place.[377]

156. The defence contended that the sabotage attempt had been instigated by a police informer called Ed Round.

[375] *Ibid.*, 23 July 1964.
[376] *Ibid.*, 19 September 1964.
[377] *Ibid.*

157. Schoon said that at the Stellenbosch University, from which he had graduated, he had become aware of the unjust system of government in South Africa. As all non-white expressions of grievances had been stifled, he desired to make some symbolic act against some symbol of the oppression. Round had suggested the blowing up of a radio aerial and Schoon had agreed after making sure that the act would not cause any loss of life.

158. Michael Ngubeni, a teacher and former member of the African National Congress, said that the only weapon left for the Africans was sabotage. He had been suspicious of Round but his suspicions lifted when he saw Schoon and Thoms—"gentlemen I respect very much because they seem to have something of human beings in them"—at his home. He had been arrested while waiting in the grounds of the police station for Round who did not turn up.

159. Raymond James Thoms, who had worked for the South African Broadcasting Corporation and a newspaper, said that he had come to hold the same view of sabotage as the other two as a result of deep and sincerely held convictions. He testified that he had left his place of observation near the police station and had been arrested in his flat.

160. The three accused admitted that they had definitely been ripe for the kind of suggestion that Round had made.[378]

161. On 18 September 1964, the Judge found the three accused guilty and sentenced each of them to twelve years' imprisonment.

162. After the sentence, a crowd of several hundred persons, including a group of young white girls in school uniform, raised clenched fists, cheered the accused and shouted *Amandhla!* Mrs. Ngubeni shouted: "I'm proud of you, my husband. You are a man. Twelve years—it's nothing."[379]

163. An application by Schoon and Thoms for leave to appeal their sentences was granted on 12 October 1964.[380]

I. Trial of Frederick John Harris

164. On 24 July 1964, a time bomb in a suitcase exploded in the Johannesburg station and about twenty-five persons were injured. Mrs. Ethel Rhys, an old lady of seventy-seven, died on 19 August as a result of injuries.

165. Frederick John Harris, 27, a teacher at Damelin College, Johannesburg, was arrested on the night of 24 July.

166. Harris had been Chairman of the South African Non-Racial Olympic Committee in 1963, had led a campaign to ban South Africa from Olympic games, and had been a member of the Liberal Party from 1960. His passport was seized in September 1963 when he was about to board an aircraft at Durban on his way to a meeting of the International Olympic Committee in Germany. He was banned by the Minister of Justice in February 1964. The ban restricted him to the Johannesburg and Roodepoort districts and prohibited him from belonging to organizations, from entering townships and from attending gatherings. Harris is married and has a baby born a month and a half before the explosion.

167. On 14 Sepetmber 1964, Harris appeared in the Pretoria Supreme Court on a charge of murder and two charges of sabotage (causing the bomb explosion and possession of a large quantity of explosives).

168. The trial began on 21 September 1964.

169. On 13 October 1964, the prosecution submitted a statement voluntarily made by Harris to a Pretoria magistrate on 11 September 1964. It read:

"Approximately a year ago, or a little less, I was approached to join a sabotage organization then known as the NCL, later to be known as the ARM.

"I decided to do so as it seemed to me that the sabotage to be involved would have the effect of being a type of protest or demonstration against the policies of the Government, which I believed were leading to very serious harm to the country and its people.

"The types of sabotage to be involved were against electricity supply pylons and railway signal cabs.

"The intention in each case was to do something of which the public would be aware. At no stage was there any intention whatsoever of harming anybody.

"During June and July 1964, various members of this sabotage organization were arrested. I was one of the very few to my knowledge not arrested. It seemed necessary to me that there would be another demonstration at this stage. I had been told where sabotage materials were stored and had been given some instruction as to how to use them.

"For the 24 July 1964, three sabotage activities were planned. I was to do one of these. Previously there had been a plan to set fire to post boxes. The idea was that this would be in the public eye.

"Following this idea an explosion of a similarly public nature was planned for the Johannesburg station. It was thought that a good time would be late at night. This was later changed and it was decided that it should be in the afternoon.

"It was decided that the police at the station be warned by telephone so that they could clear the concourse and no one would be injured.

"I have seen passengers in the concourse at peak periods carrying out loud-speaker instructions very rapidly and I believed that through the warning to the police and to the newspapers (the police at the station being warned first) the result would be a spectacular demonstration, no one being injured.

"I bought a suitcase and in it placed the ingredients of a bomb containing dynamite and petrol. The dynamite was for explosion and the petrol, following the idea of the post boxes, to make it visible.

"About 4.05 p.m. on 24 July 1964 I placed the suitcase containing this bomb next to one of the waiting benches. I then left and went to Jeppe Street post office and telephoned the station police and two newspapers to warn them to clear the concourse as there was a bomb set for 4.33 p.m.

"In each case I said that no one should touch the bomb as it would explode This was to get people away from it. To the *Rand Daily Mail* I remember saying: 'We don't want anybody to get hurt.'

"I was arrested late the same night and knowing by then that people had been seriously injured was in a state of confusion. Early the next morning (Saturday) I was questioned by the police.

"I told them that I had placed the bomb and at that same time told them where all the sabotage material was stored as I did not want anything like this to occur again.

"By telling the police where dynamite and equipment was stored I hope to prevent any future occurrence like this. At all times I have tried to co-operate with the police.

"I told them where I had obtained components which had to be bought. I demonstrated before cine or moving cameras

[378] *Ibid.*, 18 September 1964.

[379] *Ibid.*, 19 September 1964; *Rand Daily Mail* (Johannesburg), 19 September 1964.

[380] *The Cape Times*, 13 October 1964.

just how and where I had placed the bomb. I also co-operated with the police in various other ways." [381]

170. The prosecution submitted evidence that:

(*a*) Harris had been identified by eye-witnesses as the person who had left the suitcase on the station concourse;

(*b*) An anonymous caller had telephoned the railway police and two newspapers, *Rand Daily Mail* and *Transvaler,* between about 4.20 and 4.29 p.m., and had told them: "This is the African Resistance Movement. There is a bomb somewhere in the main hall of the station. It will go off at 4.33 p.m. Don't touch it."

(*c*) Harris had led the police on 25 July to the cellar of a house and to a spot on the shore of Florida Lake. Eighty-two sticks of dynamite and large quantities of components for preparing timing devices had been recovered.[382]

171. Arguing that the accused had intended to cause loss of life, the prosecutor submitted in evidence a letter writen by Harris to the Prime Minister, but not mailed, calling on Mr. Verwoerd to accede to the demands of the African Resistance Movement and accusing him of "forcing us to accept that you can only be moved by the killing of white South Africans". The letter added: "We have plans for such killing, and with great reluctance we will put these plans into operation if you reject or ignore our initiative."[383]

172. On 12 and 13 October, John Nesbitt Lloyd, a twenty-three-year-old journalist under ninety-day detention since 23 July, gave evidence for the State. Lloyd said that he had known Harris for a year on the basis of shared political interests. He had succeeded Harris in February 1964 as acting Chairman of the South African Non-Racial Olympic Committee when Harris had been banned. Both had been members of the African Resistance Movement, Lloyd having joined it in December 1963.

173. Lloyd testified that Harris had told him on 14 July 1964 that they were the only two members left of the ARM: the other members had either been detained or had fled the country. When fleeing, Ronald Mutch and Mrs. Rosemary Wentrel had left a quantity of explosives with Harris. Harris felt that it would be a good tactical move to organize an act of sabotage to show that the ARM was still functioning. He mentioned the idea of placing a bomb in the station. He said that no direct attempt would be made on anyone's life and the railway police would be informed before the explosion so that people could be cleared out of the way. He admitted that there was a risk of loss of life but, to quote Lloyd:

> "His attitude was that the possible risk was justified on the basis of saving lives in the long run. His attitude was that the effect of sabotage on pylons and signal cables was not having a great effect on the public.
>
> "He foresaw that greater pressure would be brought to bear on the Government to abandon its *apartheid* policy, by financial and other interests, if an attempt were made on a more public place.
>
> "He said that an explosion on a station, where ordinary people went every day of their lives, would have this greater effect."[384]

174. Lloyd said that the people with whom he had associated in the ARM would never have considered taking life to attain their object. Even Harris, whom he tried to dissuade, had only contemplated a "spectacular sort of demonstration".

175. Harris, testifying on 19, 20 and 21 October 1964, said that in September 1963 he had joined the National Committee of Liberation, an organization whose members ranged in opinion from "non-communist to anti-communist" and which aimed at persuading the Government to make concessions by means of sabotage. The NCL had bombed some power pylons and railway signals: he himself had taken part in an unsuccessful bomb attempt in April or May 1964.

176. The NCL, he said, had subsequently changed its name to the African Resistance Movement.

177. On 8 July, two members of the ARM, Ronald Mutch and Hugh Lewin, had told him that arrests and detentions were wiping out the organization, informed him of the existence of the cache of explosives and explained to him how to use them (Ronald Mutch fled from South Africa on 9 July and Hugh Lewin was arrested on the same day and subsequently charged with sabotage.)

178. Harris continued that the bombing of the station was his own plan. It had been planned as a demonstration and he did not believe that anyone would be injured. He had only flashes of memory concerning his movements on 24 July. Describing the placing of the suitcase in the station, he wept in court as he said:

> "I thought of my mother and I felt it was very important that she should approve of me and what I was doing.
>
> "You see, my mother has always said that you must guide yourself by what you know to be right.
>
> "There I was, doing what I knew was right and therefore knowing that my mother would approve of me."

179. Harris added that four or five statements he had made to the police had not been made freely. He had been frightened into making the statements by repeated beatings.[385]

180. At the request of the defence counsel, the Judge agreed to the examination of Harris by a private psychiatrist in the presence of one or more psychiatrists named by the State.[386]

181. Subsequently Professor L. A. Hurst, head of the Department of Psychological Medicine at the University of the Witwatersrand called by the defence, testified that, at the time of the station bomb explosion, Harris was suffering from manic ecstasy to a point where he was not criminally responsible.[387] Dr. A. J. van Wyk, Superintendent of the Weskoppies Mental Hospital, and Dr. G. van Niekerk, Assistant Superintendent of the Hospital, who were called by the State, stated that Mr. Harris was not certifiable under the Mental Disorders Act.[388]

182. On 6 November 1964, Mr. Justice Ludorf found Mr. Harris guilty of murder and sabotage. He held that Mr. Harris had an intention to kill and rejected the plea of insanity.

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[381] *Ibid.*, 14 October 1964.
[382] *Ibid.*, 22 and 23 September 1964.
[383] *Ibid.*, 7 November 1964.
[384] *Ibid.*, 13 October 1964.
[385] *Ibid.*, 22 October 1964.
[386] *Ibid.*, 9 October 1964.
[387] *Ibid.*, 22 October 1964.
[388] *Ibid.*, 23 and 24 October 1964.

183. Asked if he had anything to say why sentence of death should not be passed on him, Harris replied "I have nothing to say". The Judge then sentenced him to death.

J. Cape Town sabotage trial of Edward Joseph Daniels and others

184. On 6 October 1964, four Whites and one Coloured man, all detained under the ninety-day clause, were formally remanded in Cape Town.

185. The accused were: Edward Joseph Daniels, thirty, a Coloured protographer; David Guy de Keller, twenty-four, a student; Anthony Andrew Trew, twenty-two, a graduate of the University of the Witwatersrand and an insurance clerk, who was due to continue his studies at Oxford University in October 1964; Alan Keith Brooks, twenty-four, a lecturer at the University of Cape Town; and Miss Stephanie Kemp, twenty-three, a physiotherapist and part-time student.

186. Bail was refused and the accused were remanded in custody to appear at a summary trial in the Supreme Court on 2 November 1964.

187. The indictment, served on 7 October 1964, charged the accused with conspiracy, during the period from 23 June 1962 and 8 July 1964, to commit sabotage; commission of acts of sabotage; illegal possession of explosives; and the contravening of the Suppression of Communism Act by becoming members or active supporters of an unlawful organization called the National Committee for Liberation or the African Resistance Movement which was dedicated to a doctrine of bringing about political, industrial, social or economic change within the Republic by the promotion of disturbance or disorder or by the threat of such acts.

188. The following were named as the persons with whom the accused conspired:

Adrian Leftwich, lecturer at the University of Cape Town and former national president of the National Union of South African Students, detained on 4 July 1964;

Miss Lynette van der Riet, twenty-five, a medical research worker, part-time student, and girl friend of Leftwich, detained on 4 July 1964;

Miss Ria Miller McConkey, a librarian, detained on 29 June 1964;

Randolph Vigne, thirty-five, a former National Vice-President of the Liberal Party, now in exile in the United Kingdom;

Robert Watson, thirty-two, a former British Commando, who fled to the United Kingdom in July;

Michael Schneider, twenty-six, a student at the University of Cape Town who fled to Swaziland in July;

Denis Higgs, now in exile in the United Kingdom;

Neville Rubin, now in exile;

Baruch Hirson, and

Nevell Hillman.

189 The indictment gave the following particulars of acts committed or contemplated by the accused and the other alleged conspirators in the Cape Town area:

(*a*) Attachment of explosives to the anchor wires of the Frequency Modulation Tower of the South African Broadcasting Corporation on or about 18 August 1963. It was alleged that Daniels, Leftwich, Miss van der Riet and Schneider participated in this act.

(*b*) Detonation of explosives on the railway line at three places and an attempted detonation at another place on 3 September 1963. It was alleged that Schneider, Miss Kemp, Brooks, Miss van der Riet, Miss McConkey and Leftwich participated in these acts.

(*c*) Detonation of explosives on an electric pylon at Muldersvlei on 18 November 1963. It was alleged that Daniels, de Keller, Schneider and Hillman participated in this act.

(*d*) Detonation of explosives on electric pylons at Durbanville and Vlottenberg and an attempted detonation at Lynedoch on the night of 18-19 June 1964. It was alleged that Trew, Miss Kemp, Schneider, de Keller, Leftwich and Miss van der Riet participated in these acts.

(*e*) Detonation of explosives on an electric pylon at Lynedoch on the night of 21-22 June 1964. It was alleged that Leftwich, Schneider and Miss van der Riet participated in this act.

The indictment also alleged that Daniels, Watson and Hillman had planned the damaging of railway property; that Leftwich considered a project for releasing Robert Sobukwe from Robben Island; and that Daniels worked on a project for damaging or destroying the Government garage.

190. On 9 October 1964, two of the accused, Alan Brooks and Miss Stephanie Kemp, alleged that they had been assaulted during detention (see chapter III).

191. On 2 November, when the hearing began, three of the accused—Trew, Brooks and Miss Kemp—pleaded guilty to the lesser charge of furthering the aims of communism. Their application for a separate trial was granted. The two other accused, Daniels and de Keller, pleaded not guilty.

192. Miss Lynette van der Riet, twenty-three, appeared as a State witness on 2 and 3 November. She testified that she had joined the National Committee of Liberation in 1962 and had participated in several acts of sabotage with the accused and the co-conspirators. She said that the acts of sabotage had been committed as a protest against unjust laws and in order to change the attitude of the people. She was released from prison on 3 November.

193. Adrian Leftwich appeared as a State witness on 3 and 4 November. He testified that he had joined the group in the summer of 1962, had become a member of the Regional Committee in 1963, and had participated in several sabotage activities. He identified Denis Higgs, Neville Rubin, Randolph Vigne and others as leading members of the group. He said that in October or November 1963, the group had abandoned sabotage and had reorganized itself. However, in 1964, a national meeting of the group had decided on reviving acts of sabotage.

194 Under cross-examination, Leftwich said that in 1962-1963, there was a feeling of frustration among students at the University of Cape Town in the face of new repressive legislation and an urge to do something to change the situation. He shared with Vigne and others a "basic loathing of *apartheid*" by which he meant the policies of both the Government and the United Party.

"The system of *apartheid* as we know it is based on an amorphous system which the previous Gov-

ernment followed, and has now been crystallized by the present Government."[389]

195. The common denominator among the members of the group was "a basic rejection of *apartheid*".

"I am not a communist and do not subscribe to the Marxist doctrine. I remained satisfied throughout that the ARM was not communistically oriented...

"The persons I was working with subscribed broadly to the same political ideals as me."[390]

196. Questioned by Counsel for the defence, Leftwich said that he had refused to give evidence until he came to know that the State had serious evidence against the group, including himself. He had been told that there was enough evidence to hang him and that a life sentence was possible. He sobbed and continued:

"It is not an easy thing to give evidence against people you love, who have been your friends, but if I stood to get only five or ten years, I would not give evidence.

"Oh, God, I loathe *apartheid* and all it means. This tragedy here I place at the door of that system . . .

"Believe me, my position was desperate, with Schneider gone, Vigne gone, Watson gone and Higgs gone.

"If they had stood in my position, where they might only have come out at 49 or 50 years old, I would have welcomed them to do the same . . .

"A seed of great bitterness has been sown inside me. I certainly hope there will be a time when these people who I am giving evidence against can forgive me and understand that I have not moved one jot from my ideas.

"I hope there will be a time in this country which sees a much better situation, where certain simple, selfish things that I do not want for myself if 15,000,000 other people cannot have them . . . we can all get together again."

The witness then broke down completely and the hearing was adjourned for the day.

197. On 5 November, the State made concessions to the two accused—Daniels and de Keller—by amending the original charge of conspiracy to overthrow or coerce the Government by intimidation, to allege that the common purpose was "a protest to encourage a change of attitude held by the electorate and the Government of South Africa". The accused then pleaded guilty to the charges and were found guilty.

198. Counsel for the defence argued that the accused were not the leaders of the conspiracy, that they had voiced serious doubts about renewal of sabotage and that they had acted under the influence of Randolph Vigne, who was now in exile, and Leftwich, the State witness. The accused then made statements in mitigation. Daniels said:

"All my life I believed in fair play and in justice and in doing what I believed was the right thing to do . . .

"What appalled me most was the cruel and humiliating conditions under which the non-white lives in South Africa.

"In the townships, where the decent hard-working folk are the prey of the skolly [delinquents] where people look forward to Friday to collect their wages and are *then* afraid to come home because of the reign of terror and the use of the knife, I have seen the hardships caused by the *apartheid* laws.

"The circumstances in which people have to live lead to these hardships. These things are happening in the townships. I know not only because I live there, but also because I was brought up and move amongst them there and I see the horror, the terror and the suffering.

"This is merely one facet of *apartheid* which affects the lives of the people in this land. The cruel, humiliating pass system, the wresting of people from their homes, the denying of employment, the mere pittance which the black old age pensioner receives and the tearing apart of husband and wife—people married according to Christian rites in a Christian church, in a Christian country.

"I felt it was my duty to protest against these laws and as a result I joined the Liberal Party because I was impressed by their sincerity and honest outlook towards what I considered to be decency and justice, and I believed that constitutional means in accordance with the party's policy could bring about the change which I thought was necessary. I met Vigne there and developed a very high regard for him.

"I was at a later stage approached by Vigne to join the National Committee of Liberation. I was flattered that I should have been approached by a man for whom I had such high regard. He convinced me that non-violent protest was not enough and was not in any way helping to change the attitude held by the majority of the voters.

"He convinced me that the plight of the non-white in this country could more effectively be brought to the attention of the people in showing our dissatisfaction by means of controlled acts of sabotage as opposed to the methods of protest used by the Liberal Party. I then joined the organization . . .

"It was always stressed that danger to life or injury to persons would never arise . . .

"I fully believed this. When I first participated in violence, I realized that this form of protest was wrong and futile. On a number of occasions I spoke against this type of activity and on two occasions I wished to withdraw from the organization altogether . . .

"The reason I did not leave the organization even though I continually spoke against the type of activity used was due to a sense of loyalty to those involved. It was for the same reason that I refused on a number of occasions during my detention to give evidence for the State in this trial . . .

"I am no politician. I do not know about socialism or communism. I believe in equal opportunity for all. I personally do not wish to see the Government overthrown by violence as I am terribly afraid of the chaos and the ruin that would follow. I pray that the Government will call a national convention to discuss and eliminate the harsh laws of *apartheid*." [391]

199. David Guy de Keller said that he had joined the organization at the suggestion of Leftwich after being assured that the type of sabotage envisaged would not endanger life or limb. He added:

"I would like to make it clear that I am neither a socialist nor a communist and I wish to reiterate that I am absolutely opposed to violence directed at human life or limb.

"My Lord, I joined this organization because at the time I thought it would succeed in its purpose of bringing about a change of heart in the electorate, thereby resulting in effect being given to the legitimate aspirations and rights of the non-white people of this country."[392]

200. On 17 November, Mr. Justice Beyers sentenced Daniels to fifteen years' imprisonment and de Keller to ten years.

201. The case of the other three accused—Trew, Brooks and Miss Kemp—was heard on 9 November 1964. Leftwich appeared as a State witness and said that he had recruited Miss Kemp as a member of the group. The three accused admitted association with the group but stated that they were not aware of its programme and that their participation was limited.

[389] *Ibid.*, 5 November 1964.
[390] *Ibid.*
[391] *Ibid.*, 14 November 1964.
[392] *Ibid.*

(*a*) Anthony Andrew Trew said that he had come to feel that the situation in South Africa was one of injustice.

"I felt that by the manner of their existence, the white group, including myself, had unjustifiably limited the freedom of others in the country.

"I felt about this a very personal sense of guilt, probably strengthened by my readings on philosophy.

"I believed that if one thought that a situation was morally wrong, one had a moral obligation to do something to change it."

(*b*) Alan Keith Brooks said that he had joined the National Committee of Liberation in the latter half of 1962 because of a feeling of frustration.

"The campaign against the closing of the open universities in 1959 made a profound impression upon me. The failure of the campaign planted the seed of the inadequacy of constitutional methods in opposing Government policy.

"The next event was Sharpeville and the state of emergency which followed.

"I witnessed the march of 20,000 Africans from Langa to Cape Town. It illustrated the power of non-violent means of protest, but it led to the banning of African organizations.

"In 1961 South Africa became a Republic without consultation with non-whites. This I considered undemocratic. The non-violent 'stay-at-home' campaign organized in protest was a failure.

"All these events indicated to me that normal lawful opposition was futile and it might be necessary to resort to extra-legal means of pressure."

In June 1963, however, he had left the organization as he had decided to follow an academic career and as he could not obtain a satisfactory statement of the aims of the organization.

(*c*) Miss Stephanie Kemp said that she had joined the organization because of her deep admiration for Adrian Leftwich. She had not been aware of the programme of the organization until her arrest, nor of the whereabouts of any explosives.

202. On 9 November, Mr. Justice Banks found the three accused guilty after the State abandoned charges of sabotage against them. On 11 November, he sentenced Brooks and Trew to four years' imprisonment each, two years of which were suspended, and Miss Kemp to five years, three years of which were suspended.

K. Trials in progress

203. A number of other trials, now in progress, may be noted.

Trial of Abram Fischer and others in Johannesburg

204. Ten former ninety-day detainees, held during the security police swoops on the Rand in July and August, were charged in the Johannesburg Regional Court on 26 August 1964, with furthering the aims of the Communist Party and with being members of the party.

205 The accused were: Miss Jean Middleton, 36; Miss Anne Nicholson, 23, art student and clerk; Miss Florence Duncan, 31, physiotherapist; Paul Trewhela, 23, journalist; Norman Levy, 35, teacher and brother of Leon Levy; Mrs. Ester Barsel, 40, housewife; Hymie Barsel, 44; Miss Sylvia Neame, 26, student; Dr. Constantinos Gazides, 28, medical practitioner; Mrs. Pixie Benjamin, 35, housewife.[393]

206. On 9 September 1964, the Judge, Mr. D. H. Coetzee, refused to receive statements from three of the accused on the circumstances in which they had made statements to the police. Applications for bail were refused.[394]

207. Abram Fischer, Q.C., leader of the defence counsel at the Rivonia trial, and Eli Weinberg, a photographer and former General Secretary of the Commercial Travellers' Union, were arrested on 23 September 1964 and charged on 24 September with the ten accused.

208. These two accused applied for bail and on 25 September Mr. W. J. van Greuen, the Johannesburg magistrate, granted bail to Abram Fischer in R10,000. Bail for Weinberg was refused. The accused were remanded for trial on 16 November 1964.

209. On 27 September 1964, three others were charged to stand trial with the other twelve accused: Mrs. Molly Irene Doyle, 29, wife of a lecturer at the University of the Witwatersrand; Ivan Frederick Schermbrucker, 43, manager of a Christmas hamper company; and Lewis Baker, 54, an attorney in Benoni.[395]

210. A charge sheet, served on 21 October 1964, listed Abram Fischer as the first accused and omitted the name of Mrs. Pixie Benjamin. It alleged that the fourteen accused had planned to establish "a despotic system of government based on the dictatorship of the proletariat" and had organized, financed and directed an organization known as the "Volunteers". It further alleged that Fischer, Weinberg and Schermbrucker had attended meetings of the Central Committee of the South African Communist Party between July 1963 and May 1964.[396]

211. On 20 October 1964, five of the accused submitted affidavits to the Supreme Court in Pretoria alleging ill-treatment while under detention (see chapter III).

212. The trial began on 16 November and Petrus Beyleveld, a detainee who had been offered immunity from prosecution if his testimony was satisfactory, appeared as the first State witness. He said that he had been President of the Congress of Democrats and a founder-member and President of the South African Congress of Trade Unions. He had joined the South African Communist Party in 1956 and had become a member of its Central Committee. He identified six of the accused as members of the Communist Party and said that he had seen six others at gatherings of the party. He stated he had received £8,000 from the London Committee of the Communist Party

[393] Mrs. Pixie Benjamin had been detained on 3 July 1964. She went on a hunger strike from 9 July demanding that she be charged or released. She was on hunger strike for forty-seven days before she was charged. Mrs. Barsel was also on a hunger strike.

[394] *The Cape Times,* 10 September 1964.

[395] *Ibid.,* 28 September 1964. Mrs. Doyle had been arrested on 25 September 1964 while she was sitting in the public gallery during the judgement on the bail application of Fischer. In 1962, she had been warned by the Chief Magistrate of Johannesburg that she might be placed under house arrest. She had served a six-month prison sentence in 1963 for furthering the aims of the African National Congress. Formerly Miss Anderson, she had married in December 1963 (*The Cape Times,* 26 September 1964).

[396] *The Cape Times,* 22 October 1964.

and had handed over most of it to the African National Congress.

213. He testified that he had joined the Communist Party because he agreed with its policy and deplored the injustices against the under-privileged in South Africa. The Communist Party stood for equal rights for all, loyally supported the African National Congress and condemned acts of terrorism. He added that he was still in agreement with the programme adopted by the Communist Party in 1962, but had taken a selfish decision in agreeing to testify.[397]

Cape Town sabotage trial of Sedick Isaacs and others

214. On 25 September 1964, four Coloured men—a school teacher, two matriculation students and a stores clerk—were charged with sabotage in Cape Town and remanded for summary trial in the Supreme Court on 2 November 1964.

215. The accused are: Sedick Isaacs, 24, a teacher at the Trafalgar High School; Achmed Cassiem, 18, and James Marsh, 18, two matriculation students at the same school; and Abdurrahman Abrahams, 18, a stores clerk.

216. The indictment, served on 8 October 1964, charged that during the period from 1 June to 30 August 1964, the accused had attempted or contemplated acts of sabotage and illegally possessed explosives. They were charged with attempting to explode a bomb at a post office on 10 August and at a power conveying installation on 30 August, and of planning to bomb the University College of the Western Cape, a college for Coloured students at Bellville.[398]

217. The trial took place from 2 November to 12 November, when the Judge reserved judgement.

218. Among the State witnesses was an alleged accomplice, Carolus Marsh, brother of James Marsh, who said that he had agreed willingly to give evidence after being told that he would be punished with his brother if he did not talk.[399] Another State witness and alleged accomplice, Alexander Williams, who had been under detention from 31 August to the end of October, including sixty days of solitary confinement, wept while giving evidence.[400]

219. On 9 November, scores of pupils of the Trafalgar High School waited outside the Supreme Court and waved to the accused.[401]

Pretoria sabotage trial of Bertram Martin Hirson and others

220. On 2 October 1964, five white men from Johannesburg, who had been detained since July 1964, were charged at the Pretoria Criminal Session with twelve acts of sabotage.

221. The accused were: Bertram Martin Hirson, 40, a lecturer at the University of Witwatersrand; Hugh Francis Lewin, 24, features editor of a non-white newspaper, *Golden City Post*, Johannesburg, who had been detained on 9 July 1964; Frederick Prager, 55, a photographer and a member of the Executive Committee of the Transvaal branch of the Liberal Party; Raymond Eisenstein, 21, a recent immigrant and a journalist; and Alexander Gwillim Cox, 30, a businessman.

222. The first count alleged that the accused had conspired to commit sabotage and acquired explosives to carry out their common purpose which was the liberation of the non-white people of the Republic of South Africa through the intimidation of the Government. Through their acts, the accused had endangered the safety of the public; obstructed the maintenance of law and order; endangered the distribution of light and power; endangered or restricted the free movement of traffic; and injured, damaged or destroyed the property of the Johannesburg municipality, the South African Railways and the Electrical Supply Commission.

223. The other eleven counts alleged that during the same period the accused had conspired with other persons to commit acts of sabotage in the Transvaal.

224. The accused and co-conspirators were all alleged to be members of the African Freedom Movement, the Socialistic League, the National Committee of Liberation—which also went under the name of the African Resistance Movement. Financial and other aid was sought from foreign countries.

225. The State alleged that Hirson, Prager, Eisenstein and Cox were foundation members of the conspiracy. Hirson had recruited members and played a leading role in organization and policy matters. Lewin had also recruited members and assisted in the preparation of explosive charges. Prager had been concerned with finance and had arranged for the storage of material. Eisenstein had trained members in the use of explosives and had helped to obtain, store and prepare explosives. Cox had attended to financial matters and had provided facilities for the storage of explosives.

226. Twenty-five persons were listed as co-conspirators who were jointly responsible on all the counts in the indictment.

Dennis Arthur Higgs, thirty-two, a former lecturer in mathematics at the Witwatersrand University. He left for Northern Rhodesia in July 1964. He was abducted from his home in Lusaka on 28 August 1964 and taken to Johannesburg where he was detained. After intervention by the United Kingdom authorities, he was returned to Lusaka on 2 September and arrived in the United Kingdom on 6 September. The State alleged that Higgs had made timing devices for the detonation of explosives.

Frederick John Harris, accused in the Johannesburg station bomb case.

Ronald Mutch, graduate of the University of Cape Town. He fled to Bechuanaland on 9 July 1964.

Mrs. Hilary Mutch, wife of Ronald Mutch. She fled to Bechuanaland with her husband in July 1964.

Mrs. Rhoda Prager, a prominent member of the Liberal Party who died in July 1963.

Mrs. Rosemary Anne Wentzel, a Johannesburg school teacher. She fled to Swaziland in July 1964 and was granted political asylum. She was arrested in South Africa on 10 August 1964 and placed under ninety-day detention. She charged that she had been kidnapped by several men from her home in Big Bend, Swaziland, and taken across the border to South Africa. The Minister of Justice,

[397] *The New York Times*, 17 November 1964; *The Cape Times*, 17-19 November 1964.
[398] *The Cape Times*, 9 October 1964. Messrs. Isaacs, Cassiem and Abrahams had been arrested near the electric sub-station on de Waal Drive on 30 August.
[399] *The Cape Times*, 3 November 1964.
[400] *Ibid.*
[401] *Ibid.*, 10 November 1964.

Mr. B. J. Vorster, said that the police could find no confirmation of the allegation that she had been abducted. He added that the Attorney-General was considering whether there was enough evidence to charge her with sabotage in connexion with the blowing up of power lines.[402]

John Nesbitt Lloyd, a colleague of Hugh Lewin is on the staff of *Golden City Post*, Johannesburg, and a member of the Liberal Party. He appeared as a State witness in the Johannesburg station bomb case.

Mrs. Anne Helen Swersky. John Harris testified in the Johannesburg station bomb case on 19 October 1964 that he had informed her of his plans for placing a bomb in the station.[403] She fled from South Africa in July 1964.

Robert Watson, thirty-two, a former British Commando and an explosives expert. He had served with the British Army in Malaya and was attached to a British military mission to Washington before arriving in Cape Town. He fled from the country in July 1964 and joined his parents in London.

Adrian Leftwich, twenty-four, lecturer at the University of Cape Town and former national president of the National Union of South African Students. He was detained under the ninety-day clause on 4 July 1964 and his detention was extended on 2 October 1964. He was a member of the Liberal Party and a friend of several students detained during Security Police raids in July after the acts of sabotage in the Western Cape. (He appeared as a State witness in November 1964.)

James Randolph Vigne, thirty-five, former National Vice-President of the Liberal Party. A banned person, he disappeared from his home in Cape Town on 7 July 1964, arrived in London on 14 August and was granted political asylum.

Harry Cohen, a lecturer at the Port Elizabeth division of Rhodes University.

Michael Schneider, twenty-six, a student at the University of Cape Town. He escaped to Swaziland in July 1964 after the police had reportedly found dynamite at his home.

John Laredo, a lecturer at the Port Elizabeth division of Rhodes University and Chairman of the Port Elizabeth branch of the Liberal Party.

David Llyn Evans, former Acting Secretary of the Liberal Party in Durban.

Milton Setlapello

Samuel Oliphant, a Johannesburg clerk

Johannes Dladla

Willie Tibane

Johnny Vilakazi

Edward Joseph Daniels, a Coloured photographer and a leading member of the Liberal Party in the Cape. He was banned in May 1964, detained under the ninety-day clause in July and remanded in Cape Town in October 1964.

Yusuf Ismael Omar, a former show salesman. He arrived in the United Kingdom in September 1964 and was granted permission to stay for six months. He served a sentence of twelve months' imprisonment in 1962 for unlawful possession of explosives.[404]

Montague David Berman, now in London. The State charged that he had been active in supporting the organization from abroad.

John Lang, an attorney who had left South Africa in 1961. The State charged that he had been active in supporting the organization from abroad.

Francis Holland Green. He had recently fled to Swaziland.

The hearing was adjourned to 9 November 1964.

227. On 20 October 1964, Hugh Lewin, one of the accused, submitted an affidavit to the Supreme Court in Pretoria alleging ill-treatment while under detention (see chapter III).

228. All the charges against Alexander Cox were withdrawn on 29 October: he was released from gaol and immediately flew to London.[405]

229. On 11 and 12 November 1964, the Court heard testimony by Samuel Oliphant, John Nesbitt Lloyd and Mrs. Rosemary Wentzel, detainees and alleged accomplices.[406] Lloyd and Mrs. Wentzel said in their testimony that the acts of sabotage by the organization were only a political demonstration to cause the people of South Africa to stop and think before it was too late and not a prelude to guerrilla warfare or seizure of power.

230. On 13 November, three of the accused, Hirson, Lewin and Eisenstein pleaded guilty to the main charge of conspiring to commit sabotage, and denied certain parts of the indictment. The State accepted their pleas.

231. The trial continued from 17 November with several other State witnesses, including Adrian Leftwich who said that the African Resistance Movement had sought to establish a democratic state based on socialist principles, with universal suffrage, abolition of the colour bar and more equitable distribution of wealth. He added that the ARM was opposed to communism and excluded the possibility of guerrilla warfare. He testified that Hirson, Lewin and Eisenstein had withdrawn from active participation in the organization.[407]

Other political trials

232. On 5 October 1964, three women were charged in Benoni, Johannesburg, with assisting political fugitives to leave the country without travel documents. The accused are: Mrs. Mary Josephine Moodley, Coloured, member of the Federation of South African Women; Mrs. Joyce Kathleen Mohamed, Coloured, clerk at a store managed by Mr. Ivan F. Schermbrucker; and Mrs. Christina Deborah Thibela.[408]

233. On 20 October 1964, the three accused submitted affidavits to the Supreme Court in Pretoria alleging ill-treatment while under detention (see chapter III).

234. In Pietermaritzburg, David Llyn Evans and John Laredo were charged with sabotage.[409]

235. On 30 October 1964, five men—two whites, two Indians and an African—were charged in Johan-

[402] *Ibid.*, 12 and 14 September 1964.

[403] *Ibid.*, 20 October 1964.

[404] *Ibid.*, 18 September 1964.

[405] *Ibid.*, 30 October 1964.

[406] Mrs. Wentzel, who claimed she had been abducted from Swaziland, was released on 20 November 1964.

[407] *The Cape Times*, 18 and 19 November 1964.

[408] *Ibid.*, 5 October 1964; *Contact* (*Cape Town*), 23 October 1964.

[409] *Contact* (*Cape Town*), 23 October 1964.

nesburg with a plot to bring about "violent revolution" in South Africa. They were remanded for trial on 6 November. The accused are: Ian David Kitson, an engineer, detained on 22 June 1964; Edward Matthews, a bookkeeper, detained on 25 June 1964; Laloo Chiba, an Indian; Sathyandranath P. Maharaj, another Indian; and Wilton Mkwayi, described as the most wanted African in the country.[410]

236. Moreover, *Contact*, a Cape Town fortnightly, reported on 23 October 1964 that 300 Africans were awaiting trial in Port Elizabeth alone.

Chapter II. Detention without trial

237. A significant feature of repression in the past year was the extensive use of powers obtained by the Government to detain persons indefinitely without trial. Hundreds of persons of all races have been thus detained, frequently in solitary confinement for extended periods, for their active opposition to the policy of *apartheid* or even suspicion that they might have knowledge of the commission of illegal acts. The principal provisions used by the South African Government in this regard are Proclamation R.400 of 1960, and sections 4 and 17 of the General Law Amendment Act, No. 37, 1963.

238. The sweeping provisions of these laws and their widespread use have evoked strong condemnation in the world.

239. It may be recalled that the Security Council, in its resolution S/5773 of 18 June 1964, specifically condemned the General Law Amendment Act, No. 37, 1963, and in particular its ninety-day detention clause (section 17), and urgently appealed to the Government of the Republic of South Africa to "abolish the practice of imprisonment without charges, without access to counsel or without the right of prompt trial". But the South African Government, by proclamation, extended section 17 of the General Law Amendment Act, No. 37, 1963 for another year from 30 June 1964, and continued to use its powers for detention of persons without trial.[411]

A. Detentions under Proclamation R.400 of 1960

240. Proclamation R.400 of 1960, which remains in force in the Transkei, provides that any commissioned officer of the South African Police or Defence Force may arrest without warrant any person for interrogation concerning any offence, or intention to commit an offence, under any law in force in South Africa. The arrested person may be detained indefinitely and may not consult with a legal adviser without the consent of the Minister of Bantu Administration and Development.

241. The Minister of Justice stated on 24 January 1964 that 592 persons had been detained under this provision in 1963; only one, who had been arrested on 7 November 1963 was being held at that time.[412] He stated on 14 April 1964 that five persons were being detained in the Transkei under the provisions of Proclamation R.400. They had been arrested between 1 February and 9 April and four of them were being kept in solitary confinement.[413]

242. Among those under solitary confinement was Dr. Pascal Ngakane, son-in-law of Chief Albert Luthuli, father of four small children and the only doctor of medicine practising in Clermont, who had been arrested on 21 February 1964.[414]

B. Detentions under section 4 of the General Law Amendment Act, No. 37, 1963

243. Section 4 of the General Law Amendment Act, No. 37, 1963, which has come to be known as the "Sobukwe clause", provides that persons serving a term of imprisonment may be detained indefinitely on completion of their sentence. It states, *inter alia*:

> "The Minister [of Justice] may, if he is satisfied that any person serving any sentence of imprisonment . . . is likely to advocate, advise, defend or encourage the achievement of any of the objects of communism, . . . prohibit such person from absenting himself, after serving such sentence, from any place or area which is or is within a prison . . . and the person to whom the notice applies shall . . . be detained in custody in such place or area for such period as the notice may be in force."

244. Robert Mangaliso Sobukwe, President of the Pan-Africanist Congress, has been so detained since 2 May 1963 after completing a three-year term of imprisonment in connexion with the Sharpeville incidents of 1960.

245. The Minister of Justice told the House of Assembly on 17 February 1964, in reply to a question by Mrs. Helen Suzman, that a request by Mr. Sobukwe for an exit permit to leave South Africa had been received on 3 February and was being considered.[415]

246. He told the House of Assembly on 16 June 1964 that Sobukwe would be continued in detention as the Pan-Africanist Congress, which the Minister described as a terrorist organization, continued to regard him as its leader and as he had given no indication of an intention to dissociate himself from its activities.[416]

247. The General Law Amendment Act, No. 80, 1964, enacted in June 1964, extended the "Sobukwe clause" for another year from 30 June 1964.

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[410] *The New York Times*, 31 October 1964.

[411] On 30 November 1964, the Minister of Justice announced that the operation of this section would be suspended on 11 January 1965. In this connexion, reference may be made to his statement in the House of Assembly on 10 June 1964 that if the operation of this section was suspended, "it must be clearly understood . . . it will be brought into operation again as often as it is necessary to do so to ensure the safety of South Africa and her people".

[412] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 24 January 1964, col. 263. The others were presumably charged or released.

[413] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 14 April 1964, cols. 4150 and 4151.

[414] The Minister stated that Ngakane had been detained for attempting to defeat or obstruct the course of justice. He was subsequently tried and convicted of promoting the objects of the African National Congress (see annex I).

[415] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 7 February 1964, col. 942.

[416] *Ibid*., 16 June 1964, cols. 8291 and 8292. In July 1964, Mrs. Veronica Sobukwe, wife of Robert Sobukwe, appealed, on Christian grounds, to the "God-fearing Government of South Africa" to release her husband. She said that a family reunion was their main reason for wishing to leave the country. The couple have four children (*The Cape Times*, 17 July 1964).

C. Detentions under section 17 of the General Law Amendment Act, No. 37, 1963

248. Section 17 of the General Law Amendment Act, No. 37, 1963 provides for the arrest and detention of persons without warrant and without trial for periods of ninety days at a time. It states, *inter alia*:

"... any commissioned officer ... may ... without warrant arrest ... any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), or the offence of sabotage, or who in his opinion is in possession of any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connexion with the commission of or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested."

249. This section has often been referred to as the "ninety-day clause", but it should be noted that it permits the Government to detain persons indefinitely by order for ninety days at a time.

250. On 9 October 1963, the Cape Supreme Court ruled that a person detained for ninety days under this section can be rearrested immediately after completing the initial period, as there is no provision granting immunity from indefinite detention.[417] On 6 November 1963, the Minister of Justice stated, in response to the appeal of the leader of the United Party that the case of Elijah Loza who had been detained for a third term of ninety days be considered, that a third period of detention, or any number of such periods, could well be justified in principle.[418]

251. A number of persons have undergone detention for two or three terms of ninety days. The Minister of Justice stated on 13 March 1964 that sixty-one persons had been held for more than ninety days and eight had been held for more than 180 days.[419] The latter, according to press reports, included three women.

252. The Minister of Justice indicated that detainees would be released unconditionally after they had replied satisfactorily to questions.[420] But it is left entirely up to the police to determine whether the replies are satisfactory and whether the detainee has divulged all the information at his disposal.

253. Detainees under this Section have few legal rights. They have no access to courts, even in cases of brutal maltreatment, and can only complain to magistrates who visit them once a week. Giving judgement on an application by Lesley Erica Schermbrucker, who alleged torture of her husband, Ivan Frederick Schermbrucker, and asked that he be produced to give evidence in Court, Mr. Justice Snyman ruled on 14 August 1964 that no court could order a ninety-day detainee to appear before it.[421]

254. The provision in the Criminal Code which prohibits subjection of criminal prisoners to more than two days of solitary confinement a week does not apply to ninety-day detainees. Detainees are often kept in solitary confinement for long periods and allowed only one hour of exercise daily. The conditions of the detainees are generally worse than those of awaiting trial prisoners.

255. The detainees are not entitled to books or writing materials. Albert L. Sachs, a Cape Town attorney who was detained, applied to the Cape Supreme Court for an order that he should have a reasonable supply of books and writing materials and should be allowed a reasonable amount of exercise each day. Captain D. J. Rossouw of the Security Branch opposed the application and submitted that a ninety-day detainee had no rights and that the only limitation of the discretion of the security officers was that the health of the detainee must be unimpaired on his release. The Supreme Court gave an order in favour of Sachs[422] but the Government appealed the decision and obtained reversal by the Appellate Division in March 1964.[423] Mr. Justice Ogilvie Thompson ruled:

"It seems to me that the legislature intended to isolate possible informants, and by means of that isolation induce them to impart information to the police. If that isolation is interrupted, the object of the legislature may well be defeated.

"It follows that the Minister of Justice or a commissioned officer are the only persons competent to judge the position. An interruption by the court of a detention would frustrate the general policy of Section 17."[424]

256. The powers under section 17 have been widely used to detain opponents of the policies of *apartheid*.

257. On 10 June 1964, the Minister of Justice announced that 737 people had been detained under the ninety-day clause since the law was passed a year ago; 397 of these had been charged in court; 301 had been released; and 39 were still being held.[425]

258. Brigadier H. J. van den Bergh, Chief of the Security Police, said in October 1964 that more than 900 persons had been detained under the clause; about 500 had subsequently been found guilty in court; 230

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[417] The Court dismissed an appeal for a writ of *habeas corpus* on behalf of Elijah Loza, a trade union leader of Cape Town, who was not released on the completion of an initial period of ninety days' detention on 8 August 1963 (*The Cape Times*, 10 October 1963).

[418] *The Cape Times*, 6-7 November 1963.

[419] Republic of South Africa, *House of Assembly Debates (Hansard)*, 13 March 1964, col. 2971.

[420] *Ibid.*, 20 January 1964, col. 14.

[421] *Rand Daily Mail* (Johannesburg), 15 August 1964.

[422] *The Star* (Johannesburg), weekly edition, 16 November 1963. The Judge stated: "There can be no doubt that in effect solitary confinement for all but one hour for exercise a day, and the deprivation of reading matter and writing materials, constitutes a punishment" (*ibid.*).

[423] *The Cape Times*, 26 March 1964.

[424] Quoted in *Rand Daily Mail* (Johannesburg), 15 August 1964.

[425] Republic of South Africa, *House of Assembly Debates (Hansard)*, 10 June 1964, col. 7696.

The total number of those detained under section 17, according to statements of the Minister of Justice, was 544 on 8 November 1963, 594 on 21 January 1964, and 706 on 5 May 1964. (These figures seem to exclude five who had escaped from detention and one who had died in detention.)

The number under detention at any one time varies according to the number of those charged in courts or released. It was fifty-one on 8 November 1963, forty-one on 21 January 1964, seventy on 25 February 1964, seventy-three on 7 April 1964, thirty-nine on 5 June 1964, and eighty-two on 14 July 1964.

had turned State witnesses or provided satisfactory statements and had been released; another seventy had been released for other reasons; and less than 100 were being held.[426]

259. Persons of all racial groups, men and women, young and old, have been incarcerated under this clause.

260. The Minister of Justice told the House of Assembly in reply to questions on 21 January 1964, that the persons detained under section 17 in 1963 were divided as follows:[427]

	Males	*Females*
White	20	8
Coloured	34	5
Asian	28	1
Bantu	479	19

He said, in answer to another question in the House of Assembly on 21 January 1964, that thirty-nine juveniles between the ages of 16 and 19 had been detained under section 17.[428]

261. The names of persons held in detention are often not published. On 3 March 1964, for instance, the Minister of Justice declined to answer a question in the House of Assembly by Mrs. Suzman who asked for the names of persons detained longer than ninety days on the grounds that "it is not in the public interest to furnish their names".[429]

262. The figures given by the Government show that it could not file charges against a large percentage of the detainees or sustain charges against them in courts.

263. As noted ealier, only 397 of the 737 persons who had been detained by 10 June 1964 had been charged, while 301 had been released.[430] The number of convictions are perhaps considerably less. In other words, a large number of innocent persons have been detained merely because they were friends of those suspected of illegal activity or because the police thought they might have information on others and might help arrest or convict others. Many are apparently arrested because they are well-known opponents of the policies of *apartheid*.

264. Alfred Nzo, a prominent leader of the African National Congress, was held in detention for 238 days from June 1963 to 13 February 1964 and no charges were filed against him.[431]

265. Albert Sachs, a Cape Town advocate, was detained on 1 October 1963 and released on 16 March 1964 after spending 168 days in gaol. No charges had been brought against him.

266. John Ferris, a trade unionist, was detained on 10 May 1963 and was released on 30 December 1963 after he was charged with sabotage and granted bail. The Government, however, dropped the charges in January 1964.[432]

267. A number of persons have been detained when courts have acquitted them or the charges against them have had to be withdrawn. Persons released on bail by courts are often detained, thus making a mockery of the judicial procedure.

268. The *Sunday Times* of Johannesburg reported four such cases in Johannesburg on 2 February 1964:

"Samuel Malinga of Johannesburg, arrested in March 1963, and charged with belonging to a banned organization, was acquitted towards the end of last year. In January this year he was detained under the 90-day law.

"Clement Malisa, arrested last April and charged with a similar offence, appeared in court in July, when the charge against him was withdrawn. He was immediately rearrested under the 90-day law. On October 18, he was released and in January was again detained under the 90-day law.

"Michael Pooe, charged with a political offence, had the charge against him withdrawn in May 1963. He was re-arrested on a charge of perjury. He was convicted and, after serving his sentence, was detained under the 90-day law in January.

"The next case is somewhat different. The man, Jafta Mabulelong, is no longer under detention. He is in the Sterkfontein mental institution.

"Mabulelong, a Johannesburg man of 28, was arrested last April on a charge under the unlawful organizations laws. In August the charge was withdrawn.

"While still in the court building he was arrested under the 90-day law. He was released in late November without being charged. At the beginning of January he suffered a severe mental breakdown and was sent to Sterkfontein."

269. Uriah Malika, a trade union leader, was placed under detention in September 1963. He was then released in December after ninety days and charged under the Suppression of Communism Act. The Court allowed him R500 bail, but he was again detained under section 17 in February 1964.[433]

270. Frequently, wives of those under detention or trial have themselves been detained, giving rise to concern over the violation of accepted principle of South African law that a wife cannot be compelled to give evidence against her husband.

271. For instance, Cyril Jones, a Johannesburg bookkeeper, and his wife, Mrs. Raie Jones, were both detained. Mrs. Albertina Sisulu was detained in 1963 when her husband, Walter Sisulu, who was on bail, escaped from house arrest. Mrs. Caroline Matsoaledi, mother of seven children, was detained on 13 February 1964 while she was attending the trial of her husband, Elias Matsoaledi, one of the accused in the Rivonia trial. Mrs. Denis Goldberg, wife of another of the accused, was also detained.

272. The law is often used to harass the opponents of *apartheid*, with little concern for the condition of the victims. Mrs. Lettie Sibeko, a Cape Town woman, was kept in gaol for nearly eight months, five of them in solitary confinement, and released only ten days

[426] *The Cape Times*, 12 October 1964.

[427] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 21 January 1964, col. 14.

[428] *Ibid.*, cols. 20 and 21.

[429] *Ibid.*, 3 March 1964, col. 2313. The Press reported that on 10 September 1964, seven Indians—including a doctor, a social worker and two persons who had recently been acquitted in the Pietermaritzburg sabotage trial—had been held under the clause, but that the Security Branch refused to release the names to the Press (*The Cape Times*, 11 September 1964).

[430] Republic of South Africa, *House of Assembly Debates* (*Hansard*), 10 June 1964, col. 7696. The Minister of Justice had stated on 24 January 1964 that forty-six of the detainees had given evidence for the State under promise of indemnity from prosecution (*ibid.*, 24 January 1964, col. 235).

[431] Alfred Nzo was served with banning orders in 1962 and placed under 24-hour arrest in December 1962. He was placed under house arrest again on 13 February 1964 when he was released from detention. He and four others under house arrest fled from South Africa in April 1964 (*The Cape Times*, 23 April 1964).

[432] *Golden City Post* (Johannesburg), 19 January 1964; quoted in *Spotlight on South Africa* (Dar es Salaam), 7 February 1964.

[433] *Rand Daily Mail* (Johannesburg), 21 February 1964.

before she had a baby. Another pregnant woman was detained from 2 August 1963 to 5 September 1963 when she was charged.[434]

273. The victims, in addition to the rigours of confinement, suffer other penalties such as loss of jobs. For instance, Miss Leabie Mandela, sister of Nelson Mandela and a nurse trainee at the Baragwanath Hospital, was dismissed from the hospital when she was detained under section 17.[435] Dr. C. Gazides, a medical practitioner, was dismissed from the Krugersdorp mine hospital during his detention.[436]

274. As Professor Julius Lewin commented recently, the ninety-day clause has been administered worse than had been expected when it was passed by Parliament:

"So badly is this law now working that, unbelievable as it may sound, detainees could actually have a worse time than criminal gangsters severely sentenced after conviction for terrible offences. The reason lies in the law or rather in the lack of law. A prisoner punished in terms of the criminal law has certain important rights which he never loses though in prison. These rights are defined both under the common law and in terms of a whole book of regulations framed under the old Prisons Act.

"A person serving a prison sentence has a right to petition the Supreme Court in certain circumstances. He has a right to receive letters and visits from his relatives after a specified time; and he can write to them at intervals depending on the length of his sentence. Above all, he cannot be kept in solitary confinement unless this is ordered as part of his punishment—and even then the period is strictly limited and never anything as long as 90 days at a stretch.

"By contrast, a man held for 90 days or longer has none of the normal rights of a convicted criminal. This has been made perfectly clear by the recent judgement in the Schermbrucker case. The decision was no doubt partly affected by the earlier judgement in Sachs' case when the Appeal Court held that a detainee has no right to receive books.

"In other words, the prison authorities, acting in concert with or under the instructions of the special branch of the police, have the widest possible discretion to treat detainees as they please." [437]

D. Solitary confinement of prisoners under detention

275. The solitary confinement for long periods of prisoners under detention without trial and the use of prisoners kept in solitary confinement as State witnesses has caused particularly grave concern.

276. A number of psychologists, medical specialists and other experts have condemned prolonged solitary confinement and questioned the validity of statements by persons subjected to such confinement.

277. On 18 November 1963, two Cape Town psychiatrists stated:

"Pressure put on people in solitary confinement is a form of brainwashing. We know from experiments that people deprived of outside stimuli can become disordered, indeed quite psychotic... He would get to the state where he would believe or say anything."[438]

278. Major Fred van Niekerk of the Pretoria Criminal Investigation Division stated on 27 November 1963, at the inquest on the death of Looksmart Solwandle Ngudle, that after one to three days in solitary confinement, prisoners showed signs of bewilderment, discouragement and attempted to fraternize; after three to ten days' confinement they showed signs of gradual compliance; between ten days and three weeks a tendency to automatic behaviour, and, after further confinement. they experienced hallucinations and had difficulty in distinguishing between truth and fiction. After months of detention, prisoners were depressed frequently to the point of suicide.[439]

279. On 20 December 1963, sixty medical specialists, psychiatrists, and psychologists sent an appeal to the Minister of Justice for the abolition of solitary confinement under the ninety-day detention clause. The appeal described detention in solitary confinement as inhuman and unjustifiable and declared:

"As the time approaches for re-appraisal of the 90-day detention clause, we, as medical specialists, psychiatrists and psychologists, consider it our duty to draw the attention of the Government and the public to the possible serious consequences of this form of detention on the mental condition of the detainees.

"The psychiatric study of political prisoners subjected to periods of solitary confinement in various countries indicates that this experience is associated with intense distress and impairment of certain mental functions. Numerous experimental studies support this evidence.

"We submit that the exposure of individuals to acute suffering and mental impairment for indefinite periods of time is no less abhorrent than physical torture. Whatever view may be held about the need for preventive detention in certain circles, no cause can justify the injury whether physical or mental, of persons who have not been found guilty of an offence by the Courts.

"We feel, therefore, that the present system of detention in solitary confinement is inhuman and unjustifiable and we appeal for its abolition." [440]

280. In the Cape Town trial of Neville Alexander and others, on 7 February 1964, Dr. Jane E. Bain of the Department of Psychiatry, Groote Schuur Hospital and Dr. James McGregor, acting head of the Department of Neurology, University of Cape Town, said that persons kept in isolation were extremely unlikely to make reliable statements. Such persons were highly susceptible to suggestion, were apt to change their views, and tried to please the persons with whom they came into contact. Dr. Bain said she had interviewed five former detainees and that three had psychiatric treatment.[441]

281. Professor Kurt Danziger, head of the Department of Psychology at the University of Cape Town, stated in the same trial on 10 February 1964: "The intellectual function which seems to suffer is the capacity for reasoning time and time again." He said another effect of isolation was that it tended to lead to hypersuggestibility. "I would say that a statement obtained from people under these conditions would be tantamount to one obtained under duress."[442]

282. He stated that he had made a systematic study of the effects of isolation on human beings. University students who volunteered had been confined for three or four days in a room with only a mattress, blanket, pillow and a bucket. They were subjected to a battery

[434] It was believed that she had been gaoled mainly because her husband, Archie Sibeko, had disappeared. She was subsequently charged and acquitted.

[435] *The Star* (Johannesburg), 8 May 1964.

[436] *Sunday Express* (Johannesburg), 30 August 1964.

[437] *The Cape Times*, 25 August 1964.

[438] *Ibid.*, 19 November 1963.

[439] *Ibid.*, 28 November 1963.

[440] *The Star* (Johannesburg), weekly edition, 21 December 1963.

[441] *The Cape Times*, 8 February 1964.

[442] *Ibid.*, 11 February 1964.

of psychological tests before and after isolation. These showed that various intellectual functions, especially the capacity for reasoning, deteriorated in isolation. Professor Danziger said his subjects had suffered from depression, sleeplessness, confusion and an inability to concentrate.

283. Evidence that the detainees are subjected not only to the mental torture of solitary confinement, but to physical torture is reviewed in the next section.

E. PROTESTS ON DETENTIONS UNDER SECTION 17 OF THE GENERAL LAW AMENDMENT ACT, No. 37, 1963

284. The operation of the ninety-day detention clause has led to strong criticism and concern in South Africa itself.

285. Former Chief Justice Senator H. A. Fagan stated in November 1963 that indefinite detention was as abhorrent as physical third-degree methods.[443]

286. Mr. Hamilton Russell, a former United Party Member of Parliament who resigned in protest against the General Law Amendment Act, No. 37, 1963, called for a militant protest against the clause and charged that detainees had been subjected to various forms of torture, including electric shocks, prolonged submersion in cold water and "gas mask" treatment.[444]

287. The National Congress of the United Party unanimously demanded in November 1963 that the ninety-day detention clause be dropped during the 1964 parliamentary session.[445] Sir de Villiers Graaff, leader of the United Party, urged a full investigation into the application of the measure by an impartial commission.[446]

288. The Right Rev. Robert Selby Taylor, Archbishop-designate of Cape Town, said at a press conference in February 1964:

> "The 90-day clause is a complete negation of justice. It has violated Christian conscience and has shocked the world as no other legislation has done. Justice to the individual is Parliament's first responsibility and trust. The clause should be repealed by Parliament."

289. The ninety-day Protest National Committee was established on 26 February 1964 by a conference of representatives of churches and religious organizations, the Civil Rights League, the Institute of Race Relations, the National Council of Women, the National Union of South African Students, the Black Sash, trade unions and academic institutions. The Conference was convened on the initiative of Mr. J. Hamilton Russell and Mr. A. van de Sandt Centlivres, former Chief Justice of South Africa. Mr. Russell, who was elected Chairman, stated at the Conference that if Christ preached in South Africa today, He would not only be called a Leftist by the Minister of Justice but He would probably be banned as a Communist or detained for ninety days. He said: "This in a land that calls itself Christian and where many churchmen think it is evil to bathe on Sunday. What of the innocent men, women and children who have spent Sunday after Sunday in the solitary confines of a small concrete hell?" He appealed to the churches to lead a crusade to abolish "This un-Christian law which degrades the human mind and soul."[447]

290. Local committees were soon established in the major cities. The national committee issued a pamphlet, *Tyranny 90*, in May 1964, in its campaign demanding that the ninety-day clause should not be renewed on 30 June 1964.[448]

291. The Co-ordinating Committee of Religious Churches, representing 5,000,000 Whites and non-whites in South Africa, issued a Declaration on 4 May 1964 condemning the clause. The Declaration stated:

> "Inasmuch as we believe it is a fundamental tenet of justice that there should be no imprisonment without trial, and that access to the normal protections of the rule of law should be accorded to everyone, and that section 17 of the General Law Amendment Act (commonly known as the 90-day Detention Clause) is a tragic breach and negation of this principle, and a violation of the moral law, and an offence to religious conscience, we declare our strongest condemnation of this clause on moral grounds and appeal to those in authority not to repromulgate it when it comes under review."

The Declaration was signed by the following nineteen church leaders: the Most Rev. Robert Selby Taylor, Anglican Archbishop of Cape Town; the Most Rev. Owen McCann, Roman Catholic Archbishop of Cape Town; the Rev. Stanley G. Pitts, President, Methodist Church of South Africa; Professor Israel Abrahams, Chief Rabbi, United Council Orthodox Hebrew Congregation of Cape and South West Africa; Rabbi David Sherman, Rabbi of the Cape Town Jewish Reform Congregation; the Rev. W. G. M. Abbott, Chairman, Congregational Union of South Africa; the Right Rev. Helge Fosseus, Bishop, Evangelical Lutheran Church (South East region); the Rev. D. M. Bottoman, Moderator, Presbyterian Church of Africa; Rabbi B. M. Casper, Chief Rabbi, United Hebrew Congregation of Johannesburg; the Rev. Paul S. King, Acting Board Representative, London Missionary Society; Sheikh Abukader Najaar, Chairman, Muslim Judicial Council; Mrs. Audrey Hoole, yearly meeting clerk, the Religious Society of Friends; the Rev. P. R. Webber, Acting Administrative Secretary, Disciples of Christ; the Rev. W. O. Rindahl, Superintendent, American Lutheran Mission; the Rev. T. Ellwyn, Chairman, Church of Sweden Mission in South Africa, the Rev. N. G. Ngobo, Chairman, Congregational Church in Africa; the Rev. G. Froise, Superintendent, Norwegian Mission in South Africa; the Rev. Victor Carpenter, Minister-in-Charge, Unitarian Church; and Commissioner Wm. B. F. Wotton, of the Salvation Army.[449]

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[443] *Ibid.*, 7 November 1963.

[444] *The Star* (Johannesburg), 26 November 1963; *Rand Daily Mail* (Johannesburg), 26 November 1963.

[445] In terms of the General Law Amendment Act, No. 37, 1963, the ninety-day detention provision was to expire on 30 June 1964, but could be extended for periods of one year by proclamation of the State President in the *Government Gazette*.

[446] *The Star* (Johannesburg), weekly edition, 23 and 30 November 1963.

[447] *Rand Daily Mail* (Johannesburg), 27 February 1964.

[448] *The Cape Times*, 16 May 1964.

[449] *Ibid.*, 5 May 1964. This was believed to be the first time that the Christian, Jewish and Moslem faiths had come together in the Republic to issue a statement of this kind. The Dutch Reformed Churches, however, did not join these protests. Speaking at Port Elizabeth on 6 May 1964, Mr. Hamilton Russell claimed that the 90-day protest movement spoke with a voice greater than that of the Government. He said that while the Government spoke for about 370,000 white voters which voted for it, the signatories of the declaration represented five million persons (*ibid.*, 7 May 1964).

292. Also in May 1964, a petition was signed by more than sixty leading Durban and Pietermaritzburg religious, political and educational leaders asking for the repeal of the ninety-day provision, which, they stated, was morally unjustifiable, a negation of the rule of law and a serious potential cause of friction between the races. Among the signatories were the Most Rev. Denis Hurley, Roman Catholic Archbishop of Durban; the Venerable Archdeacon H. Lawrence; the Rev. Stanley Sudbury; the Rev. André de Villiers; Alan Paton and Leo Boyd, leader of the Progressive Party in Natal.[450]

293. On 24 May 1964, more than 2,500 persons attended a Service of Petition against the ninety-day detention clause in City Hall, Cape Town, addressed by Christian, Jewish and Moslem religious leaders.[451] Similar protest meetings were held in other cities.

294. On 25 May 1964, the ministers of the United Progressive Jewish Congregations in Johannesburg discussed the religious implications of the ninety-day clause and unanimously adopted the following resolution:

"We feel that the 90-day clause undermines the very foundations of justice as evolved in Western society, and destroys the rule of law which is the reflection in human life of the Divine Order in the universe."[452]

295. On 7 June 1964, a petition signed by more than one hundred professors at the four English-speaking universities—the University of Cape Town, Rhodes University, the University of the Witwatersrand and the University of Natal—asking that the ninety-day clause not be retained, was published. The petition read:

"The principle that no person should be imprisoned except after due process of law is a fundamental principle of South African constitutional practice. The 90-day clause violates this rule of law and brings discredit to our legal system which has hitherto claimed respect.

"The 90-day clause places exceptional powers in the hands of the police and is incompatible with democratic government.

"Further, in view of the harmful effects of prolonged solitary confinement, which have been attested to by experts, the indefinite detention of individuals under these conditions offends against our traditional concern for humanitarian values."[453]

296. Despite these protests, the Government extended the ninety-day clause beyond 30 June 1964 when it was to expire.[454] The Minister of Justice, however, told the House of Assembly on 10 June 1964 that he believed he could recommend its suspension to the Cabinet during the recess. The hopes aroused by this statement were soon dissipated as large numbers of persons were detained after 30 June 1964.

297. On 14 July 1964, following the arrest of a number of students and professors under the ninety-day clause, the acting Chairman of the Council of the University of Cape Town, Mr. C. S. Corder, the Vice-Chancellor of the University, Dr. J. P. Duminy, and the president of the Student's Representative Council of the University, Mr. J. Levenstein, issued a joint statement in which they said:

"In recent days certain persons, including some members of our university, have been taken into custody under the 90-day clause. Their characters and personalities as known to friends and colleagues make it appear most unlikely that they would ever engage in any kind of activity dangerous to the State.

"The consternation, confusion and disquiet caused by these detentions make it most necessary, in our opinion, that such detainees be either brought to trial or released at the earliest possible moment."[455]

This joint statement was endorsed at a meeting of more than 2,000 students, staff and members of convocation at the University of Cape Town on 20 August 1964.[456]

298. Also on 14 July 1964, forty students at the University of the Witwatersrand, Johannesburg, staged a silent protest demonstration against ninety-day detention. Officials of the National Union of South African Students denounced the ninety-day clause and the detention of students. The executive of the National Union of South African Students in Natal issued a statement which reiterated "complete abhorrence of the ninety-day clause", and added:

"... we shall not capitulate to the campaign of terror which is being waged against the varsities, and wish to make it clear that it is the repulsive policy of the Government that is creating this horrifying atmosphere of fear and intimidation."[457]

299. On 4 September 1964, J. Hamilton Russell and A. van de Sandt Centlivres, on behalf of the ninety-day Protest Committee, issued a statement appealing to the Minister of Justice to withdraw the clause as a prelude to its eventual abolition by Parliament. They said:

"The 90-day detention clause (section 17 of the General Law Amendment Act 1963) has been condemned by the International Commission of Jurists as calculated to make South Africa more than ever a police State—a State in which liberty is gone and justice is blinded and maimed despite the efforts of the Bench and Bar.

"Prominent former judges in South Africa called it a flagrant negation of the rule of law. Eminent specialists of medicine and psychiatry have branded solitary confinement as no less abhorrent than physical torture and have pointed out that evidence extracted in this way may well be unreliable.

"Many prominent University leaders have declared this law to be utterly repugnant. Religious leaders, representing communities of over five million South Africans, have called for a repeal of this shocking legislation which they declare to be a violation of the moral law and an offence to religious conscience.

"There can be no doubt that the overwhelming majority of people of South Africa wish the 90-day clause to be withdrawn. They demand that those who are lingering in indeter-

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[450] *Ibid.*, 18 May 1964.

[451] *Ibid.*, 25 May 1964. Explaining his participation in the meeting, Archbishop Taylor said:

"In the first place I believe the Act is abhorrent to the Christian conscience for it places in the hands of individuals powers and authority which belong to God alone.

"Secondly I am convinced the prolongation of the Act only serves to increase the dangers it was originally designed to dispel; for it encourages those who advocate violence and gives them all the greater reason for taking the law into their own hands" (*ibid.*, 22 May 1964).

[452] *Ibid.*, 26 May 1964.

[453] *Ibid.*, 8 June 1964.

[454] *Government Gazette*, 26 June 1964.

[455] *The Cape Times*, 15 August 1964.

[456] *Ibid.*, 21 August 1964.

[457] *Ibid.*, 15 August 1964.

minate detention in solitary confinement should be speedily charged, or freed.

"Meanwhile, we make an urgent plea to the Minister, in the name of mercy, to give instructions that detainees should be given more humane treatment. The Minister could, by stroke of the pen, ease and humanize the terms of detention. At present they are not even entitled to the privileges accorded condemned criminals. The least that should be done is to treat them as awaiting-trial prisoners.

"Not only the immediate relatives and friends of detainees are filled with anxiety. The general public is gravely perturbed. It is known that ugly incidents involving torture and third degree maltreatment have been alleged. We know that solitary confinement can have lasting ill effects on the human mind.

"State witnesses have said that statements have been tortured out of them. It is known that some of the detainees are young teenagers and some are in delicate health. One is pregnant.

"Suspicion is aroused in the public mind because of the uniformly imposed system of keeping detainees incommunicado without the right of access to their own doctor or lawyer or churchman.

"The quick and superficial visit of Dr. George Hoffmann of the Red Cross, who came to South Africa at a time when there was a low ebb of detainees, did little to re-assure public opinion. There should be some continuous check on the conditions under which people are detained.

"Is there any reason why detainees should be kept in solitary confinement once they have made a statement? The Minister of Justice promised that none need stay in detention for more than an hour if they were prepared to give information. Yet we know that many detainees have been kept in detention after having made statements.

"People should not be kept 'in protective custody' (Yutar, 20/5/64, and Det. Sgt. Card, 30/1/64) or because the police feel they 'might get some more information out of them' (Lt. D. J. Swanepoel, Rivonia trial), or to prevent witnesses from being tampered with. The Minister assured Parliament that this was NOT the object of the Clause.

"It is inhuman that people, uncharged with any crime, should be treated, in some respects, worse than condemned criminals: should be kept in conditions that may break their spirit and injure their mind.

"It is iniquitous that they should be kept beyond the protection of the courts of law and at the mercy of uncontrolled action by the police.

"The public have a right to demand that the whole system of 90-day detention should now come to an end. It is the most disgraceful Law that has ever blotted the Statute Book of any nation claiming to be Christian and civilized. . . .

"History has shown that violent laws provoke violence. No good ever came out of evil deeds or laws. Every sane man condemns violence in all forms. Every sane man knows that sabotage is a hideous crime which all too often endangers innocent human life. We all condemn it but we also condemn sabotage of the rule of law by such enactments as the 90-day clause. Sabotage of the rule of law can do more lasting harm to the mind and morals of a nation than any other form of sabotage. This clause should be withdrawn immediately. All the immediate anxiety and horror it has caused should be ended as a prelude to expunging it from the Statute Book forever, next session."[458]

300. The Minister of Justice, however, told the National Party on 9 September 1964 that the ninety-day clause was designed to know what subversive elements intended doing in the country in order to combat them successfully and that he did not care what the outside world said about it.[459]

[458] *Ibid.*, 4 September 1964.

[459] *Spotlight on South Africa* (Dar es Salaam), 17 September 1964.

Chapter III. Allegations of ill-treatment and torture of prisoners

301. The concern that has been evoked in South Africa and abroad by the widespread detentions and trials of persons opposed to the policies of *apartheid* has been heightened by numerous charges of ill-treatment and torture of prisoners, particularly political prisoners, and of pressure exerted on them to give evidence on the accused in various trials. A number of witnesses and accused have charged in the courts that they have been subjected to threats, assaults and torture. Copies of affidavits by persons subjected to such treatment have been published in the world Press. A number of such affidavits have been communicated to the Special Committee and published as documents of the Special Committee (see A/AC.115/L.41, L.53 and L.73).

302. In view of this evidence, demands have been made by prominent South Africans in the Parliament and outside for a thorough and impartial inquiry into police methods and prison conditions. The Government, however, has refused such inquiry.

303. The conditions of detention of persons held under the ninety-day detention clause and the expressions of concern over prolonged solitary confinement of those prisoners, has been described in the previous section. In addition, charges of physical assaults on prisoners and gross ill-treatment have been made in courts or appeared in the Press.

304 At least two detainees have died by hanging in their cells:

Looksmart Solwandle Ngudle, who died in September 1963 in Johannesburg, and

Sipho James Titya, who was found hanging in a Port Elizabeth cell in January 1964.

305. Suliman Saloojee, an Indian leader under detention, jumped to his death on 9 September 1964 from the seventh floor of a building while being interrogated by Special Branch detectives.[460]

306. A number of detainees were examined by psychiatrists or sent to mental institutions.[461]

[460] *The Cape Times*, 10 September 1964.

[461] The Minister of Justice stated on 21 January 1964, that of the five detainees who had been examined by psychiatrists, two were found to be normal, two were subsequently discharged from a mental institution, and one had escaped during observation (Republic of South Africa, *House of Assembly Debates* (*Hansard*), 21 January 1964, cols. 21 and 22).

The Press has, however, reported a number of cases of persons who required treatment during or after detention.

Spotlight on South Africa (10 April 1964), published by the African National Congress in Dar es Salaam, stated:

"We know of William Tsotso, kept in solitary confinement in the Cape for months, until something snapped and he howled like a beast for days and nights on end. The wardens ignored him until finally he was brought from his cell, emaciated and in an animal-like condition, to be taken to a mental institution. We know of Jafta Mabulelong, arrested last April, charged, and released. While still in court he was re-arrested under 90-days. In November he was released without being charged; a little later he suffered a severe mental breakdown and was sent to Sterkfontein.

"We know of Ebrahim Sayanvala, who drowned himself when he thought he was going to be re-arrested; of a man in Valkenberg, described by the priest who visited him as a complete mental and physical wreck."

According to *The Observer* (London) of 13 October 1963:

"The case of an Indian, Ebrahim Sinyanvala, has shocked the country. He was detained last June and later released. On his way home he was detained again for a traffic offence. He ran away, and two days later his body was found in a river near the police station. He had preferred suicide to facing a return to the police cells."

307. At least forty-nine detainees complained of assaults by policemen or wardens. Twenty-nine of these alleged kicking and hitting and twenty also alleged that they received electric shocks while sacks were tied over their heads.[462]

308. Some evidence of torture was presented at the inquest on the death of Looksmart Solwandle Ngudle, a leading member of the African National Congress, who had been detained under the ninety-day detention clause on 19 August 1963 and was found dead by hanging in his cell on 5 September 1963. Police refused to allow his body to be sent home for burial and buried it without examination. Counsel for the family secured an inquest into allegations that he had been tortured and killed by the police.

309. On 26 November 1963, the counsel for Mrs. Ngudle's family, Vernon Berrange, stated that twenty witnesses had told him of being subjected to "gross brutalities" to make them talk. They were told to undress, made to jump up and down and when exhausted, manacled in a squatting position with a stick under their knees, blindfolded and given electric shocks until they were, in some cases, unconscious.[463] On 28 November 1963 Isaac Tiale, a Johannesburg businessman who had undergone detention with Ngudle, testified at the inquest that he "went off his head" after being subjected to electric shocks and "had to be put into a straitjacket".[464] He described how he had been handcuffed and subjected to electric shocks while a bag had been tied over his head until he twice lost consciousness.[465]

310. Mr. Berrange walked out of the inquest on 11 February 1964 when most of the evidence on which his submissions of torture had been based had been disallowed.[466]

311. Bob Hepple, a Johannesburg lawyer and originally one of the accused in the Rivonia trial, said in Dar es Salaam in November 1963 that during the period of his detention the police had threatened that if he did not make a statement, he would be detained indefinitely and that his wife would also be detained.[467] He added:

"The evidence is overwhelming that the 90-day detention law provides a cover for protracted mental and physical torture.

"I personally eye-witnessed the horrifying effects of such detention on a particular detainee. One night during September or October I was awakened in Pretoria prison by screams emanating from the African section, which continued throughout the night. The next morning I heard the screaming man being pushed along the corridor into the hospital yard. Looking out of my cell window I saw an African man, Z . . . , a 90-day detainee being held by two warders, his arms twisted behind his back. He was frothing at the mouth and his eyes had the wide, vacant stare of the berserk. A few weeks later he was still in the hospital yard wearing a straitjacket. His screams by then had degenerated into whimpers which were met by blows from the warder in charge of him.

"In a number of cases African detainees had been subjected to brutal assault and electric shock treatment.

"I saw a witness in the Rivonia trial, who is being held in custody, still limping three months after he had been assaulted in order to force a statement from him. One of the Rivonia accused still bears deep bruise marks from an assault on him by the police during August. Electric shock treatment was also applied to the sensitive parts of his body.

"Those who are inside the South African gaol were tremendously heartened by the United Nations resolution calling for the release of political prisoners and for an end to the sabotage trial. They place tremendous hope on the effects of world-wide pressure on the Verwoerd government."[468]

312. Eleven detainees released from Pretoria Central Prison in November 1963 made sworn affidavits alleging torture and assault by police while in custody under ninety-day detention.[469]

313. Arthur Goldreich, a former ninety-day detainee who had escaped from gaol in August 1963 told the press that Abdulhia Jassat, another former ninety-day detainee who had escaped with him, had been beaten by twenty Special Branch policemen until he had collapsed. Goldreich added:

"They put a wet sack around his head and tied the cords at his neck till he blacked out. After reviving him, they made him stand on one leg, holding a stone above his head while they stuck pins into his raised leg. The soles of his feet were then beaten with batons, and electrodes were placed on the toes with the current flowing. Finally they held him by the ankles out of a window 40 feet above the street in trying to get a confession."[470]

314. In August 1964, Mrs. Lesley Erica Schermbrucker brought an urgent application to the Rand Supreme Court seeking an order interdicting the police from continuing maltreatment of her husband, Mr. Ivan Frederick Schermbrucker, a ninety-day detainee, and ordering that her husband be brought before court to give evidence. She alleged that her husband had told her about the maltreatment in a message smuggled from his place of detention on 4 April. The text of the message, annexed to the petition to the court, read:

"I was taken for questioning to the Grays yesterday at lunch time. When I refused to make any statement I was told to stand in one place and then the questioning started.

"Anything between two to six of them around you all the time.

"I stood for 28 hours without moving an inch from 12 p.m. yesterday till 4 p.m. this afternoon.

"It is quite clear that many, many people have made full statements.

"I fell twice, had cold water thrown over me and pulled to my feet.

"It seems that most of the men detainees here have been kept standing on their feet continuously for anything from

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[462] *Tyranny 90*, published by the "90-day" Protest Committee, Cape Town, 1964. It is charged that the police resort to electric shock treatment as it leaves no marks for the medically untrained eye to see.

[463] *The Cape Times*, 27 November 1963.

[464] *Ibid.*, 29 November 1963.

[465] *Contact* (Cape Town), 13 December 1963.

[466] *The Cape Times*, 12 February 1964. The Magistrate then found that Ngudle had committed suicide and that his death was not due to any act or omission involving an offence on the part of any person. He stated, however, that he had visited Ngudle on the day before his death and that during that visit Ngudle had complained that he had been assaulted in order to get him to make a statement and that he had coughed up blood (*ibid.*).

[467] *Tanganyika Standard* (Dar es Salaam), 29 November 1963, quoted in *Spotlight on South Africa* (Dar es Salaam), 29 November 1963.

[468] *Spotlight on South Africa* (Dar es Salaam), 6 December 1963.

[469] *The Cape Times*, 4 November 1963. The Commissioner of Police described the affidavits as "utter nonsense . . . spread deliberately by neo-communists" (*ibid.*).

[470] *Spotlight on South Africa* (Dar es Salaam), 21 January 1964. Jassat had been detained on 20 May 1963 and Goldreich on 11 July 1963. They escaped from Johannesburg police headquarters on 11 August 1963 and subsequently fled from South Africa.

between 12 hours to 36 hours and that most have broken at one stage.

"I nearly committed bloody suicide by jumping out of the window, but instead I have made a short statement.

"Questioning under these conditions is the most terrible and cruel form of torture.

"The language, curses, threats are too horrible. But the main thing is that I don't think that anyone can stand on their feet for more than 36 continuous hours and not break down.

"This is torture good and solid. They laugh and almost bump you about when you complain. You must see (portion blotted out) see what can be done. An almighty row should be kicked up but how?

"I doubt if many will be able to take the standing—one has got to collapse. They threatened to keep me standing for 4 days and nights or even longer.

"They are at their most savage, make no mistake about it. What a terrible thing to fall down senseless after 20 hours continuous—get water thrown over you and up for another session.

"I can hardly move I am so stiff and sore. By Christ, it's just about the end of the road.

"My fondest love to all of you, my darlings, and don't judge people too quickly or harshly. This is real terror—I am convinced that shortly even Whites will be assaulted by the SB's[471] and the officers are the worst.

"If I am not here tomorrow I will be bloody standing again."[472]

315. Mr. Justice Snyman ruled on 14 August 1964 that the Court cannot order that a detainee be brought before it for any purpose. The interruption of the detention, he said, would "frustrate" the purpose of the ninety-day provision which had apparently been conceived by the legislature to protect the safety of the State and isolate possible informants on offences concerning the safety of the State.[473]

316. On 19 August 1964, the attorney for Alan Brooks, a detainee, told the Press that he had received messages from his client that he had been assaulted by the Security Police.

"The messages were to the effect that at 2 a.m. on Sunday, August 2, he was assaulted by a member of the Security Branch, who punched him and kicked him and twisted his ankles, which were bruised and swollen . . . and that he had reported the matter to the visiting Magistrate and had been seen by the district surgeon."[474]

317. On 26 August 1964, the attorney for Paul Trewhela, a former detainee who had then been charged in the Johannesburg Regional Court, told the Court, in justification of an application for bail by his client, that the latter had been interrogated continuously for sixty-nine hours and made to stand virtually all the time. The magistrate refused bail and ruled that statements on treatment and interrogation during detention were not relevant to the application.[475]

318. On 9 September, when the trial of Paul Trewhela and nine others on the charge of membership in the Communist Party began, his attorney applied to hand in affidavits by three of the accused about the circumstances in which they had made statements to the police. The judge refused the application.[476]

319. The *Sunday Times* of Johannesburg published these affidavits which had been sworn by Norman Levy, Paul Trewhela and Dr. C. Gazides. Norman Levy said that he had been taken from his cell on 27 July at about 9.30 a.m. to a room for questioning and told to stand in the centre facing "about nine" detectives. "At 4 o'clock that afternoon the interrogating team split into pairs and interrogated me . . . for stretches of four hours at a time. I remained standing all the time. The same procedure continued throughout the night. The interrogation continued for forty-two consecutive hours until 3 a.m. on 29 July. I was feeling very tired and fatigued. At this point I decided to make a short statement." Paul Trewhela stated in his affidavit that he was interrogated for sixty-nine hours, for forty of which he was made to stand, and Dr. Gazides claimed he was kept standing for forty-three hours.[477]

320. The *Sunday Times* of Johannesburg reported on 20 September 1964 that the attorney for Miss Stephanie Kemp, 22, had stated that he had received information that his client had been assaulted by a policeman. Miss Kemp had been told by the Security Branch that she was required as a State witness but she had refused to give evidence. Her mother was told by a Security Branch officer that she would be released if she agreed to become a State witness.[478]

321. On 9 October 1964, the attorney for Alan Brooks and Miss Stephanie Kemp, both of them accused in a sabotage trial in Cape Town, stated that he had sent letters of demand to the Minister of Justice and two members of the Security Branch alleging that his clients had been assaulted during interrogation while under detention, and demanding damages totalling R6,000. Alan Brooks alleged that he had been assaulted on 2 August, that his right ankle had been broken and that his right foot and ankle had had to be set in plaster. Miss Kemp alleged that she had been interrogated continuously for fifteen hours and subjected to "undue, harsh, physical and mental stress and strain". She further alleged that she had been assaulted during this interrogation and rendered dazed and semiconscious.[479]

322. On 20 October 1964, nine political prisoners and the wife of another political prisoner submitted affidavits to the Supreme Court in Pretoria alleging ill-treatment during interrogation and seeking an order declaring that the methods of interrogation used by the police were unlawful.

(*a*) Dr. Constantinos Gazides stated that on 3 August he had been interrogated for about forty hours and made to stand on an eighteen-inch square drawn with chalk at the Security Police headquarters. Threats of assault and torture had been made against him.

(*b*) Norman Levy stated that he had been interrogated for forty-two consecutive hours, made to stand in a square and struck on the head with a newspaper. When he told the detectives that he had a heart complaint, they answered that he was punishing himself by being so obstinate and refusing to make a statement.

(*c*) Paul Henry Trewhela said that he had been questioned for sixty-nine hours and even forced to eat

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[471] SB is abbreviation for "Special Branch".

[472] *The Cape Times*, 8 August 1964.

[473] *Ibid.*, 15 August 1964.

[474] *Ibid.*, 20 August 1964. Alan Brooks, a British subject, was visited by the British Consul (*The Cape Times*, 12 September 1964 reported that he had no complaints about the conditions of his detention at that time).

[475] *The Cape Times*, 27 August 1964.

[476] *Ibid.*, 10 September 1964.

[477] *The Times* (London), 14 September 1964.

[478] Quoted in *Spotlight on South Africa* (Dar es Salaam), 2 October 1964.

[479] *The Cape Times*, 10 October 1964.

a meal standing. He had been warned that the Security Police would make a physical and mental wreck of him if he persisted in refusing to make a statement.

(*d*) Ivan Frederick Schermbrucker alleged that he had been constantly abused during interrogation and told that he would be urinated on if he fell down.

(*e*) Miss Anne Nicholson said that she had been made to stand through the day on 17 August after being forcibly dragged from her chair.

(*f*) Hugh Lewin, son of an Anglican priest, said that he had been made to stand continuously throughout interrogations, subjected to anti-Semitic abuse, and assaulted at length on 24 July.

(*g*) Mrs. Mary Josephine Moodley, 50, said that she had been kept standing for thirteen hours during a night-long interrogation.

(*h*) Mrs. Joyce Kathleen Mohamed said that she had been made to stand continuously for twelve hours during interrogation.

(*i*) Mrs. Christina Deborah Thimbela said that she had been forced to stand for twenty and a half hours during three sessions of interrogation.

(*j*) Mrs. Adelaide Joseph, wife of a detainee, Mr. Paul Joseph, alleged that her husband had been interrogated in such a way and for such lengths of time as "are calculated to impair his physical and mental health".[480]

323. Allegations of threats, maltreatment and torture in prison have often been made in courts during political trials.

324. In April 1963, when five Indian youths appeared in a Johannesburg court on sabotage charges, their counsel alleged that they had been tortured in prison. According to *The Cape Argus* (19 April 1963): "Vandeyer limped into court. He bore scars on his head. Naidoo had his right arm in a sling. Chiba had a bruised eye and Nanabhai's face was swollen."[481]

325. On 28 November 1963, complaints of assault by the police were made by six African prisoners in court, in Bellville, as they were charged with sabotage.[482]

326. Some of the evidence in the Rivonia trial indicated the pressures employed by the Government in prisons to obtain confessions or statements against other prisoners.

(*a*) Miss Edith Kogane, housemaid to Arthur Goldreich, stated under cross-examination that she had been detained since 11 July 1963 and told by police interrogators on 8 October that she would soon be released if police were satisfied with her answers.[483]

(*b*) Thomas Mashifane, a former employee on the Rivonia farm, alleged that he had been assaulted and beaten by the police during the interrogation. He said he was still suffering the effect in his right ear and a top front tooth was loose.[484]

(*c*) A principal witness of the prosecution, Mr. X, admitted in court that he had been warned that he could be regarded as an accomplice to the National High Command of the Umkonto, but if he gave evidence properly he would be free from prosecution. He said he became disillusioned with Umkonto on 13 August 1963, when he had been arrested and detained without trial under the ninety-day clause of the General Law Amendment Act, No. 37, 1963 and had decided to tell everything to the police immediately.[485]

(*d*) An unidentified Coloured witness, Mr. Y, who had been under detention without trial from May to September 1963, said he liked being detained. On cross-examination, he said he had decided, towards the end of his ninety-day detention, to tell the truth because he preferred a long prison term to indefinite detention without trial. He was still in custody but had been told that he would be released after he had given evidence.[486]

(*e*) English Mashiloane, a cousin of Elias Matsoaledi, an accused, said he had already been locked up for six months and had no idea when he would be released. The Judge informed the witness that if he gave satisfactory evidence he would be released. Mashiloane was asked: "At first you denied you knew anything about soldiers and dynamite and that sort of thing. What made you change your mind?" "Gaol," he replied.[487]

(*f*) Assop Ahmed Suliman, said that he had been detained for sixty-five days before police had taken a preliminary statement from him, then had been kept in custody a further fifty-five days before police agreed to take the final portion of his statement which took only a few minutes to give. He stated that he had not been threatened with assault by police on his arrest on 10 June 1963, but that when he did not tell the truth to the policeman who had arrested him, the latter had said: "Do you know that with one punch I can knock you down?"

(*g*) A third unidentified witness, Mr. Z, testified on 22 January 1964 that he had lost thirty pounds while under detention, but had received excellent food at all times. He stated that he had been aware that if he did not make a statement to the police he could be held for successive periods of ninety days for the rest of his life.[488]

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[480] The State submitted an affidavit by the Chief of Security Police in Johannesburg that a person being interrogated could sit if he wished when undergoing interrogation in a room in which there were sufficient chairs. He said the police were under strict instructions not to assault prisoners, but that it was not in the public interest to reveal the ways in which detainees were questioned.

The State also submitted affidavits from two doctors that Paul Joseph was in normal health, and an affidavit from another prisoner, Wilton Mknayi, that he had never been assaulted.

The application was adjourned until 3 November to give the respondent, the Commissioner of Police, time to file a full replying affidavit.

[481] Quoted in *South Africa Freedom News* (Dar es Salaam), 27 November 1963.

[482] *The Cape Times*, 29 November 1963.

[483] *The Star* (Johannesburg), 3 December 1963.

[484] On 5 December the Judge ordered the prosecutor to investigate the allegation. Later in the day, however, the prosecutor reported that Mashifane had requested that the allegation be dropped. Mashifane told the Judge that his treatment did not alter his evidence, though "when a person is being 'killed', then he can't speak as he would have wanted to speak if he had not been suffering pain". The matter was dropped. (*The Star* (Johannesburg), 5 December 1963.)

[485] *The Star* (Johannesburg), weekly edition, 21 December 1963. Under cross-examination on 15 January 1964, Mr. X said that he had joined the African National Congress because it had been "struggling for something that was right and for the aspirations of the black people", and that its objects could be attained only through violence. However, he had come to realize while undergoing detention that the decision to adopt a policy of violence had been wrong, and that the leaders were communists. Asked by defence counsel why his evidence differed from his evidence-in-chief, he said that his mind had become tired since serving ninety-day detention (*The Cape Times*, 16 January 1964; Reuters, 15 January 1964).

[486] *The Cape Times*, 18 December 1963.

[487] *The Star* (Johannesburg), weekly edition, 21 December 1963.

[488] *The Cape Times*, 30 January 1964.

327. In the Cape Town sabotage trial of Neville Alexander and others, on 10 December 1963, Marcus Solomons, an accused primary school-teacher, stated that he had been hit in the face five times, kneed in the stomach about seven times and then painfully sat on by a detective-sergeant, while under ninety-day detention.[489] In the same trial, Reginald Francke, a State witness and an alleged accomplice, refused at first to give evidence but changed his mind after two days: he admitted that the police had promised to release him from ninety-day detention as soon as he had made a satisfactory statement.[490]

328. In the Pietermaritzburg sabotage case against Billy Nair and others, a State witness who had been under ninety-day detention, Narainsamy Padayachee, testified on 4 December 1963 that police had assaulted him, threatened him with death if he refused to answer certain questions, threatened to detain his mother and cause his brother to be dismissed from his job, and placed him in a cold cell where he contracted double pneumonia. The witness was arrested immediately.[491]

329. At the same trial, an alleged accomplice of the accused gave evidence for the State. Under cross-examination, he stated that he felt no moral guilt for the part he had played and could not disagree with Umkonto. He had been arrested on 3 August 1963. His wife had been detained earlier in an attempt to get hold of him. He had denied knowledge of Umkonto after his arrest but later changed his mind when he throught of his parents and children.[492]

330. In the trial of two African labourers, Dudumashe and Beshe, in Cape Town on 1 April 1964, a State witness, Philomen Ngoku, said that the statement he had made to the police had not been voluntary. "I was threatened that I would be arrested if I did not make it."[493]

331. At a trial in Cape Town on charges of membership in Poqo, Nicolaas Mapipa, an accused, told the Court on 11 June 1964 that he had been held in gaol since 25 January 1964. He was ill when in prison and when he asked for medicine, "they told me to cut off my head and put on another one". Detective-sergeant P. J. Raal had told him that if he did not give the right answers he would die the same way as Looksmart Solwandle Ngudle. While on the way to the magistrate's office to make a statement, the policeman with him threatened to shoot him if he did not speak the truth.[494]

332. Mapipa testified again on 8 July 1964 that Detective-sergeant Raal had repeatedly threatened to kill him. He had not told the visiting magistrate about this, because he had been told that magistrates and police worked together. No one had warned him that what he said under interrogation would be used as evidence against him.[495]

333. Another accused in the same trial, Lukas Sulelo, said on 11 June 1964 that he had been assaulted by an African policeman several times because he "had not been telling the truth". He was told that if he did not tell the truth he would be detained longer than ninety days, and he heard that he might be gaoled for sixteen years. The reason why he had finally made the statement was because he expected clemency.[496]

334. In a trial on charges of sabotage in Johannesburg in April 1964, Jacob Lebone, an accused, testified that after his arrest he had been repeatedly assaulted by white and non-white policemen at the Marabastad police station, near Pretoria, because he had refused to make a statement that he had been on his way to Tanganyika. After he had been flogged with a sjambok (rawhide whip), he finally made a statement that he had already been to Tanganyika and implicated a man called Thlale as the organizer of the group. While at Marabastad, he had been visited by a magistrate only twice in three months. When he complained about the food, the magistrate told him it was better than the food in Ghana.[497]

335. On 4 August 1964, Zephania Mothopeng instituted a suit against the Minister of Justice in the Pretoria Supreme Court, alleging assault and "shock treatment" while under detention. The Government denied any assault.[498]

336. At the Pretoria sabotage trial on 25 August 1964, a seventy-four-year-old African witness, William Mofotleng, who had been under ninety-day detention for eight months admitted that he had been assaulted on two occasions. He said that assaults by the police were normal and that he did not wish to disclose the names of his assailants. Asked by counsel for the defence if he was afraid of getting into trouble, he answered: "What greater trouble can I get in than I am in now"?[499]

337. The widespread concern caused by this evidence of ill-treatment of detainees and political prisoners was heightened as the Government disclosed that policemen and prison staff convicted of assaults on prisoners had often been retained in service.

338. The Minister of Justice stated on 18 February 1964, in reply to questions in the House of Assembly, that in 1963 there had been forty-six instances of prison staff assaulting prisoners; eleven instances of police assaulting witnesses in criminal trials and seventy-four instances of police assaulting prisoners.[500] He stated on 24 March 1964 that 103 white and seventy-four non-white members of the Prisons Department and ninety-seven white and eighty non-white officials of the Police Force had been convicted, in the four years 1960-1963, of irregular treatment of prison inmates.[501] The Government stated, however, that police and prison staff found guilty of assault on witnesses or prisoners are not in all cases dismissed from service; their services are retained if a board of inquiry finds that they were suitable for further service. In

[489] *Ibid.*, 11 December 1963; *Spotlight on South Africa* (Dar es Salaam), 10 January 1964.

[490] *The Cape Times*, 27-29 November 1963.

[491] *Ibid.*, 5 December 1963. Padayachee was sentenced on 3 May 1964 to twelve months' imprisonment for perjury, nine months of which were suspended (*ibid.*, 4 May 1964).

[492] Dispatch of the *Natal Mercury*, condensed in *Spotlight on South Africa* (Dar es Salaam), 10 January 1964.

[493] *The Cape Times*, 2 April 1964.

[494] *Ibid.*, 12 June 1964. A witness in the case, Janet Nake, an African school-teacher, denied in court that she had received a letter from Mapipa, although the State claimed that she had admitted this in a statement to the police. She was arrested for perjury (*ibid.*). She was sentenced to six months' imprisonment on 29 October (*ibid.*, 30 October 1964).

[495] *Ibid.*, 9 July 1964.

[496] *Ibid.*, 12 June 1964.

[497] *The Star* (Johannesburg), 20 April 1964.

[498] *The Cape Times*, 5 August 1964. Mothopeng had been arrested on 6 April 1963 on charges of participation in the activities of the Pan-Africanist Congress. He was kept under ninety-day detention or remand until the middle of 1964.

[499] *The Star* (Johannesburg), 25 August 1964.

[500] Republic of South Africa, *House of Assembly Debates (Hansard)*, 18 February 1964, col. 1511.

[501] *Ibid*, 24 March 1964, cols. 3530-3532.

the four years from 1960 to 1963, the services of 149 policemen and ten prison staff had been retained after they had been found guilty of assault on witnesses or prisoners; two policemen were reinstated after appeals against their dismissals had been upheld.[502]

339. The concern was further heightened by the shocking revelations at the trial of several Bultfontein policemen which concluded on 13 April 1964.

340. Four policemen and a station commander of the Bultfontein police station were tried in the Free State Supreme Court, Bloemfontein, on the charge of murdering an African, Isak Magaise, and the assault, with intent to murder, of another African, Philemon Makhetla. These Africans had been arrested on suspicion of stealing R13.60 ($20.40). They had been subjected to the most brutal treatment during interrogation; they were repeatedly hit on the face, flogged with the sjambok and given electric shocks over a period of several hours. Plastic bags were tied over their heads. Magaise, who was repeatedly lifted up and let fall on the head and trampled on the neck, died of injuries.

341. During the trial, one of the accused policemen, Constable Coetzee, said that he had been taught to use the plastic bag, shock machine and "trussing" methods at the police station in Bloemfontein, the capital of the Free State, and had used them before. He said that he knew that the use of violence was illegal and tried not to leave marks. He added: "I have been taught to use, and I have used plastic bags myself in the past on suspected persons. It is common in investigations. I do not think there is a police station in the country that does not use violence during questioning."[503] Another accused, Constable Maree, made similar statements.[504]

342. In view of these reports, coming from police stations and prisons in many parts of the country, opposition Members of Parliament and many prominent citizens repeatedly demanded an impartial inquiry into police methods and prison conditions. The Government, however, dismissed allegations of ill-treatment and rejected such an inquiry.

343. On 2 January 1964 the Minister of Justice described as "all nonsense" charges that ninety-day solitary confinement amounted to physical torture. Referring to the statement of sixty medical experts, he stated that "not a single incident of torture" had been proven or demonstrated and that no complaints had been lodged against the law.[505]

344. The Prime Minister, Mr. H. F. Verwoerd also rejected the statement of the medical experts, and stated on 21 January 1964:

> "They are simply a group of people who are willing to allow themselves to be used to achieve a political object. In other words, it is nothing more or less than an attempt by a certain smaller group, which do belong to certain professions, it is true, to intervene politically but who do not act as experts but as laymen in politics. I say it is a political act...".[506]

[502] *Ibid.*, 1 May 1964, col. 5281.

[503] *The Cape Times*, 11 and 17 March 1964.

[504] *Ibid.* On 11 April 1964, four of the policemen were given sentences of four to nine years' imprisonment. Three of them were also sentenced to six strokes each. The fifth, a pupil constable, was given a suspended sentence of three years' imprisonment, and six strokes.

[505] *The Star* (Johannesburg), 2 January 1964.

[506] Republic of South Africa, *House of Assembly Debates (Hansard)*, 21 January 1964, col. 89.

345. On 22 January 1964, the Minister of Justice rejected a proposal by the Leader of the Opposition that a judicial commission be established to investigate allegations of torture. He declared:

> "...we have no facts whatsoever before us; we have no shred of evidence before us about people who were tortured."[507]

346. On 31 January 1964, he stated in the House of Assembly that forty-nine complaints by prisoners held under ninety-day detention alleging torture or assault by police had been received, that investigations had been completed on thirty-two complaints and that the complaints had not been found by police to be of substance.[508]

347. On 6 February 1964, Mrs. Helen Suzman, Progressive Party Member of Parliament, read several statements alleging torture from court records and offered to produce twenty such statements from persons who were prepared to give sworn evidence in court if the Minister of Justice would guarantee protection for them. She demanded that a proper judicial inquiry be instituted.[509]

348. On 10 March 1964, Senator R. D. Pilkington Jordan of the United Party challenged the Minister of Justice to defend his honour by holding a closed one-man judicial inquiry into allegations of ill-treatment of ninety-day detainees. He said it was grossly improper that the police should be allowed to investigate allegations of ill-treatment which were made against themselves.[510]

349. On 25 March 1964, after it was disclosed that many members of the Police and the Prisons Department had been reinstated after conviction for irregular treatment of prisoners, two Members of Parliament, Mr. Percy Plowman (United Party) and Mrs. Helen Suzman (Progressive Party), called for a judicial investigation of police records and prisons administration.[511]

350. After the judgement on the Bultfontein case, the leader of the United Party, Sir de Villiers Graaff, asked for a full debate in the House of Assembly. He said the whole nation must have been shocked and outraged and that "with this cloud of suspicion hanging over the police, the Minister of Justice should announce at once that he is repealing the ninety-day law which gives the police such uninhibited powers of arrest and detention".[512] Mrs. Helen Suzman, Progressive Party Member of Parliament, said that, if ordinary African prisoners were treated as in Bultfontein, the treatment of "political" African prisoners could be guessed. She added that she had statements alleging assault and torture of political prisoners at many police stations and that an immediate judicial inquiry should be held.[513]

351. During the debate which took place in the House of Assembly on 23 and 24 April 1964, the Minister of Justice attacked demands for inquiry. He said that the police were in the front line in the cold war against South Africa and that the Republic's

[507] *Ibid.*, 22 January 1964, col. 103.

[508] *Ibid.*, 31 January 1964, cols. 566 and 567.

[509] *Ibid.*, 6 February 1964, cols. 883-885.

[510] *The Senate of the Republic of South Africa, Debates (Official Report)*, 10 March 1964, cols. 1995-1998.

[511] *The Cape Times*, 26 March 1964.

[512] *Ibid.*, 13 April 1964.

[513] *Ibid.*

enemies were attempting to undermine the front line by allegations of torture.[514]

352. Prime Minister, Mr. H. F. Verwoerd, refused to have a commission of inquiry appointed. He praised the police for investigating the Bultfontein case and said that police officers had been ordered to visit all police stations in the country to investigate whether use of violence against prisoners was a general practice. As a result of the police investigation, it was found that a commission of inquiry was quite unnecessary. The establishment of such a commission, he said could only mean a lack of confidence in the police investigation.[515]

353. On 5 May 1964, the Minister of Justice stated that fifty-one complaints concerning the treatment of detainees had been officially lodged with the police and in forty-eight instances "no grounds for prosecution could be found".[516]

354 On 10 June 1964, the Minister of Justice told the House of Assembly that Dr. George Hoffmann, a representative of the International Committee of the Red Cross, had just visited South Africa at his invitation to see detainees and that his report was awaited. He said that Dr. Hoffmann had been invited to visit every prison and outpost where detainees were held and that facilities were made available to him to speak to detainees in private. He had visited gaols at Fransch Hoek, Kroonstad, Pretoria and Johannesburg.[517]

Chapter IV. Banning orders and house arrests

355. Under the Suppression of Communism Act, No. 44, 1950, as amended, and the General Law Amendment Act, No. 76, 1962, the Minister of Justice is empowered to place various restrictions on persons listed as being members or active supporters of the Communist Party or of any other banned organization[518] and bodies deemed to be carrying on any of the activities of these organizations; persons convicted of actions deemed to have furthered the aims of communism as defined in the Act; and persons deemed by the Minister to be promoting any of the aims of communism, or likely to do so, or engaging in activities which may do so.

[514] *Ibid.*, 24 and 25 April 1964.

[515] Republic of South Africa, *House of Assembly Debates (Hansard)*, 24 April 1964, cols. 4898 and 4899. He said that "shock machines" had been found only at a few places with individual policemen (*ibid.*).

[516] Republic of South Africa, *House of Assembly Debates (Hansard)*, 5 May 1964, cols. 5444 and 5445.

[517] *Ibid.*, 10 June 1964, cols. 7697-7700. Dr. Hoffmann had been permitted to visit Robert Sobukwe in Robben Island on 27 December 1963. A copy of his report was transmitted to the Secretary-General by the Permanent Representative of South Africa to the United Nations.

Dr. Hoffmann again visited Sobukwe in 1964 (Republic of South Africa, *House of Assembly Debates (Hansard)*, 10 June 1964, cols. 7697 and 7698).

Mrs. Helen Suzman commented in the House of Assembly on 11 June 1964 that Dr. Hoffmann's tour took place in May 1964. The complaints of ill-treatment had been made mostly in 1963. Complaints of ill-treatment were no longer received and the police had apparently been given strict instructions (*ibid.*, 11 June 1964, cols. 7784 and 7785).

A British writer, Mr. Bernard Newman, was also allowed to visit Robben Island in July 1964. He reported that conditions in that prison had improved and that complaints he had heard from prisoners were trivial (*The Cape Times*, 28 August 1964).

[518] The following organizations are now banned: African National Congress, Pan-Africanist Congress, Poqo, Umkonto we Sizwe ("Spear of the Nation"), Dance Association, Yu Chi Chan Club, and the African Resistance Movement.

356. The Minister is empowered to prohibit such persons (*a*) from becoming or being members of specified organizations or organizations of a specified nature; (*b*) from attending any gatherings; (*c*) from communicating with any listed or banned person; and (*d*) from receiving any visitors other than an advocate or attorney managing their affairs.

357. The Minister is empowered to require any such persons to report to the police station at specified times. It is an offence for a listed or banned person to change his place of residence or employment without informing the police. It is also an offence for anyone to record or disseminate any speech or writing of a person prohibited from attending any gathering, except with the Minister's consent or for the purposes of proceedings in any court of law.

358. The Minister was also empowered in 1950 to prohibit a listed or banned person from being within any specified area during a specified period. Under the General Law Amendment Act, No. 76, 1962, his powers were increased and he is now empowered to prohibit such a person from being within or absenting himself from any place or area mentioned in the notice. This latter Act thus allowed the Minister to place persons under "house arrest".

359. The broad and arbitrary powers granted to the Minister, subject to no judicial review, have been utilized widely against the opponents of the policies of *apartheid*, particularly since the promulgation of the General Law Amendment Act, No. 76, 1962.

360. On 16 November 1962, the Minister of Justice announced a list of 437 officials or supporters of the Communist Party.[519]

361. No lists of members of the African National Congress, Pan-Africanist Congress and other banned organizations have been published. However, large numbers of persons have been convicted during the past two years of being members of or promoting the objects of these organizations.

362. By Government Notice 2130 of 28 December 1962, the listed persons were prohibited from being members or officers of thirty-five organizations, including practically all the major non-white and anti-*apartheid* organizations not already banned, of any unregistered (African) trade union and of "any organization which in any manner propagates, defends, attacks, criticizes or discusses any form of State, or any principle or policy of the Government of a State, or which in any manner undermines the authority of the Government of a State".

363. By Government Notice 296 of 22 February 1963, these persons were prohibited from being officers or members in any organization which prepares or publishes any publication. A number of journalists lost their employment as a result of this order.

A. Banning orders

364. In addition, as indicated, the Minister is empowered to issue specific banning orders. The banning

[519] The Minister of Justice told the House of Assembly on 28 April 1964 that 173 persons had applied to have their names removed from the list; seventy-nine had succeeded in their application and sixteen applications were still to be considered. Thirty-eight names had been added to the list since November 1962 and thirty names had been removed (Republic of South Africa, *House of Assembly Debates (Hansard)*, 28 April 1964, col. 5040).

orders vary from case to case, and include such restrictions as (*a*) confinement to a magisterial district or location; (*b*) prohibition against entering factories, locations and offices of organizations or newspapers; (*c*) prohibition from communicating with other banned persons or persons listed as communists; (*d*) requirement to report daily to the police; and (*e*) prohibition from attending public meetings.

365. As stated in the report of 13 September 1963,[520] 230 persons had been served with banning orders by 30 August 1963.

366. The Minister of Justice stated on 28 January 1964 that 175 persons (thirty-nine Whites, eleven Coloureds, twenty-seven Asians and ninety-eight Bantu) were restricted in 1963 under the Supression of Communism Act, No. 44, 1950.[521] By that date, a total of 257 persons (seventy Whites, twenty-two Coloureds, thirty-four Asians and 131 Bantu) were subject to restrictions.[522] The *Government Gazette*, for the period between 1 September 1963 and 9 October 1964 lists the names of 196 persons who had been served with banning orders.

367. Chief Albert J. Luthuli, President of the African National Congress and Nobel Peace Prize winner, was one of the first to be banned under the Suppression of Communism Act, No. 44, 1950. He was served a two-year banning order in December 1952, and the order was renewed for two years in 1954. In May 1959, after his acquittal in the treason trial of 1956, he was served with a banning order confining him to Groutville, an African reserve in Natal, until 24 May 1964.

368 On 23 May 1964, he was served with a new banning order effective until 31 May 1969. The order, issued under the Suppression of Communism Act, stated that the Minister of Justice was "satisfied that Mr. Luthuli has engaged in 'activities furthering the cause of communism' ". The new order is stricter than the previous order in that it prohibited him to enter the town of Stanger which borders on the Zulu tribal reserve.[523] He is prohibited from attending any gatherings including church services.

369. As the Associated Press reported:

"He cannot speak his mind on political affairs or write about them. He cannot receive non-African visitors from outside the reserve for they require permits from the government, and such permits are virtually unobtainable. . . .

"It was possible for him under the previous banning order to contact political colleagues in Stanger and for them, by word of mouth, to pass on his ideas to his followers.

"The security police reacted by arranging for some of these colleagues to be banned too—thus making it impossible for Mr. Luthuli to talk to them—but there was always someone else ready to act as intermediary.

"Mr. Vorster's banning order prohibits Mr. Luthuli from talking to other banned persons. By keeping him out of Stanger and restricting him completely to a segregated African reserve the government cuts Mr. Luthuli off from any contact with the outside world. The only channel left to him seems to be messages passed out of the reserve by residents friendly to Mr. Luthuli.

"It is illegal in South Africa for anyone to attempt to disseminate Mr. Luthuli's views. It is impossible, without breaking the law, to quote Mr. Luthuli if there is any chance the quotation will be disseminated within South Africa. In theory this makes it illegal even to try to give them in a cabled news message for overseas consumption because the contents of the message are 'disseminated' merely by being seen by those who handle news dispatches." [524]

370. Following the publication abroad of a statement by Chief Luthuli on the sentences in the Rivonia trial, it has been rumoured that steps would be taken to prevent banned persons from having their statements published abroad. The *Rand Daily Mail*, Johannesburg, commented on 21 July 1964:

"Ex-Chief Albert Luthuli has been effectively silenced in South Africa. Nothing that he writes or says today and nothing that he has said or written in the past may be published without the permission of the Minister of Justice. But that, it seems, is not enough. It has now been reported by a Government newspaper that 'political circles' are discussing whether restricted persons such as Mr. Luthuli should be 'deprived of the right to make damaging statements' for publication abroad.

"To enforce such a ban it would be necessary to put Mr. Luthuli under even stricter surveillance, examining his correspondence, checking his telephone calls, screening his visitors and so on. This could be done, but an easier way already suggested, would be to make Mr. Luthuli himself responsible for seeing that he was not quoted outside the country. He could be forced, on pain of committing an offence, to gag himself.

"The fact that this idea has been canvassed is an interesting example of the way in which censorship inevitably becomes a progressive disease. Governments which start tampering with free speech for political reasons can seldom stop. Bans breed more bans until the need to stifle all criticism is compulsive. But there comes a stage when the silence imposed on a Luthuli can be louder than any number of speeches."

371. The principal purpose of the banning orders seems to be to silence the leadership of the organizations opposed to *apartheid* and thus to paralyse the organizations. Banning orders were served on a number of leaders of the African National Congress and the Pan-Africanist Congress before the two organizations were themselves declared unlawful. Banning orders were served on numerous leaders of the South African Indian Congress and the South African Congress of Trade Unions though the organizations were not banned.[525] Lately, most of the leadership of the Liberal Party has been restricted by banning orders.

372. It is noteworthy that the banning orders served on many of the Whites prohibit them from visiting African locations. Interracial contact is thus restricted.

373. Though the banning orders are issued under the Suppression of Communism Act, many of the victims are well known to be non-communists and some have declared themselves to be opposed to communism.

374. Moreover, as *Focus*, Rondebosch, reported in October 1964, the banning orders have tended to become ever more rigorous:

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[520] *Official Records of the General Assembly, Eighteenth Session, Annexes*, addendum to agenda item 30, document A/5497.

[521] Republic of South Africa, *House of Assembly Debates (Hansard)*, 28 January 1964, cols. 405 and 406. Of these, 109 were in the category of those prohibited from attending gatherings or from being in certain areas, or required to report periodically at police stations (*The Cape Times*, 29 May 1964).

[522] Republic of South Africa, *House of Assembly Debates (Hansard)*, 28 January 1964, cols. 405 and 406.

[523] *The Cape Times*, 25 May 1964.

[524] *The Christian Science Monitor*, 15 June 1964.

[525] By March 1963, for instance, forty-one officials and members of the South African Congress of Trade Unions had been banned (*Spotlight on South Africa* (Dar es Salaam), 3 April 1964).

"The first bans, imposed in 1952, were served on 'listed communists', i.e., persons listed by name under the Suppression of Communism Act. Then came the turn of the leaders of the Congress Movement. Though never listed as communists or alleged to have been supporters of the Communist Party, they were declared to be 'statutory communists' for the purposes of banning procedures. Today, the classification 'statutory communist' has been extended until it includes persons who have never been associated with either the Communist Party or the Congress Movement—supporters of the PAC, the Liberal Party and even, in one case, of the policies of the Progressive Party.

"It is not only the range of people affected by these banning orders which has been extended. The savagery of the provisions governing the conditions of bannings has also been immeasurably increased. The most recent bans deprive their victims (regardless of political affiliations) not only of taking part in any form of public activity or social relaxation but also, in many cases, even of the opportunity to earn a livelihood. In addition, they confine their subjects to restricted areas, ranging from magisterial districts to suburbs to houses or flats. Chief Luthuli's new banning order specifically precludes him from contact with members of any other 'racial' group than his own."

375. The banning orders not only prohibit political activity by the victims and deny them freedom of speech, assembly and movement, but often have the effect of jeopardizing their livelihood. They have led to the feeling that the Government has attempted to punish the opponents of *apartheid* by depriving them of jobs.

376. Banning orders issued to many trade union leaders usually forbid them to enter factories, African locations and compounds, and, in effect, forbid them from continuing trade union activity and from pursuing their professions.

377. The *Sunday Express* (Johannesburg) reported on 9 February 1964 that since October 1963, thirty banned persons had been forced to leave their jobs because of the restrictions imposed by the banning orders and the reluctance of employers to give them work. Mrs. Viola Hashe, mother of three, was confined to the magisterial district of Roodepoort, and was forced to give up her post as National Secretary of the Clothing Workers Union which she had held for seventeen years. Paul Joseph, father of three, was forbidden to enter a factory and had to leave the job he had held for nine years as storeman-clerk. Mrs. Phyllis Altman had to give up her job as Assistant General Secretary of the South African Congress of Trade Unions and found it impossible to get work.[526] The paper quoted a Johannesburg social worker as stating: "They (banned persons) are in a desperate plight. Many have tried for weeks to get work, but employers reject them immediately they find they are banned."[527]

378. Mrs. Mary Turok, a Johannesburg mother of three, placed under "suburb arrest"[528] in December 1963, was unable to find a job in the area in which she was confined, and was refused permission to look for work in the city centre or even to visit the city centre to discuss the matter with the Chief Commissioner.[529]

379. The banning order served on two Indian brothers, Essop Pahad and Aziz Pahad, both students at the University of the Witwatersrand, prohibited them, among other things, from entering the premises of any institute of education. They were thus prohibited from continuing their studies or the part-time teaching jobs they were doing to earn money for their fees.[530]

380. The banning order served on Edward Joseph Daniels, a Liberal Party leader, in May 1964 made it almost impossible for him to continue his profession as a photographer.[531]

381. The power to issue banning orders has been implemented in an arbitrary and vindictive way with little consideration for the elementary needs of the victims.

382. Abdool Karrim Essack, confined to Durban and Inanda districts by a banning order, was refused permission by the magistrate to visit his dying brother at the Dundee hospital.[532]

383. Mrs. Winnie Mandela, confined to Johannesburg by a banning order, was refused permission from November 1963 to April 1964 to attend the trial of her husband, Nelson Mandela, who was accused in the Rivonia trials under a law which provides for a death sentence.[533]

384. Miss Toni Bernstein, a twenty-year-old student, was banned and was refused permission on 8 February 1964 to see her father, Lionel Bernstein, another accused in the Rivonia trial, in gaol.[534]

385. Mrs. Albertina Sisulu, wife of Walter Sisulu, the African leader now serving life imprisonment, was served in August 1964 with a banning order confining her to Orlando township and prohibiting her from attending gatherings. She was obliged to give up her job as a social nurse in the neighbouring township of Dube.[535]

386. Banning orders served on Mr. and Mrs. Dawood A. Seedat, parents of seven children, prohibited the husband and wife from communicating with each other. They were prohibited from communicating with other banned or "listed" persons, including Mrs. See-

[526] Mrs. Altman subsequently left South Africa on an exit permit.

[527] Quoted in *Spotlight on South Africa* (Dar es Salaam), 21 February 1964.

[528] Her banning order prohibits her from leaving a one square mile area around her home in Orange Grove, suburb of Johannesburg.

[529] *Sunday Express* (Johannesburg), 30 August 1964; quoted in *Spotlight on South Africa* (Dar es Salaam), 11 September 1964. Her husband, Ben Turok, former National Secretary of the South African Congress of Democrats, is serving a three-year prison sentence for sabotage.

[530] *Sunday Times* (Johannesburg), 2 February 1964; quoted in *Spotlight on South Africa* (Dar es Salaam), 7 February 1964. The two brothers were also forbidden from communicating with other banned persons. As a result they could not communicate with each other although they lived in the same flat. The Chief Magistrate of Johannesburg, however, relaxed this condition when they pointed out that it created an impossible situation (*ibid.*). They were charged on 24 September 1964 with contravening the banning orders (*Rand Daily Mail* (Johannesburg), 25 September 1964).

[531] *The Cape Times*, 19 May 1964.

[532] *Sunday Times* (Johannesburg), 19 April 1964; quoted in *Spotlight on South Africa*, (Dar es Salaam), 1 May 1964.

[533] *The Star* (Johannesburg), 6 April 1964. Her applications for permission were twice rejected, and granted in April 1964.

[534] He had been banned from communicating with a "listed" person (*Sunday Express* (Johannesburg), 9 February 1964; quoted in *Spoilight on South Africa* (Dar es Salaam), 21 February 1964).

[535] *The Cape Times*, 5 and 6 August 1964.

dat's twin sister, Mrs. Rahima Moosa. Mrs. Seedat could not take her five-year-old child to the classroom as she was prohibited from entering educational premises.[536]

387. Eliot Mngadi, former National Treasurer of the Liberal Party, a leading figure in the Church and a local preacher, was banned in March 1964 and confined to the Klip River magisterial district in Natal. His request for permission to attend public church services was refused.[537]

388. A banned Indian leader in Johannesburg was reported to have had to spend a day in his car, parked in the veld opposite his home, when the wedding of his daughter took place. The house was watched by security police throughout the wedding celebration.[538]

389. James Randolph Vigne, a leader of the Liberal Party, was refused permission to reply to a charge by the Minister of Justice of Transkei, Mr. George Matanzima, that he had been connected with the assault on a Transkeian chief.[539]

390. Leonard Mdingi and Miss Edna Zuma, who had been living together as husband and wife since 1953, were served with banning orders which prohibited them from communicating with each other. They were told by the police to separate or face prosecution.[540]

391. Mr. Peter Hjul, banned Chairman of the Liberal Party in the Western Cape, was refused permission to attend the christening of his five-month-old son on 28 September 1964.[541]

392. George Singh, Managing Director of a Durban mineral water factory, was banned from entering any factory including his own and had to conduct business in his car parked outside the factory.[542]

393. Moreover, the banned persons are often subjected to harassment by charges of violation of the terms of the orders.

394. Miss S. B. Brown was convicted in October 1963 for contravening the Suppression of Communism Act by changing her place of residence or employment without giving notice to the police and sentenced to imprisonment for one year, conditionally suspended.[543] Peter D. Hjul was taken to court on the charge of violating the ban on attending gatherings by playing snooker with a friend.[544] Mr. R. A. Arenstein, Durban attorney, who had been ordered to report to police daily between noon and 2 p.m., had to serve seven days in gaol in November 1964 for being late on two occasions.[545] Miss G. E. Jewell was taken to court for communicating with another banned person, Jack David Tarshish, her fiancé, who was in prison.[546]

395. James Randolph Vigne was arrested on 11 November 1963 when six Africans came to his apartment without any prior arrangement. He was acquitted by the Cape Town Regional Court on 13 April 1964.[547]

396. Fred Carneson, his wife, Sarah, Gillian Jewell and Amy Reitstein were charged in Cape Town on 21 February 1964 with failing to comply with the terms of banning orders as they were found in a house with five other persons.[548] They were acquitted on 20 July 1964.

397. Mrs. Jacqueline Arenstein was convicted for drinking tea in a café at a table with other persons. The conviction was set aside on 24 August 1964, on appeal, by the Pietermaritzburg Supreme Court which drew a distinction between attending a gathering and fortuitously finding oneself in a group of people.[549]

398 A Cape Town lawyer was reported to have said that the banning orders were worded in such a way that the persons on whom they were served were placed in an almost impossible situation. He said:

> "How does one define a social gathering for instance? Does this include sitting down to a meal with your family?
>
> "I would not be able to advise a banned person what he could not do—and I doubt whether any other lawyer would be able to do so.
>
> "It is extremely difficult for a banned person to know whether he is by his actions committing an offence or not. When such people are prohibited from communicating with one another, what is the definition of 'communicate'?"[550]

399. Only exceptionally are bans relaxed on application to magistrates.

400. The ban prohibiting Dr. E. Jasset to attend gatherings was relaxed for one day on 24 May 1964 so that he could attend his own wedding.[551]

401 In August 1964, the Chief Magistrate of Johannesburg granted permission to Chief Kaiser Matanzima, Chief Minister of the Transkei, and Mr. Columbus Madikizela, Minister of Agriculture and Forestry of the Transkei, to visit Mrs. Winnie Mandela, a banned person. Chief Matanzima, a cousin of Nelson Mandela, and Columbus Madikizela, the father of Mrs. Mandela, had applied for permission to visit her.[552]

B. House arrests

402. In terms of the General Law Amendment Act, No. 76, 1962, as indicated earlier, the Minister of Justice was empowered to impose restrictions on the movements of persons whose names are listed as having been officers, members, or active supporters of an organization that has been deemed unlawful, or on persons who he considers are promoting any of the

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536 *Sunday Times* (Johannesburg), 9 February 1964; quoted in *Spotlight on South Africa* (Dar es Salaam), 21 February 1964.

537 *The Cape Times*, 7 July 1964. The magistrate, however, permitted him to attend religious services in his own home "on condition that members of your family alone are present" (*ibid*).

538 *The Cape Times*, 5 August 1964.

539 *Ibid*., 13 June 1964.

540 *Spotlight on South Africa* (Dar es Salaam), 29 May 1964. Mdingi was served with the banning order eight days after the State withdrew charges that he was a member of the banned African National Congress.

541 *The Cape Times*, 29 September 1964.

542 Mr. Singh, an attorney and for eleven years Secretary of the South African Soccer Federation, was also prohibited from entering any court except as a witness, applicant or accused. He was subsequently granted partial exemption and allowed to enter a court to represent his clients (*Sunday Times* (Johannesburg), 25 October 1964, quoted in *Spotlight on South Africa* (Dar es Salaam), 6 November 1964).

543 *The Cape Times*, 14 October 1963.

544 He was sentenced in November 1963 to six months' imprisonment. The sentence was suspended and set aside on appeal.

545 *Natal Mercury* (Durban), 23 November 1963.

546 She was sentenced to two years, but the sentence was set aside on appeal. She was subsequently sentenced to one month's imprisonment for communicating again with Tarshish (*The Cape Times*, 11 November 1964).

547 *The Cape Times*, 14 April 1964.

548 *Ibid*., 21 July 1964.

549 *The Star* (Johannesburg), 25 August 1964.

550 *The Cape Times*, 5 August 1964.

551 *Ibid*., 13 May 1964.

552 *Ibid*., 27 August 1964.

objects of communism as defined in the Act, or are likely to do so, or are engaging in activities which may do so. He was authorized to prohibit such a person, during a specified period, from being within or absenting himself from any place or area mentioned in the notice; from performing any specified act, or from communicating with anyone or receiving any visitor, except an advocate or attorney managing his affairs (unless the lawyer's name had been listed or he had been banned from attending specified gatherings or from being in specified areas). The Act does not provide an opportunity for the victims to refute police information on which the orders are based.

403. This provision has been widely used since October 1962 to place opponents of the policy of *apartheid* under "house arrest".

404. By late 1963, twenty-four persons were placed under "house arrest" for twelve to twenty-four hours a day and during week-ends. Of these, eleven fled from South Africa, two left South Africa after receiving exit permits, two were serving prison sentences, three were arrested and two were on bail pending appeals against sentences for minor infringements of their orders.[553]

405. The Minister of Justice told the House of Assembly on 24 January 1964 that nineteen persons had been placed under house arrest since 15 February 1963. As at that date, twelve persons were under twenty-four-hour house arrest and twenty-one under twelve-hour or night house arrest.[554] Although these prohibitions were still operative, he said, eleven persons had fled the country while others were in prison awaiting trial or serving sentences.[555]

406. The first person to be placed under house arrest was Mrs. Helen Joseph of Johannesburg, a member of the National Executive of the banned Congress of Democrats, who was served with a house arrest order in October 1962. She is confined to her house from 6.30 p.m. to 6.30 a.m. every night. On Saturdays she cannot go out until 2.30 p.m. and on Sundays she is under twenty-four-hour house arrest. That means that out of 168 hours every week, she must spend 100 hours alone in her home. She must report to the Marshall Square police station each day and she cannot leave the Johannesburg area without permission. She is banned from entering factories or locations and prohibited from attending gatherings or social functions. She may not be quoted and her writings cannot be published.

407. Among those recently placed under house arrest was Mrs. Duma Nokwe, wife of the Secretary-General of the African National Congress: she was placed under eleven-hour house arrest and confined to the African township of Dube in Johannesburg.[556] Tami Bonga, a clerk with the Industrial Council for the Clothing Industry, Johannesburg, was placed under house arrest in May 1964 and also banned.[557] Others under house arrest include Mrs. Jacqueline Arenstein, John Gaetswe, Paul Joseph, Merementsi Lekoto, Malek Rasool and Joe Tsele.

408. House arrests have had even more serious effect on the victims than the bans, taking away their freedom and means of earning a livelihood.[558]

[553] *A Survey of Race Relations in South Africa, 1963,* p. 43 (South African Institute of Race Relations, Johannesburg, 1964); Muriel Horrell, *Action, Reaction and Counteraction, 1964,* p. 76 (South African Institute of Race Relations, Johannesburg, 1964).

[554] Republic of South Africa, *House of Assembly Debates (Hansard)*, 24 January 1964, cols. 264 and 265. Those under night arrest are usually placed under house arrest during week-ends.

[555] *Ibid.*; also Republic of South Africa, *House of Assembly Debates (Hansard)*, 15 May 1964, col. 6041.

[556] *The Star* (Johannesburg), 30 July 1964. The ban prohibits Mrs. Nokwe from continuing her work as supervisor of crèches in Soweto (*ibid.*).

[557] *Rand Daily Mail* (Johannesburg), 22 May 1964.

[558] In February 1964, John Gaetswe, former General-Secretary of the South African Congress of Trade Unions, was served with a twenty-four-hour house arrest order after he had just completed a nine-month gaol sentence for leaving the country without valid travel documents. In a protest to the Minister of Justice, SACTU said: "By putting him under twenty-four-hour house arrest you have sentenced him, his wife and four children—aged four to thirteen years—to death by starving" (*Rand Daily Mail* (Johannesburg), 18 February 1964, quoted in *Spotlight on South Africa* (Dar es Salaam), 28 February 1964).

ANNEX

Review of political trials in South Africa, September 1963-November 1964

1. On 9 September 1963 in Port Elizabeth, fourteen Africans were found guilty of being office-bearers or members of the banned African National Congress and sentenced to eighteen to twenty-four months' imprisonment each.[1]

2. On 10 September 1963 in Cape Town, two Africans, John and Robert Hashe, were sentenced to three years' imprisonment each for promoting the aims of the banned Pan-Africanist Congress.[2] An appeal to the Supreme Court was dismissed on 25 March 1964.[3]

3. On 13 September 1963 in Cape Town, six African servants, two women and four men, were found guilty of membership in the Pan-Africanist Congress. The two women were each sentenced to eighteen months' imprisonment and the four men to three years' imprisonment each.[4] On 28 April 1964, the Cape Town Supreme Court set aside the convictions of five of the Africans. The sentence on the sixth accused, Jonathan Mhlana, was confirmed.[5]

4. On 16 September 1963 in Umtata, forty-eight Africans were sentenced to a total of 116 years' imprisonment after being found guilty on a number of charges, including membership in the Pan-Africanist Congress. Forty of the accused were sentenced to two years' imprisonment, two to three years, and six to five years on charges of continuing to be members of the PAC after it had been banned, soliciting subscriptions for the PAC and furthering the activities of the PAC.[6]

5. On 17 September 1963 in Bellville, twenty-three Africans were sentenced to three years' imprisonment on the charge of belonging to the Pan-Africanist Congress or Poqo.[7]

6. On 1 October 1963, seven Africans were each sentenced to twenty years' imprisonment after a secret trial in the Transvaal Supreme Court on a charge of undergoing military training in Ethiopia on behalf of the African National Congress.[8] On 24 September 1964, the Appeal Court in Bloemfontein reduced the sentences to twelve years.[9]

7. On 1 October 1963 in Johannesburg, four Africans, allegedly members of the Pan-Africanist Congress, were sentenced to death. Richard Matsapahae, Josia Mocumi, Thomas Molathlegi and Petrus Mtshole were found guilty of the murder of Johannes Mokeena, an African Special Branch detective, on 18 March 1963.[10]

[1] *The Cape Times*, 10 September 1963.
[2] *The Star* (Johannesburg), 10 September 1963.
[3] *The Cape Times*, 26 March 1963.
[4] *Ibid.*, 14 September 1963.
[5] *Ibid.*, 29 April 1964.
[6] *Ibid.*, 17 September 1963.
[7] *Ibid.*, 18 September 1963.
[8] Reuters, 1 October 1963.
[9] *The Cape Times*, 25 September 1964.
[10] *Ibid.*, 2 October 1963.

8. On 7 October 1963 in Pretoria, seventy-four Africans were charged with unspecified acts of sabotage. The judge prohibited publication of the names of the accused, many of whom were reported to be juveniles.[11]

9. On 9 October 1963 in Grahamstown, Hector Ntshanyana was sentenced to twenty-five years' imprisonment on charges of sabotage in connexion with an attack on the King William's Town police station on 8 April 1963. Two others were sentenced to twenty-years' imprisonment, four to twelve years, and three to eight years.[12]

10. On 15 October 1963 in Johannesburg, the Rev. Arthur Blaxall, a seventy-two-year-old retired Anglican minister, was found guilty on two counts of aiding banned organizations and two of possessing banned publications. He had pleaded guilty to charges of taking part in the activities of the Pan-Africanist Congress and the African National Congress, administering funds for the Pan-Africanist Congress and arranging secret meetings between Potlako Leballo and other persons. The Minister of Justice suspended his sentence.[13]

11. On 15 October 1963 in Cape Town, Advocate Ntuli was sentenced to two years' imprisonment on charges of membership in Poqo and recruiting other members.[14]

12. On 25 October 1963 in Wynberg, Basil Februarie, 20, and Neville Andrews, 18, both Coloured, were found guilty of malicious damage to property. They had been charged with painting anti-Government slogans on roads and factory walls. Sentence was postponed.[15]

13. In October in Umtata, thirty-one African men were each sentenced to two and one-half years' imprisonment on charges of being office-bearers or members of the Pan-Africanist Congress.[16]

14. On 7 November 1963 in Butterworth, seventeen Africans were sentenced to terms of imprisonment ranging from six to twenty years for allegedly gathering in the bush at Duncan Village (East London) on 18 April 1963 and planning armed insurrection, arson and murder of Whites, and with various other activities involving a banned organization. Application for leave to appeal was refused.[17]

15. On 18 November 1963 in Butterworth, eight Africans were sentenced to terms of imprisonment ranging from seven to fourteen years, on charges arising out of an alleged plan by Poqo to murder the Whites of East London in April 1963. Two of the accused were acquitted for lack of evidence. Leave to appeal was refused.[18]

16. On 1 December 1963 in Butterworth, eighteen Africans were found guilty of public violence and two of culpable homicide. All the accused pleaded guilty. They were sentenced to seven to eight years' imprisonment each on charges arising from the death of a police assistant in Kanywa Location, Engcobo, when Africans had attacked police who were arresting a suspect.[19]

17. On 7 December 1963 the death sentence imposed upon twenty-two Africans for the murder of five whites near Bashee River on 5 February 1963 was upheld by the Supreme Court in Bloemfontein.[20]

18. On 9 December 1963 in Pretoria, the conviction and sentence of Sulliman Nathie, Secretary of the Transvaal Indian Congress, to twelve months' imprisonment for incitement were upheld.[21] The Appeals Court allowed an appeal on 30 May 1964.[22]

19. On 10 December 1963 in Port Alfred, Jackson Mdinga and Fundile Msutwana were sentenced to seven years' and six years' imprisonment, respectively, on charges of sabotage for cutting twenty-five telephone lines on 15 February 1963.[23]

20. On 10 December 1963 in Goodwood, Leo Vehilo Tikolo was sentenced to eighteen months' imprisonment for saying that if a volunteer were needed to assassinate the Prime Minister Mr. H. F. Verwoerd, he would be the first to volunteer.[24]

21. On 17 December 1963 in Durban, George Mbele, former Organizing Secretary of the African National Congress who had been detained without trial from 10 May to 4 November 1963, and Stephen Dhlamini, were each sentenced to nine months' imprisonment on being found guilty of issuing a pamphlet with intent to cause hostility between the races. Six months were conditionally suspended for three years.[25]

22. On 18 December 1963 in Port Elizabeth, three Africans, William Mtwalo, Nolali Perse and Douglas Mkaba, were sentenced to twelve, eight and three years' imprisonment respectively on charges of sabotage for allegedly burning down the shop of the official representative of Chief Kaiser Matanzima in New Brighton in September 1962.[26]

23. On 19 December 1963 in Krugersdorp, Jordan Zuma was sentenced to four years' imprisonment for attempted murder of a policeman, possession of a weapon and ammunition, and escaping from custody.[27]

24. Also in December 1963, fifteen Africans were sentenced to a total of 155 years' imprisonment (five to twenty years each) for conspiring to leave the country for training abroad. Leave to appeal was refused by the Supreme Court, Pretoria, on 19 March 1964.[28]

25. On 6 January 1964 in Johannesburg, nineteen Africans were convicted on a charge of membership in the banned Pan-Africanist Congress. Fifteen were sentenced to two years' imprisonment, three to three years, and one to five years.[29]

26. On 10 January 1964 in Port Alfred, Charlie January and William Mtwalo were sentenced to twenty years' imprisonment each on charges of sabotage for cutting telephone wires at the Bantu Administration Office in New Brighton Township.[30]

27. On 10 January 1964 in Johannesburg, Dennis Brutus, President of the South African Non-Racial Olympic Committee, was sentenced to eighteen months' imprisonment on charges of attending a meeting in contravention of a banning order, failing to report to the police, leaving the district of Johannesburg, leaving South Africa without a valid passport and escaping from custody.[31] The appeal on the sentence of three months on the first count was dismissed by the Supreme Court on 28 April 1964.[32]

28. On 11 January 1964 in Cape Town, the State withdrew sabotage charges against Ernest Gabriel and seven other men, after they had been in gaol for several months.[33]

[11] *The Star* (Johannesburg), weekly edition, 12 October 1963.
[12] *The Cape Times*, 10 October 1963.
[13] Reuters, 15 October 1963; *The Star* (Johannesburg), weekly edition, 12 and 19 October 1963.
[14] *The Cape Times*, 16 October 1963.
[15] *Ibid.*, 26 October 1963.
[16] *The Star* (Johannesburg), weekly edition, 12 October 1963.
[17] *The Cape Times*, 8 November 1963.
[18] *Ibid.*, 19 November 1963.
[19] *Ibid.*, 2 December 1963.
[20] *Ibid.*, 9 December 1963.
[21] *Ibid.*, 10 December 1963.
[22] *Ibid.*, 1 June 1964.
[23] *Spotlight on South Africa* (Dar es Salaam), 10 January 1964.
[24] *The Cape Times*, 11 December 1963.
[25] *Ibid.*, 18 December 1963. George Mbele and Stephen Dhlamini were charged on 6 March 1963. The trial took more than nine months.
[26] *The Cape Times*, 19 December 1963.
[27] *Ibid.*, 20 December 1963.
[28] *Pretoria News*, 19 March 1964.
[29] *The Cape Times*, 7 January 1964.
[30] *Ibid.*, 11 January 1964.
[31] Reuters, 10 December 1963; *The Cape Times*, 11 January 1964. Mr. Brutus, a poet and former school-teacher, fled from South Africa after having been banned under the Suppression of Communism Act, No. 44, 1950, and was granted political asylum in Swaziland. On his way to the session of the International Olympic Committee in Baden-Baden on a British passport, he was arrested in Mozambique by Portuguese police and returned to South Africa. He was shot at and seriously wounded by police in Johannesburg on 18 September 1963 while allegedly attempting to escape police (Reuters, 19 September 1963).
[32] *The Cape Times*, 29 April 1964.
[33] *Ibid.*, 11 January 1964.

29. On 22 January 1964 in Port Alfred, Jacob Sikundla was sentenced to twenty years' imprisonment on charges of sabotage, including two acts of arson, cutting a telephone wire and making or possessing twenty-three chemical or incendiary bombs.[34]

30. On 24 January 1964 in Port Elizabeth, Wilson Bekwayo was sentenced to five years' imprisonment for possessing chemical bombs. Two witnesses testified that they had carried bombs to his house and that he had not appeared to be surprised at their arrival with the bombs.[35]

31. On 28 January 1964 in Johannesburg, Dr. Hilliard Festenstein, a research pathologist, was sentenced to fifteen months' imprisonment and fined R300 for allegedly taking part in a banned organization, the South African Communist Party.[36] The sentence was set aside by the Supreme Court on 16 July 1964.[37]

32. Also in January 1964 in Butterworth, seventeen Africans were sentenced to a total of 202 years' imprisonment on charges of sabotage and offences under the Suppression of Communism Act No. 44, 1950; a second group of twenty Africans was sentenced to seven and eight years' imprisonment on charges of public violence and culpable homicide, respectively; and a third group of ten Africans was sentenced to from seven to fourteen years' imprisonment on charges of sabotage.[38]

33. On 10 February 1964, fourteen Africans were sentenced to three years' imprisonment on charges of belonging to the Pan-Africanist Congress.[39]

34. On 20 February 1964 in Potchefstroom, seven Africans were sentenced to a total of sixteen years' imprisonment on charges of being members of the Pan-Africanist Congress.[40]

35. On 28 February 1964 in Pietermaritzburg, eighteen Africans and Indians were found guilty of acts of sabotage committed in Natal between 22 June 1962 and June 1963, and were sentenced to terms of imprisonment ranging from five years to twenty years each. Billy Nair was given a sentence of twenty years; Ebrahim Ismail, fifteen years; Girja Singh, ten years; and Natgaria Babenia, sixteen years.[41] Appeals by eight of the accused were dismissed by the Appeal Court on 24 September 1964.[42]

36. On 28 February 1964 in Pretoria, charges against forty-three Africans of sabotage and leaving the country without valid travel documents were withdrawn. The men had been arrested on 10 June 1963 and held in detention until September 1963 when they were charged.[43]

37. On 16 March 1964, in Port Alfred, Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba were sentenced to death. They were found guilty of the murder of a State witness in various sabotage cases, Sipo Mango; addressing meetings of the African National Congress to recruit members for military training outside South Africa; the cutting of forty-two telephone wires and two telephone poles during the period 21 October 1962 to 16 January 1963; and possessing twenty-three bombs.[44] The Appellate Division of the Supreme Court rejected their appeal on 1 October 1964 and they were executed on 6 November 1964.

38. On 18 March 1964 in Pretoria, six Africans—Peter Mogano, Thedebi Jackson Ntsoawe, Petrus Mama Gase Nchabaleng, Stevens Mabunda, John Tseke and Samuel Ngwenya—were each sentenced to three years' imprisonment, two and a half years conditionally suspended, on charges of belonging to the African National Congress. The magistrate said that he had taken into consideration the fact that the men had been detained since May 1963.[45]

39. On 23 March 1964 in East London, Washington Bongco, alleged volunteer-in-chief of the Regional Committee of the African National Congress in East London, was sentenced to death, having been found guilty of six of the thirteen charges of sabotage. Feliz Mlanda and Brian Mjo were each sentenced to twenty years' imprisonment for allegedly participating in a petrol bomb attack on the home of Domboti Inkie Hoyi, as a result of which his niece died of burns. Malcomes Kondoti was sentenced to eighteen years' imprisonment on charges of sabotage, membership in the African National Congress and soliciting money for the organization. Douglas Sparks, Stephen Tshwete and Lungelo Dwaba were also sentenced on charges of belonging to the African National Congress and soliciting money.[46] A claim by Washington Bongco for damages of R4,000 against the Minister of Justice and three detectives for assault was dismissed on 17 November 1964.[47]

40. On 1 April 1964 in Queenstown, three Africans were sentenced to a total of twenty-one years' imprisonment on charges of sabotage and taking part in the activities of the African National Congress. The charge of sabotage was that of alleged stone-throwing attacks on homes.[48]

41. On 10 April 1964 in Cape Town, two African waiters, Elliott Dudamashe, and Welton Beshe were each sentenced to three years' imprisonment on charges of being members of Poqo. Application for bail was refused.[49] On 10 September 1964 in Cape Town, the Supreme Court acquitted them stating that they might have been victims of a conspiracy by State witnesses. They had spent thirteen months in gaol.[50]

42. On 13 April 1964 in Cape Town, Randolph Vigne, former National Vice-Chairman of the Liberal Party, was acquitted on the charge of violating his banning order.[51]

43. On 15 April in Cape Town, Neville Alexander and ten other persons were sentenced on charges of sabotage. Neville Alexander, the Rev. Don Davis, Marcus Solomons, Miss Elizabeth van der Heyden and Fikele Bam, were each sentenced to ten years' imprisonment on charges of leading the National Liberation Front which allegedly had plans to overthrow the Government by means of revolution and guerrilla warfare. Lionel Davis and Gordon Hendricks were sentenced to seven years' imprisonment on charges of being members of the Regional Committee of the NLF. Ian Leslie van der Heyden, Miss Dulcie September, Miss Dorothy Alexander and Miss Doris van der Heyden were found guilty of being "ordinary members" of the NLF and were each sentenced to five years' imprisonment.[52] On 27 May 1964, Mr. Justice van Heerden refused the application for leave to appeal made on behalf of Neville Alexander and his colleagues.[53] Their appeal to the Chief Justice of the Republic was rejected on 21 August 1964.[54]

44. On 16 April 1964 in Cape Town, the appeal of Ben Gongo against his conviction and sentence was upheld. The appeals of Gordon Nrsholcomo, Dolt Yoyo, Winston Mdungane, Maxim Mombani, Nathanial Mahlulstana, Standford Maliwa and David Mkumgeka against their sentences of three years each for being members of the Pan-Africanist Congress or Poqo were dismissed.[55]

45. On 17 April 1964 in Ladysmith, charges were withdrawn against eighteen non-whites, including two women, who

[34] *Ibid.*, 23 January 1964.
[35] *Ibid.*, 25 January 1964.
[36] *Ibid.*, 29 January 1964.
[37] *The Star* (Johannesburg), 17 July 1964. Dr. Festenstein was among the seventeen persons arrested on 11 January 1963 at the Rivonia farm. He fled to the United Kingdom in July 1964.
[38] *Forward* (Johannesburg), January 1964.
[39] Agence France Presse, 10 February 1964.
[40] *Ibid.*, 20 February 1964.
[41] *The Cape Times*, 29 February 1964.
[42] *The Star* (Johannesburg), 25 September 1964.
[43] *Rand Daily Mail* (Johannesburg), 29 February 1964.
[44] *The Cape Times*, 2 April 1964.
[45] *Pretoria News*, 18 March 1964.
[46] *The Cape Times*, 24 March 1964.
[47] *Ibid.*, 18 November 1964.
[48] *Rand Daily Mail* (Johannesburg), 2 April 1964.
[49] *The Cape Times*, 11 April 1964.
[50] *Ibid.*, 12 September 1964.
[51] *The Times* (London), 14 April 1964.
[52] *The Cape Times*, 16 April 1964.
[53] *Ibid.*, 28 May 1964.
[54] *Ibid.*, 22 August 1964.
[55] *Ibid.*, 17 April 1964.

had been charged with furthering the objects of the African National Congress.[56]

46. On 24 April 1964 in Ladysmith, seven Africans were convicted on charges of being office-bearers in the African National Congress. Four of the accused were also found guilty of having taken part in its activities. Milner Ntshangane was sentenced to five years' imprisonment; George Mbele and Stephen Dhlamini to four years; Frederick Dube to three years; K. Sello and Bonnie Yengwa to two years; and Harrison Dube to one year.[57]

47. On 1 May 1964 in Humansdorp, eleven Africans, including one woman, were sentenced to a total of twenty-years' imprisonment on charges of belonging to the African National Congress. The sentences ranged from two to three years each, depending on how long they had been in custody awaiting trial.[58]

48. On 23 May 1964 in Graaff-Reinet, Kolisile Treadway Rhoxa was sentenced to nine years' imprisonment and Lizo Sithotho to seven years and six months for committing acts of sabotage. The two accused, both from Uitenhage, were already serving two-year sentences for leaving the country illegally.[59]

49. On 25 May 1964 in Graaff-Reinet, two Africans, Vuyisile Shadrack Tole and Wilmot Matiyo, were sentenced to fourteen years' and twelve years' imprisonment, respectively, on five counts of sabotage—three of petrol bomb attacks on houses in the Uitenhage location on 29 November 1962 and two of cutting telephone wires at the Provincial Hospital and Santa centre, Uitenhage, on 11 February 1963.[60]

50. On 5 June 1964 in Cape Town, Ebrahim Saterdien was fined R500 (or 100 days) for being in possession of gun-powder and electrical fuse-heads without a permit.[61]

51. On 5 June 1964 in Cape Town, charges of sabotage against three Coloured teachers (Gerald Hamilton Ross, Achmat Ajam and Gerald Herman Goise) and three others (Cyril Wallace Jacobs, Miss Dorothy Adams and Cyril Lucas) were withdrawn. The last three had been held under the ninety-day clause and were then on bail at R250 each.[62]

52. On 10 June 1964 in Pietermaritzburg, Moses Shabalala, 28, Mandhla Shabalala, 20, Alfred Shabalala, 21, and Jonathan Sibaya, 19, were convicted on charges of (*a*) conspiring to undergo training outside the Republic which could be of use in furthering the achievement of any of the objects of the Pan-Africanist Congress, "also known as Poqo", and (*b*) of being members of the Pan-Africanist Congress. Moses Shabalala was sentenced to twelve years' imprisonment, and the three others to ten years each.[63]

53. On 11 June 1964 in Pietermaritzburg, Harry Gwala was sentenced to eight years' imprisonment on a charge of recruiting African men for military training outside South Africa with the object of furthering the aims and objects of the African National Congress.[64]

54. On 12 June 1964 in Pretoria, Nelson Mandela, Walter Sisulu, Govan Mbeki, Denis Goldberg, Ahmed Mohamed Kathrada, Raymond Mlaba, Elias Matsoaledi and Andrew Mlangeni were sentenced to life imprisonment. Lionel Bernstein was acquitted but immediately rearrested on charge of furthering the aims of communism.[65]

55. On 12 June 1964 in Johannesburg, four Africans were sentenced on charge of sabotage. Azariah Nkosi, Silas Ntengu and Joseph Khoza were sentenced to twelve years' imprisonment and Jeremiah Leeuw was sentenced to eight years. The State alleged that from May to December 1963, the men conspired to acquire, possess and use explosives to kill members of the white population, and to enlist recruits to train outside the Republic. The second charge concerned the possession of eight shot-gun cartridges. An application for leave to appeal was noted.[66]

56. On 9 July 1964 in Johannesburg, Shumi William Ntutu was sentenced to fifteen years' imprisonment on the charge of being in possession of three home-made bombs and some chemicals.[67]

57. On 14 July 1964 in Pretoria, Hayman Mashinini, 19, was sentenced to twelve months' imprisonment for leaving South Africa without a valid travel document. The court was told that Mashinini was recruited by the Pan-Africanist Congress to study in Dar es Salaam.[68]

58. On 16 July 1964 in Durban, three Africans were sentenced for furthering the objects of the banned Pan-Africanist Congress. They had been arrested in Ermelo district, Transvaal, while heading for Bechuanaland from Swaziland. John Mdhletshe, 30, and Robert Ngomezulu, 21, were each sentenced to three years, and Sipho Alfred Mcunu, 30, to one year.[69]

59. On 6 August 1964 in Durban, four Indian students at the University College for Indians at Salisbury Island, Durban, were sentenced for pasting posters in the College on 13 May. The posters bore the following slogans: "Fight *apartheid*", "End indoctrination", "Down with tribalism", and "Down with racialism and *apartheid*". Ashwin Kumar Shah and Sooliman Omar Gani Sooliman were each fined R50 (or 50 days) and given a sentence of 50 days' imprisonment, suspended for three years. Munsamy Gnanprasen Nair and Soobiah Moodley were each fined R50 (or 50 days). Mr. Shah told the Court: "The Indian community as a whole is against the establishment of universities on racial lines. It is of the opinion that universities should be open to all, irrespective of race, colour or creed." [70]

60. On 11 August 1964 in Durban, Theodore Johannes Kloppenburg, a sixty-eight-year-old pensioner, was sentenced to twelve months' imprisonment for a fifty-hour fast and "silent protest" which he staged in the Durban Town Gardens on 29 August 1963, against a banning order imposed on him under the Suppression of Communism Act, No. 44, 1950. He was found guilty of contravening the banning order. Half of the sentence was suspended for three years on condition that he did not in that period contravene the aforementioned Act. Bail of R50 was allowed.[71]

61. On 15 August 1964 in Graaff-Reinet, Dr. Masiolomoney Pather, a medical practitioner of Port Elizabeth, was sentenced to imprisonment for two and a half years on a charge of furthering the aims and objects of the African National Congress. He was found to have knowingly given his home for an important meeting of the banned African National Congress which had been presided over by Nelson Mandela. On 22 September, the Supreme Court at Grahamstown reduced the sentence to eighteen months, with nine months suspended for three years.[72]

[56] *Ibid.*, 18 April 1964.

[57] *The New York Times*, 25 April 1964; Reuters, 24 April 1964.

[58] *The Star* (Johannesburg), weekly edition, 2 May 1964.

[59] *The Cape Argus*, 23 May 1964.

[60] *The Cape Times*, 26 May 1964.

[61] *Ibid.*, 6 June 1964.

[62] *Ibid.*

[63] *Ibid.*, 11 June 1964.

[64] *Ibid.*, 12 June 1964.

[65] Reuters, 12 June 1964. Mr. Bernstein was subsequently released on bail of R2,000 and placed under twelve-hour house arrest. He fled with his wife to Bechuanaland in August 1964 and then went to the United Kingdom.

[66] *The Cape Times*, 13 June 1964.

[67] *The Star* (Johannesburg), 9 July 1964.

[68] *Ibid.*, 14 July 1964.

[69] *The Cape Times*, 17 July 1964.

[70] *Forward* (Johannesburg), September 1964.

[71] Mr. Kloppenburg had been prohibited, under the banning order, from preparing compiling, printing, publishing or disseminating any publications. He sat on a bench in the Durban Town Gardens with a piece of black cloth tied around his mouth. Next to him was a placard on which were written the words: "Fifty-hour public and silent fast, banning protest", "Non-violence banned, by order." The Court found that Mr. Kloppenburg had engaged in publication in contravention of the banning order (*The Star* (Johannesburg), 11 August 1964).

[72] *The Star* (Johannesburg), 15 August 1964 and 23 September 1964.

62. On 18 August 1964 in Johannesburg, Mrs. Helen B. Joseph was found not guilty of charges of furthering the aims of a banned organization and of possessing banned literature. (She had received banned publications from Ghana, but the Court found that she did not know what they contained.)[73]

63. On 24 August 1964 in Pietermaritzburg, the appeal of Mrs. Jacqueline Arenstein, against a conviction and sentence under the Suppression of Communism Act, No. 44, 1950, was upheld.[74]

64. On 26 August 1964 in Cape Town, twenty-three Africans were sentenced to imprisonment on charges under the Suppression of Communism Act, No. 44, 1950. Sixteen men were found guilty on two counts of belonging to the banned African National Congress and taking part in its activities, and were each sentenced to six years' imprisonment. Seven others were each sentenced to three years' imprisonment on one count of belonging to the African National Congress. Bail was granted at R500 each for those guilty of one count, and R1,000 for those guilty of both counts, and they were required to report to a police station twice a day. Ten other accused were acquitted.[75]

65. On 27 August 1964 in Johannesburg, Sivundi Governor Hashe, a fifty-eight-year-old man from Orlando, was acquitted on a charge of aiding, advising and encouraging seven Africans to leave South Africa to receive training in sabotage. The court found there was not sufficient evidence to convict, "although I am sure of your moral guilt" said Mr. Justice Ludort.[76]

66. On 31 August 1964 in Cape Town, on appeal to the Supreme Court, the sentence of thirty days which was imposed on Alexander Justin La Guma, 38, a journalist, for being in possession of a prohibited publication was suspended conditionally for three years.[77]

67. On 1 September 1964 in Johannesburg, fifteen Africans were sentenced to terms of imprisonment ranging from twelve to forty-two months each for membership in the banned Pan-Africanist Congress and for taking part in its activities. White Sesimje was sentenced to forty-two months; Samuel Monidi, Petrus Pate, Peter Bella, James Tsholetsane and Herman Majadebodu to thirty months each; and Samuel Breedt, Aaron Dire, Max Mooketsi, Harrison Mokgosi, Gabriel Mothibedi, Martin Sikaus, Reuben Nokoma, Thomas Machuisa and Tobie Motshnanedi to twelve months each. Two others were acquitted. Part of the trial had been held *in camera* for the safety of State witnesses.[78]

68. On 4 September 1964 in Durban, Dr. Pascal Ngakane, 34, son-in-law of Chief Luthuli, was sentenced to a total of fifty-one months' imprisonment on four counts relating to membership in the banned African National Congress and participation in its activities. Sentences on two of the counts are to be served concurrently with those on two others, so that a total of thirty-three months' imprisonment is to be served.

69. On 10 September 1964 in Graaff-Reinet, seventy-four African men and women from Port Elizabeth were sentenced to terms ranging from two to five and a half years on charges under the Suppression of Communism Act, No. 44, 1950. They had been found guilty of being members, officials or office-bearers of an unlawful organization—the African National Congress or the "Spear of the Nation". Nineteen of the seventy-four were also found guilty of taking part in the activities of an unlawful organization.[79]

70. On 10 September 1964 in Johannesburg, Leon and Maureen Kreel were acquitted of the charge of harbouring or concealing Arthur Goldreich and Harold Wolpe, who had escaped from their cells in Marshall Square, Johannesburg, on 10 August 1963.[80]

71. On 18 September 1964 in Johannesburg, Louis Marius Schoon, Raymond Thoms and Michael Nqubeni, were each sentenced to twelve years' imprisonment on the charge of attempting to blow up the Hospital Hill police station on 20 July 1964.[81]

72. On 18 September, 1964 in Graaff-Reinet, eight Africans were sentenced to terms of imprisonment ranging from two and a half years to five years on the charge of taking part in the activities of the banned African National Congress.[82]

73. On 19 September 1964 in Pretoria, sentence was passed on eight Africans who were found guilty of sabotage. They had been accused of participation as leaders and members of the Umkonto we Sizwe ("Spear of the Nation") in a successful attack on the Brooklyn telephone exchange, an abortive attack on the Old Synagogue (then occupied by the Supreme Court), the planned shooting of two African policemen and a number of other sabotage attempts. Andrew Mashaba and Peter Mogano were each sentenced to fifteen years' imprisonment; Levy Molefe to twelve years' imprisonment; Nelson Diale, Jackson Ntsoane, Alpheus Bokaba and Petrus Nchabaleng to eight years' imprisonment; and Enoch Matibela to five years' imprisonment. Matibela was granted leave to appeal.[83]

74. On 21 September 1964 in Johannesburg, Maropeng Hosiah Seperepere, an African photographer, was sentenced to twelve months' imprisonment for attempting to leave South Africa without a passport. He had left South Africa in 1960 for Basutoland and then proceeded to Swaziland. He was arrested in 1964 when he passed through South Africa on his way to Bechuanaland to join his wife. The magistrate said that the accused had been associated with the Communist Party and the African National Congress at one stage and he might have intended to pursue such activities.[84]

75. On 24 September 1964 in Durban, Thami Mhlambiso, 26, a former law student at Natal University, was sentenced to twelve months' imprisonment for attending a meeting of the banned African National Congress at Lamontville in April 1963.[85]

76. Also on 24 September 1964 in Durban, Selbourne Maponya, 34, a former personal secretary to ex-Chief Albert Luthuli, was sentenced to four and one half years' imprisonment for becoming or continuing to be an office bearer or member of the African National Congress in Durban between 8 April 1960 and 30 July 1963; and for participating in the organization's activities between 8 April 1960 and 10 May 1963.[86]

77. On 24 September 1964 in Bloemfontein, the Court of Appeal acquitted Lucas Jiyane and Elliot Mlotshwa who had been sentenced in April 1963 to fifteen and seventeen years, respectively. They claimed that they had been forced by the police into making confessions. The appeals of Napoleon Letsoko, Michael Maimane and Victor Mkabinde against their sentences of seventeen to twenty years each were dismissed. The men had been convicted for making an attack with petrol bombs on M. E. Stores, Johannesburg, and trying to set fire to a Shell Oil Company petrol depot and an arms and ammunition store. The Court held that the refusal of the trial court to allow the accused to lead their evidence on allegations of assault by members of the police sabotage squad was an irregularity.[87]

78. On 25 September 1964 in Johannesburg, Miss Sylvia Neame, 27, student and former ninety-day detainee, now awaiting trial with eleven other people on a charge under the Suppression of Communism Act, was sentenced to two months' imprisonment. She pleaded guilty to escaping from a police car

[73] *Ibid.*, 21 July 1964.
[74] *The Cape Times*, 25 August 1964.
[75] *Ibid.*, 24 August 1964.
[76] *Rand Daily Mail* (Johannesburg), 29 August 1964.
[77] *The Cape Times*, 1 September 1964.
[78] *The Star* (Johannesburg), 1 September 1964. Several of the accused had alleged that they had been assaulted by the police and forced to sign statements. The Judge found that these allegations were blatantly untruthful and that there was no evidence that either violence or promises had been used to obtain statements (*ibid.*).
[79] *The Cape Times*, 11 September 1964.

[80] *Ibid.*
[81] *Ibid.*, 19 September 1964.
[82] *Rand Daily Mail* (Johannesburg), 19 September 1964.
[83] *The Cape Times*, 18 and 19 September 1964.
[84] *Ibid.*, 22 September 1964.
[85] *Ibid.*, 25 September 1964.
[86] *Ibid.*
[87] *Ibid.*

on 4 September 1964, while being taken to the Fort prison from a dentist's surgery in Hilbrow. Miss Neame said that she had not planned to escape and that she had had no idea where she was running to. "I just ran".[88]

79. Also on 25 September 1964 in Pietermaritzburg, Subbiah Moodley, a twenty-year-old student teacher, was sentenced to three years' imprisonment for attempting to cause an explosion at the Durban Municipal Bantu Affairs Department on 15 December 1962. Subbiah had pleaded guilty. The Judge suspended two years of the sentence for three years from the date of Moodley's release on account of the fact that he was only seventeen at the time the offence was committed and that he had been led into it by others.[89]

80. Also on 25 September in Graaff-Reinet six Africans from Grahamstown and Port Elizabeth—Abner Themb Siwundla, Stanley Kaba, Jackson Ndinea, Nickel Mjekula, Elias Solomon and Vuma Nkozinkulu—were each sentenced to eighteen months' imprisonment on the charge of being members and officials of the banned African National Congress.[90]

81. On 29 September 1964 in Cape Town, Nicholas Mapipa was sentenced to six years' imprisonment on the charge of membership in Poqo, an unlawful organization.[91]

82. On 16 October 1964 in Johannesburg, Mrs. Rose Schlachter, mother of two children, was sentenced to twelve months' imprisonment for failing to comply with the provisions of the banning order that she report daily between 6 a.m. and 6 p.m. to the police station. She had failed to report on 30 May 1964. Eleven months of the sentence was conditionally suspended for one year.[92]

83. On 8 October 1964 in Somerset East, twelve Africans from Port Elizabeth were sentenced to terms of imprisonment ranging from two and a half to six years for taking part in the activities of a banned organization.[93]

[88] *Ibid.*, 26 September 1964.

[89] *Ibid.*, Subbiah Moodley was arrested on 15 May 1964 and was kept in solitary confinement. He was then charged with malicious injury to property in connexion with the painting of anti-Indian slogans at the Indian College, Salisbury Island. The Durban Magistrate's court granted him bail on 21 July 1964, but he was immediately rearrested.

[90] *The Cape Times*, 26 September 1964.

[91] *Ibid.*, 30 October 1964.

[92] *Ibid.*, 17 October 1964.

[93] *Ibid.*, 9 October 1964.

84. On 9 October 1964 in Cape Town, Coleman Gacula, an African who had been served with a banning order on 11 June 1963 prohibiting him from entering any location except Langa, was sentenced to five months' imprisonment for contravening his banning order. The sentence was conditionally suspended for two years. Gacula said that he had spent fourteen months in hospital with tuberculosis and, after his discharge, needed someone to look after him as he had no food or blankets. He had spoken to a detective-constable from the Security Branch who had told him that he could live with his wife in Nyanga West and had left his address with the detective-constable. The detective-constable testified that he had not seen the banning order and had assumed that Gacula was allowed to stay in Nyanga West.[94]

85. On 6 November 1964 in Johannesburg, Frederick John Harris was sentenced to death on the charge of murder arising from the explosion of a bomb in Johannesburg railway station.[95]

86. On 11 November 1964 in Cape Town, Miss Stephanie Kemp, 23, was sentenced to five years' imprisonment for membership in the African Resistance Movement, an unlawful organization. Anthony Andrew Trew, 23, and Alan Keith Brooks, 24 were sentenced to four years. All but two years of each sentence was suspended. The accused had pleaded guilty.[96]

87. On 17 November 1964 in Cape Town, Edward Daniels, a Coloured photographer, was sentenced to fifteen years' imprisonment and David Guy de Keller, a white student, to ten years on charges of sabotage. Both had pleaded guilty.[97]

88. On 18 November 1964 in Queenstown, two African men, Joel Gwabeni, teacher, and Caswell Mbelebele, unemployed, were sentenced to seven and a half and five years' imprisonment, respectively, on charges of sabotage. The charge arose out of the burning of a dairy belonging to the South African Native Trust on 1 March by members of the Pan-Africanist Congress.[98]

89. On 23 November 1964 in Pietermaritzburg, John E. Laredo, a University lecturer, and David L. Evans, a journalist, both Whites, were sentenced to five years' imprisonment each for unlawful possession of explosives. Both had pleaded guilty to this charge and not guilty to another charge of sabotage.[99]

[94] *Ibid.*, 10 October 1964.

[95] *Ibid.*, 7 November 1964.

[96] *Ibid.*, 12 November 1964.

[97] *Ibid.*, 18 November 1964.

[98] *Ibid.*, 19 November 1964.

[99] Reuters, 23 November 1964.

DOCUMENT A/5850

Report of the Secretary-General

[*Original text: English/French*]
[*22 January 1965*]

1. By resolution 1978 B (XVIII) of 16 December 1963, the General Assembly requested the Secretary-General to seek ways and means of providing relief and assistance, through the appropriate international agencies, to the families of all persons persecuted by the Government of the Republic of South Africa for their opposition to the policies of *apartheid*; invited Member States and organizations to contribute generously to such relief and assistance; and invited the Secretary-General to report to the General Assembly at its nineteenth session on the implementation of the resolution.

2. At the 1283rd plenary meeting on 16 December 1963, before the adoption of the draft resolution, the Secretary-General stated:

"I have taken note of operative paragraph 1 of draft resolution B contained in the report of the Special Political Committee [A/5565/Add.1, para. 16] ....

"I am prepared to do everything within my power to assist in a humanitarian measure of this kind. In this connexion, I would understand the reference to 'appropriate international agencies' as follows. If the families have left South Africa they might be considered refugees and I would plan to take up the matter with the High Commissioner for Refugees. With respect to the families within South Africa I would consult with the International Red Cross to determine what assistance might be rendered under its auspices. I would further understand that it is not envisaged that I should provide direct relief, since no funds have been made available for that purpose.

"With respect to the question of which families are to be assisted, I would read the word 'persecuted' to mean 'imprisoned, interned, or subject to other restrictions' as referred to in General Assembly resolution 1881 (XVIII) of 11 October 1963 and the Security Council resolution of 4 December 1963." [1283rd plenary meeting, paras. 87-89.]

3. On 24 January 1964, the Secretary-General communicated the text of the resolution to the United Nations High Commissioner for Refugees and to the President of the International Committee of the Red Cross with a request that they consider the matter and inform him as soon as possible regarding action which might be taken by them.

4. By letter dated 7 February 1964, the United Nations High Commissioner for Refugees stated:

"On various occasions, my Office has, as you know, been called upon to take an interest in refugee problems in Africa, in accordance with the 'good offices' function vested in me by the General Assembly. As a result, and when requested by a Government, my Office endeavours to help meet the immediate needs of uprooted human beings and, in so doing, acts upon humanitarian considerations without any regard to the causes which have led to a particular refugee situation.

"Within my general terms of reference, I am of course ready to co-operate also with Governments of host countries of refugees from South Africa, but so far I have not received any such request from a Government.

"I am, however, in contact with interested Governments, particularly with that of the United Kingdom with regard to the High Commission territories, and follow developments in order to determine the possibilities of a useful co-operation.

"In this and other problems of relief and assistance to uprooted persons, I consider it my primary role to stimulate and co-ordinate assistance from all available sources. In this connexion, I would appreciate it if the representatives of specialized agencies and of other United Nations offices in the area were duly informed of your statement and requested, under their own terms of reference, to co-operate fully with my office in dealing with the refugees concerned when the need arises.

"Finally, I should mention that if, in specific cases of refugees from South Africa, a problem of legal protection should arise, I would, as it is my duty, take the necessary action in accordance with the terms of my mandate."

5. By letter dated 4 June 1964, the President of the International Committee of the Red Cross stated:

"I have the honour to refer to your letter of 24 January 1964 in which you brought to my attention the resolution adopted by the General Assembly on 16 December 1963 requesting you 'to seek ways and means of providing relief and assistance, through the appropriate international agencies, to the families of all persons persecuted by the Government of the Republic of South Africa for their opposition to the policies of *apartheid*'.

"As I informed you in my reply of 7 February, I asked our delegate-general to inquire into the question raised in this resolution in the course of the visit which he has just paid to South Africa. The purpose of this visit was to act on the authorization given by the South African Government to visit persons held in detention by reason of the political situation.

"In accordance with his instructions, our delegate-general also took advantage of his stay in that country to discuss with the National Red Cross Society, and subsequently with the competent authorities, the question of providing assistance to the families of these persons in accordance with the General Assembly resolution. From what he was told by the South African Red Cross, it appears that the latter is prepared, in principle, to assist the families of any detainees whatever, in case of need. The Society nevertheless stated that it intended in this matter to act alone and in close contact with the competent authorities, should they consider it necessary to request its assistance. According to the information supplied to our delegate, it appears that any detainee's family in need of assistance can apply to the competent authority for aid.

"As regards participation by an international agency in such assistance, it appears from our delegate's observations that the South African authorities maintain the position stated by the representative of the South African Government in the United Nations General Assembly on 16 December 1963 to the effect that such assistance comes within the domestic jurisdiction of the State, which accordingly cannot agree to any outside interference in this regard.

"I trust that the foregoing information answers the request made in your letter to me of 24 January 1964."

6. Subsequently, in September 1964, the officers of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa approached the Secretary-General to convey to him the Committee's concern over the plight of families of persons persecuted by the South African Government for their opposition to the policies of *apartheid*, to inquire regarding the progress made in the implementation of General Assembly resolution 1978 B (XVIII) and to consult with him as to whether the Committee could be of any assistance in the matter. The Secretary-General welcomed their suggestion that the Special Committee might make an appeal to Member States and organizations, through the Secretary-General, to contribute urgently and generously to existing relief organizations, pending the conclusion of other appropriate arrangements.

7. An appeal adopted by the Special Committee on 26 October was transmitted by the Secretary-General to Member States on 30 October 1964 (A/AC.115/L.98).

8. By letter dated 12 November 1964, the Permanent Representative of India informed the Secretary-General that his Government had decided to contribute a sum of 25,000 rupees ($5,250) in response to this appeal (A/AC.115/L.100).

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1330th plenary meeting, on 18 February 1965, the General Assembly noted that the reports of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa (A/5692, A/5707 and A/5825 and Add.1) had been received.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5565 and Add.1	Report of the Special Political Committee	See *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 30
A/5884	Status of the agenda of the nineteenth session: note by the President of the General Assembly	*Ibid., Nineteenth Session, Annexes*, annex No. 2
A/AC.115/...	Documents of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa	Documents in this series are mimeographed

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United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 13

Report of the United Nations Conference on Trade and Development*

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* Item 32 of the provisional agenda.
For the relevant meetings, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings*, 1314th. 1327th and 1328th meetings.

DOCUMENT A/5749*

Proposals designed to establish a process of conciliation within the United Nations Conference on Trade and Development: report of the Special Committee

[*Original text: English*]
[*27 October 1964*]

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FOREWORD BY THE SECRETARY-GENERAL

This report was prepared by a Special Committee appointed by me under the recommendation contained in annex A.V.1 of the Final Act of the United Nations Conference on Trade and Development which was held in Geneva earlier this year. The Committee's task was "to prepare proposals for procedures, within the continuing machinery designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries".

The members of the Special Committee, who served in their personal capacities, have presented a unanimous report and their conclusions and recommendations are contained in section VI of their report.

The Committee was composed of Syed Amjad Ali, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Pakistan to the United Nations; Mr. Gabriel d'Arboussier, former Minister of Justice, Deputy, National Assembly of Senegal; Mr. Abdel Moneim El Tanamli, President, Crédit Foncier Egyptien, United Arab Republic; Mr. A. P. Fleming, First Assistant Secretary, Department of Trade and Industry, Australia; Mr. Plácido García Reynoso, Under-Secretary for Industry and Commerce, Mexico; Mr. Richard N. Gardner, Deputy Assistant Secretary of State for International Organization Affairs, United States of America; Mr. D. S. Joshi, Secretary, Ministry of Commerce, India; Mr. J. Lacarte Muró, Ambassador of Uruguay to the Federal Republic of Germany and Representative to the European Economic Community; Mr. Manfred Lachs, Adviser to the Minister of Foreign Affairs, Poland; Mr V. V. Mordvinov, Chief of Department of the Ministry of Foreign Trade, Union of Soviet Socialist Republics; Sir Keith Unwin, K.B.E., C.M.G., Minister, Economic and Social Affairs, United Kingdom Mission to the United Nations; Mr. Maurice Viaud, Minister Plenipotentiary, Adviser, Economic and Social Council Affairs, Permanent Mission of France to the United Nations.

The Conference had recommended that the Special Committee "shall be representative of the main interests and trends of opinion involved in the matter" and that the members be selected "on an equitable geographical basis, after consultation with their respective Governments".

The task set for the Special Committee was a difficult and complex one. The members of the Committee have undertaken it with thoroughness and earnestness and in a conciliatory spirit, which is amply reflected in their report. They have come forward with a unanimous set of recommendations which I commend to the General Assembly for consideration.

On behalf of the United Nations, I should like to extend my sincere thanks to the members of the Special Committee for their valuable contribution and to express the hope that their success augurs well for the future work of the Conference.

(*Signed*) U THANT
Secretary-General
of the United Nations

23 October 1964

LETTER OF TRANSMITTAL

We have the honour to submit herewith our report on conciliation procedures prepared in pursuance of

paragraph 25 of the recommendation contained in annex A.V.1 of the Final Act of the United Nations Conference on Trade and Development which embodies our terms of reference:

"(*a*) The task of the Committee shall be to prepare proposals for procedures, within the continuing machinery designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries;

"(*b*) Such conciliation may be carried out through a system of conciliation committees, the good offices of the Secretary-General of the Conference, or any other means within the framework of the United Nations;

"(*c*) In devising the procedures referred to above, the Committee shall take into consideration that the interested states may wish to place on record and to publicize their views. It shall also take into account the desirability of issuing reports at appropriate times which would state the areas of agreement and disagreement and the explanation of positions as regards, in particular, the implementation of proposed recommendations;

"(*d*) The Committee should also consider the desirability of applying appropriate procedures to proposals involving changes in the fundamental provisions of this resolution; and

"(*e*) Any Government participating in this Conference may submit to the Special Committee such proposals and recommendations as it considers relevant to sub-section (*a*) above, provided they do not imply any amendment to the Charter of the United Nations or any departure from the principle that each country has one vote. The Special Committee shall include a study of such proposals and recommendations in its report to the General Assembly."

It was recognized at the Geneva Conference that where the economic or financial interests of countries were substantially involved, adequate opportunity should be provided for consultation and negotiation between interested parties before the Conference adopted the recommendations concerned. The concept of special conciliation procedures and mechanisms emerged at the Conference as a possible method of promoting wider agreement on the important issues within the competence of future conferences. It has been our task to develop this idea in accordance with our terms of reference and to suggest a possible procedure which would make it effective.

Meetings of the Special Committee were held at the Headquarters of the United Nations from 28 September to 23 October 1964. At the request of the Committee, Syed Amjad Ali served as Chairman. The Secretary-General of the United Nations Conference on Trade and Development, Dr. Raúl Prebisch, was present at our meetings and we are much indebted to him for his advice. We desire also to express our thanks to the members of the Secretariat, and particularly to Mr. R. Krishnamurti, whose services at all times have been unstintingly given.

The Special Committee received with appreciation submissions of a number of Governments. These submissions contained ideas which assisted the Committee in its deliberations. The full text of Government submissions, and a short review of them, are annexed to the Committee's report.

The Special Committee's conclusions are given in section VI of its report. Its proposal for conciliation procedures has been set down, for the consideration of the General Assembly, in the form of a draft text which could replace paragraph 25 in the recommendation contained in annex A.V.1 of the Final Act of the Conference. The Special Committee has also thought it desirable to invite attention to certain consequential effects of the draft text on other parts of the said recommendation.

(*Signed*) Amjad ALI
Gabriel d'ARBOUSSIER
Abdel Moneim EL TANAMLI
A. P. FLEMING
Plácido GARCÍA REYNOSO
Richard N. GARDNER
D. S. JOSHI
J. LACARTE MURO
Manfred LACHS
V. V. MORDVINOV
Keith UNWIN
Maurice VIAUD

I. OBJECTIVES AND CHARACTER OF CONCILIATION

Need for special conciliation procedures within the United Nations Conference on Trade and Development

1. The Special Committee recognizes that in most organs of the United Nations informal consultation and negotiation is practised prior to the stage of formulation and tabling of resolutions as well as during their actual consideration and adoption. This usual practice of conciliation serves a most useful purpose in bringing Member States together and facilitating a full and free exchange of ideas, and helps to narrow differences in viewpoints. The Special Committee also recognizes the value, during this process, of the assistance of the chairman of those organs as well as of the Secretary-General in using their good offices in bringing about a wider measure of agreement. The Special Committee wishes to stress at the outset that all these usual or informal conciliation practices should be encouraged and continued.

2. The recommendation of the Conference held in Geneva to establish this Special Committee to prepare proposals for special procedures for conciliation was a result of the experience gained at the Conference that in some cases additional facilities for conciliation were required when the usual process had failed to bring about an adequate measure of agreement. The Special Committee believes that the institution of any special conciliation procedures within the Conference machinery will serve to supplement and strengthen the practice of informal conciliation.

3. The Special Committee emphasizes that the principal objective of the Conference was to make an effective contribution through the formulation and acceptance of the necessary policies in the field of trade and development. Special conciliation should therefore be designed to afford additional facilities to enable resolutions to be adopted with the widest possible support and thus increase their effectiveness. Conciliation could make a contribution in at least two ways to the realization of these objectives. First, conciliation could enable resolutions to be adopted with a greater measure of support and therefore with greater practical results. Sec-

ondly, conciliation could encourage a more sustained dialogue between interested countries and thus stimulate all these countries to take additional steps in recognition of their common responsibility in dealing with problems of trade and development.

4. The introduction of a special conciliation process within the Conference machinery, if approved by the General Assembly, would be an innovation in the United Nations in two respects, namely, that it would be formal and so provided for in the rules of procedure of the continuing machinery and, secondly, the conciliation recommended would be multilateral in regard to both the structure of its machinery and the manner of its operation.

5. The Special Committee wishes to emphasize that recourse to the special conciliation procedures should be had only in respect of proposals falling within the scope of paragraph 25 (*a*) of the recommendation contained in annex A.V.1 of the Final Act of the Conference on which it has not been possible to resolve outstanding differences through the usual processes of consultation and negotiation. The Special Committee recommends guide-lines applicable to proposals appropriate for conciliation and to those that do not call for conciliation (see section II below). The Special Committee points out that the frequent and excessive use of special conciliation procedures could easily lead to a situation in which the normal and effective functioning of the Conference machinery could be put in serious jeopardy. In this respect, the Conference would again rely on a spirit of co-operation and mutual goodwill on the part of all its members.

Flexibility of conciliation machinery

6. The Special Committee considered the advantages and disadvantages of establishing permanent or standing bodies or committees for special conciliation, as distinct from bodies of an *ad hoc* nature. The Special Committee recommends that the conciliation machinery should be of a flexible and *ad hoc* character and should not take the form of standing or permanent bodies. There are several reasons for a flexible and *ad hoc* approach. The Conference machinery is new and has yet to be established. The method of operation of the Trade and Development Board and its subsidiary bodies are not yet determined. The character of the conciliation machinery will have to be varied according to the subject matter to be conciliated, the interests involved, the level at which it is to be considered and other relevant factors. For all these reasons, the Special Committee recommends the institution of a framework of rules within which *ad hoc* conciliation machinery could be set up when required.

Value of special conciliation procedures

7. In considering the value of special conciliation procedures, the Special Committee gave attention to their effects on the recommendations of the Conference.

8. The Special Committee realizes that the legal character of the Conference recommendations adopted after conciliation could be no different from that of other Conference recommendations or recommendations adopted by other United Nations organs.

9. The Special Committee likewise agreed upon the objective, namely, greater effectiveness of the recommendations of the Conference to be obtained through their adoption with the support of a wider number of Governments. It considered that the ultimate aim should be the reaching of unanimous resolutions whenever possible so that a unanimous decision would lead to common action towards the objectives of the Conference.

10. The Special Committee wishes to stress these considerations in assessing the value of conciliation as they should have a large influence in shaping effectively policies and measures in the field of trade and development within the Conference machinery.

II. Proposals deemed appropriate for special conciliation and those that do not call for special conciliation

11. The Special Committee recommends that the categories in sub-paragraphs (i) and (ii) below should serve as guide-lines:

(i) Appropriate for conciliation shall be proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries in the following fields: economic plans or programmes or economic or social readjustments; trade, monetary or tariff policies or balance of payments; policies of economic assistance or transfer of resources; levels of employment, income, revenue or investment; rights or obligations under international agreements or treaties.

(ii) Proposals in the following fields shall not require conciliation: any procedural matter; any proposal for study or investigation including such proposals related to the preparation of legal instruments in the field of trade; establishment of subsidiary bodies of the Board within the scope of its competence; recommendations and declarations of a general character not calling for specific action; proposals involving action proposed in pursuance of recommendations which were unanimously adopted by the United Nations Conference on Trade and Development.

III. Procedures for special conciliation

Initiation of the process of special conciliation

12. The Special Committee discussed at length the methods whereby the process of special conciliation would be set in motion. It considered the following aspects of the problem: the minimum number of Member States that would be required to propose special conciliation, whether it should be automatic or not, the role of the Chairman and the Bureau of the organ concerned in the process, and other related matters. In the light of its discussions, the Special Committee recommends that conciliation within the meaning of paragraph 25 of the Conference recommendation could be requested by at least ten members in the case of the Conference and by at least five members in the case of the Board, whether or not they are members of the Board.

13. The Special Committee recognizes the role of the President of the Conference and the Chairman of the Board in initiating conciliation procedures and, therefore, recommends that such procedures could be initiated whenever either of them is satisfied that the required number of countries as specified in the preceding paragraph are in favour of such conciliation.

Levels at which special conciliation should take place

14. The Special Committee considered in some detai the question of the levels at which special conciliatior should take place. In this respect, it was pointed ou

that the term "within the continuing machinery" in paragraph 25 (*a*) of the recommendation refers to all the bodies of the Conference although this does not mean that conciliation will be conducted at all levels of the machinery. It was noted also that under paragraph 23 of the recommendation the Board shall establish in particular three committees and shall also determine the terms of reference and rules of procedure of its subsidiary organs.

15. The Special Committee considered that it should examine the appropriateness, desirability and practicability of employing special conciliation procedures at three main levels: First, the Conference Plenary and its sessional Committees; secondly, the Board; and thirdly, Committees of the Board. It concluded that there could be no doubt that special conciliation would be applicable at the Conference and Board levels.

16. The Special Committee considers that in most cases special conciliation should be conducted at the Board level, since the Board would meet twice a year and would have the authority, when the Conference is not in session, to carry out the functions that fall within the competence of the Conference. However, the Board might transmit some difficult cases to the Conference for decision. Furthermore, some new proposals might be initiated during the Conference session, which might come within the scope of special conciliation procedures, and the Conference will be required to act on them. In such cases, the Special Committee agrees that, while special conciliation could be conducted at the plenary level of the Conference, it should normally be conducted at the level of the sessional Committee concerned. The relevant Committee would normally be a committee of the whole and would have greater facilities available for adequate technical study and discussion of the proposal and for narrowing the differences between the parties concerned. If it could not arrive at a solution, it would be able to prepare the way for the Plenary of the Conference to arrive at a solution. Quite apart from these opportunities for conciliation at the session, the Conference might, either due to lack of time or to the need for further technical study, decide to appoint a conciliation committee to operate after the end of its session and report back to the Board, without necessarily waiting to submit its findings back to the Conference, which might meet only after three years.

17. In the case of Committees of the Board, the Special Committee finds it difficult to decide the appropriateness, desirability and practicability of applying special conciliation procedures. It feels that, although the terms of reference of the Committees of the Board have not yet been decided, it could assume that the Committees would have important functions which might include responsibility delegated by the Board for dealing with some matters without further approval, i.e. in cases in which it has been authorized to adopt recommendations for action. The Special Committee therefore feels that it cannot exclude the possibility of the Committees of the Board dealing with some matters of this nature.

18. The Special Committee also noted that the membership of Committees of the Board would probably not coincide with that of the Board in number or in the countries represented. An important criterion recommended by the Conference for the membership of committees was special interest in the subject matter dealt with by them, whereas in the case of the Board, the emphasis was on equitable geographical distribution and the desirability of continuing representation for the principal trading States. Moreover, unlike the sessional Committees of the Conference which would meet as part of the Conference, the Committees of the Board. it is assumed, would not necessarily meet at the same time as the Board.

19. In the light of the foregoing considerations, the Special Committee concludes that the deciding factors are, first, the desirability of avoiding a system which would introduce special conciliation so early that it would tend to discourage informal conciliation, and, secondly, but even more important, the desirability of avoiding a network of conciliation which, as well as being complicated and confusing, might be impracticable because of the demands on personnel required to participate in conciliation committees. The Special Committee therefore recommends the principle that conciliation committees should not be established at the level of the Committees of the Board, but that Committees of the Board could request the Board to establish conciliation committees in certain circumstances.

20. The Special Committee considered whether this method would involve unreasonable delay, but concludes that as Board meetings would always follow Committee meetings after the lapse of a few months at most, this delay should be accepted because of the overriding consideration of avoiding confusing and complicated machinery.

21. In practice, this procedure would involve two categories of subjects within the general category of "proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries". The first category would comprise matters which the Committee had been delegated the authority to deal with definitively (see paragraph 17 above). In this case, conciliation would be initiated by a request of three members of the Committee concerned, or by the Chairman of the Committee as in the case of the Board or the Conference. The Chairman of the Committee would refer the request to the Chairman of the Board, who would at the first opportunity, and in any case not later than the first week of the next Board meeting, establish the conciliation committee. Membership of the conciliation committee need not be confined to membership of the Board Committee at which the proposal for conciliation originated.

22. The second category would be matters with which a committee of the Board was concerned and on which the Board was to take definitive action. In this case, the Committee would follow the normal procedure and include in its report, in the case of differences of opinion, a clear indication of the areas of agreement and disagreement. The question of initiation of special conciliation procedures, including the timing of its initiation, would be a matter for the Board to decide in accordance with the procedure recommended in the present report.

Publicity

23. The Special Committee considered the question of publicity relating to proposals submitted to special conciliation procedures. It was agreed that, in general. publicity, while special conciliation is in progress, should be avoided since it would tend to defeat the purpose of conciliation. On the other hand, the Committee recognizes that the special procedures of conciliation may be protracted and that interested parties may wish to make their views known. The Committee considers that in this event the most suitable channel

for the views of particular countries or groups would be provided by progress reports submitted by the conciliation committee to the body which had appointed it. At the same time the Committee realizes that even a progress report, if it is made public, might hamper progress towards conciliation. The Committee believes, therefore, that the desirability of issuing progress reports (except when a report may have been called for by the superior body) should be left to the decision of the conciliation committee itself. When the conciliation committee has finished its work, it will, of course, in accordance with its instructions, submit a final report to its superior body and that report would be made available to Member States and would be included in the reports of the Board and the Conference in accordance with the procedures laid down in paragraph 28 below.

24. Member States will, in any event, have a further opportunity to publicize their positions when the report of the conciliation committee is considered at open meetings of the organ concerned and again in explanation of their votes if a vote is taken on the report.

Method of reporting

25. The conciliation committee would report to the Board, and its report, as foreseen in the recommendation contained in annex A.V.1, would contain an analysis of the different proposals and an agreed recommendation if it were possible to achieve it. In case the conciliation committee was unable to present an agreed recommendation, its report should contain a sufficiently detailed analysis of the different proposals presented by the Member States, the areas of agreement and disagreement, in particular the extent to which it had been possible for the conciliation committee to narrow the differences between the parties, and also include the texts of the different proposals which were submitted to it. In case the conciliation committee has not been able to reach agreement but that this might be possible in a further period of conciliation, its report shall include a recommendation for a further period of conciliation.

Action to be taken on the report of the conciliation committee

26. If conciliation has been successful, the Special Committee assumes that the resulting proposal will be adopted by the body concerned. If the conciliation committee considered that a further period of conciliation might result in agreement, the report of the conciliation committee would recommend a further period of conciliation. The Special Committee assumes that in this case, the body concerned would take a decision as to whether or not a further period should be granted. If conciliation has been unsuccessful, the Special Committee assumes that in such an event the body concerned may decide to proceed with a vote on the original proposal.

27. The Special Committee recommends that the recommendation or the resolution adopted by the body concerned on the proposal which was the subject of the report of the conciliation committee should refer explicitly to the report of the conciliation committee and to the conclusion reached by the conciliation committee in the following form, as appropriate:

"*Noting* the report of the Conciliation Committee appointed on [insert date] [insert document number],

"*Noting also* that the Conciliation Committee [was able to reach an agreement] [recommends a further period of conciliation] [was unable to reach agreement],".

Reports of the Board and the Conference

28. The Special Committee recommends that the reports of the Board to the Conference and the General Assembly and the reports of the Conference to the General Assembly should include, *inter alia*:

(*a*) The texts of all recommendations, resolutions and declarations adopted by the Board or the Conference during the period covered by the report;

(*b*) In respect of recommendations and resolutions which are adopted after a process of conciliation, there shall also be included a record of the voting on each recommendation or resolution together with the texts of the reports of the conciliation committees concerned. The record of voting and the texts of the reports shall normally follow in the report the resolutions to which they pertain.

IV. MECHANISMS FOR CONCILIATION

Conciliation committees

29. In considering the composition of conciliation committees, it was generally agreed that the membership of a conciliation committee should, as a rule, be small in size. The Special Committee recommends that the members of conciliation committees shall include countries specially interested in the matter with respect to which conciliation is initiated and that they shall be selected on an equitable geographical basis. The Special Committee also recommends that the President of the Conference and the Chairman of the Board be entrusted with the responsibility of nominating the members of the conciliation committee after consultation with the members of the organ concerned and that such nomination be approved by the Conference or the Board as appropriate.

30. The Special Committee considers that voting should not take place within the conciliation committee because it would defeat the very purpose of special conciliation. If the conciliation committee were unsuccessful in working out an agreed solution, the body concerned would, in any case, have the opportunity of taking a decision by resorting to the vote. The Special Committee does not consider it advisable to lay down any rules of procedure for the operation of the conciliation committee which by its very nature should function on a flexible and informal basis.

Good offices of the Secretary-General of the Conference

31. The Special Committee emphasized the important role of the Secretary-General of the Conference in the normal processes of conciliation and considers that full advantage should be taken of his good offices in the special conciliation procedures.

Time-limits

32. The Special Committee considered the question of time-limits for the process of conciliation and agreed that while adequate time should be given for study, discussion, the narrowing of differences and the negotiation of solutions, the time allowed should not be so long as to delay unduly the adoption of recommendations by the continuing machinery. It was agreed that the conciliation committee should begin its work as soon as possible and that it should endeavour to

reach agreement during the same session of the Conference or the Board. In the event that the conciliation committee is unable to conclude its work or fails to reach agreement at the same session of the Conference or the Board, it should report to the next session of the Board or to the next session of the Conference, whichever meets earlier. However, the Conference may wish to instruct the conciliation committee appointed by it to submit its report to the following session of the Conference in the event that the committee shall not have concluded its work or shall have failed to reach agreement during the same session of the Conference. As mentioned in paragraph 26 above, if at the session of the Board or the Conference at which the conciliation committee is required to report it recommends a further period of conciliation, the Board or the Conference may authorize the further period of conciliation by a simple majority vote.

V. Procedures for conciliation regarding fundamental constitutional provisions

33. In considering paragraph 25 (*d*) of its terms of reference, the Special Committee noted that the recommendation on "institutional arrangements, methods and machinery" adopted by the Conference at Geneva was formulated and accepted after a great deal of patient negotiation and represented a compromise solution in respect of a variety of difficult and complex institutional issues on which widely divergent views are held by Member States. Therefore, the Special Committee considers it desirable that changes in the "fundamental provisions" of the resolution should be subject to "appropriate procedures". It further recommends that the "appropriate procedures" in this context should be the conciliation procedures recommended in connexion with paragraph 25 (*a*).

34. The Special Committee agreed that the provisions establishing the composition and the terms of reference of the Conference and its subsidiary organs shall be considered, *inter alia*, as fundamental provisions of the recommendation contained in annex A.V.1 of the Final Act of the Conference.

35. The Special Committee notes that the General Assembly is the competent body to take final decisions on all matters pertaining to this resolution and in fact to the future institutional machinery in the field of trade and development. Indeed, the recommendation on institutional arrangements adopted by the Conference is itself subject to the approval of the General Assembly, as are the recommendations being presented by the Special Committee in the present report. The proposed permanent United Nations Conference on Trade and Development will itself be an organ of the General Assembly. Therefore, the legal competence of the General Assembly to adopt and amend the provisions of the resolution at any time is beyond question. At the same time the Conference machinery could, on its own initiative, make recommendations to the General Assembly in respect of possible changes in its constitution after application, if necessary, of the special conciliation procedures. The Committee believes that the General Assembly would give the utmost consideration to the recommendations of its own subsidiary organ to which it has given certain specialized functions and responsibilities in the field of trade and development.

36. In order to establish an adequate procedure, the Special Committee was of the view that the General Assembly would wish to receive advice from the Conference before making changes in the fundamental provisions of the recommendation contained in annex A.V.1 of the Conference. The Special Committee therefore leaves it to the General Assembly to decide whether to adopt this principle either in an appropriate provision of the resolution establishing the new machinery or through an appropriate change in its own rules of procedure.

37. The Special Committee recognizes that the Conference machinery will be new and will be undertaking a wide range of complex and difficult functions. The machinery itself is bound to evolve in the course of its operation and in the light of experience and emerging needs. It is, therefore, not advisable to deprive the machinery of the necessary degree of flexibility which would permit it to adapt itself to changing requirements. Rigid and inflexible procedures which would block necessary changes and adaptations should not be introduced within the machinery, before it has started to function.

VI. Conclusions and recommendations

38. The Special Committee submits, for the consideration of the General Assembly, the following draft text to replace paragraph 25 of the recommendation contained in annex A.V.1 of the Final Act of the United Nations Conference on Trade and Development:

Procedures

"25. The procedures set forth in this paragraph are designed to provide a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries.

"(a) *Levels of conciliation*

"The process of conciliation within the meaning of this paragraph may take place under the conditions stated with regard to proposals which are before the Conference, the Board or committees of the Board. In the case of committees of the Board, the process of conciliation shall apply only to those matters, if any, with respect to which a committee has been authorized to submit, without further approval, recommendations for action.

"(b) *Request for conciliation*

"A request for conciliation within the meaning of this paragraph may be made:

"(i) In the case of proposals before the Conference, by at least ten members of the Conference;

"(ii) In the case of proposals before the Board, by at least five members of the Conference whether or not they are members of the Board;

"(iii) In the case of proposals before committees of the Board, by three members of the committee.

"The request for conciliation under this paragraph shall be submitted, as appropriate, to the President of the Conference or to the Chairman of the Board. In the case of a request relating to a proposal before a committee of the Board, the Chairman of the committee concerned shall submit the request to the Chairman of the Board.

"(c) *Initiation of conciliation by the President or Chairman*

"The process of conciliation within the meaning of this paragraph may also be initiated whenever the President of the Conference, the Chairman of the Board or the Chairman of the committee concerned is satisfied that the required number of countries as specified in sub-paragraph (*b*) above are in favour of such conciliation. In cases where

the process of conciliation is initiated at the level of a committee, the Chairman of the committee concerned shall refer the matter to the Chairman of the Board for action to be taken in accordance with sub-paragraph (*f*) below.

"(d) *Time for request or initiation of conciliation*

"The request for conciliation (or the initiation of conciliation by the President or the Chairman, as the case may be) may be made only after the debate on the proposal has been concluded within the organ concerned and prior to the vote on that proposal. For the purposes of this provision, the Chairman of the organ concerned shall, at the conclusion of the debate on any proposal, afford an appropriate interval for the submission of requests for conciliation before proceeding to the vote on the proposal in question. In the event that conciliation is requested or initiated, voting on the proposal in question shall be suspended and the procedures provided for below shall be followed.

"(e) *Subjects in regard to which conciliation is appropriate or excluded*

"The institution of the process of conciliation shall be automatic under the conditions stated in sub-paragraphs (*b*) and (*c*) above. The categories in sub-paragraphs (i) and (ii) below shall serve as guide-lines.

"(i) Appropriate for conciliation shall be proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries in the following fields:

"Economic plans or programmes or economic or social readjustments;

"Trade, monetary or tariff policies or balance of payments;

"Policies of economic assistance or transfer of resources;

"Levels of employment, income, revenue or investment;

"Rights or obligations under international agreements or treaties.

"(ii) Proposals in the following fields shall not require conciliation:

"Any procedural matter;

"Any proposal for study or investigation including such proposals related to the preparation of legal instruments in the field of trade;

"Establishment of subsidiary bodies of the Board within the scope of its competence;

"Recommendations and declarations of a general character not calling for specific action;

"Proposals involving action proposed in pursuance of recommendations which were unanimously adopted by the United Nations Conference on Trade and Development.

"(f) *Nomination of a conciliation committee*

"When a request for conciliation is made or initiated, the Presiding Officer of the organ concerned shall immediately inform the organ. The President of the Conference or the Chairman of the Board shall, as soon as possible, after consultation with the members of the organ concerned, nominate the members of a conciliation committee and submit the nominations for the approval of the Conference or the Board, as appropriate.

"(g) *Size and composition of the conciliation committee*

"The conciliation committee shall, as a rule, be small in size. Its members shall include countries especially interested in the matter with respect to which such conciliation was initiated and shall be selected on an equitable geographical basis.

"(h) *Procedure within the conciliation committee and submission of its report*

"The conciliation committee shall begin its work as soon as possible and it shall endeavour to reach agreement during the same session of the Conference or the Board. No vote shall take place in the conciliation committee. In the event that the conciliation committee is unable to conclude its work or fails to reach agreement at the same session of the Conference or the Board, it shall report to the next session of the Board or to the next session of the Conference, whichever meets earlier. However, the Conference may instruct the conciliation committee appointed by it to submit its report to the following session of the Conference in the event that the committee shall not have concluded its work or shall have failed to reach agreement during the same session of the Conference.

"(i) *Extension of the mandate of the conciliation committee*

"A proposal to continue a conciliation committee beyond the session at which it is required to report shall be decided by a simple majority.

"(j) *Report of the conciliation committee*

"The report of the conciliation committee shall indicate whether or not the committee was able to reach an agreement and whether or not the committee recommends a further period of conciliation. The report of the committee shall be made available to the members of the Conference.

"(k) *Action on the report of the conciliation committee*

"The report of the conciliation committee shall have priority on the agenda of the organ to which it is submitted. If the organ adopts a resolution on the proposal which was the subject of the report of the conciliation committee, that resolution shall refer explicitly to the report of the conciliation committee and to the conclusion reached by the conciliation committee in the following form, as appropriate:

"'*Noting* the report of the Conciliation Committee appointed on [insert date] [insert document number],

'*Noting also* that the Conciliation Committee [was able to reach an agreement] [recommends a further period of conciliation] [was unable to reach agreement],'.

"(l) *Reports of the Board and the Conference*

"The reports of the Board to the Conference and to the General Assembly and the reports of the Conference to the General Assembly shall include, *inter alia*:

"(i) The texts of all recommendations, resolutions and declarations adopted by the Board or the Conference during the period covered by the report;

"(ii) In respect of recommendations and resolutions which are adopted after a process of conciliation, there shall also be included a record of the voting on each recommendation or resolution together with the texts of the reports of the conciliation committees concerned. The record of voting and the texts of the reports shall normally follow in the report the resolutions to which they pertain.

"(m) *Good offices of the Secretary-General of the Conference*

"The good offices of the Secretary-General of the Conference shall be utilized as fully as practicable in connexion with the process of conciliation.

"(n) *Proposals involving changes in the fundamental provisions of the present resolution*

"A process of conciliation shall also be applied under the terms and conditions laid down above in regard to any proposal for a recommendation to the General Assembly which would involve changes in the fundamental provisions of the present resolution. Any question as to whether a particular provision shall be considered fundamental for the purposes of this sub-paragraph shall be determined by a simple majority of the Conference or the Board."

ANNEX I

Review of proposals, recommendations and observations submitted by governments in connexion with paragraph 25 (*a*)

1. The Special Committee had before it the proposals, recommendations and observations submitted by fifteen Govern-

ments[a] in connexion with paragraph 25 (*a*) of the recommendation of the Conference contained in annex A.V.1 of the Final Act. The following is a short review of these submissions.

Need for special conciliation machinery

2. Brazil, Ceylon, the Philippines, the Republic of Viet-Nam and Yugoslavia felt informal negotiations should be relied on in the first instance with the assistance of the good offices of the President and of the Secretary-General of the Conference. It was pointed out that the chief value of these informal consultations lay in their relative flexibility and adaptability to changing situations, unhampered by any rigid rules.

3. The United Republic of Tanganyika and Zanzibar was opposed to the establishment of special conciliation procedures since, in its opinion, the Charter of the United Nations and the constitutional conventions and practice of the organs of the United Nations already provided ample procedures for conciliation before a vote was taken. It contended that any formal conciliation machinery might be an instrument of filibuster or give certain Powers an economic veto.

4. Ethiopia believed that the recommendations of the Conference machinery which had been subjected to conciliation would commit Member States to carry them out, while Costa Rica was of the opinion that although resolutions, once adopted, would be binding, it was not reasonable to press for the adoption of a proposal if the countries which were to be bound by it would vote against it. All other Governments stated or implied that the recommendations would not be legally binding and for this reason the widest possible agreement between Governments was essential in order to influence national policies through a process of persuasion.

Formal arrangements

5. Though the desirability of flexible arrangements was noted by some countries several Governments made suggestions with regard to the special arrangements that might be adopted should formal conciliation machinery be required. The matters discussed in these proposals concerned voting rights; voting as a means of ascertaining areas of agreement; time-limits; levels at which conciliation machinery should be resorted to; membership and size of conciliation committees; the powers of conciliation committees; action to be taken on reports of conciliation committees; types of proposals which might be subject to conciliation and procedures for proposals involving "changes in the fundamental provisions" of the recommendation contained in annex A.V.1.

Voting rights

6. Argentina, Brazil, Costa Rica, Guinea, India, the United Republic of Tanganyika and Zanzibar and Yugoslavia reiterated the principle of each Member State having one vote and Yugoslavia stated that the informal contacts and conciliation procedure among interested groups of countries should not imply in any case any amendment to the Charter of the United Nations.

Voting as a means of ascertaining areas of agreement

7. The Government of Ceylon suggested that when there was a difference of opinion between industrialized and developing countries on a matter affecting the economic or financial interests of particular countries, a decision on the issue might be postponed to the following meeting of the Conference or of the Board and that only one such postponement would be allowed. In the case of the Board only, Ceylon would agree to a system of dual voting on the first occasion when a matter is considered merely for the purpose of securing postponement of an issue to a later meeting of the Board. Normal United Nations voting procedures would prevail in the final vote.

8. The Government of Argentina suggested that at each session of the Conference and of the Board, the principal trading States would be designated on the basis of their percentage participation in international trade. If a majority of these States were to vote against a proposal, the President of the Conference or Chairman of the Board would then appoint a small conciliation committee which would be representative of the interested countries and based on equitable geographical distribution. If the conciliation committee were to be unsuccessful, the Secretary-General of the Conference would be called upon to exercise his good offices, after which the matter would be put to the vote. No amendments would be permitted after conciliation procedures had been exhausted. A two-thirds majority and a simple majority vote would be required in the Conference and the Board respectively. Malaysia also suggested that the Conference or Board should call upon the good offices of the Secretary-General of the Conference if the conciliation committee should fail.

[a] For the texts submitted by these Governments, see annex II.

Time-limit

9. Argentina was of the opinion that the conciliation procedure should be completed during the session of the Conference or of the Board at which it had been invoked. France believed that the conciliation machinery should be "immediately available", Ceylon that the process should not extend beyond two sessions of the Board, Brazil that the process should be "rapid and efficient", the Philippines that the proceedings of the Conference or the Board should not be "unduly delayed" by recourse to conciliation procedures, and Malaysia that a time-limit should be set for the committee's work by the Conference or Board as the case may be.

Levels at which the conciliation process would be invoked

10. Argentina, Brazil, Ceylon, Ethiopia, Malaysia, the Philippines and Yugoslavia envisaged that the conciliation procedures would be utilized at the Conference and/or Board levels while Iran and the Republic of Viet-Nam suggested conciliation at the level of the Committee of the Board as well.

Membership and size of conciliation committees

11. Various suggestions were made regarding the membership and size of conciliation committees.

12. With regard to membership, the Governments were agreed that the members should be representative of the interests involved and should be based on an equitable geographical distribution. Brazil and the Philippines also mentioned the use of independent experts and assistance from regional economic organizations. Iran, which envisaged a General Conciliation Committee of nine members at the Board level and conciliation of seventeen members for each committee, at the level of the committees of the Board, suggested that the seats be apportioned on certain formulae based on the distribution of seats on the Board from amongst the countries listed in annexes I-IV to the recommendation contained in annex A.V.1 of the Conference.

13. Brazil and Malaysia proposed that a conciliation committee should be small in size, Ethiopia that it should consist of eleven members and the Philippines that it should have not more than ten members.

14. Iran proposed that the members of the General Conciliation Committee (Board level) be the heads of their respective delegations, that the chairmen of the three main committees of the Board shall attend the meetings of this committee and that the Chairman of the Board, or in his absence, the Secretary-General of the Conference would preside.

15. Brazil, which proposed the establishment of *ad hoc* machinery or permanent machinery, or a process which would utilize both types of machinery, thought that the members of the committees would be designated by the Chairman of the Board or the Secretary-General of the Conference, in consultation with the countries concerned. It also proposed that the conciliation committees should be presided over by the Chairman of the Board or the Secretary-General of the Conference, as appropriate.

Powers of conciliation committee

16. Ethiopia, Iran and Malaysia pointed out that the conciliation committee would explore the areas of agreement and

disagreement and attempt to formulate proposals on which there would be a consensus. Should these efforts be unsuccessful, the committee's report would explain the various positions but would not make any recommendation.

Action to be taken on reports of conciliation committees

17. The United States of America believed that the institutional recommendations included in the Final Act of the Conference embodied the basic concept of substituting conciliation for voting where significant divisions existed. Argentina, Costa Rica, Iran, Malaysia and Yugoslavia stated that recommendations on matters that had been subjected to conciliation would require a two-thirds majority vote at the Conference level and a simple majority at the Board level.

Types of proposals which might be subject to conciliation

18. Ethiopia believed that certain categories of issues which might be subject to conciliation should be identified in advance and that the criteria to be devised by the Special Committee should be such that the number of such issues should be cut down to the minimum. The issues should be of such importance as to show observable differences between identifiable groups.

Procedures for proposals involving "changes in the fundamental provisions" of the recommendation contained in annex A.V.1

19. The United States of America pointed out that the Special Committee also had the task of considering the application of special procedures to proposals involving changes in the fundamental provisions of the recommendation contained in annex A.V.1. On this subject Brazil felt that it would be desirable to apply the following criteria to such proposals of a constitutional nature: (*a*) the Conference would have exclusive competence to deal with them, and (*b*) proposals would be approved by a two-thirds vote and would take effect immediately without further requirements. In its opinion, proposals of a constitutional nature did not fall under the category of proposals which substantially affected the "economic or financial interests of particular countries."

ANNEX II

Texts submitted by Governments in connexion with paragraph 25 (*a*)

ARGENTINA

[*Original text: Spanish*]
[*10 September 1964*]

1. Each State represented at the Conference or on the Trade and Development Board shall have one vote.

2. Decisions shall be taken in accordance with the following procedure:

3. *Conference*

(*a*) Items connected with fundamental problems shall be referred to the appropriate Committee for consideration.

(*b*) In cases where a majority of the [ ] principal trading States, which shall be designated by the Conference at each of its sessions on the basis of their percentage participation in international trade, votes against a draft resolution, the President of the Conference shall, even if the draft resolution has received sufficient votes for its adoption appoint a Conciliation Committee with a small number of members, selected in such a way as to ensure adequate representation of the conflicting interests and observance of the principle of equitable geographical distribution.

(*c*) If the Conciliation Committee is successful in its work, the results shall be transmitted to the Conference in plenary meeting. If the Conciliation Committee is unsuccessful, recourse shall be had to the good offices of the Secretary-General of the Conference.

(*d*) When the Secretary-General has completed his action, the matter shall be submitted for final consideration to the Conference in plenary meeting, which shall take its decisions by a two-thirds majority of its members present and voting.

(*e*) Once the conciliation procedure has been exhausted, no amendments may be put forward.

4. *Trade and Development Board*

Decisions of the Trade and Development Board shall be taken in accordance with the procedure as for the Conference: i.e., if in the first vote the majority of the principal trading States represented on the Board vote against a draft resolution, a Committee similar to that provided for in paragraph 3 (*b*) above shall be set up, and similar recourse shall be had to the good offices of the Secretary-General, if necessary. Once this procedure has been exhausted, decisions shall be taken by a simple majority and no amendments may be put forward.

5. In all cases, the conciliation procedure shall be completed during the session of the Conference or of the Board at which it has been necessary to make use of it.

BRAZIL

[*Original text: Portuguese*]
[*29 September 1964*]

1. The work of the Committee could in essence be limited to two tasks: (*a*) consideration of conciliation procedures, and (*b*) consideration of the treatment to be given to proposals involving a fundamental modification of recommendation A.V.1.

2. (a) *Conciliation machinery*:
Brazil has no specific preference for any given formulae or methods, and is prepared to consider in the General Assembly all constructive proposals made, with the sole reservation that the conciliation procedures adopted should in no way deviate, either implicitly or explicitly, from the principle of equality of vote, which is set forth in the recommendation.

3. The procedures for conciliation should be both rapid and efficient. They must be rapid in order not to frustrate the very objectives of the Conference and so that no excessive delay at the conciliation stage will retard the beginning of the decision stage at the level of the Trade and Development Board or at that of the Conference itself. They must be efficient because it is in the interest of all countries, and particularly of the developing countries, that the conciliation should be successful and involve some compromise on the part of the developed countries, for without that the recommendation might well prove to have no real effect.

4. In brief, therefore, a machinery must be found which is rapid enough not to block the voting procedure and sufficiently well conceived to prevent this procedure from becoming a formality without practical significance. Within the limits of these two considerations several possibilities may be considered.

5. The function of conciliation might be carried out (1) either by means of an *ad hoc* machinery established within the Board itself, or within the Conference; (2) by setting up permanent machinery; or (3) by a combination of these two methods.

6. Under alternative (1), there are several lines of action which might be followed either in succession or as alternatives. First, the Chairman of the Board or the Secretary-General of the Conference could offer their good offices as mediators.

7. If these good offices should not prove fruitful, joint committees could be established, consisting of the countries making the proposal and those which consider themselves affected by it. They would be presided over by the Chairman of the Board or by the Secretary-General of the Conference, as appropriate. The members of such committees would be designated by the Chairman of the Board or the Secretary-General of the Conference, in consultation with the countries concerned.

8. A third possibility would be the establishment of committees of independent experts which would have the task of dealing with the matter at a technical level.

9. In theory there are still other possibilities which might be considered, including reference of the question to regional organizations. It is essential, however, whether all or only some of these methods are resorted to, that the total duration

of the conciliation stage should not exceed a certain period, at the end of which the proposal should return to the Board or the Conference, whether or not the conciliation is successful. This period would necessarily have to be short and would obviously have to be the subject of negotiation, since it could not be fixed *in abstracto*.

10. Alternative (2) would call for the setting up of permanent conciliation machinery. This might consist of a Conciliation Council reporting directly to the Conference, to which would be referred proposals under paragraph 25 (*a*) of the recommendations which are submitted to the Board or the Conference.

11. It would be reasonable for the composition of this Council to be in accordance with the criteria adopted for the Board, such as equitable geographical representation. However, since it would simply be an organ for conciliation, without provision for voting, there could be no basic objection to the use of other criteria as well, such as that of equal representation of the different groups of countries.

12. Because of the nature of its functions, the Council should have a small membership. The *modus operandi* should not present any difficulty. A representative of the authors of the proposal, and a representative of the countries affected by it would be invited to present their respective views. The Council would then have to find a solution to the impasse by making suggestions, by proposing alternatives, or by other means. After an agreed period had elapsed the question would be considered concluded at the level of the Council, whether or not agreement was reached between the parties, and the proposal would again be considered by the Board or by the Conference.

13. Alternative (3) would be a combined solution under which the parties would have the choice of resorting either to the permanent machinery or to an *ad hoc* one. This method could function satisfactorily provided (*a*) it was not mandatory for the parties to exhaust the possibilities of *ad hoc* methods before having recourse to the permanent machinery, since, were that the case, the process might prove interminable, and (*b*) the total duration of the conciliatory process in all its stages should be relatively short. Brazil would be ready in principle to consider any of the above-mentioned formulae, subject to the basic conditions stated in paragraphs 3 and 4.

14. In the initial stage, however, it might be preferable not to institutionalize the conciliation machinery excessively, in order to avoid any functional rigidity which would obstruct the voting process. *Ad hoc* machinery might therefore be adopted on an experimental basis for a period of one year, after which it would have to be reviewed by the Board in the light of the experience gained. The desirability might then be considered of setting up permanent conciliation machinery which might or might not coexist with the *ad hoc* arrangements.

15. (b) *Constitutional questions*:

The second task of the Committee should be to determine the treatment to be given to "proposals involving changes in the fundamental provisions" of the resolution—in other words, to indicate the procedure to be followed with respect to proposals of a constitutional nature.

16. This is a most important question for the developing countries, the great majority of which have declared themselves in favour of an organization larger in scope and more permanent than that established by the Conference. Paragraphs 30 and 31 of the recommendation refer explicitly to future institutional arrangements. Consequently, the organization created by the Conference should not be regarded as something permanently crystallized, but rather as a plan *in fieri* and capable of evolving into more complex formulae. It would therefore be unreasonable to block this natural evolution by adopting excessively rigid voting criteria, which could only be justified in the case of a more perfect and completed institution. At the same time, it is necessary to give the newly-created organization a minimum of guarantees, in order to prevent changes of lesser importance or modifications prejudicial to the interests of the developing countries.

17. In the light of these considerations, it would be desirable if proposals of a constitutional nature were treated in accordance with two criteria: (*a*) the Conference would have exclusive competence to deal with them, and (*b*) proposals would be approved by a two-thirds vote and would take effect immediately without any further requirements.

18. According to the terms of recommendation A.V.1, conciliation is applicable only when a proposal substantially affects the economic or financial interests of particular countries. Proposals of a constitutional nature do not fit readily into this category. Taking a flexible approach and bearing in mind that the development of a consensus is as desirable in the case of substantive issues as it is with regard to constitutional matters, Brazil would not object if the procedures referred to in paragraph 25 (*d*) were deemed also to include prior conciliation procedures.

CEYLON

[*Original text: English*]
[*18 September 1964*]

1. The experience gained at the World Trade Conference on methods of conciliation, consequent on the breakdown of the negotiations between the industrialized and developing countries on institutional problems, might serve as a useful guide to the establishment of procedures for conciliation. The deadlock between the industrialized countries and the developing countries on institutional questions was broken mainly as a result of the personal efforts of the President of the Conference and of the Secretary-General of the Conference and a couple of other senior officials who took certain initiatives on behalf of the two groups of countries. There would be considerable advantage in keeping conciliation procedures as flexible as possible and so leave it to the President of the Conference and the Secretary-General to act on their discretion. If formal procedures were established they would probably make the process of conciliation more difficult.

2. However, if formal procedures for conciliation were thought to be necessary by the Special Committee, the Government of Ceylon would suggest that the following might be considered:

(*a*) If there was a substantial difference of opinion between industrialized and developing countries on a matter affecting the economic or financial interests of particular countries, a decision on the issue might be postponed to the following meeting of the Conference or of the Board. This will give time for Governments of both groups of countries to reconsider the matter more carefully. We might agree to more than one postponement in such circumstances.

(*b*) Though the system of dual voting is most undesirable, there would be no harm in agreeing to dual voting on the first occasion when a matter is considered, merely for the purpose of securing the postponement of an issue to a later meeting of the Board. In the final resort, of course, the normal United Nations voting procedures should prevail. It is not, however, recommended that any kind of dual voting procedure should be adopted in respect of the Conference to be held once in two or three years since the adoption of a dual voting procedure would mean that a decision on a vital matter would be held up till the next Conference is convened two or three years hence. In the case of the Board, however, a dual voting procedure on the first occasion would not create any difficulties since the Board is due to meet more frequently—at least twice a year.

3. It must be emphasized once again that there would be considerable advantage in keeping conciliation procedures flexible by leaving it to the President and Secretary-General to take appropriate initiatives when difficulties arise.

COSTA RICA

[*Original text: Spanish*]
[*16 September 1964*]

1. The voting procedures adopted must establish, for the countries (groups) that will be bound by a resolution, the

right to express their approval (by a simple majority, by negotiation, conciliation, etc.). Resolutions, once adopted, must be binding on all countries.

2. It does not seem reasonable to press for the adoption of a proposal if the countries which are to be bound by that proposal vote against it.

3. It should be laid down as a firm principle that procedural measures shall be adopted by a simple majority on the Trade and Development Board and in the Conference.

4. These are very general considerations. The preparation of specific proposals concerning possible voting machinery calls for extensive study and the consideration of many relevant factors.

5. Lastly, it does not seem appropriate to give official expression to ideas such as those set forth in recommendation A of Appendix I of the report of the Fourth Committee of the Conference, paragraph 4,[a] since they are favourable to the position of the industrialized countries. This group will undertake to seek a solution within these terms of reference.

Ethiopia

[*Original text: English*]
[*7 September 1964*]

1. Delegations that participated in the United Nations Conference on Trade and Development have learned from experience that important issues could not be profitably discussed and resolved in committees where large numbers of delegations are represented. In particular, the Conference found that problems that touched upon the economic and financial interests of certain countries were better handled in smaller committees where only few representatives took part in the discussions. This practice later proved useful and indeed it would not be an exaggeration to say that the very success of the Conference depended, in large part, on the swift and efficient negotiations carried out by the small conciliation committee during the final hours of the Conference.

2. It was against this background that the Conference decided to request the Secretary-General of the United Nations to appoint a special committee to prepare a proposal for a procedure of conciliation to be followed in the continuing machinery of UNCTAD.

3. The Imperial Ethiopian Government is fully aware that the preparation of a special procedure that would meet with the required assurance of every participating country is a difficult task. The primary objective of the Special Committee should be to devise an arrangement which would enable the various identifiable groups having differences of views to come together to discuss their differences with a view to finding solutions to the problems under consideration.

4. The questions that would immediately arise in this connexion revolve around the nature and the manner of representation of the conciliating body, the mandate of the conciliating body and the power of its recommendations as well as the choice of the problems to be considered in the conciliation process.

5. Regarding the nature of the conciliating body and the manner of representation, the Ethiopian Government is of the opinion that a committee of eleven members (one fifth of the Trade and Development Board) should be appointed.

6. The Trade and Development Board should appoint, from among its members, the members of the conciliation committee having due regard to the proper representation of the various identifiable groups, namely, from the developing countries, the developed countries with market economies and the socialist countries with centrally planned economies.

7. The Trade and Development Board should frame the terms of reference to be followed by the conciliation committee in respect of the issues to be considered. The power of the conciliation committee shall be to explore areas of agreement on problems dividing the members of the Trade and Development Board in accordance with its terms of reference. It should have no power of decision but only of recommendation. The recommendations, if accepted by the Trade and Development Board, should be binding on all members of the Conference.

8. The conciliation committee should report, as required, to the Trade and Development Board on the progress achieved in respect of the problems transmitted for its study.

9. As regards the choice of the problems to be considered by the conciliation committee, the Ethiopian Government is of the view that the number of problems to be examined in the conciliation process should be strictly limited. Stringent criteria should be devised by the Special Committee to cut down the number of the issues to the lowest possible minimum. In this connexion we would like to suggest that certain categories of issues should be identified in advance and these issues must be of such importance as to show observable differences between identifiable groups.

10. Further, the Imperial Government wishes to state that the success of UNCTAD and the implementation of the decisions reached will depend, to a large extent, on the limited use of the conciliation process. Frequent use of the conciliation machinery would not only lead to unnecessary delay of the settlement of issues but could also seriously tamper with the efficiency of the Trade and Development Board and eventually the Conference itself.

France

[*Original text: French*]
[*23 September 1964*]

1. The French position on this subject has already been stated in the course of the closing meetings of the United Nations Conference on Trade and Development and by our delegation at the thirty-seventh session of the Economic and Social Council.

2. The salient feature of that position is our concern that the resolutions adopted by the bodies to be established should reflect the common will of the various parties involved. It seems to us that those resolutions would run a grave risk of remaining without effect on national policies unless they had the positive support and co-operation of the various Governments to which they were addressed and which were affected by their content.

3. From this point of view the French Government considers it of the greatest importance that the members of the bodies to be established should do their utmost to reconcile the various points of view before voting. Although the success of any such effort at conciliation depends more on the attitude of mind of the national delegations concerned than on the procedures to be adopted, the French Government recognizes the value of setting up conciliation machinery in advance so that it will be immediately available when the nature of the disagreement warrants recourse to it. The French Government therefore considers that it would be useful for the Special Committee to work on those lines.

Guinea

[*Original text: French*]
[*24 August 1964*]

The Government of the Republic of Guinea remains convinced that the establishment of this *ad hoc* Committee will considerably facilitate the solution of problems or disputes which might arise between certain countries from the clash of their financial and economic interests.

[a] Paragraph 4 states: "*Voting.* Each State represented at the Conference shall have one vote. Decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the representatives present and voting. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting." *Proceedings of the United Nations Conference on Trade and Development* (United Nations publication, Sales No.: 64.II. B.11), Vol. I, Final Act and Report, Annex G.

The Government of the Republic of Guinea is all the more confident of the success of this enterprise in that it knows that the Special Committee will operate under the auspices of the Secretary-General of the Conference, who will undoubtedly make his good offices available to the Committee in accordance with its terms of reference.

Nevertheless, however confident the Government of the Republic of Guinea may be of the positive results which it hopes will stem from this Committee, it feels that it should make certain observations:

First, with regard to the composition of the Special Committee whose members will be appointed by the Secretary-General of the Conference, the Government of the Republic of Guinea expresses the desire that the developing countries shall be equitably represented, with due regard to the principle that each country has one vote. This last consideration naturally leads the Government of Guinea to reject any idea of establishing the principle of the weighted vote, which obviously prejudices the vital interests of the developing countries.

Lastly, it would be desirable to determine the nature of the juridical and administrative relations between the Special Committee and the permanent organ of the Conference to be known as the Trade and Development Board, of which the Government of Guinea is a member.

India

[*Original text: English*]
[*4 September 1964*]

The Government of India agree that it is essential that conciliation procedures should be devised within the framework of the institutional arrangements recommended by the Conference in order to implement measures relating to the expansion of international trade. While final decisions have to be taken under the well-recognized democratic procedures established by the United Nations, a process of conciliation may be useful before voting is resorted to in matters affecting substantially the economic and financial interests of countries or groups of countries. The Government of India are glad that the Secretary-General has already nominated the members of the Special Committee to consider this matter and trust that agreed conclusions will be arrived at as a result of the deliberations of the Committee.

Iran

[*Original text: English*]
[*9 September 1964*]

The Trade and Development Board shall have a General Conciliation Committee and one conciliation committee each for the three main committees. The conciliation efforts of these committees shall take place before voting on specific recommendations calling for action substantially affecting economic or financial interests of particular countries.

The General Conciliation Committee

1. The General Conciliation Committee shall have nine members, elected by the Board on the basis of equitable geographical representation and accordingly observing the following distribution of seats:

From States listed in appendices I and III of annex A.V.1 of the Final Act of UNCTAD	5
From States listed in appendix II. . .	3
From States listed in appendix IV. .	1
	9

Note: Each one of the above groups may invite two members from its own group to assist in the discussions.

2. Representatives appointed to the General Conciliation Committee shall be the heads of delegations.

3. The General Conciliation Committee shall be presided over by the Chairman of the Board and, in his absence, by the Secretary-General.

4. The Chairman of the three main committees of the Board shall attend the meetings of the General Conciliation Committee when subjects relating to their respective committees are under its discussion.

5. The General Conciliation Committee shall take into consideration that the interested States may wish to place on record and to publicize their views expressed in the course of conciliation.

6. The General Conciliation Committee shall deal with matters on which conciliation is not reached at committee levels and which are referred to the Plenary of the Board. Its work shall be of an exploratory nature and it shall not be entitled to commit itself in any way on behalf of the Member States.

7. The General Conciliation Committee shall primarily define the areas of agreement and disagreement on specific subjects referred to it by the committees and shall try to prepare proposals on which consensus of opinion may be reached.

8. Proposals prepared by the General Conciliation Committee shall be considered by the Plenary of the Board and shall be approved according to paragraph 24 of annex A.V.1 of the Final Act of UNCTAD.

9. If the General Conciliation Committee fails to arrive at a basis for consensus of opinion on any matter, it shall submit its report to the Plenary of the Board, stating the areas of agreement and disagreement and the explanation of positions as regards, in particular, the implementation of proposed recommendations. Such matters shall be decided by the Board in accordance with paragraph 24, referred to above.

10. The Secretariat of the Board shall extend every facility needed by the General Conciliation Committee for a successful conduct of its business.

Conciliation committees of the three main committees

11. Each main committee shall elect its own conciliation committee of seventeen members, observing the following distribution of seats:

From States listed in appendix I of annex A.V.1 of the Final Act of UNCTAD	7
From States listed in appendix II	5
From States listed in appendix III.	3
From States listed in appendix IV .	2
	17

12. The Chairman of the main committees shall preside over the meetings of their own conciliation committees.

13. These committees shall seek conciliation on matters relating to their own main committees and may take decisions on such matters, subject to confirmation by the main committees concerned, in accordance with paragraph 24, of annex A.V.1 referred to above.

14. In cases where conciliation is not reached by these conciliation committees, the main committee concerned shall refer the matter to the General Conciliation Committee, appending a summary record of the discussions of the conciliation committees.

15. The provisions of paragraphs 5 and 1 above, shall also apply to these conciliation committees.

Malaysia

[*Original text: English*]
[*13 October 1964*]

When conciliation procedures are to be employed

1. According to the recommendation in annex A.V.1, paragraph 24, decisions of the Conference on substantive matters should be taken by a two-thirds majority of the representatives present and voting, subject to the decision of the General Assembly on the provisions of paragraph 25.

2. In the Board, decisions should be taken by a simple majority of representatives present and voting, subject to the

decision of the General Assembly on the provisions of paragraph 25.

3. Paragraph 25 (*a*) provides safeguards against voting on substantive proposals of the nature described as "...of a specific nature for action substantially affecting the economic and financial interests of particular countries". When there are no adequate bases for the adoption of such a proposal conciliation procedures should first be resorted to before voting on the issue.

Conciliation procedures

4. Conciliation procedures should consist of two stages. First, there should be a system of conciliation committees (fairly small in size) consisting of an equitable representation of the interested parties. It is in such a small and intimate committee that efforts should be concentrated to find an acceptable basis for the adoption of a proposal of the nature described above. Secondly, if the interested parties find themselves still in deadlock then they should return the subject to the Conference Board who should then call upon the good offices of the Secretary-General of the Conference.

(a) *Conciliation Committee*:

(i) A conciliation committee should not be a standing committee of the Conference or Board. It should be set up as and when the situation requires;

(ii) The composition of such a committee should be such that there shall be equitable representation of all interested parties;

(iii) A time-limit shall be set by the Conference/Board for the committee's deliberations;

(iv) Where no unanimity is reached such a committee should not vote at the end of its deliberations but rather should present agreed recommendations or areas of agreement/disagreement to the Conference/Board.

(b) *Good offices of the Secretary-General of the Conference*:

If a conciliation committee fails to make a unanimous recommendation or if its recommendation is unacceptable as a basis for adoption by the Conference/Board, the latter should call on the good offices of the Secretary-General of the Conference.

5. If or when a recommendation by the Secretary-General fails to satisfy the requirements of those particular countries substantially affected, economically and financially, then the Conference/Board shall be free to decide on either (i) to seek a further means of finding an acceptable formula or (ii) to go ahead with voting.

Philippines

[*Original text: English*]
[*23 September 1964*]

1. Recourse to informal negotiations or to an informal process of conciliation for the purpose of obtaining unanimity or reaching the widest possible agreement among Member States underlies nearly all the decisions of the United Nations and of its other organs and agencies. What is significant, even precedent-setting in this instance, is the attempt to formalize what has long been an informal practice and to require, in applicable cases, prior recourse to formal conciliation machinery before the Conference or the Board can proceed to a vote.

2. The chief value of informal consultations and negotiations in the decision-making process in international bodies lies in their relative flexibility and adaptability to changing situations, unhampered by any rigid rules. Any step to formalize this process of negotiations, therefore, must eschew the tendency towards rigidity and endeavour to retain, as far as possible, the quality of flexibility which has heretofore rendered it effective.

3. While no objection is perceived to the suggestion in sub-paragraph (*b*) of paragraph 25 of annex A.V.1. of the Final Act of UNCTAD to set up a system of conciliation committees within the Conference and the Board, the membership in such committees must be kept small in number (preferably not more than ten), must equitably reflect the main economic and financial interests represented in the Organization, and be regularly reconstituted at the beginning of each session of the Conference and/or the Board.

4. The matter of availing of the good offices of the Secretary-General of the Conference, either as member *ex-officio* of the conciliation committees or in the capacity of independent expert should be seriously considered. In the same manner, the use of the services of experts from within the regional economic commissions or the academic or private sectors, should not be entirely ruled out.

5. Adequate provision must be made to ensure that the proceedings of the Conference and the Board are not unduly delayed by recourse to the conciliation procedures; for the orderly resolution of questions of recourse to such conciliation procedure of reporting by the operation of the conciliation machinery covering the points mentioned in paragraph 25, sub-paragraph (*c*).

Republic of Viet-Nam

[*Original Text: French*]
[*5 September 1964*]

All proposals must be the subject of preliminary discussion in the technical committees of the Trade and Development Board.

Within the framework of each technical committee, the permanent Secretariat could act as conciliator.

Questions of some difficulty or importance could be submitted to a special conciliation committee.

United Republic of Tanganyika and Zanzibar

[*Original Text: English*]
[*8 September 1964*]

1. The recommendation A.V.1 of the United Nations Conference on Trade and Development entitled "Institutional arrangements, methods and machinery to implement measures relating to the expansion of international trade", contained in annex A of the Final Act of the Conference is now definitive as a recommendation to the General Assembly. Therefore, the manner in which this particular recommendation was conceived and elaborated, while capable of being questioned in the General Assembly, should not normally engage the attention of the Special Committee. But the Government of the United Republic of Tanganyika and Zanzibar questions the highly irregular procedure adopted in the very conception of that recommendation and its elaboration in the last forty-eight hours of the Conference, and states, in particular, that this recommendation was not extensively and exhaustively discussed. Nor were the African delegations consulted regarding its conception and elaboration.

2. Nothing in the recommendations of the Special Committee can deprive an organ of the General Assembly of its right to vote. The right to vote is clearly established and must be maintained. Nor can any recommendation make void the provisions of Articles 18, paragraph 1 and 67, paragraph 1 of the Charter vesting each Member State of the General Assembly and the Economic and Social Council with one vote.

3. Article 33, paragraph 1 of the Charter already establishes the elaborate process of pacification which must be employed in order to find a solution for a dispute the continuance of which is likely to endanger international peace and security. Conciliation is enshrined in this process. Conciliation has always been and still is the practice used in the organs of the United Nations before any recommendation, resolution, declaration or decision is made by those organs. A trade dispute is no less a threat to international peace than a political dispute. To try to create any new formulae would be superfluous and redundant. The Charter of the United Nations Organization and the constitutional conventions and practice of the organs of the United Nations, provide already ample procedures of conciliation before a vote is taken.

4. What is to be the cut-off point of any such conciliation? A process of conciliation must not and cannot be admissible as a trick to circumvent the right of voting. The process of conciliation must not be a built-in instrument for killing legislation. Nor must a process of conciliation become a means of filibuster.

5. A process of conciliation cannot be used to provide an adequate basis for giving certain industrialized Powers an economic veto.

6. The General Assembly and its subsidiary organs can only make recommendations to States Members. The recommendations of the General Assembly and the Trade and Development Board are not mandatory. Decisions of the Board do not carry automatic obligation upon, and implementation by States Members of the Conference. Decisions of the Board cannot have a juridical status superior to that of recommendations of the General Assembly. Therefore whether or not a recommendation of the Board requires action substantially affecting the economic or financial interests of particular countries, a State Member or country is not obligated to implement any such recommendation of the Board. But such a State Member or country is entitled to accept or reject such recommendation in so far as it is consistent or inconsistent with its own constitutional and municipal legal processes and political arrangements.

7. The process of conciliation envisaged could be useful only if States Members of the Conference agreed, *ab initio,* that all decisions of the Board and Conference were mandatory and binding upon them. But this cannot be the case, because there is no treaty in existence adhered to by all members of the Conference which would fix this definitive obligation.

8. It is important to note too that a significant part of world trade is deliberately excluded from the province of deliberation by the Conference or Board. That is, international trade between countries at similar levels of development. This is to remain the exclusive province of the General Agreement on Tariffs and Trade. This makes the case for a weighted voting system or an economic veto or a conciliation process designed to frustrate decisions of the Board even more difficult to be advanced and maintained by that group of countries who control and manipulate the General Agreement on Tariffs and Trade.

9. The Government of the United Republic of Tanganyika and Zanzibar feel therefore that ample processes of conciliation before and after a vote is taken in United Nations bodies exist already. That it is redundant and ill-advised to create any such committees in the new institutional machinery of the Trade and Development Conference. That there can be no justification in law, morality nor in the practice of world trade in 1964 for giving an economic veto to any group of Powers within the United Nations system. That we should not consciously attempt to recreate the vices of the Security Council in new organs of the United Nations that in so doing, we run the risk of killing the new organ even before it has a chance to make its early fledgling and uncertain steps.

United States of America

[*Original text: English*]
[*25 September 1964*]

1. At the Geneva Conference the United States voted for the recommendation in A.V.1 of the Final Act on continuing machinery on the assumption that such machinery and the procedures to be developed under paragraph 25 of the recommendation will be acceptable to developed as well as developing countries. Since the Secretary-General has now convened the Special Committee for the specific purpose of developing such procedures, the Government of the United States wishes to take this occasion to reiterate the importance which it attaches to the work of this Committee.

2. One of the most notable aspects of the United Nations Conference on Trade and Development was the broad consensus which emerged on the need for special procedures in the new trade machinery. The consensus was eloquently summarized by the Secretary-General of the United Nations Conference on Trade and Development in his report to the Secretary-General of the United Nations:

> "There is obviously no immediate practical purpose in adopting recommendations by a simple majority of the developing countries but without the favourable votes of the developed countries, when the execution of those recommendations depends on their acceptance by the latter. Hence the importance of the conciliation machinery as a means of promoting such agreement."[b]

3. The institutional recommendations included in the Final Act of the Conference embody the basic concept of substituting conciliation for voting where significant divisions exist. The resolution calls for special procedures in the new trade machinery "designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries". The resolution also calls for consideration of the desirability of applying these procedures to proposals "involving changes in the fundamental provisions of this resolution". The United States Government is in full agreement with the principles embodied in the excerpts quoted above from the Final Act and from the statement of the Secretary-General of the Conference.

4. The Government of the United States is deeply committed to the basic objectives sought by the United Nations Conference on Trade and Development and will co-operate in every practicable way to assure that the new machinery recommended by the Conference contributes to fulfilling the aspirations of both developing and developed countries.

5. The United States believes it essential that there be an effective dialogue between the developed and developing countries on problems of trade and development. The United States further believes that the machinery recommended by the United Nations Conference on Trade and Development can provide a valuable forum for this dialogue. Such dialogue can exert a useful influence on the policies of both developed and developing countries and promote a fuller understanding of issues fundamentally affecting growth and prosperity.

6. The new machinery recommended by the United Nations Conference on Trade and Development will not be competent to take decisions which are legally binding on its members. If it is effectively to serve the purposes for which it is being created, it must influence national policies through a process of education and persuasion. The United States Government believes that conciliation can more effectively achieve this goal than the adoption of resolutions which do not represent a significant consensus of developed and developing countries.

7. Resolutions adopted over the opposition of countries whose policies they seek to influence are likely to alienate the parliaments and peoples of the very countries from which favourable action is sought. This will set back the process of persuasion, impede the development of mutually satisfactory trade and development policy, debase the currency of resolutions emanating from the new trade machinery, and even erode support for the United Nations system.

8. The United States Government is not committed to any particular procedure and is prepared to consider sympathetically any suggestions for special procedures which will accomplish the agreed objective. It is committed only to the basic objective which special procedures are designed to achieve—that the new trade machinery should have the maximum impact in influencing Governments to adopt mutually satisfactory trade and development policies which will serve the interests of all.

Yugoslavia

[*Original text: English*]
[*21 September 1964*]

1. The Conference underlined that adequate and effectively functioning organizational arrangements are essential if the

[b] *Proceedings of the United Nations Conference on Trade and Development* (United Nations publication, Sales No.: 64. II.B.12), Vol. II, p. 553.

full contribution of international trade to the dynamic growth of the world economy and, in particular, to the accelerated economic progress of the developing countries is to be successfully realized through the implementation of new economic policies. In line with these considerations, the Conference recommended the establishment of a new permanent machinery in the field of trade and development. In order to advance the functioning of the Conference, established as an organ of the General Assembly, and of the Trade and Development Board and its organs, a compromise was achieved and the setting-up of a Special Committee envisaged with a view to "prepare proposals for procedures, within the continuing machinery designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic and financial interests of particular countries".

2. Intensive informal contacts and consultations as well as conciliation procedures have been followed among different groups of countries at the Conference at Geneva. They have proved to be fruitful and have offered constructive results. We expect that this positive experience will be continued and further extended within the framework of the established continuing machinery.

3. It is of equal significance that the informal negotiations and conciliations be carried out primarily with the aim of reaching workable agreements on substantial issues of the new trade and development policy. They should be applied in promoting widely supported international actions required to ensure, for example, preferential treatment for manufactures and semi-manufactures of developing countries on the markets of industrial countries, long-term compensatory financing, establishment of SUNFED, elaboration of general principles governing international trade and economic relations, etc. As far as the methods of these informal contacts and conciliation are concerned, they could be carried out in all forms, within the conference, the Board and its Committees and organs, that appear useful and offer prospects for achieving the desirable consensus. The good offices of the Secretary-General of the Conference or of the President of the Conference and of the Board could be of great value and significance in this framework.

4. The necessary progress in elaborating and implementing recommendations within the continuing machinery aimed at promoting international trade and accelerating economic development in general and of developing countries in particular, requires that there should be ample scope for procedures leading to wide agreements. Arrangements designed for this purpose should not derogate, however, from the ultimate right of the Conference and of the Board to adopt recommendations on any matter of substance by a simple majority vote in the case of the Board and by a two-thirds vote in the case of the Conference. The informal contacts and conciliation procedures among the interested groups of countries should not imply in any case any amendments to the Charter of the United Nations or any departure from the sovereign rights of each country having one vote in the continuing machinery.

5. The setting-up of the Special Committee commands praise. It is expected that the Committee will contribute to the establishment of widely acceptable conciliation procedures, thereby paving the way to the effective implementation of the recommendations and conclusions of the Conference and of the Trade and Development Board. The delegation of Yugoslavia to the nineteenth session of the General Assembly will consider with due attention the report of the Committee and will be guided by the above considerations in any action it may decide to undertake in the Assembly in connexion with the report.

DOCUMENTS A/5774 AND ADD.1

Note by the Secretary-General

DOCUMENT A/5774

[*Original text: English*]
[*6 November 1964*]

1. Advance texts of the Final Act and the report of the United Nations Conference on Trade and Development may be found in the following documents:

Final Act of the Conference	E/CONF.46/L.28
Report of the Conference	E/CONF.46/L.28/Add.1
Report of the First Committee	E/CONF.46/131 and Corr.1-7
Report of the Second Committee	E/CONF.46/132 and Corr.1-2
Report of the Third Committee	E/CONF.46/133 and Corr.1-5
Report of the Fourth Committee	E/CONF.46/134 and Corr.1 and Add.1
Report of the Fifth Committee	E/CONF.46/135 and Corr.1-5

2. The definitive version of the Final Act and report of the Conference, including all the elements listed above, is in preparation and is expected to be available, under the symbol E/CONF.46/139, by the time the Second Committee begins its work.

3. In addition, attention is invited to Economic and Social Council resolution 1011 (XXXVII) which, *inter alia,* transmits the Final Act and report of the Conference to the General Assembly at its nineteenth session. A summary of the Council's discussion and action on this matter will be found in chapter I, section I, of the Council's annual report to the General Assembly.[1]

4. The Special Committee on Procedures, set up under the recommendation contained in annex A.V.1 of the Final Act met at Headquarters from 28 September to 23 October 1964. The report submitted by the experts has been issued as document A/5749.

5. In accordance with paragraph 32 (*c*) of the recommendation contained in annex A.V.1 of the Final Act, the Secretary-General is submitting to the General Assembly a report on the financial implications of the recommendations in the Final Act. This report will be issued as an Assembly document.

DOCUMENT A/5774/ADD.1

[*Original text: English*]
[*9 December 1964*]

1. The report of the Secretary-General on the administrative and financial implications of the recommendations in the Final Act relating to institutional machinery is being circulated as document A/5829.

2. In compliance with a request made by the Permanent Representative of Brazil to the Secretary-General in a note dated 30 November 1964, the report on the fourth session of the Trade Committee of the Economic Commission for Latin America (E/CN.12/701 and Corr.1) is being circulated with a view to facilitating access of Member Governments, during the present session of the General Assembly, to the conclusions reached at that session.

3. The report by the Secretary-General of the Conference to the Secretary-General of the United Nations

[1] *Official Records of the General Assembly, Nineteenth Session, Supplement No. 3* (A/5803).

(E/CONF.46/140) entitled "The significance of the United Nations Conference on Trade and Development" is before the General Assembly.

4. The Committee on the preparation of a draft convention relating to the transit trade of land-locked countries, which was appointed by the Secretary-General under the recommendation in annex A.VI.1 of the Final Act of the Conference, met at Headquarters from 26 October to 20 November 1964, and its report will be issued later as a General Assembly document. A note is being prepared by the Secretary-General with regard to the arrangements for the proposed conference, including financial implications.

DOCUMENT A/5829

Administrative and financial implications of the recommendations in the Final Act relating to institutional machinery: report of the Secretary-General

[*Original text: English*]
[*8 December 1964*]

1. The United Nations Conference on Trade and Development was convened in Geneva from 23 March to 16 June 1964 in accordance with resolution 917 (XXXIV) of the Economic and Social Council and 1785 (XVII) of the General Assembly. The Final Act of the Conference, dealing *inter alia* with the institutional arrangements, methods and machinery to implement measures relating to the expansion of international trade, recommends that the Conference be established as an organ of the General Assembly and asks the Secretary-General of the United Nations to submit to the General Assembly at its nineteenth session "a report on the financial implications of the above recommendations [on institutional machinery] as well as concrete suggestions as to the allocation of expenditure among all the States entitled to participate in the Conference".

2. In preparing this report on the administrative and financial implications of the recommendations on institutional machinery the Secretary-General has been guided by the terms of paragraphs 26 to 29 of the recommendation contained in annex A.V.1 of the Final Act of the Conference which read:

"26. Arrangements shall be made, in accordance with Article 101 of the Charter, for the immediate establishment of an adequate, permanent and full-time secretariat within the United Nations Secretariat for the proper servicing of the Conference, the Board and its subsidiary bodies.

"27. The secretariat shall be headed by the Secretary-General of the Conference who shall be appointed by the Secretary-General of the United Nations and confirmed by the General Assembly.

"28. Adequate arrangements shall be made by the Secretary-General of the United Nations for close co-operation and co-ordination between the secretariat of the Conference and the Department of Economic and Social Affairs, including the secretariats of the regional economic commissions and other appropriate units of the United Nations Secretariat as well as with the secretariats of the specialized agencies.

"29. The expenses of the Conference, its subsidiary bodies and secretariat, shall be borne by the regular budget of the United Nations which shall include a separate budgetary provision for such expenses.

"In accordance with the practice followed by the United Nations in similar cases, arrangements shall be made for assessments on States non-Members of the United Nations which participate in the Conference."

3. For the purposes of the budget estimates presented herewith, the recommendation of the Conference on institutional arrangements has been interpreted as meaning that the secretariat of the Conference should have the same status as other offices and departments in the United Nations Secretariat, and work closely with them under the direction of the Secretary-General of the United Nations.

4. The Secretary-General has also kept in mind that the work of the United Nations in the field of trade and development is part of the total work of the Organization in the field of international economic and social co-operation as described in Article 55 of the Charter. It is, moreover, his intention to ensure close co-operation and co-ordination between the secretariat of the Conference and the Department of Economic and Social Affairs, the regional economic commissions and other appropriate units of the United Nations Secretariat, as well as with the secretariats of the specialized agencies, as required under paragraph 28 of the recommendation contained in annex A.V.1 of the Final Act quoted above.

5. In view of the provisions of the Final Act, the Secretary-General has arranged that in the future the secretariat of the Conference should provide the focal point for the study of trade trends, needs and policies. While this does not mean that the secretariat of the Conference should itself attempt to carry out all the studies and be staffed with this in mind, it is nevertheless essential to provide fully adequate resources in order that it can, in co-operation when appropriate with other units of the United Nations Secretariat and the secretariats of the specialized agencies, discharge the main responsibility arising from the work on trade and development of the Conference, the Board and its subsidiary bodies. In this connexion, it should be noted that the preparatory work done by the Department of Economic and Social Affairs during 1963 for the Trade Conference was undertaken on an emergency basis by the postponement of other priority tasks. Given the existing resources, the Secretary-General feels that it is neither desirable nor advisable that current and continuing tasks in the economic and social fields be deferred in this manner to permit staff resources continuously to be diverted to work on trade matters. This is all the more so in the light of the fact that the Department of Economic and Social Affairs will in 1965-1966 intensify work on financing for development, with projected studies on problems relating to the international flow of public and private capital, the relation of aid to growth, etc., all of which will be required for

the second Conference on Trade and Development to be convened early in 1966.

6. In implementing paragraph 28 of the recommendation contained in annex A.V.1, the Secretary-General has arranged for a rational division of labour and a close working relationship between the Conference secretariat and the Department of Economic and Social Affairs in the areas of possible overlapping, namely: (*a*) projections, (*b*) international financing for development and (*c*) trade in manufactures.

(*a*) In the field of projections, the secretariat of the Conference has certain specific responsibilities in relation to trade, especially in the analysis of trade needs of developing countries. In this connexion, the arrangements proposed provide for proper co-ordination with the Projections and Programming Centre established under resolution 1708 (XVI) of the General Assembly (which has responsibility in working out projections of world economic growth and its components) in order to secure uniformity of methodology and consistency of basic data, results and interpretation, as explained in paragraph 8 of annex I below.

(*b*) In the field of international financing for development, it is envisaged that the centre of gravity for the studies will be with the Department of Economic and Social Affairs, subject to the requisite measure of joint planning by the Under-Secretary and the Secretary-General of the Conference. However, the secretariat of the Conference will have special responsibility for examining policies relating to the trade gap, ways and means of filling the gap, including compensatory and supplementary financing. In these as in other fields, it is recognized that it is not always possible to draw a precise line between the functions ascribed to the two units and that close co-operation must be maintained.

(*c*) In the field of trade in manufactures, it is assumed that the Centre for Industrial Development will continue to be concerned with aspects of the promotion of industrial development in developing countries, including studies of policies, programmes and procedures for industrialization in general and, in particular, the creation and expansion of industries with an export potential, and that the secretariat of the Conference will:

(i) Deal with trade aspects of problems arising from the industrialization of the developing countries;

(ii) Undertake studies and activities connected with proposals for preferential arrangements;

(iii) Deal with measures for the expansion of markets in developed countries for manufactures exported by the developing countries.

7. While the Secretary-General has necessarily had to present his estimates for 1965 in a special document because of the timing of the 1964 Conference, it is his intention to make provision for all expenses related to the activities of the Conference in a separate budget section of the estimates. Under this arrangement, the expenses would be borne by all Member States in accordance with the normal scale of assessments established by the General Assembly. In so far as non-Member States are concerned, attention is invited to paragraphs 38 and 39 of the report of the Committee on Contributions to the General Assembly at its nineteenth session[2] which contains the Committee's recommendations on the rates of assessment to be applied in the event that the General Assembly should decide that non-Member States should be called upon to contribute towards the expenses in respect of their participation in these activities. For purposes of determining the amounts of the expenses to which non-Member States might be asked to contribute, the Secretary-General would propose that in the first instance, and subject to further determination as experience is gained, the expenses provided for in the separate budget section should be the basis for assessments on non-Member States. Contributions so received from non-Member States would, in accordance with regulation 5.9 of the Financial Regulations of the United Nations, be credited as "miscellaneous income" of the Organization.

8. The present estimates contemplate a gradual building up of the secretariat of the Conference from the beginning of 1965 so as to reach full strength in 1966. Consequently, it has been thought advisable to set forth estimates of the full complement of the secretariat to be established in 1966 side by side with estimates of the transitional strength to be achieved in 1965. On this basis, gross professional staff requirements for the substantive secretariat of the Conference are estimated at seventy-one for 1965 and ninety-four for 1966. These figures include a provision of twenty-one professional posts for work on commodities, whereas the Department of Economic and Social Affairs has had some ten to fourteen professional posts assigned to work on trade and commodities. It is envisaged that most of these posts will be transferred to the secretariat of the Conference.

9. These estimates exclude the requirements for the servicing of:

(*a*) The plenipotentiary conference on transit trade of land-locked countries, which is to be convened in the middle of 1965, pursuant to the recommendation contained in annex A.VI.1 of the Final Act;

(*b*) The second conference on Trade and Development, which is to be convened early in 1966, pursuant to the terms of paragraph 32 (*b*) of the recommendation contained in annex A.V.1 of the Final Act;

(*c*) Any special conciliation machinery that might be established during 1965-1966 in terms of the report of the Special Committee on (conciliation) procedures that was convened in New York in September-October 1964 (A/5749).

As regards (*a*), it would be the Secretary-General's intention to submit to the General Assembly later in its current session a separate report on the requirements for servicing the plenipotentiary conference.

As regards (*b*), the Secretary-General feels that, on the experience of the first Conference, a figure of $2 million would not be unreasonable as an estimate of the requirements for the second Conference. Based on such recommendations as may emerge from the Trade and Development Board's discussions in regard to the scope, time, place and duration of the second Conference, the Secretary-General would intend to submit detailed estimates to the General Assembly at its twentieth session.

Finally, in regard to (*c*), in view of the very nature of the activity, the Secretary-General feels that the most appropriate course would be to make provision for the related requirements under paragraph 1 (*c*) of the draft resolution relating to unforeseen and extraordinary expenses for the financial year 1965.[3]

10. The fact that preparatory work for the 1966 Conference must be put in hand without delay will

[2] *Ibid., Supplement No. 10* (A/5810).

[3] *Ibid., Nineteenth Session, Supplement No. 5,* p. xvi.

necessitate substantial provision for consultants and temporary assistance. Indeed, in some specialized fields, experience has proved that it is more convenient and effective to engage consultants rather than to add to the permanent staff. The employment of temporary assistance applies not only to substantive staff needed for the preparation of some of the studies and reports for the Conference, the Trade and Development Board and its subsidiary bodies, but also to conference servicing staff such as interpreters, translators, documents staff, etc., required to service the series of meetings of the trade bodies which will be superimposed on the already heavy annual United Nations calendar of meetings. While for 1965 it is proposed that the requirements for conference-servicing be found from the outside as additional temporary assistance, it might prove preferable and advisable, in the light of the experience of servicing a full schedule of meetings during 1965, to make additions to the existing establishment of conference-servicing staff at Headquarters and Geneva for 1966 and future years.

11. The details of the organization and cost estimates for the new Trade and Development secretariat are contained in annex I to this report. Annex II contains estimates of requirements for other parts of the United Nations Secretariat which would be significantly affected by the work of the new Trade and Development secretariat. Annex III details the requirements for the servicing of the meetings of the Trade and Development Board and its subsidiary bodies in 1965, including those for the translation, reproduction and distribution of documentation, the printing of official records of the new trade bodies and of other important studies and reports.

12. The total budgetary requirements for 1965 amount to $3,073,600 as shown in the summary which follows:

SUMMARY OF REQUIREMENTS FOR 1966 AND 1965

	1966 $	1965 $
I. Salaries and wages		
1. Established posts		
(a) Secretariat of the Conference	1,859,000	964,000
(b) Other secretariat units at Headquarters and Geneva	282,500	213,900
2. Individual experts and consultants	150,000	200,000
3. Temporary assistance		
(a) Secretariat of the Conference	40,000	50,000
(b) For servicing meetings at Headquarters	[a]	33,500
(c) For servicing meetings at Geneva	[a]	398,300
(d) For contractual translation at Headquarters	[a]	92,500
(e) Internal reproduction services for preparatory documentation	[a]	77,000
4. Overtime	15,000	15,000
5. Common staff costs	536,500	306,800
II. Travel of staff (including travel to meetings)	150,000	150,000
III. Hospitality (including representation allowances)	8,500	8,500
IV. Permanent equipment	25,000	150,000
V. General expenses		
(a) Communications	100,000	100,000
(b) Stationery, office supplies, and supplies for internal reproduction	65,000	65,000
(c) Rental of office space	50,000	130,000
(d) Utilities	10,000	10,000
VI. Printing	[a]	109,100
TOTAL	3,291,500[b]	3,073,600
Income from Staff Assessment	393,000	212,000

[a] The requirements under these headings can only be determined on the basis of the work programme and meetings schedule for 1966.

[b] Exclusive of the requirements referred to in the foot-note above.

ANNEX I

Secretariat of the Conference: (basic needs for the first full year of operation)

1. The proposed staff provisions cover the undertaking of research and other activities in the furtherance of the programme of work emerging from the recommendations contained in the Final Act. Detailed analyses of the major developments and of problems relating to the expansion of international trade and trade needs of developing countries will have to be carried out. Studies will be needed of problems arising in the field of primary commodities, manufactures and finance related to trade, as well as in certain hitherto neglected fields such as shipping, insurance, and the trade problems of land-locked countries. At the same time, arrangements have to be made through the conference machinery for the discussion of these problems and for the possible negotiation of solutions. Much of this work will be directed towards the servicing of

meetings at which groups of experts and/or representatives of Governments would discuss possible avenues for action.

2. It is recognized that the new secretariat will not be able to undertake during 1965 all the tasks to which reference is made in the many recommendations of the Conference, and that a selective approach will have to be considered, looking towards the programme of meetings in 1965 and the Second Conference in 1966. The staff provisions in this report have been drawn up on this basis.

3. The tentative organization of the new secretariat and its needs for the first full year of operation (1966) are set out in the attached chart. Explanatory paragraphs broadly outlining the functional responsibilities of each of the major divisions of the secretariat follow. As will be noted, the secretariat will be headed by the Secretary-General of the Conference, who will have the rank of Under-Secretary and will be appointed by the Secretary-General of the United Nations and confirmed by the General Assembly.

4. Provision has been made for the following units:

(*a*) Office of the Secretary-General of the Conference;

(*b*) Executive Office;

(*c*) Division for Conference Planning and External Relations;

(*d*) Research Division;

(*e*) Trade Policies Division;

(*f*) Commodities Division;

(*g*) Manufactures Division;

(*h*) Division for Invisibles and Financing Related to Trade;

(*i*) Division for the Expansion of Trade with Socialist Countries.

5. *Office of the Secretary-General of the Conference*

Apart from the Secretary-General and Deputy Secretary-General, provision is made for a Director of Co-ordination, two special assistants to the Secretary-General, and a professional assistant to the Director of Co-ordination. The Director of Co-ordination will be responsible to the Secretary-General of the Conference for the co-ordination of the work of the secretariat and for such other assignments as the Secretary-General of the Conference may decide.

6. *The Executive Office* is staffed in accordance with normal United Nations practice. In the light of experience, consideration may be given to the possibility of establishing joint administrative arrangements for all economic, social, tecnical assistance and Special Fund activities.

7. *Division for Conference Planning and External Relations*

The Secretary of the Conference will serve as Director of this Division, which will provide the secretariat for the Conference, the Trade and Development Board and other meetings as required, and will be responsible for the organization of all meetings. It will maintain relations with Member Governments, regional commissions, specialized agencies, General Agreement on Tariffs and Trade (GATT), and other inter-governmental and non-governmental bodies in connexion with its responsibility for organization of meetings, without prejudice to the working relations with Governments and agencies maintained by other divisions. In consultation with the other divisions of the secretariat of the Conference and the appropriate services of the United Nations Secretariat concerned, the Division will make arrangements for the Conference and for meetings of the Trade and Development Board, its main committees and its other subsidiary bodies and working groups. The Division will have responsibility for the preparation of formal documentation such as draft rules of procedures, terms of reference, agenda and programme of work for these bodies.

8. *Research Division*

This Division will carry out research essentially concerned with trends in international trade and trade needs of developing countries. The Division will work closely with the Statistical Office and the Bureau of General Economic Research and Policies of the Department of Economic and Social Affairs. The primary responsibility of the Division will be to undertake the necessary economic and statistical analysis of world trade, with special reference to the problems of the developing countries (recommendation A.VI.6), and to assess the trade needs of developing countries in achieving rates of growth higher than those which have been experienced by the developing countries in the past decade (recommendation A.IV.2). The responsibility of this Division will include, *inter alia*, trade projection. In making provision for this work, the Secretary-General has taken into account the fact that several major units of the United Nations Secretariat have important responsibilities in the field of projections, including the Bureau of General Economic Research and Policies at Headquarters, the Trade and Development secretariat, and the four regional commissions. Projections are also being undertaken by specialized agencies and other inter-governmental organizations. The purposes of these various studies in projection are, of course, somewhat different. What is therefore necessary is to combine variety and freedom of research with uniformity of methodology and consistency of basic data, results, and interpretation. The requisite uniformity and consistency will be achieved by close consultation at every main stage of the work with the Centre for Projections and Programming established at Headquarters as well as the centres in the regional commissions. This Division will also have responsibility for other trade research of a general character, including that required in connexion with an overall survey of the depressed areas of the developing world (recommendation A.VI.5). Finally, the Division will furnish such substantive documentation to the Trade and Development Board, its subsidiary bodies, and expert groups as does not fall within the work programme of the other divisions.

9. *Trade Policies Division*

A separate Division for policy analysis is necessitated by the complexity of the programme in this area. Since one of the fundamental purposes of the new trade machinery is the elaboration by the Conference and the Trade and Development Board of new trade policies, it will be necessary for the Division to devote full time to the analysis of such policies as distinct from the analysis of trade needs and trends which will be undertaken by the Research Division. This Division will be primarily concerned with the overall adequacy of trade policies of both developed and developing countries for achieving the objectives of the Conference. While the Division would be broadly concerned with the trade policy aspects of raising rates of growth in developing countries (recommendation A.IV.2), it would deal also with the general aspects of policies in the various substantive fields (commodities, manufactures, invisibles and financing related to trade (in matters mentioned in paragraph 6 (*b*)) and trade of socialist countries). The Division would also work on trade principles (recommendations A.I.1 and A.I.3), problems of regional integration (recommendations A.VI.8, A.II.5 and A.III.8) and international monetary issues (recommendation A.IV.19).

10. *Commodities Division*

This Division will carry out the substantive servicing of the Committee on Commodities recommended in the Final Act; the preparation of annual commodity surveys; the preparation of annual reports on inter-governmental consultations and action on commodities; assistance in the preparation and negotiation of commodity arrangements; the substantive servicing of certain individual commodity committees and groups, for example, those on tungsten and lead and zinc; the preparation of such substantive studies or reports as may be required; and the programme of work deriving from recommendations A.II.1 to A.II.9. Some of these activities have been performed in the Bureau of General Economic Research and Policies of the Department of Economic and Social Affairs in its servicing of the Commission on International Commodity Trade and the Interim Co-ordinating Committee for International Commodity Arrangements. Responsibility for carrying out these functions will be transferred to the Commodities Division of the secretariat of the Conference, though the Bureau of General Economic Research and Policies will need to continue to keep under review trends in trade as part of its continuing study of world economic trends.

11. *Manufactures Division*

This Division will service the Committee on Manufactures and be concerned with the study of problems covered in recommendations A.III.1 to A.III.8, maintaining close co-operation

with the Centre for Industrial Development, as explained in paragraph 6 (*c*) above.

12. *Division for Invisibles and Financing Related to Trade*

This Division will service the Committee on Invisibles and Financing Related to Trade and will be concerned with the study of problems covered in recommendations A.IV.1 to A.IV.26. Recommendations A.IV.21, A.IV.22, A.IV.23 and A.IV.24 deal specifically with shipping, insurance, and tourism, and it is proposed to establish separate sections to undertake work in these fields. The work of the Division concerning finance related to trade will be undertaken in close co-operation with the Bureau of General Economic Research and Policies and the Fiscal and Financial Branch of the Department of Economic and Social Affairs, as well as the International Bank for Reconstruction and Development and the International Monetary Fund.

13. *Division for the Expansion of Trade with the Socialist Countries*

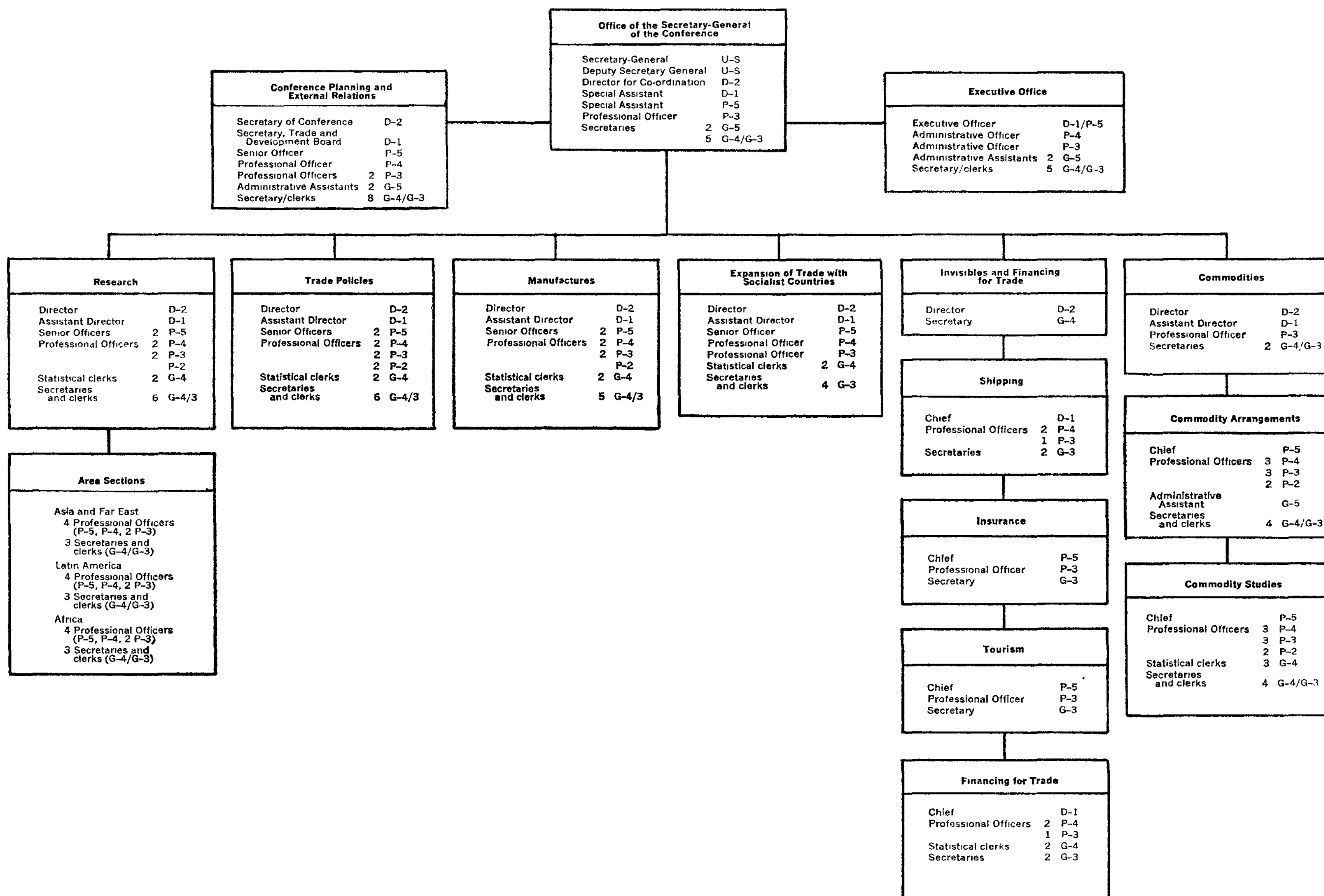
This Division will deal with a number of specific features of the trade of socialist countries with the rest of the world, including long-term trade agreements (recommendation A.VI.3) with special emphasis on trade with developing countries. The Division will also handle questions arising in connexion with industrial branch agreements (recommendation A.III.2) and other problems of trade expansion (recommendations A.III.7 and A.VI.7). This work will be undertaken in close co-operation with the secretariat of the Economic Commission for Europe. This Division will not cover all aspects of the trade of socialist countries but only those that are particular to these countries. In so far as socialist countries are concerned in the general problems of trade in primary commodities or manufactures or of invisibles or financing related to trade, this will be handled by the respective divisions dealing with these matters. Similarly, the Research Division and the Trade Policies Division will cover the socialist countries in the normal course of their work.

* * *

14. Based on the foregoing, a chart giving the tentative organization for the Trade secretariat is attached.

SECRETARIAT FOR THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Basic needs for 1966



SUMMARY OF STAFF NEEDS FOR 1966 AND 1965

Level	Basic needs for the first full year of operation i.e., 1966			Transitional provisions for 1965		
	Nos.	Salary costs for a full 12 months	Common staff costs	Nos.	Salary costs for a full 12 months	Common staff costs
		$	$		$	$
Under-Secretary	2	62,200		2	62,200	
Director (D-2)	8	191,100		8	191,100	
Assistant Director (D-1)	10	206,200		10	206,200	
Senior Officer (P-5)	16	281,000		10	175,600	
Professional Officers: (P-4)	22	316,800		20	288,000	
(P-3)	28	331,800		17	201,450	
(P-2)	8	75,800		4	37,850	
	94	1,464,900		71	1,162,400	
General Service						
Principal level (G-5)	7	49,300		7	49,500	
Other levels (G-4/G-3)	78	418,000		60	312,000	
	85	467,300		67	361,500	
Total	179	1,932,200	490,000	138	1,523,900	370,000
GRAND TOTAL		2,422,200			1,893,900	
Less:						
(i) Allowance for time required for recruitment (5 per cent in 1966 and 30 per cent in 1965 on professional posts)		$(73,200)			$(348,900)	
(ii) Reduction in common staff costs due to (i) above)		(13,000)			(60,000)	
(iii) Costs for posts transferred from the Department of Economic and Social Affairs (12 professional—D-1, P-5, 3 P-4, 4 P-3, 3 P-2—and 8 general service—G-5 and 7 G-4/G-3) presently provided for under section 3		—			(211,000)	
(iv) Common staff costs for above (presently provided for under section 4)		—			(50,000)	
		$2,336,000			$1,224,000	
Income from staff assessment		$350,000			$180,000	

	$
15. Consultants and related travel	200,000

In view of the fact that work during 1965 requires to be oriented not only towards servicing the Trade and Development Board, its main committees, and other subsidiary bodies, but also towards the preparation of documentation for the second Trade Conference to be held early in 1966, considerable reliance on short-term consultants and specialists in trade matters is inevitable.

	$
16. Temporary assistance	50,000

The employment of secretarial/clerical staff during peak periods will be necessary because of the schedule of meetings of the various trade bodies throughout the year. The clerical staff will include short-term statistical clerks as well as typists.

	$
17. Overtime	15,000
18. Travel (including travel to service meetings)	150,000

Besides travel by senior officials for consultations with Governments, specialized agencies, inter-governmental organizations concerned with trade questions, and travel to the regional commissions, there will be transatlantic travel occasioned by the fact the meetings schedule provides for most of the meetings being held in Geneva.

	$
19. Hospitality (including representation allowances)	8,500
20. Office equipment	150,000

The amount covers the purchase of office furniture, library equipment and office machines, including typewriters, calculating machines, and copying machines, for use both in New York and in Geneva.

	$
21. Communications (cables, long distance telephone, freight, including charges for shipment of documents for the meetings in Geneva)	100,000
22. Stationery and offices supplies (including supplies for internal reproduction), library books and periodicals	65,000
23. Office space	130,000

It will be necessary to rent additional office space to accommodate the substantive as well as the temporary conference-servicing staff. The expenditures in this regard are likely to arise in the main in Geneva, where the major portion of the meetings take place.

	$
24. Utilities	10,000

Provision is made for the additional costs of air conditioning and/or heating of the conference rooms in Geneva.

SUMMARY OF ANNEX I

		1966 $	1965 $
(i)	Established posts, secretariat of the Conference	1,859,000	964,000
(ii)	Common staff costs for above	477,000	260,000
		2,336,000	1,224,000
(iii)	Individual experts and consultants	150,000	200,000
(iv)	Temporary assistance	40,000	50,000
(v)	Overtime	15,000	15,000
(vi)	Travel (including travel to meetings)	150,000	150,000
(vii)	Hospitality (including representation allowances)	8,500	8,500
(viii)	Permanent equipment	25,000	150,000
(ix)	General expenses:		
	Communications	100,000	100,000
	Stationery, office supplies, supplies for internal reproduction, library books and periodicals	65,000	65,000
	Rental of office space	50,000	130,000
	Utilities	10,000	10,000
	TOTAL	2,949,500	2,102,500
Less			
	Income from staff assessment	350,000	180,000

ANNEX II

Requirements in other Secretariat units excluding conference-servicing requirements

1. In paragraph 6 of the report, reference has already been made to some of the arrangements contemplated for ensuring close co-operation and co-ordination between the new secretariat and the Department of Economic and Social Affairs. The units chiefly concerned will be the Bureau of General Economic Research and Policies, the Fiscal and Financial Branch, the Statistical Office, and the Centre for Industrial Development. The Under-Secretary for Economic and Social Affairs and the Commissioner for Industrial Development will take appropriate steps to adjust the work programmes of the units concerned in order to take account of the arrangements mentioned in the earlier paragraphs.

2. The establishment of the secretariat will create additional requirements for trade statistics, which are the responsibility of the International Trade Statistics Centre of the United Nations Statistical Office. While the installation of the electronic computer to be acquired in 1965 will facilitate the undertaking of the added responsibilities, some strengthening of the International Trade Statistics Centre would appear both desirable and necessary. In recognition of the increased workload and responsibilities of the Centre, it is proposed to strengthen its staff by the addition of an Assistant Director (D-1) and to provide for it two programmers at the P-4 level, two statistical clerks, and one secretary. These additional requirements are for 1966 when the new secretariat is to reach full strength. For 1965 these additional requirements are estimated as one Principal Officer (D-1), one First Officer (P-4), and two statistical clerks. The related costs are estimated at $76,000 for 1966 and $43,000 for 1965. These figures include common staff costs and make allowance for time for recruitment.

3. In so far as other Headquarters requirements are concerned, it will be necessary also to provide for some additional staff in the central administrative, financial, legal, conference, and general services to meet the requirements for servicing the new office. It is estimated that a total of four professional (P-5, P-4 and 2 P-2) and twelve general service posts will be required for a period of about ten months each in 1965. The related costs are $110,000 in 1965 and $131,400 in 1966. These figures include common staff costs and make allowance for time for recruitment.

4. In so far as Geneva is concerned, it will be necessary to strengthen certain of the central services such as finance, personnel, general, information, and library services. The requirements for these services are estimated at four additional professional posts (P-5, 2 P-3, P-2) and nine general service posts. Furthermore, some temporary assistance equivalent to six clerical posts for a period of five months each will be required to cope with peak meeting periods. The related costs are estimated at $108,000 for 1965 and $135,000 for 1966, inclusive of common staff costs but allowing for recruitment to the posts required on a full-year basis.

SUMMARY OF ANNEX II

	1966 $	1965 $
Section 3. Salaries and wages		
Statistical Office	59,300	33,700
Administrative, financial, legal, conference and general services	108,200	90,200
Certain services in Geneva	115,000	90,000
	282,500	213,900
Section 4. Common staff costs	59,500	46,800
TOTAL	342,000	260,700
Less:		
Income from staff assessment	43,000	32,000

ANNEX III

Requirements for conference servicing[a] and printing of Official Records and studies prepared by the new secretariat

1. A tentative schedule for 1965 of meetings of the Trade and Development Board, its three main Committees and other subsidiary bodies is submitted in annex IV. In fitting this list of meetings into the already heavy programme of meetings of the existing United Nations bodies, every attempt has been made to schedule the meetings so as to draw as fully as possible on existing resources for servicing meetings. The Secretary-General has also had to take into account the fact that the time available for the total conference programme will be shortened because of the extension into 1965 of the nineteenth session of the General Assembly. Based on the foregoing considerations, the additional provisions for the servicing of the schedule of meetings of the new trade bodies, are set out in this annex, under the following main headings:

	$
A. Preparatory documentation for the various trade bodies	155,000
A detailed listing of the preparatory documentation anticipated in regard to the various bodies expected to meet in 1965 is attached as annex V. The total volume of such documentation is estimated at some 3,700 manuscript pages which will require to be translated, reproduced, and distributed in four languages prior to the commencement of the meeting concerned. This work will be undertaken at Headquarters irrespective of the location of the various meetings. In the light of the workload facing the translation services next year, it will not be possible to undertake this additional work for the various trade bodies within existing staff resources, and provision needs therefore be made for undertaking it (or an equivalent volume) through the use of external sources. Based on an average cost of $8 per manuscript page for translation, revision, and typing of fair copy, and $2 a page for typing in the original language of submission, the related costs are estimated at	78,000
The cost of reproduction (including labour, paper and other supplies) of this volume of documentation, using the normal pattern of distribution and further assuming that approximately 75 per cent of it would be done through the use of internal facilities and the balance by external contract, is estimated at	77,000
B. Costs of servicing meetings to be held at Headquarters	48,000

As indicated in the tentative schedule of meetings shown in annex IV, the following meetings are to take place at Headquarters:

(i) First session of the Trade and Development Board for a period of three weeks from 5 to 23 April;

(ii) Expert Group on Monetary and Financial Questions for four weeks from 14 June to 9 July.

For the servicing of both of these meetings, the following additional staff will be required:

	$
(i) One team of eight interpreters (two for each language) at an average cost of $3,800 for each week of meetings (including salaries, travel and subsistence)	26,500
(ii) One team of editors (comprising three editors and one editorial assistant), for a period of eight weeks for the editing of the official records of the Trade and Development Board at an estimated cost of	5,000
Also two temporary staff will be required for the taking of the minutes of the meetings of the Expert Group on Monetary and Financial Questions, at an estimated cost of	2,000
Provision will also need to be made for the translation, revision, and typing of in-session documentation, summary records, and the final report of the Trade and Development Board. On the basis of 1,800 pages, at $8 per page the costs are estimated at	14,500
C. Costs of servicing meetings to be held at Geneva	398,300

Similarly, in accordance with the tentative schedule shown under annex IV, the following meetings are to be held at Geneva:

(i) Special Committee on Preferences for three weeks from 1 to 19 March;

(ii) *Ad Hoc* Working Party on International Organization of Commodity Trade, first session, from 17 to 28 May;

(iii) Committee on Commodities for three weeks from 12 to 30 July, including the establishment of a sub-group on Commodities Affected by Synthetic Substitutes and other Substitute Products;

(iv) Committee on Manufactures for three weeks from 27 September to 15 October;

(v) Committee on Invisibles and Financing related to Trade for three weeks from 19 October to 5 November, including an overlap with the meetings of the Expert Group on Repayment of Loans for one week;

(vi) Trade and Development Board, second session, for four weeks from 23 November to 16 December.

Since all of these meetings will be superimposed upon the normal programme of meetings for the European Office, they will require additional staff resources.

Exclusive of the second session of the Trade and Development Board, the basic complement of additional staff required for the servicing of each of the four committees in sub-paragraphs (i), (iii), (iv) and (v) above is as follows:

8 interpreters (2 for each language)
6 précis writers
12 translators
6 revisers
30 stenographer/typists
3 secretaries

	$
It is assumed that there will be two meetings per day for each of these committees, that simultaneous interpretation will be provided in four languages, and that summary records will be issued in three languages. In the case of the *Ad Hoc* Working Party on International Organization of Commodity Trade, the requirements will be somewhat less than indicated above inasmuch as there will be minutes only in one language and a final report. On this basis, the costs are estimated at	174,500

The Sub-Group on Commodities Affected by Synthetic Substitutes and other Substitute Products, and the Expert Group on Repayment of Loans overlap with the sessions of the related main committees. Furthermore, the Expert Committee on the Regional Development Fund is scheduled to meet in Geneva for two weeks from 9 to 20 August. Additional conference staff for servicing these meetings will be required as follows:

8 interpreters
4 minute-writers
8 translators (for in-session documentation)
5 revisers
22 stenographer/typists
3 secretaries

[a] Excluding the requirements for the Plenipotentiary Conference on Transit Trade of Land-locked Countries.

	$
Based again on the assumption that these bodies will require only minutes of their meetings in one language and a final report, the costs are estimated at	53,200

For the servicing of the second session of the Trade and Development Board from 23 November to 16 December, the following conference staff will be required for a period of four weeks:

8 interpreters
6 précis-writers
22 translators
9 revisers
54 stenographer/typists
3 secretaries

The additional staff requirements are based on two meetings per day, simultaneous interpretation into four languages, and summary records and in-session documentation of a volume of 800 pages to be issued in three languages. The related costs are estimated at	74,600

The impact of this heavy programme of meetings at the European Office will give rise to a need to strengthen certain related services as shown below:

(*a*) Editing: Three additional editors for the period 1 to 19 March and six additional editors and three editorial assistants for the period 1 September to 31 December will be required to undertake the editing of the official records and reports emanating from these meetings. The estimated cost is	35,000
(*b*) Reproduction and distribution services: Additional staff will be required to reinforce these services to the extent of fifteen reproduction personnel, twelve distribution clerks, one meetings service officer, and four documents control clerks for a period of five months at an estimated cost of	48,500
(*c*) Other services: It will be necessary to recruit additional technicians for the operation of simultaneous interpretation equipment, and guards, messengers, and cleaners for the various meetings at an estimated cost of	12,500
D. Printing:	109,100

(i) Official Records of the Trade and Development Board and its subsidiary bodies

After consultation with the United Nations Publications Board, the Secretary-General recommends that provision be made in the amount of $59,100 for the printing of the official records of the Trade and Development Board as follows:

Summary Records

	$
(*a*) First session, twenty-five to thirty meetings, separate fascicles, later in bound volumes with cover, about 160 pages each in English, French and Spanish	13,000
(*b*) Second session, thirty-five to forty meetings, separate fascicles, later in bound volumes with cover, about 160 pages each in English, French and Spanish	13,000
Supplements: four reports of about thirty-six pages each in English, French, Spanish and Russian with cover	17,000
Annexes: one volume of about 160 pages in English, French and Spanish with cover	10,500
Resolutions: one volume of about twenty pages for each of two sessions, in English, French, Spanish, Russian and Chinese with cover ($2,800 each session)	5,600

(ii) Special studies and reports on trade and development problems

A lump sum of $50,000 is requested to permit the publication in four languages of up to three important studies, each of approximately 120 pages, to be prepared during the year on trade and development problems	50,000

SUMMARY OF ANNEX III

	1965 only $
A. Preparatory documentation for the various trade bodies	155,000
B. Costs of servicing meetings held at Headquarters	48,000
C. Costs of servicing meetings held at Geneva	398,300
D. Printing	109,100
TOTAL	710,400

ANNEX IV

Tentative schedule of meetings of trade bodies during 1965

The meetings listed hereunder are those provided for in the Final Act of the Conference.

Certain commodity meetings may also be convened during 1965 in order to renegotiate or extend existing agreements or in order to further work already in progress or pending. It is likely that a tin conference will be held at Headquarters in the spring of 1965, and there is a possibility that a second commodity conference may be held in Geneva during August and September. Short meetings on certain non-ferrous metals are also likely to be required. Such commodity meetings will be scheduled as appropriate within the overall programme of meetings for the secretariat of the Conference.

Provision has been made in the budget estimates for 1965 in the amount of $9,000 (in section 1) for two sessions of the Interim Co-ordinating Committee for International Commodity Arrangements, one in New York and a second in Geneva, and $45,000 (in section 2) for commodity conferences to be convened during 1965 on the recommendation of the Interim Co-ordinating Committee for International Commodity Arrangements to the Secretary-General.

	Dates	*Duration*	*Location*
Special Committee on Preferences (Recommendation A.III.5)	1 to 19 March	3 weeks	Geneva
Trade and Development Board First session (Recommendation A.V.I)	5 to 23 April	3 weeks	New York
Ad Hoc Working Party on International Organization of Commodity Trade, First session (Recommendation A.II.8)	17 to 28 May	2 weeks	Geneva

	Dates	*Duration*	*Location*
Expert Group on Monetary and Financial Questions (Recommendations A.IV.19 and A.IV.18)	14 June to 2 July (or 9 July)	3 to 4 weeks	New York
Committee on Commodities First session (including establishment of Sub-Group on Commodities Affected by Synthetic Substitutes and Other Substitute Products) (Recommendations A.V.1, A.II.1, and A.II.7)	12 to 30 July	3 weeks	Geneva
Regional Development Fund Expert Committee (Recommendation A.IV.9)	9 to 20 August	2 weeks	Geneva
United Nations Conference on Transit Trade of Land-locked Countries (Recommendation A.VI.1)	9 August-10 September	5 weeks	Geneva
Committee on Manufactures First session. (Recommendation A.V.1)	27 September-15 October	3 weeks	Geneva
Committee on Invisibles and Financing related to Trade First session (including Expert Group on Repayment of Loans) (Recommendations A.V.1 and A.IV.4)	19 October-5 November	3 weeks	Geneva
Trade and Development Board Second session	23 November-16 December	4 weeks	Geneva

ANNEX V

Estimates of documentation and Official Records of meetings of the trade bodies in 1965[a]

	Records[b]	*No. of working days*	*Pre-session*[c] *(manuscript pages)*	*In-session*[c] *(manuscript pages)*	*Post-session*[c] *(manuscript pages)*	*Printing Requirements*[d] *(Official Records)*
Special Committee on Preferences	Summary records	15	300	200	150	Final report
Trade and Development Board, First session	Summary records	15 to 20	200	300	100	Summary records, Final report, Rules of procedure, Terms of reference of Main Committees, etc.
Regional Development Fund, Expert Committee	[e]	10	150	200	70	Final report
Expert Group on Monetary and Financial Questions	[e]	15 to 20	400	300	150	Final report
Committee on Commodities, First session (including *Ad Hoc* Working Party on International Organization of Commodity Trade and establishment of Sub-Group on Commodities affected by synthetic substitutes and other substitute products)[e]	Summary records	19	800	300	100	Final report as Supplement to Official Records of Trade and Development Board
Committee on Manufactures, First session	Summary records	14	500	200	70	Final report as Supplement to Official Records of Trade and Development Board
Committee on Invisibles and Financing related to Trade, First session (including Expert Group on Repayment of Loans)	Summary records	14	500	300	100	Final report as Supplement to Official Records of Trade and Development Board
Trade and Development Board, Second session	Summary records	20	800	800	200	Final report, Summary records, Certain substantive reports

[a] To be reviewed after first session of Trade and Development Board.
[b] Summary records to be issued in English, French and Spanish.
[c] All documents to be issued in English, French, Spanish and Russian.
[d] Number of manuscript pages for printing would be approximately the same as shown in the "Post-session" column.
[e] English minutes.

DOCUMENT A/5837

Administrative and financial implications of the recommendations in the Final Act relating to institutional machinery: twenty-first report of the Advisory Committee on Administrative and Budgetary Questions

[*Original text: English*]
[*18 December 1964*]

1. The Advisory Committee on Administrative and Budgetary Questions has examined the Secretary-General's report [A/5829] on the administrative and financial implications of the recommendations relating to institutional machinery contained in the Final Act adopted by the United Nations Conference on Trade and Development, held at Geneva from 23 March to 16 June 1964. In considering this document, it obtained clarification of a number of aspects of the proposed institutional machinery from representatives of the Secretary-General of the United Nations, including the Secretary-General of the Conference on Trade and Development.

The Secretary-General's proposals

2. The Secretary-General states that in preparing his report he was guided by the terms of paragraphs 26 to 29 of the recommendation contained in annex A.V.1 of the Final Act of the Conference which reads as follows:

"Arrangements shall be made, in accordance with Article 101 of the Charter, for the immediate establishment of an adequate, permanent and full-time secretariat within the United Nations Secretariat for the proper servicing of the Conference, the Board and its subsidiary bodies.

"The secretariat shall be headed by the Secretary-General of the Conference who shall be appointed by the Secretary-General of the United Nations and confirmed by the General Assembly.

"Adequate arrangements shall be made by the Secretary-General of the United Nations for close co-operation and co-ordination between the secretariat of the Conference and the Department of Economic and Social Affairs, including the secretariats of the regional economic commissions and other appropriate units of the United Nations Secretariat as well as with the secretariats of the specialized agencies.

"The expenses of the Conference, its subsidiary bodies and secretariat, shall be borne by the regular budget of the United Nations which shall include a separate budgetary provision for such expenses.

"In accordance with the practice followed by the United Nations in similar cases, arrangements shall be made for assessments on States non-Members of the United Nations which participate in the Conference."

3. For the purposes of the budget estimates presented in the Secretary-General's report [A/5829], the recommendation of the Conference on institutional arrangements has been interpreted by the Secretary-General as meaning that the secretariat of the Conference should have the same status as other offices and departments in the United Nations Secretariat, and work closely with them under his direction.

4. The Secretary-General has also kept in mind that the work of the United Nations in the field of trade and development is part of the total work of the Organization in the field of international economic and social co-operation as described in Article 55 of the Charter. He has, moreover, given the assurance that he will ensure close co-operation and co-ordination between the secretariat of the Conference and the Department of Economic and Social Affairs, the regional economic commissions and other appropriate units of the United Nations Secretariat, as well as with the secretariats of the specialized agencies, as required under paragraph 28 of the recommendation contained in annex A.V.1 of the Final Act quoted above.

5. In view of the provisions of the Final Act, the Secretary-General has arranged that in the future the secretariat of the Conference should provide the focal point for the study of trade trends, needs and policies. While this does not, in his opinion, mean that the secretariat of the Conference should itself attempt to carry out all the studies and be staffed with this in mind, he considers that it is nevertheless essential to provide fully adequate resources for the Conference secretariat in order that it can, in co-operation with other units of the United Nations Secretariat and the secretariats of the specialized agencies discharge the main responsibility arising from the work on trade and development of the Conference, the Board and its subsidiary bodies.

6. The Secretary-General states in his report that in implementing paragraph 28 of the recommendation contained in annex A.V.1, he has arranged for a rational division of labour and a close working relationship between the secretariat of the Conference and the Department of Economic and Social Affairs in the areas of possible overlapping, namely (*a*) projections, (*b*) international financing for development and (*c*) trade in manufactures.

7. The Secretary-General has indicated that he will make provision in the future for all expenses related to Conference activities in a separate budget section. Under this arrangement, the expenses would be borne by all Member States in accordance with the normal scale of assessments established by the General Assembly. In so far as non-Member States are concerned, the Secretary-General calls attention to paragraphs 38 and 39 of the report of the Committee on Contributions to the nineteenth session of the General Assembly,[4] which contain the Committee's recommendations on the rates of assessment to be applied in the event that the General Assembly should decide that non-Member States should be called upon to contribute towards the expenses in respect of their participation in these activities.[5] For purposes of determining the amounts of the expenses to which non-Member States might be asked to contribute, the Secretary-General proposes that in the first instance, and subject to further determination as experience is gained, the expenses provided for in the separate budget section should be the basis for assessments on non-Member States. Contributions so

[4] *Official Records of the General Assembly, Nineteenth Session, Supplement No. 10* (A/5810).

[5] Present indications are that such contributions would amount to approximately 8.5 per cent.

received from non-Members would, in accordance with regulation 5.9 of the Financial Regulations of the United Nations, be credited as "miscellaneous income" of the Organization.

8. The Secretary-General's estimates contemplate a gradual building up of the Conference secretariat in 1965 and 1966. On this basis, professional staff requirements for the substantive secretariat of the Conference are estimated at seventy-one[6] for 1965 and ninety-four for 1966. These figures include provision of twenty-one professional posts for work on commodities, whereas the Department of Economic and Social Affairs has had some ten to fourteen professional posts assigned to work on trade and commodities. It is envisaged that most of these posts will be transferred to the secretariat of the Conference.

9. The Secretary-General calls attention to the fact that his estimates exclude the requirements for the servicing of:

(*a*) The plenipotentiary conference on Transit Trade of Land-locked Countries which is to be convened in the middle of 1965, pursuant to the recommendation contained in annex A.VI.1 of the Final Act;

(*b*) The second Conference on Trade and Development which is to be convened early in 1966, pursuant to the terms of paragraph 32 (*b*) of the recommendation contained in annex A.V.1 of the Final Act;

(*c*) Any special conciliation machinery that might be established during 1965-1966 in terms of the report of the Special Committee on Procedures that was convened in New York in September-October 1964 [A/5749].

[6] According to the table giving a summary of staff needs for 1966 and 1965, in the Secretary-General's report [A/5829, annex I], the distribution of these posts would be as follows: Under-Secretary, 2; D-2, 8; D-1, 10; P-5, 10; P-4, 20; P-3, 17; P-2, 4. In addition, there would be sixty-seven general service posts.

10. Since the preparatory work for the 1966 Conference must be put in hand without delay, the Secretary-General has considered it necessary to include in his estimates a substantial provision for consultants and temporary assistance. He points out that in some specialized fields, experience has proved that it is more convenient and effective to engage consultants rather than to add to the permanent staff. The employment of temporary assistance applies not only to substantive staff needed for the preparation of some of the studies and reports for the conference, the fifty-five-member Trade and Development Board and its subsidiary bodies, but also to conference staff such as interpreters, translators, documents staff, etc., required to service the series of meetings of the trade bodies which will be superimposed on the existing calendar of meetings. While for 1965 it is proposed that the requirements for the servicing of conferences be found from the outside as additional temporary assistance, the Secretary-General states his belief that it might prove preferable and advisable, in the light of the experience of servicing a full schedule of meetings during 1965, to make additions to the existing establishment of staff servicing conferences at Headquarters and Geneva for 1966 and future years.

11. Details of the organization and cost estimates for the Conference secretariat are contained in annex I of the Secretary-General's report. Annex II contains estimates of requirements for other parts of the United Nations Secretariat which would be significantly affected by the work of the Conference secretariat. Annex III contains the requirements for the servicing of the meetings of the Trade and Development Board and its subsidiary bodies in 1965, including those for the translation, reproduction and distribution of documentation, the printing of official records of the new trade bodies and of other important studies and reports.

12. The total budgetary requirements for 1965, as set forth in annexes I, II and III of the Secretary-General's report, amount to $3,073,600 as follows:

SUMMARY OF REQUIREMENTS FOR 1966 AND 1965

	1966 $	1965 $
I. Salaries and wages		
1. Established posts		
(*a*) Secretariat for Conference	1,859,000	964,000
(*b*) Other secretariat units at Headquarters and Geneva	282,500	213,900
2. Individual experts and consultants	150,000	200,000
3. Temporary assistance		
(*a*) Secretariat for Conference	40,000	50,000
(*b*) For servicing meetings at Headquarters	a	33,500
(*c*) For servicing meetings at Geneva	a	398,300
(*d*) For contractual translation at Headquarters	a	92,500
(*e*) Internal reproduction services for preparatory documentation	a	77,000
4. Overtime	15,000	15,000
5. Common staff costs	536,500	306,800
II. Travel of staff (including travel to meetings)	150,000	150,000
III. Hospitality (including representation allowances)	8,500	8,500
IV. Permanent equipment	25,000	150,000
V. General expenses		
(*a*) Communications	100,000	100,000
(*b*) Stationery, office supplies, and supplies for internal reproduction	65,000	65,000
(*c*) Rental of office space	50,000	130,000
(*d*) Utilities	10,000	10,000

SUMMARY OF REQUIREMENTS FOR 1966 AND 1965 (*continued*)

	1966 $	1965 $
VI. Printing	[a]	109,100
TOTAL	[b]	3,073,600[c]
Less		
Income from Staff Assessment	393,000	212,000

[a] The requirements under these headings can only be determined on the basis of the work programme and meetings schedule for 1966.

[b] The total for 1966 would be meaningless without the requirements referred to in [a] above and those of the second Conference on Trade and Development, the latter estimated by the Secretary-General at some $2 million.

[c] This figure does not include the cost of posts to be transferred from the Department of Economic and Social Affairs (twelve professional and eight general service), presently provided for under section 3 of the 1965 budget estimates ($211,000) nor the related common staff costs presently provided for under section 4 of those estimates ($50,000).

The Advisory Committee's comments and recommendations

13. In considering the Secretary-General's report on the administrative and financial implications of the recommendations contained in the Final Act relating to institutional machinery, the Advisory Committee has had constantly in mind the importance attached by the Conference to the need for adequate and effectively-functioning organizational arrangements to continue the work initiated by the Conference and to implement its recommendations and conclusions. With regard to the Final Act of the Conference, the Committee noted that it is to be submitted for approval by the General Assembly at the nineteenth session. One of the decisions to be taken by the General Assembly concerns the location of the Secretariat of the Conference and the General Assembly's action may well have budgetary implications. Pending such action, the Secretary-General has, for practical purposes, based his estimates on costs applicable at Headquarters, New York, except for the specific conference demands made on the European Office at Geneva. Accordingly, the Committee would wish to emphasize that its present report is to some extent of a provisional and preliminary nature. The Committee has attempted to formulate its recommendations in a general way, without entering into the specific details of particular budget items. It intends to return to this subject at its summer session in June 1965, following full consideration of the Final Act by the General Assembly.

14. One of the matters of particular concern to the Advisory Committee is the necessity to avoid overlapping and duplication of functions with other areas of the Secretariat, more particularly with the Department of Economic and Social Affairs and the regional commissions, and perhaps to a lesser degree with certain of the specialized agencies. The Committee has particularly in mind the relationship between the proposed Research Division for the Conference and the Statistical Office and the Bureau of General Economic Research and Policies of the Department of Economic and Social Affairs. It appreciates the need for continuing and expanding activity in this important field, but, at the same time, it suggests that the possibility of setting up a consolidated research centre should be fully explored and pending such a study, every effort should be made to define more clearly the respective responsibilities of the Conference and the Department of Economic and Social Affairs in this area. The Committee was given to understand that the division of responsibilities which has been agreed upon was determined to a large extent by the requirements of the second Conference on Trade and Development to be held in 1966 and that it would be reviewed at that time. It suggests nevertheless that consideration should be given to the establishment of adequate machinery to obviate, to the greatest extent possible, any duplication of functions and responsibilities. In any case, possible areas of duplication should be the subject of continuing review. The Committee noted that the Secretary-General is seized of this problem and has indicated (A/5829, para. 6) three possible areas of overlapping which are receiving his attention.

15. In annex I, paragraph 6, of his report, the Secretary-General mentions that in the light of experience consideration may be given to the possibility of establishing joint administrative arrangements for all economic, social, technical assistance and Special Fund activities. The Advisory Committee endorses this proposal and hopes that consideration will be given to the establishment of such an administrative office at the earliest opportunity and to the extent possible. In the meantime, thought should be given to the merging of the Executive Office of the Conference and the division of Conference Planning and External Relations, which, in its opinion, may serve to strengthen and co-ordinate the administrative requirements of the Conference. In any event, the Committee considers that the reference to "planning" in the title of this latter division is somewhat misleading and suggests that it be suitably amended.

16. With regard to the proposed staff requirements for 1965, the Committee questioned the disproportionate number of posts at the D-2 and D-1 levels as compared with the normal staffing pattern applicable in the United Nations Secretariat as a whole. It was explained to the Committee that this was attributable in part to the level of responsibility attached to the particular posts, which, in the view of the Secretary-General of the Conference, required personnel of such high professional calibre in specialized fields, that it would not be possible to attract them if the common grading standards of the United Nations system were applied. It was also stated that the need for professional posts (levels P-1 to P-5) was limited by comparison with other departments because it was intended to make full use of the resources of other units of the United Nations Secretariat and of the specialized agencies for

tasks such as basic research, normally performed at those levels.

17. The Committee is not as yet convinced of the need for the higher grading pattern proposed for the Conference secretariat and believes that every attempt should be made to preserve the existing United Nations policy of common grading standards. The Committee therefore considers that recourse should not be had to an extraordinary grading pattern unless and until experience by the Conference with the normal grading pattern has proved this to be necessary. In any case, the Committee would consider undesirable any departure from the accepted grading standards which might have repercussions on other departments. With regard to recruitment prospects the Committee would draw attention to its report to the General Assembly at its nineteenth session[7] on the budget estimates for 1965, with particular reference to the Secretary-General's request for new professional posts. The Committee had noted that of the 123 new professional posts proposed, 109 required highly specialized qualifications and experience, and constituted a recruitment problem of some magnitude. Of the proposed 109 new posts, sixty were in specialized fields in the economic and social areas for which qualified candidates were difficult to attract. In view of the emphasis placed by the Secretary-General of the Conference on the high calibre of staff required for the Conference, it would seem that here also considerable delays in recruitment will be inevitable. Furthermore, it would be regrettable if an attempt to obtain the total number of staff considered necessary in a limited period of time were to lead to acceptance of lower standards. The Advisory Committee, therefore, is of the opinion that the target established by the Secretary-General for 1965 both as regards the grading and numbers of staff, may be too ambitious and that a more limited manning-table should be contemplated for that year.

[7] *Official Records of the General Assembly, Nineteenth Session, Supplement No. 7* (A/5807), paras. 141 and 142.

18. The Secretary-General of the Conference informed the Committee that the requirements were based on the known workload devolving on the Conference in 1965. He recognized that the secretariat might not be able to undertake all the tasks to which reference was made in the many recommendations of the 1964 Conference, and that a selective approach would have to be considered. In the light of past experience and taking into account present circumstances, the Committee has doubts as to the feasibility of completing in 1965 the heavy meeting schedule listed in annex IV of document A/5829, and some adjustment may well have to be made in the light of experience gained in the first half of the year.

19. In view of the many uncertainties and the observations set forth above, the Advisory Committee recommends that the General Assembly approve a maximum gross expenditure of $2.5 million for 1965, or a reduction of $573,600 in the estimates submitted by the Secretary-General, to be applied primarily to the estimates for the secretariat of the Conference contained in annex I of document A/5829. Should the General Assembly approve the Committee's recommendation the estimated income of $212,000 from staff assessment should be reduced in relationship to the adjustments made in staff requirements. As stated in paragraph 13, the Committee's recommendation is provisional and subject to review in June 1965.

20. The Committee has not yet had an opportunity of examining the administrative and budgetary implications of the Secretary-General's proposal, referred to in paragraph 7 above, to make provision for all expenses related to the activities of the Conference in a separate budget section, and it consequently has no comment to make thereon at the present time.

DOCUMENT A/5848

Note by the Secretary-General

[Original text: English]
[19 January 1965]

1. The executive secretaries of the four regional economic commissions and the Secretary-General of the United Nations Conference on Trade and Development met at Headquarters from 11 to 13 January 1965 under the chairmanship of the Under-Secretary for Economic and Social Affairs to review in further detail the arrangements required for following up the decisions of the Conference.

2. The report on this meeting[8] provides further information on the arrangements for continued collaboration between the Conference and its secretariat, on the one hand, and the regional commissions and their secretariats, on the other.

[8] *Official Records of the Economic and Social Council, Thirty-ninth Session, document* E/3937/Add.1.

DOCUMENT A/5849

Preparation of a convention on the transit trade of land-locked countries—Administrative and financial implications of the recommendations for convening a conference of plenipotentiaries: report of the Secretary-General

[Original text: English]
[21 January 1965]

1. In his report dated 8 December 1964 [A/5829] the Secretary-General dealt with the administrative and financial implications of the recommendations of the United Nations Conference on Trade and Development in so far as these recommendations related to the establishment of institutional machinery. Following

upon the adoption of the latter recommendations by the General Assembly in resolution 1995 (XIX) of 30 December 1964, the Secretary-General requested the necessary budget credits to meet these needs in 1965 (A/C.5/1022).

2. In annex A.VI.1 of its Final Act, the United Nations Conference on Trade and Development also recommended that the Secretary-General of the United Nations be requested to appoint, as Governmental experts and on the basis of equitable geographical distribution, a committee of twenty-four members representing land-locked, transit and other interested States, and to convene this committee during 1964. The task set for the committee was the preparation of a new draft convention relating to the transit trade of land-locked countries.

3. The Secretary-General, having obtained the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions to meet the costs involved under the terms of the resolution on unforeseen and extraordinary expenses for 1964, appointed the committee of twenty-four members, which met at Headquarters from 26 October to 20 November 1964. The Committee's report, including a draft convention, will be issued in due course, (A/5906).

4. The Conference further recommended that the United Nations decide to convene a conference of plenipotentiaries in the middle of 1965 for consideration and adoption of the draft convention. The Secretary-General presents in this report a statement on additional financial implications in 1965 for convening this conference of plenipotentiaries and for the printing of its Final Act, including the convention.

5. The requirements are based on the following assumptions:

(*a*) The conference will be held in Geneva for a period of four to five weeks in August/September 1965;

(*b*) There will be no more than four meetings a day requiring simultaneous interpretation into the five official languages;

(*c*) In addition to summary records of the meetings, in-session documentation will require translation into the working languages.

6. On this basis it is estimated that the following expenditures will arise:

(*a*) Substantive servicing. It will be necessary to provide for the travel to Geneva of five professional officers, a special conference/documents officer, and a secretary from the Office of Legal Affairs. The costs for travel and subsistence for a maximum period of five weeks for each of this staff, together with provision for the possible attendance of the Legal Counsel and the Secretary-General of the United Nations Conference on Trade and Development at the opening or closing of the conference, is estimated at $11,500.

(*b*) Conference servicing. In the light of the programme of meetings currently envisaged for 1965, it will not be possible to assign all the staff required for servicing these meetings from the regular establishment of either Headquarters or the Geneva Office. Consequently, the following staff will need to be provided on a temporary basis:

16 interpreters
12 précis-writers
24 translators
10 revisers
58 steno-typists
4 secretaries

The costs of this temporary staff are estimated at $129,600. In addition to the above staff, it will also be necessary to provide for four interpreters, one translator, one reviser, and three calligraphers for interpretation and translation of selected documents into Chinese. Since this staff would be provided from Headquarters, provision needs to be made for travel and subsistence for a period of five weeks in Geneva. These costs are estimated at $10,500.

(*c*) Printing. Provision will need to be made for the printing of the Final Act of the conference, including the convention, for submission to the United Nations Conference on Trade and Development. Assuming that this material is no more than 75 printed pages in length in all languages, the costs of printing in the five official languages is estimated at $3,200.

(*d*) Other conference servicing requirements. Because of the series of meetings related to trade which are being scheduled for Geneva in 1965, it is expected that the requirements for editing, reproduction, distribution of documents, and other related conference services and supplies can be met from within the amounts already requested by the Secretary-General (A/C.5/1022).

7. Should the General Assembly decide to convene the conference of plenipotentiaries in 1965, as recommended by the United Nations Conference on Trade and Development in its Final Act, the Secretary-General would request a total additional credit in the amount of $154,800 under the new budget section covering the total requirements of the United Nations Conference on Trade and Development.

DOCUMENT A/5870/REV.1

Letter dated 2 February 1965 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General

[*Original text: Russian*]
[*5 February 1965*]

I have the honour to inform you that, with a view to the further expansion of trade with the developing countries, the Council of Ministers of the USSR has adopted a decree providing for the abolition, as from 1 January 1965, of Soviet customs duties on goods imported and originating from the developing countries of Asia, Africa and Latin America.

In this connexion, I should like to draw your attention to the fact that the Soviet Union's trade with the countries of Asia, Africa and Latin America is developing at a rapid rate. During the ten-year period 1953-1963, Soviet trade with these countries increased at an annual rate of more than 20 per cent, which was twice the rate of increase of Soviet foreign trade as a whole.

The outlook is excellent for further development of Soviet trade with these countries, especially for the importation by the Soviet Union of agricultural raw materials such as cotton, jute and wool and of food products such as cocoa, beans, coffee, tea, citrus fruits, vegetable and seed oils, bananas, pineapples and spices.

Soviet imports from the developing countries are expected to increase more than eightfold by 1980, when they will total more than $11,000 million. These imports, which in 1963 represented 15 per cent of Soviet imports from all countries except those of the socialist community, will increase to 31 per cent of the total.

The Soviet Union's action in voluntarily abolishing customs duties on goods imported and originating from the developing countries of Asia, Africa and Latin America will unquestionably promote the development of direct trade between those countries and the USSR, without the need for foreign middlemen, and will thus have a salutary effect in strengthening the national industry and the national economy of the developing countries.

The Permanent Mission of the USSR to the United Nations requests that this letter should be issued as an official General Assembly document in connexion with the consideration at the present session of the decisions adopted by the United Nations Conference on Trade and Development.

(*Signed*) N. FEDORENKO
Permanent Representative of the Union of Soviet Socialist Republics to the United Nations

DOCUMENT A/5881

Preparation of a convention on the transit trade of land-locked countries—Administrative and financial implications of the recommendations for convening a conference of plenipotentiaries: twenty-fourth report of the Advisory Committee on Administrative and Budgetary Questions

[*Original text: English*]
[*5 February 1965*]

1. In its twenty-first report to the General Assembly at its nineteenth session [A/5837] the Advisory Committee on Administrative and Budgetary Questions dealt with the Secretary-General's estimates (A/5829) on the administrative and financial implications of the recommendations relating to institutional machinery contained in the Final Act adopted by the United Nations Conference on Trade and Development, held at Geneva from 23 March to 16 June 1964. The General Assembly, by resolution 1995 (XIX) dated 30 December 1964, established the United Nations Conference on Trade and Development as an organ of the General Assembly.

2. In accordance with a recommendation contained in annex A.VI.1 of the Final Act of the Conference, the Secretary-General was requested to appoint a committee of twenty-four members representing land-locked, transit and other interested States, to prepare a new draft convention relating to the transit trade of land-locked countries. The Secretary-General obtained the concurrence of the Advisory Committee to meet the costs involved under the terms of the resolution on unforeseen and extraordinary expenses for 1964, and appointed the twenty-four member committee, which met at Headquarters from 26 October to 20 November 1964. The committee's report, including a draft convention, to be issued in due course as a General Assembly document, will be considered by the conference of plenipotentiaries. The Advisory Committee was informed that the draft convention, which contains twenty-five articles, will be submitted to Member States, together with comments, by the end of February 1965. It was ascertained that there were a number of alternative versions of most articles, containing widely divergent points of view.

3. The Advisory Committee noted that a decision to convene the conference of plenipotentiaries in 1965 had not as yet been taken by the General Assembly and that the Secretary-General's request for additional funds was subject to such a decision being taken.[9] The Advisory Committee, therefore, would express the hope that there will be some measure of agreement on the draft articles prior to convening the conference. It is against this background that the Committee has examined and made recommendations covering the Secretary-General's estimates. (A/5849)

4. The Advisory Committee noted that the Secretary-General anticipated that some seventy to eighty Members, of which twenty-five represent land-locked countries, would participate in the conference and that he had based his estimated requirements of $154,800 on the following assumptions:

(*a*) The conference would be held in Geneva for a period of four to five weeks in August/September 1965;

(*b*) There would be no more than four meetings a day requiring simultaneous interpretation into the five official languages;

(*c*) In addition to summary records of the meetings, in-session documentation would require translation into the working languages.

5. As indicated in the preceding paragraph the Secretary-General has based his estimates on a four-to-five-week conference to be held in Geneva in August/September 1965, for a total estimated cost of $154,800. The Advisory Committee noted that in the light of the programme of meetings currently envisaged for 1965, the Secretary-General advised that it would not be possible to assign all the staff required for servicing

[9] Since the Advisory Committee adopted the recent report on 5 February, the Secretary-General made the following statement to the General Assembly at its 1327th plenary meeting, on 8 February:

"The General Assembly has also been informed that it is proposed to convene the Conference of Plenipotentiaries for Adoption of the Convention on Transit Trade of Land-Locked Countries, pursuant to recommendation A.VI.1 of UNCTAD, in August 1965. It is my hope that at its next meeting the General Assembly will concur with this proposal."

these meetings from the regular establishment of either Headquarters or the Geneva Office, and that the major portion of the costs therefore related to the hiring of temporary conference servicing staff. However, the Advisory Committee would draw the attention of the General Assembly to the fact that savings of approximately $87,100 could be realized if the meetings were held at Headquarters, thereby reducing the total estimated cost of the conference, including printing requirements, from $154,800 to $67,700. The Assembly may wish to consider this possible saving particularly in view of the present financial situation of the Organization.

6. Even if the General Assembly were to decide that the conference should be held in Geneva, the Advisory Committee believes that by keeping its duration to four weeks and by reducing the numbers of servicing staff recommended by the Secretary-General in paragraph 6 (*b*) of document A/5849, a total of $135,000 would be sufficient for the conference.

DOCUMENT A/5886

Letter dated January 1965 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

[*Original text: English*]
[*17 February 1965*]

I have the honour to refer to the additional draft chapter of the General Agreement on Tariffs and Trade which the contracting parties agreed on 26 November 1964, to recommend to their Governments for adoption.

This new draft chapter is designed to recognize the special position of the developing countries and is closely related to matters arising out of the United Nations Conference on Trade and Development. I should be grateful if the text of the chapter (articles XXXVI-XXXVIII), together with the notes and supplementary provisions and the Declaration on the *de facto* implementation of the provisions of the draft chapter, can be circulated for the information of delegates.[10]

(*Signed*) CARADON
Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations

[10] This material will be found in annexes I to III of the present document.

ANNEX I

Final Act

of the Second Special Session of the Contracting Parties to the General Agreement on Tariffs and Trade

[*Original Text: English and French*]

The Contracting Parties, by a resolution adopted at the meeting of Ministers on 21 May 1963, recognized the need for an adequate legal and institutional framework to enable the Contracting Parties to discharge their responsibilities in connexion with the work of expanding the trade of less developed countries.

The Contracting Parties, which held a Special Session in Geneva beginning on 17 November 1964, have drawn up a Protocol, entitled "Protocol Amending the General Agreement on Tariffs and Trade to Introduce a Part IV on Trade and Development" to be submitted to the Contracting Parties for acceptance.

The text of the Protocol, in the English and French languages, is annexed hereto and is hereby authenticated. The text of the Protocol in the Spanish language will be authenticated by an appropriate instrument at the twenty-second session of the Contracting Parties.

IN WITNESS WHEREOF, the duly authorized representatives of the Governments which have taken part in that session have signed the present Final Act.

DONE at Geneva in a single copy, in the English, French and Spanish languages, all three texts authentic, this eighth day of February, one thousand nine hundred and sixty-five.

ANNEX II

Protocol

amending the General Agreement on Tariffs and Trade to introduce a Part IV on Trade and Development

[*Original Text: English and French*]

The Governments which are Contracting Parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "the Contracting Parties" and "the General Agreement" respectively),

Desiring to effect amendments to the General Agreement pursuant to the provisions of article XXX thereof,

Hereby agree as follows:

1. A Part IV comprising three new articles shall be inserted and the provisions of annex I shall be amended as follows:

A

The following heading and articles shall be inserted after article XXXV:

"PART IV

"TRADE AND DEVELOPMENT

"*Article XXXVI*

"Principles and objectives

"1. The Contracting Parties,

"(*a*) recalling that the basic objectives of this Agreement include the raising of standards of living and the progressive

development of the economies of all Contracting Parties, and considering that the attainment of these objectives is particularly urgent for less developed contracting parties;

"(*b*) considering that export earnings of the less developed contracting parties can play a vital part in their economic development and that the extent of this contribution depends on the prices paid by the less developed contracting parties for essential imports, the volume of their exports, and the prices received for these exports;

"(*c*) noting that there is a wide gap between standards of living in less developed countries and in other countries;

"(*d*) recognizing that individual and joint action is essential to further the development of the economies of less developed contracting parties and to bring about a rapid advance in the standards of living in these countries;

"(*e*) recognizing that international trade as a means of achieving economic and social advancement should be governed by such rules and procedures—and measures in conformity with such rules and procedures—as are consistent with the objectives set forth in this article;

"(*f*) noting that the Contracting Parties may enable less developed contracting parties to use special measures to promote their trade and development;

"agree as follows:

"2. There is need for a rapid and sustained expansion of the export earnings of the less developed contracting parties.

"3. There is need for positive efforts designed to ensure that less developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development.

"4. Given the continued dependence of many less developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.

"5. The rapid expansion of the economies of the less developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of an excessive dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less developed contracting parties.

"6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less developed contracting parties, there are important interrelationships between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the Contracting Parties and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less developed contracting parties assume in the interest of their economic development.

"7. There is need for appropriate collaboration between the Contracting Parties, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less developed countries.

"8. The developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less developed contracting parties.

"9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.

"*Article XXXVII*

"Commitments

"1. The developed contracting parties shall to the fullest extent possible—that is, except when compelling reasons, which may include legal reasons, make it impossible—give effect to the following provisions:

"(*a*) accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;

"(*b*) refrain from introducing, or increasing the incidence of, customs duties or non-tariff import barriers on products currently or potentially of particular export interest to less developed contracting parties; and

"(*c*) (i) refrain from imposing new fiscal measures, and

"(ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measures,

which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less developed contracting parties, and which are applied specifically to those products.

"2. (*a*) Whenever it is considered that effect is not being given to any of the provisions of sub-paragraph (*a*), (*b*) or (*c*) of paragraph 1, the matter shall be reported to the Contracting Parties either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party.

"(*b*) (i) The Contracting Parties shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of sub-paragraph (*a*), (*b*) or (*c*) of paragraph 1 shall be examined.

"(ii) As the implementation of the provisions of sub-paragraph (*a*), (*b*) or (*c*) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end.

"(iii) The consultations by the Contracting Parties might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.

"3. The developed contracting parties shall:

"(*a*) make every effort, in cases where a Government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less developed contracting parties, to maintain trade margins at equitable levels;

"(*b*) give active consideration to the adoption of other measures designed to provide greater scope for the development of imports from the less developed contracting parties and collaborate in appropriate international action to this end;

"(*c*) have special regard to the trade interests of less developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those contracting parties.

"4. Less developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less developed contracting parties as a whole.

"5. In the implementation of the commitments set forth in paragraphs 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this Agreement with respect to any matter or difficulty which may arise.

"Article XXXVIII

"Joint Action

"1. The contracting parties shall collaborate jointly, within the framework of this Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI.

"2. In particular, the Contracting Parties shall:

"(*a*) where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;

"(*b*) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development;

"(*c*) collaborate in analysing the development plans and policies of individual less developed contracting parties and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connexion seek appropriate collaboration with Governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development, in systematic studies of trade and aid relationships in individual less developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;

"(*d*) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less developed contracting parties and make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate;

"(*e*) collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing, and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research; and

"(*f*) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provisions of this Part."

B

To Annex I (which, pursuant to Section BB(i) of the Protocol amending the Preamble and Parts II and III, is to become Annex H) the following notes shall be added:

"PART IV

"The words 'developed contracting parties' and the words 'less developed contracting parties' as used in Part IV are to be understood to refer to developed and less developed countries which are parties to the General Agreement on Tariffs and Trade.

"Article XXXVI

"Paragraph 1

"This Article is based upon the objectives set forth in Article I as it will be amended by Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX when that Protocol enters into force.

"Paragraph 4

"The term 'primary products' includes agricultural products, *vide* paragraph 2 of the note and Article XVI, Section B.

"Paragraph 5

"A diversification programme would generally include the intensification of activities for the processing of primary products and the development of manufacturing industries, taking into account the situation of the particular contracting party and the world outlook for production and consumption of different commodities.

"Paragraph 8

"It is understood that the phrase 'do not expect reciprocity' means, in accordance with the objectives set forth in this article, that the less developed contracting parties should not be expected, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments.

"This paragraph would apply in the event of action under Section A of Article XVIII, Article XXVIII, Article XXVIII *bis* (Article XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), Article XXXIII, or any other procedure under this Agreement.

"Article XXXVII

"Paragraph 1(a)

"This paragraph would apply in the event of negotiations for reduction or elimination of tariffs or other restrictive regulations of commerce under Articles XXVIII, XXVIII *bis* (XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), and Article XXXIII, as well as in connexion with other action to effect such reduction or elimination which contracting parties may be able to undertake.

"Paragraph 3(b)

"The other measures referred to in this paragraph might include steps to promote domestic structural changes, to encourage the consumption of particular products, or to introduce measures of trade promotion."

2. This Protocol shall be deposited with the Executive Secretary to the Contracting Parties to the General Agreement. It shall be open for acceptance, by signature or otherwise, by the contracting parties to the General Agreement and by the Governments which have acceded provisionally to the General Agreement, until 31 December 1965; provided that the period during which this Protocol may be accepted in respect of a contracting party or such Government may, by a decision of the Contracting Parties, be extended beyond that date.

3. Acceptance of this Protocol in accordance with the provisions of paragraph 2 shall be deemed to constitute an acceptance of the amendments set forth in paragraph 1 in accordance with the provisions of Article XXX of the General Agreement.

4. The amendments set forth in paragraph 1 shall become effective in accordance with the provisions of Article XXX of the General Agreement following acceptance of the Protocol by two thirds of the Governments which are then contracting parties.

5. The amendments set forth in paragraph 1 shall become effective between a Government which has acceded provisionally to the General Agreement and a Government which is a contracting party, and between two Governments which have acceded provisionally when such amendments shall have been accepted by both such Governments; provided that the amendments shall not become so effective before an instrument of provisional accession shall have become effective between the two Governments nor before the amendments shall have become effective in accordance with the provisions of paragraph 4.

6. Acceptance of this Protocol by a contracting party, to the extent that it shall not have already taken final action to become a party to the following instruments and except as it may otherwise notify the Executive Secretary in writing at the time of such acceptance, shall constitute final action to become a party to each of the following instruments:

(i) Protocol Amending Part I and Articles XXIX and XXX, Geneva, 10 March 1955;

(ii) Protocol Amending the Preamble and Parts II and III, Geneva, 10 March 1955;

(iii) Protocol of Rectifications to the French Text, Geneva, 15 June 1955;

(iv) Procès-verbal of Rectifications Concerning the Protocol Amending Part I and Articles XXIX and XXX, the Protocol Amending the Preamble and Parts II and III and the Protocol of Organizational Amendments, Geneva, 3 December 1955;

(v) Fifth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 3 December 1955;

(vi) Sixth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 11 April 1957;

(vii) Seventh Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 30 November 1957;

(viii) Protocol Relating to the Negotiations for the Establishment of New Schedule III—Brazil, Geneva, 31 December 1958;

(ix) Eighth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 18 February 1959; and

(x) Ninth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 17 August 1959.

7. The Executive Secretary to the Contracting Parties to the General Agreement shall promptly furnish a certified copy of this Protocol and a notification of each acceptance thereof to each contracting party to the General Agreement and to each Government which has acceded provisionally to the General Agreement.

8. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Geneva in a single copy, in the English, French and Spanish languages, all three texts authentic, this eighth day of February, one thousand nine hundred and sixty-five.

ANNEX III

Declaration

on the *de facto* implementation of the provisions of the Protocol Amending the General Agreement on Tariffs and Trade to introduce a Part IV on Trade and Development

[*Original text: English and French*]

On the occasion of the signature of the Final Act of the Second Special Session of the Contracting Parties, authenticating the text of the Protocol Amending the General Agreement on Tariffs and Trade to introduce a Part IV on Trade and Development, each of the Governments assenting to this Declaration,

Considering that there will be some delay in the entry into effect of the amendments provided for in the said Protocol,

Recognizing that no obligation will arise prior to the entry into effect of the said amendments, and

Desiring to proceed as rapidly as possible towards the attainment of the objectives set forth in the Protocol,

Hereby declares that, from 8 February 1965 and until 31 December 1965 or until the amendments enter into effect, whichever date is the earlier, it intends to implement the amendments on a *de facto* basis to the extent allowed by exising constitutional and legal possibilities.

DOCUMENT A/5906

Report of the Committee on the Preparation of a Draft Convention relating to Transit Trade of Land-locked Countries

[*Original text: English*]
[*12 March 1965*]

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† Mimeographed.

I. Introduction

A. Establishment, terms of reference and membership of the Committee

1. The Committee on the Preparation of a Draft Convention relating to Transit Trade of Land-locked Countries was established by the Secretary-General in pursuance of the recommendation contained in annex A.VI.1 of the Final Act of the United Nations Conference on Trade and Development (UNCTAD), in the following terms:

"*Recommends* that the United Nations:

"1. *Request* the Secretary-General of the United Nations to appoint a committee of twenty-four members, representing land-locked, transit, and other interested States as governmental experts and on the basis of equitable geographical distribution; and to convene the said committee during 1964;

"2. *Request* the said committee to prepare a new draft convention treating the proposal made by African-Asian land-locked countries as a basic text and taking into account the principles of international law, conventions and agreements in force and submissions by Governments in this regard, as well as the records of the Sub-Committee on Land-locked Countries established by this Conference, and to submit the new draft convention to the Secretary-General for presentation to the conference of plenipotentiaries to be convened in accordance with paragraph 4 below;

"3. *Request* the Secretary-General to prepare, in consultation with the specialized agencies or any other competent body of the United Nations, full preparatory documentation for circulation to the members of the said committee in sufficient time prior to the convening of that committee; and

"4. *Decide* to convene a conference of plenipotentiaries in the middle of 1965, for consideration of the draft and adoption of the convention."

2. In accordance with paragraph 1 of the above resolution, the Secretary-General designated the following States as members of the Committee: Afghanistan, Argentina, Austria, Bolivia, Chile, Czechoslovakia, India, Ivory Coast, Japan, Liberia, Mali, Nepal, Netherlands, Niger, Nigeria, Pakistan, Paraguay, Senegal, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta and Yugoslavia.

3. The Committee met at United Nations Headquarters, New York, from 26 October to 20 November 1964 and held thirty public meetings.

B. Officers of and attendance at the Committee

4. At its first meeting presided over by the Legal Counsel the Committee elected the following officers:

Chairman	H.E. Mr. Paul J. Ruegger (Switzerland)
First Vice-Chairman	Mr. O. M. A. Abiola (Nigeria)
Second Vice-Chairman,	Dr. Juan Carlos Beltramino (Argentina)
Third Vice-Chairman	Dr. Josef Smejkal (Czechoslovakia)
Rapporteur	Mr. Devendra Raj Upadhya (Nepal)

5. At its first meeting the Committee decided that observers from States which participated in the United Nations Conference on Trade and Development could be present at its meetings.

6. A list of the representatives of States members of the Committee, of observers attending the meetings and of members of the Secretariat is appended to the present report as Annex IV.

C. Organization of the work of the Committee

7. At its 12th meeting on 6 November the Committee requested the Secretariat to prepare preliminary drafts with alternative provisions where necessary of the articles which have been discussed by the Committee.

8. At its 20th meeting on 12 November the Committee appointed a working party composed of Argentina (Chairman), Czechoslovakia, India, Nepal, the Netherlands, Nigeria, the USSR and the United States of America to prepare a new draft of article 12 of the draft convention submitted by the African-Asian land-locked countries for the consideration of the Committee.

9. At its 24th meeting on 16 November the Committee established a drafting committee with the representatives of the following States as members: Afghanistan, Bolivia, Chile, Czechoslovakia, India, Liberia, Nepal, Netherlands, Nigeria (Chairman), Pakistan, USSR, United Kingdom of Great Britain and Northern Ireland and Upper Volta. At its twenty-sixth meeting on 18 November, in view of the short time at its disposal, the Committee decided to end the drafting committee's mandate and itself to consider the remaining articles.

10. The Committee wishes to express its appreciation to Mr. Oscar Schachter, Director of the General Legal Division, for his valuable advice and assistance to the Committee, and to Mr. Paul Le Vert, Director of Transport Division of the Economic Commission for Europe, who had rendered valuable service on technical questions. It also wishes to record its appreciation to Miss Kwen Chen, Legal Officer, and to other members of the Secretariat assigned to the Committee who discharged their duties with remarkable efficiency and devotion.

II. General debate

11. The Committee decided to hold a general debate before embarking upon a discussion of the draft Convention submitted by the African-Asian land-locked countries article by article. Statements were made by the representatives of Argentina, Austria, Pakistan, Chile, India, the United States of America, Yugoslavia, Nepal, Liberia, Bolivia, Paraguay, Nigeria, Niger, Senegal, Afghanistan, United Kingdom, Czechoslovakia and USSR. In their statements representatives recalled efforts which have been made on the international level for the improvement of the position of the land-locked countries in respect to access to the sea from the Barcelona Convention to the Geneva Convention on the High Seas culminating in the adoption of general principles by UNCTAD and the various bilateral arrangements which have been concluded between specific land-locked countries and neighbouring transit States. The task before the Committee was, in accordance with the resolution adopted at UNCTAD, to elaborate a general convention to ensure the international acceptance of the basic arrangements which have been evolved over the past four decades to assist the land-locked countries.

12. As to the content of the Convention to be drafted there was general agreement that it should harmonize the general principles adopted unanimously at UNCTAD with the draft submitted by the African-Asian land-locked countries. It was agreed that the

provisions of the draft Convention should generally be in accord with the principles adopted at Geneva by UNCTAD and with existing general conventions; in particular there was general agreement that, while emphasizing the need for freedom of transit of land-locked countries, the sovereign rights of the transit States should be duly taken into account. It was also generally agreed that the Convention should be limited in scope to the transit trade of land-locked countries, the development of which was clearly recognized as essential for accelerating their economic development through international trade.

13. In accordance with paragraph 2 of the recommendations of UNCTAD the representatives decided that the draft Convention of the African-Asian land-locked countries should serve as the basic text for the discussions of the Committee and in the light of comments already made by representatives on specific articles, amendments and other improvements thereto could also be considered.

14. The representative of Afghanistan reserved the position of his country on all questions of disputed frontiers.

III. Draft convention

15. As indicated above, the Committee took as a basis of discussion the draft Convention submitted by the African-Asian land-locked countries (E/CONF.46/AC.2/1, part III, referred to hereinafter as "the African-Asian draft" or "the basic text").[11]

16. At its 26th meeting on 18 November, the Committee agreed that, where requested, observations or reservations of members indicating their positions in respect of the various articles of the draft Convention referred by the Committee to the Plenipotentiary Conference would be recorded in the present report. It had also been pointed out by the Chairman that the States represented at the future Conference of Plenipotentiaries would not necessarily be bound by the statements made by their representatives in the Committee.

Definitions

Article 1

17. Article 1 of the African-Asian draft contained a definition of the term "traffic in transit" which followed verbatim the text of article 1 of the Barcelona Statute on Freedom of Transit.[12] Under that definition, traffic in transit applied to passage of "persons, baggage and goods and also vessels, coaching and goods stock and other means of transport" across the territory under the sovereignty or authority of one of the Contracting States regardless of whether the traffic originated in or was destined for a land-locked State.

Amendments

18. Apart from drafting changes the following amendments to the provisions contained in article 1 of the African-Asian draft were proposed.

19. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed the deletion of "any other means of transport" from the text, the transfer of the substance of article 16 of the African-Asian draft to article 1 and the addition of "to and from the sea" to the description of the complete journey indicated by the article.

20. The USSR (E/CONF.46/AC.2/L.3) and Austria (E/CONF.46/AC.2/L.12) proposed the addition of definitions of the terms "land-locked State" and "State of transit" to the article.

21. According to the Austrian amendment a "land-locked country" shall mean "the territory (or any part thereof) of any Contracting Party having no (convenient direct) access to the sea".

22. The United States of America (E/CONF.46/AC.2/L.4) and Pakistan (E/CONF.46/AC.2/L.6) proposed the exclusion of persons from the definition of traffic in transit and in addition Pakistan suggested that passage within the meaning of the article should be "along mutually agreed routes".

23. Argentina (E/CONF.46/AC.2/L.10) suggested the addition of a clause to the effect that activities relating to traffic in transit should be under the supervision of the authorities of the transit State.

Discussion and decision

24. The Committee considered this article at its 6th to 12th and 26th meetings. The representative of Nepal spoke on behalf of the land-locked countries of Asia, Africa and Latin America, members of the Committee expressing their position on all the amendments submitted by other delegations. When discussing this article and the amendments thereto representatives emphasized the need to have precise definitions of "land-locked State" and "State of transit" and "traffic in transit". In view of the recommendations of UNCTAD for a convention on transit trade of land-locked countries, these definitions were intended to prescribe the scope of the Convention which, unlike the Barcelona Convention, would deal solely with traffic in transit originating from or destined to a contracting land-locked State through a contracting State of transit.

25. There was general agreement to exclude the category of persons from the definition of traffic in transit since the Convention was intended to cover the transit trade of land-locked States *stricto sensu*. However, it was agreed that provision should be made in the appropriate place for the transit of persons whose movements were necessary for the transit trade of a contracting land-locked State.

26. With regard to the definition of a "land-locked" State, there was a preference for a definition of "land-locked" in a strictly geographical sense. By accepting this basis for a definition, the Committee excluded from the scope of the land-locked States the so-called quasi land-locked States—namely, those with sea coasts but which, for various reasons, could not conveniently utilize them.

27. It was indicated that a definition of "State of transit" should cover States lying between the sea and a land-locked State, through which traffic in transit passes. It was understood that such a definition would cover the cases where there was more than one transit State involved in a complete journey from a land-locked country to the sea.

28. With respect to "other means of transport", the Committee accepted the proposal of Pakistan in a modified form that the operation of aircraft should be excluded but that air transit of goods to and from the sea and originating from or destined to a land-locked

[11] This draft Convention was initially submitted by Afghanistan, Laos and Nepal to the ECAFE meeting in Teheran. It was sometimes referred to by some representatives in the Committee as the three-Power draft or the Teheran draft.

[12] Generally referred to as the Barcelona Convention on Freedom of Transit, 1921, of which the Statute is an integral part. In the present report the short title "Barcelona Convention" is used.

State would be covered by the Convention. It was understood that existing multilateral and bilateral agreements have adequately dealt with the question of the operation of aircraft through the territory of States. On the other hand, the Committee was divided as to whether or not other means of transport, such as pipelines, gas lines, power lines or electricity grids, came or should come within the meaning of "other means of transport" for the purposes of the Convention.

29. At the request of the Committee, the Secretariat, on the basis of this discussion, submitted the following text to the drafting committee (E/CONF.46/AC.2/L.38):

"For the purpose of this Convention,

"(*a*) The term 'land-locked State' means a Contracting Party which has no access to the sea.

"(*b*) The term 'traffic in transit' shall mean the passage of goods, which for this purpose shall include animals, sea-going and river vessels and other means of transport, across the territory under the sovereignty or authority of a Contracting Party, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, when such passage is only a portion of a journey to or from the sea beginning or terminating within the frontier of a land-locked State which is on the same continent as that Contracting Party.

"The assembly, disassembly or reassembly of means of transport, machinery or bulky articles shall not render their passage outside the scope of 'traffic in transit' provided that any such operation is undertaken solely for the convenience of transport.

"The operation of aircraft in transit is outside the scope of this Convention, but not the air transport of goods.

"(*c*) The term 'transit State' means a Contracting Party situated between a land-locked State and the sea, through whose territory traffic in transit within the meaning of this Convention passes."

30. The drafting committee made several changes in this text (E/CONF.46/AC.2/L.40). The definition of "land-locked State" was modified to bring it into line with the definition contained in article 3 of the Geneva Convention on the High Seas. With regard to the means of transport in paragraph (*b*), representatives recalling the Committee's discussion of article 2 below, decided to include pack animals, manual loads, railway stock and road vehicles. Another change was based on a USSR proposal to delete the words "or authority" in paragraph (*b*). Drafting changes were made in paragraph (*b*) to clarify the text with respect to the passage of means of transport used for the transportation of good and to stress that assembly, disassembly or reassembly of means of transport, machinery or bulk articles would be solely for the convenience of their transportation. It was the understanding of the drafting committee that in the light of its own discussions and that of the Committee, the inclusion of the paragraph (immediately referred to above), related only to the definition of traffic in transit and did not create an obligation on the part of the State of transit to establish or to permit to be established on its territory installation for the purpose stated in the paragraph.

31. During the consideration of the draft submitted by the drafting committee to meet reservations of representatives concerning the means of transport within the scope of the Convention, the representative of Argentina introduced an oral amendment making the use of other means of transport apart from those specifically mentioned in paragraph (*b*) dependent upon agreement between the Contracting States concerned. After an extensive discussion, this amendment was accepted by the Committee. The Committee then recommended the following article (E/CONF.46/AC.2/L.41):

"1. For the purpose of this Convention,

"(*a*) The term 'land-locked State' means a Contracting State which has no sea coast.

"(*b*) The term 'traffic in transit' shall mean the passage of goods, and also pack animals, manual loads, railway stock, road vehicles, sea-going and river vessels and, as agreed upon by the Contracting States concerned, other means of transport, across the territory of a Contracting State, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, when the passage of goods is only a portion of a journey to or from the sea beginning or terminating within the frontier of a land-locked State which is on the same continent as that Contracting State, and when the means of transport are used for such passage. The assembly, disassembly, or reassembly of means of transport, machinery or bulky articles shall not render their passage outside the scope of 'traffic in transit' provided that any such operation is undertaken solely for the convenience of their transport.

"(*c*) The term 'transit State' means a Contracting State situated between a land-locked State and the sea, through whose territory 'traffic in transit' passes.

"2. The operation of aircraft is outside the scope of this Convention, but not the air transport of goods in transit within the definition of this article."

Reservations

Chile

The delegation of Chile considers that the assembly, disassembly or subsequent reassembly of means of transportation, machinery or bulky articles does not imply the establishment of installations of a permanent character for the assembly, disassembly or subsequent reassembly in the territory of the transit country.

India

In article 1, paragraph (*b*), with reference to the last sentence relating to assembly, disassembly and reassembly of means of transport, etc., add the following comment:

"It is understood that this article will not permit the establishment of assembly, disassembly or reassembly plant in the State of transit without the agreement of the State of transit."

Ivory Coast

The delegation of the Ivory Coast had stated that variant 2 of the USSR amendment (E/CONF.46/AC.2/L.3), which was generally accepted, was entirely satisfactory because it conformed to the general scope of the Convention and also implied acceptance of the principle of reciprocity.

In the text adopted by the Drafting Committee (E/CONF.46/AC.2/L.40) this whole question seems to have been eliminated by the addition of the following clause: "when the passage of goods is only a portion of a journey to or from the sea beginning or terminating within the frontier of a land-locked State which is on

the same continent as that Contracting State, and when the means of transport are used for such passage".

Consequently, the Ivory Coast expresses reservations on article 1.

Netherlands

The Netherlands delegation is of the opinion that in the third line, the words "as agreed upon by the Contracting States concerned" should be deleted so as not to subject as a matter of principle, the modes of transport to any limitations.

Pakistan

(1) The Pakistan delegation maintains that the words "pack animals and manual loads" should be deleted from paragraph (*b*) of this article, as these are not the normal means of transport, and it would be impossible to devise a satisfactory customs régime for these means of transport. In any case, these means of transport will be covered by the term "other means of transport" mentioned in this paragraph, which are dependent upon agreement between the Contracting States concerned.

(2) The term "other means of transport" does not include gas or oil pipelines or electric transmission lines.

(3) The last sentence of paragraph (*b*) of this article does not impose any obligation on any Contracting Party to set up or permit to be set up an assembly, disassembly or reassembly plant on its territory.

Union of Soviet Socialist Republics

The wording of the paragraph concerning the air transport of goods should be made more specific, because the present wording does not accurately reflect the understanding reached on this question.

United States of America

It is the understanding of the United States of America that the term "and other means of transport" in the definition of "traffic in transit" in sub-paragraph (*b*) of paragraph 1 of draft article 1 does not include pipelines or electric power lines.

PRINCIPLES OF INTERNATIONAL LAW RELATING TO RIGHTS OF LAND-LOCKED STATES

Article 1 bis[13]

32. During the consideration of articles 1 and 2 of the African-Asian draft the representatives of Bolivia and Paraguay presented an amendment urging the insertion of a new article in the Convention. As revised on the suggestion of the representative of Afghanistan this new article would reaffirm the following recognized principles of international law (E/CONF.46/AC.2/L.7/Rev.1); it would also include a sentence stating that these principles were essential for the expansion of international trade and for economic development:

The right of each land-locked State of free access to the sea;

The right of each land-locked State of free and unrestricted transit across the territories of States situated between it and the sea coast; and

The right of each land-locked State to use the ports of coastal States.

Amendment

33. An amendment which was considered in connexion with the Bolivian-Paraguayan proposal was that submitted by the Ivory Coast (E/CONF.46/AC.2/L.39) proposing the addition to the African-Asian draft of an article similar in substance to principle 5 adopted by UNCTAD relating to the sovereign right of transit States to take measures to protect their legitimate interests.

Discussion and decision

34. The Committee considered the Bolivian-Paraguayan amendment at its 8th, 11th, 12th and 29th meetings.

35. Introducing the amendment, the representative of Bolivia said that its purpose was to state the broad principles on which the Convention was based. The importance of those principles had been clearly recognized at the United Nations Conference on Trade and Development and their incorporation in an international convention would go far towards gaining reaffirmation for them as elements of positive international law. Indeed, freedom of transit for land-locked countries and their right of free access to the sea were prerequisites for international co-operation among States.

36. The discussion centered on three points: whether these principles were principles of international law, whether they should be mentioned in any part of the Convention, and if so, whether the appropriate place would be in a separate article or in a preamble to the Convention.

37. Several members of the Committee thought that some, if not all, of the principles contained in the Bolivian-Paraguayan amendment were recognized principles of international law and had been codified in general international conventions including the Geneva Convention on the High Seas. Other representatives did not consider them, in their entirety, as recognized principles of international law. It was thought that the substance of the suggestion was contained in the principles adopted by UNCTAD and thus a restatement of those UNCTAD principles would be preferable. One representative opposed the amendments of Bolivia and Paraguay and the inclusion of the principles of UNCTAD in the body of the Convention. With respect to the Geneva principles he found them analogous, in legal effect, to numerous declarations adopted by the United Nations. In his opinion such principles were not purported to be legal principles and there was no evidence that they were intended to create legal obligations. Being devoid of legal force, they were legally irrelevant to the Committee's work.

38. Among those who wanted the principles stated in the Convention preferably in a preamble, the opinion was expressed that the principles in the amendment under consideration should be amplified by the addition of principle 5 adopted by UNCTAD and the text as a whole patterned more closely on article 3 of the Geneva Convention on the High Seas.

39. With respect to a reaffirmation of the principles within the Convention, some members supported the proposals of Bolivia and Paraguay urging a new article. Many of those who were in favour of such a reaffirmation preferred the principles to appear in a preamble to the Convention. On this view it was argued by some delegations that a preamble would be an

[13] The designation of 1 *bis* is used provisionally because the Committee decided to have the definitions in article 1 and also decided to have the principles in article 1. The Conference may wish to adopt another numbering.

integral part of the Convention expressing the general objective of the particular articles.

40. On the basis of the discussion the Secretariat prepared two alternatives contained in document E/CONF.46/AC.2/L.38/Add.2. The first alternative restated the eight principles adopted by UNCTAD. The second alternative consisted of the proposal of Bolivia and Paraguay as amended by Afghanistan and it also included, as proposed by the Ivory Coast, a paragraph based on principle 5 of the UNCTAD principles. During the discussion of the two alternative texts prepared by the Secretariat, the representative of the United Kingdom suggested a brief preamble recognizing the right of the land-locked countries to free access to the sea as an essential principle for the expansion of international trade and economic development and reaffirming the principles adopted at the Geneva Trade Conference in their entirety. The representative of Czechoslovakia proposed a preamble which would: (1) consider it essential to provide facilities to land-locked countries for the promotion of their economic development; (2) recall the 1958 Conventions on the Territorial Sea and on the High Seas and the principles adopted by UNCTAD; (3) reaffirm as recognized principles of international law the principles enumerated in the Bolivian-Paraguayan amendment; (4) declare the maintenance by transit State of full sovereignty over its territory; (5) recognize the principle of reciprocity in respect of transit routes; (6) recall Article 55 of the Charter of the United Nations. The Committee adopted the second alternative by a vote of 9 to 6, with 5 abstentions and recommended the following article 1 *bis* (E/CONF.46/AC.2/L.41/Add.2).

"1. The Contracting States reaffirm the following recognized principles of international law:

The right of each land-locked State of free access to the sea;

The right of each land-locked State of free and unrestricted transit across the territories of States situated between it and the sea coast; and

The right of each land-locked State to use the ports of coastal States.

These principles are essential for the expansion of international trade and for economic development.

2. The State of transit, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests of any kind."

41. After the adoption of article 1 *bis*, several members expressed the view that the Convention should have a preamble along the lines suggested by the representatives of the United Kingdom and Czechoslovakia. After the Chairman announced that there was general consensus in favour of a preamble to the Convention, the representative of Paraguay reserved the position of his delegation on the Czechoslovak and United Kingdom proposals because, in his opinion, the preamble should not repeat what had already appeared in the text of the Convention, particularly in article 1 *bis*.

Reservations

Argentina

My delegation fully agrees with the three principles contained in paragraph 1 of the proposed draft article (E/CONF.46/AC.2/L.38/Add.2). We agree that the rights enumerated are rights according to the provisions of general or particular international law governing their exercise.

However, we are not convinced that this article should be included in the operative part of the Convention.

Out of respect for the intention of the sponsors of the original proposal, namely, the delegations of Bolivia and Paraguay, we abstained in the vote.

We take this opportunity to reserve the final position of our delegation at the Conference of Plenipotentiaries.

Austria

The Austrian delegation did not vote against the substance of this article but only against the inclusion of the text as a separate article of the Convention. The Austrian delegation would have preferred those principles to be included in the preamble.

India

Since article 1 *bis* was adopted, rather on a sudden vote, the Indian delegation, like many others, could not have time to explain its position in regard to this article. The Indian delegation has the following comments to make in regard to article 1 *bis*.

A reference is made to the recognized principles of international law in this article. Whether international law has recognized these matters as rights with corresponding obligations on the states of transit is a question which is not free from controversy. This matter could better be examined by a body of jurists, which by its composition and terms of reference may be competent to examine this question, such as a body like the International Law Commission.

The present committee was not competent because of its composition and terms of reference to go into questions of international law and to attempt their codification. These controversial matters should be adequately examined before they are adopted in the operative part of a Convention, for to do otherwise might affect the principal aim of such a Convention, namely, its universal acceptance. It is regrettable that this subject was adopted by a vote without adequate discussion.

In view of the above, the Indian delegation would prefer to refer the matter of whether these principles should be included in the Convention and if so in what form and at what place, namely, whether in the preamble or in an article in the operative part of the draft convention, to the Plenipotentiary Conference. The Indian delegation therefore would like to reserve fully the position of the Government of India in the matter.

Netherlands

The Netherlands delegation fully reserves its position with regard to the inclusion of this article because it holds that it was not the task of the Committee to codify as principles of international law some of the principles adopted by the UNCTAD and because the article in its present form would seem to upset and to affect the balance of rights and duties of the contracting parties as stated in the other articles.

Nigeria

The Nigerian delegation voted against the incorporation of the Bolivian-Paraguayan amendment in the body of the Convention for the following reasons:

(i) The Nigerian delegation objects to the inclusion of the words "recognized principles of international law" and had earlier requested their deletion. The Nigerian delegation believes that in so far as the principles referred to in the Bolivian-Paraguayan amendment were adopted at Geneva in the context of international trade and economic development, these principles relate only to economic principles and not to principles of international law. This Committee is not to codify international law.

(ii) The Nigerian delegation had suggested that the following words be added to the penultimate sentence of paragraph 1 of the Bolivian-Paraguayan text: "on terms agreed between the States concerned". This suggestion was also rejected by the sponsors. The Nigerian delegation therefore has no alternative but to vote against the Bolivian-Paraguayan text.

Nigeria therefore reserves its position in regard to article 1 *bis* adopted by a vote in Committee.

Pakistan

The Pakistan delegation maintains its position that this article should not be included in the draft Convention. If this article should remain in the draft Convention, the Government of Pakistan will not be in a position to consider ratification of the Convention. From discussions with other similarly situated delegations, the Pakistan delegation is convinced that few, if any, transit countries would be in a position to do so.

This article is based upon a fallacious assumption. It purports to "reaffirm" principles of international law which do not exist. It confuses principles of economic co-operation with legal principles. For these reasons, the Pakistan delegation opposes this article, and would oppose any Convention which includes this or a similar article either in the text or in the preamble.

Union of Soviet Socialist Republics

The delegation of the USSR abstained during the vote since this article should be made more specific in accordance with the principles adopted at the Conference on Trade and Development, held at Geneva.

United Kingdom

The United Kingdom delegation declared that it had voted against the incorporation of the Bolivian-Paraguayan proposal as an article of the Convention primarily because it considered that the Committee was not competent to codify principles of international law. There were other bodies, such as the International Law Commission, whose function was to codify principles of international law. The United Kingdom delegation was prepared to see the substance of the Bolivian-Paraguayan proposal embodied in a preambular paragraph which would reaffirm in their entirety the principles relating to transit trade adopted by the United Nations Conference on Trade and Development and had indeed made an oral proposal to this effect. In view of the result of the vote, the United Kingdom delegation reserved fully the position of its Government on this article, and its right to revert to this matter at the proposed plenipotentiary conference.

United States of America

While the United States delegation voted against the amendment proposed by Bolivia and Paraguay, it would like to make clear that it believes that a reference to the principles adopted at UNCTAD would have enhanced the Convention. Accordingly, the United States delegation would have voted in favour of the United Kingdom's proposed preamble.

Freedom of transit

Article 2

42. Article 2 of the African-Asian draft provided in substance for free transit by rail, road, waterway or any other medium of transport on routes in use convenient for international transit, and for non-discriminatory treatment of all traffic in transit regardless of the nationality of persons, the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, vessels or other means of transport. It was similar to article 2 of the Barcelona Convention, but with the addition of road as a mode of transportation and of "other medium of transport".

Amendments

43. The USSR (E/CONF.46/AC.2/L.3) proposed that only land routes and waterways "normally made available by the transit State for international transit", should be mentioned here; that the admission of means of transport on the territory of another Contracting State should be effected on the basis of special bilateral agreement and that Contracting States should allow transit through their territory.

44. Senegal (E/CONF.46/AC.2/L.5) proposed the exclusion of air transport from this article, while Pakistan (E/CONF.46/AC.2/L.6) suggested the adoption of a provision from GATT to the effect that "the convention shall not apply to the operation of aircraft in transit, but shall apply to the air transit of goods (including baggage)".

45. Nigeria (E/CONF.46/AC.2/L.8) and Switzerland (E/CONF.46/AC.2/L.9) proposed the deletion of the phrase "any other medium of transport" and in addition Switzerland suggested the use of "free and unrestricted transit" in the text.

46. Argentina (E/CONF.46/AC.2/L.10) proposed to add at the end of paragraph 1 a requirement that the usual documents might be requested to prove ownership of means of transport.

47. The Netherlands (E/CONF.46/AC.2/L.11) wanted the words "mode of transport" inserted after "exit and destination" in the second sentence.

48. India (E/CONF.46/AC.2/L.13) proposed that the obligation to grant freedom of transit should be on the basis of reciprocity; that modes of transport should include animals and manual load and any other mode to be agreed between the land-locked country and a State of transit and that persons whose movements were necessary for the transit trade of land-locked countries should be granted freedom of transit subject to the laws, rules and regulations of the State of transit.

49. In addition to the above, Austria (E/CONF.46/AC.2/L.12) and Czechoslovakia (E/CONF.46/AC.2/L.2) submitted drafting amendments.

Discussion in the Committee

50. The Committee considered this article at its 6th to 12th and 26th meetings. The representative of Nepal spoke on behalf of the land-locked countries of Asia, Africa and Latin America, members of the Committee expressing their position on all the amendments submitted by other delegations. The consensus of opinion and reservations of representatives regarding

the types of means of transport falling within the scope of the Convention, noted during the discussion of article 1 above, were understood to apply *mutatis mutandis* to this article.

51. On a proposal by the representative of India, the Committee decided to provide for the transit of persons whose movements were necessary for the transit trade of land-locked States in accordance with the laws and regulations of the States of transit.

52. There was general agreement in the Committee that in principle transit was to be free and unrestricted and that there would be no discrimination based on the ownership of goods or of means of transport or on the origin, departure, entry, exit or destination of traffic in transit. However, the terms and conditions on which means of transport would move when in transit would be determined by agreement between the Contracting States concerned. Moreover, the routes which within the meaning of the Convention would be convenient for transit were understood to be those so considered by the Contracting States concerned.

53. On the basis of this discussion, the Secretariat submitted a draft of article 2 (contained in (E/CONF.46/AC.2/L.38/Add.3/Rev.1) to the Drafting Committee.

54. The Drafting Committee eliminated the enumeration of the mode of transport from this article as drafted by the Secretariat on the ground that this had been set forth in article 1. It agreed that routes to be used for transit should be mutually acceptable to Contracting States concerned. The text of article 2 prepared by the Drafting Committee was contained in E/CONF.46/AC.2/L.40/Add.1.

55. During the consideration of the draft article submitted by the Drafting Committee, the representative of the USSR stated that in his view the customary conditions and reserves of international law mentioned in paragraph 4 of the article should apply to the territory as well as the territorial waters of States of transit.

56. It was suggested by one representative that the limitation of the paragraph to territorial waters in the African-Asian draft and, before then in the Barcelona Convention, was based on the difference in international law between passage through territorial waters (now codified in the Geneva Convention) and passage through land territory. In the case of territorial waters, there were legal rights and obligations with regard to the passage of ships and their access to ports. The paragraph should therefore not be extended to transit through the land territory because if such transit were subject to "the customary conditions and reserves" of international law, that could be construed as casting doubt on the right of transit granted by the Convention.

Decision

57. The Committee agreed to follow the text with regard to this paragraph as proposed by the African-Asian draft, and the representative of the USSR agreed to reserve his position. On this basis the Committee recommended the following article (E/CONF.46/AC.2/L.41):

"1. Freedom of transit shall be granted under the terms of this Convention for traffic in transit. Subject to the other provisions of this Convention, the measures taken by Contracting States for regulating and forwarding traffic across their territory shall facilitate traffic in transit on routes in use mutually acceptable for transit to the Contracting States concerned. Consistent with the terms of this Convention, no distinction shall be made which is based on the place of origin, departure, entry, exit or destination or on any circumstances relating to the ownership of the goods or the ownership, place of registration or flag of vessels, road vehicles or other means of transport used.

"2. The terms and conditions on which the means of transport registered in or bearing the flag of a Contracting State will move through the territory of another Contracting State shall be agreed on by the Contracting States concerned.

"3. Each Contracting State shall authorize, in conformity with its laws, rules and regulations, the passage across or access to its territory of persons whose movements are necessary for traffic in transit. No distinction shall be made which is based on the nationality of such persons.

"4. In order to ensure the application of the provisions of this article the Contracting States will allow transit across their territorial waters in accordance with the customary conditions and reserves of international law."

Reservations

India

In article 2, paragraph 3, delete the last sentence which reads as follows: "No distinction shall be made which is based on the nationality of such persons."

Since the present Convention applies to traffic in transit of goods and means of transport and does not apply to the entry, access or exit of persons through a State of transit, except of such persons whose movements are necessary for traffic in transit, it would appear that this paragraph is intended to afford an additional facility to land-locked States. The persons covered by this paragraph would therefore normally be nationals of land-locked States whose access to a State of transit or transit across its territory may be facilitated. Since a State of transit would have complete discretion in regard to the entry and exit of foreigners in general, the last sentence of paragraph 3 referred to above is, in the opinion of the Indian delegation, out of place. That subject is partly covered by paragraph 1 of article 5. This sentence in article 2, paragraph 3, should therefore be deleted.

Netherlands

The Netherlands delegation wishes at the end of paragraph 1 to insert the words "or on the mode of transport" so as to exclude a distinction in treatment of the modes of transport, and to emphasize that paragraph 2 of this article does not apply to the access of the means of transport registered in one Contracting State to the territory of another Contracting State.

Pakistan

(1) The Pakistan delegation maintains that the words "registered in or bearing the flag" should be deleted from paragraph 2 of this article.

(2) The term "persons whose movements are necessary for traffic in transit" used in paragraph 3 of this article is too vague. Unless this term can be defined more precisely, the Pakistan delegation will not be in a position to accept this paragraph of the article.

Union of Soviet Socialist Republics

The second sentence of paragraph 1 should specify that the transit routes have been established by agreement between the Contracting States concerned.

Paragraph 2 should be made more specific as suggested in document E/CONF.46/AC.2/L.3.

Paragraph 4 should indicate that transit across the territory of a Contracting State should be allowed in accordance with the customary conditions and reserves accepted in international law.

Customs duties and special transit dues

Article 3

58. Article 3 of the African-Asian draft was taken without change from article 3 of the Barcelona Convention. It prohibits special dues in respect of transit and fixed a standard for the levying of dues to cover the cost of administration and supervision of traffic in transit, except that such dues on certain routes might be reduced or even abolished.

Amendments

59. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed that the article should merely state the principle of exemption from special dues and that the references to dues in respect of administration and supervision should be eliminated.

60. India (E/CONF.46/AC.2/L.17) proposed that as an exception to the standard the dues on certain routes might be varied on account of cost differentials.

61. Bolivia (E/CONF.46/AC.2/L.21) proposed that notice of changes of dues should be given to land-locked States with a right of suggesting amendment, before the new rates came into force or were applied.

62. The United States of America (E/CONF.46/AC.2/L.14) proposed that the dues should cover the cost of supervision, inspection and administration.

Discussion in the Committee

63. The Committee discussed this article at its 13th to 15th and 26th meetings.

64. It was agreed after some discussion that the article should be interpreted to apply not to normal expenses but only to such additional cost of administration and supervision as might be incurred for the purpose of securing transit for the land-locked countries.[14] In the light of the United States amendment, certain representatives maintained that supervision entailed a degree of inspection and would have preferred a specific mention of this in the article. However, the United States amendment was withdrawn and several members noted that supervision might entail some types of inspection but did not entail a general right of inspection at all times.

65. The Committee rejected, by 5 votes to 4, with 12 abstentions, a proposal by Mali supported by Upper Volta that such dues should be fixed only through bilateral or multilateral negotiations.

66. The Committee considered the Indian amendment allowing for variation of the dues chargeable on certain routes. Some representatives considered the Indian amendment contrary to the spirit of the Convention which was to benefit the land-locked countries. The representative of the Secretariat suggested that since the dues were to correspond with the expenses of supervision and administration which they were intended to cover and might therefore be higher or lower depending on the expenses incurred regarding each route, the deletion of the last clause relating to exception would not depart from the basic text and at the same time would dispel the misgivings which prompted the Indian amendment. The Committee agreed to this compromise solution.

67. The Committee did not accept the Bolivian amendment supported by Afghanistan which would require the transit State to give ninety days' notice of changes in dues to the land-locked State. The representative of Bolivia explained that since his country's principal export was extremely sensitive to world price fluctuations, it was essential to have advance notice of changes in transport rates. It was felt in the Committee that such a provision was too rigid and detailed for the kind of convention under consideration.

68. On the basis of the above discussion the Secretariat submitted a new draft of article 3 (E/CONF.46/AC.2/L.38/Add.4). This draft incorporated the provision, originally contained in article 4 of the African-Asian draft, on the exemption of traffic in transit from customs duties. This was done because article 3 dealt with fiscal exemptions and was the appropriate place to include customs exemptions while article 4 dealt with charges for services rendered. The Secretariat draft was accepted by the Drafting Committee.

69. During the consideration of the text accepted by the Drafting Committee (E/CONF.46/AC.2/L.40/Add.2), the representative of Mali restated his view that dues must be fixed through bilateral negotiations between the Contracting States concerned. The representative of Nepal stated that he would have preferred the retention of the Barcelona text as contained in the African-Asian draft and furthermore that exemption from provincial and local taxes should have been provided for in the article. The representatives of Upper Volta, Niger and Paraguay associated themselves with the statements of the representatives of Mali and Nepal. The representative of Afghanistan supported the position of Nepal.

Decision

70. The Committee recommended the following article (E/CONF.46/AC.2/L.41):

"Traffic in transit shall not be subject to customs duties nor to any other duties or taxes chargeable by reason of importation or exportation nor to any special dues in respect of transit. Nevertheless on such traffic in transit there may be levied dues intended solely to

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[14] After the issue of the draft report of the Committee (E/CONF.46/AC.2/L.42), the Indian delegation submitted the following comments:

"*Paragraph 64*

The meaning of the first sentence of paragraph 64 is not clear beyond doubt. The summary records of the Committee indicate that views to this effect were expressed by one or two representatives, but there was no 'agreement' to this effect. The wording used in the article viz. 'Nevertheless on such traffic in transit there may be levied dues intended solely to defray expenses of supervision and administration entailed by such transit' was quite clear and unambiguous and did not need any further 'agreement' or 'interpretation'. If this sentence is, therefore, to be retained at all, it is suggested that it may be redrafted as follows:

'Some representatives expressed the view that the article should be interpreted to apply not to normal expenses but only to such additional cost of administration and supervision as might be incurred for the purpose of securing transit for the land-locked countries.' "

defray expenses of supervision and administration entailed by such transit. The rate of any such dues must correspond as nearly as possible with the expenses they are intended to cover and, subject to that condition, the dues must be imposed under the conditions of equality laid down in paragraph 1 of article 2."

Reservations

Afghanistan and Nepal

As certain land-locked countries experienced difficulties with provincial and local administration so far as the question of duties and taxes on transit goods were concerned as such, if after "duties or taxes" at the beginning of the second line of article 3, "whether provincial or local" had been added, it would have served the cause of freedom of transit to a great extent.

As article 3 excludes "except that on certain routes such dues may be reduced or even abolished on account of differences in the cost of supervision," from the existing Convention, it restricts the privileges provided in the existing Convention and as such, places the land-locked countries at a position inferior to the coastal countries, and thereby is not in conformity with the spirit of modernizing and amplifying the Barcelona Convention, with which the Committee was composed.

Ivory Coast

The Ivory Coast requests that an explanatory note should be attached to article 3 making it clear that use of the word "supervision" means that "inspection" is necessary as well.

Mali

The delegation of Mali considers that the expenses of supervision and administration should be evaluated and determined by agreement between the Parties.

Niger

The delegation of Niger considers that the expenses of supervision and administration are not clearly defined and would like to see these expenses clarified precisely and explicitly.

Nigeria

The Nigerian delegation voted for the adoption of article 3 with the following reservation:

In the opinion of the Nigerian delegation, the word "supervision" in that article embraces the idea of "inspection".

Upper Volta

The delegation of Upper Volta considers that the rate of dues in question should be determined after consultation between the interested Contracting States.

Means of transport and tariffs

Article 4

71. Article 4 of the African-Asian draft concerned the provision of means of transport and other facilities for traffic in transit, the tariffs applicable to such traffic and its exemption from customs duties. This article was taken with additions from article 4 of the Statute of the Barcelona Convention. The additions related to the obligation of the State of transit to provide adequate means of transport for traffic in transit, to apply to such traffic tariffs which should not be higher than those applicable to internal traffic and to exempt such traffic from customs duties.[15]

Amendments

72. Czechoslovakia (E/CONF.46/AC.2/L.2) apart from drafting changes proposed that the reference to internal traffic, with regard to tariffs should be deleted.

73. Nigeria (E/CONF.46/AC.2/L.8) suggested that the obligation of transit States to provide means of transport should be made dependent upon the means of the States of transit.

74. The United States of America (E/CONF.46/AC.2/L.14) suggested the deletion of the clause barring discrimination on the basis of the nationality or ownership of means of transport used in transit.

75. Argentina (E/CONF.46/AC.2/L.15) proposed an addition making the obligation to provide adequate means of transport conditional on the availability of transport at points of entry.

76. India (E/CONF.46/AC.2/L.17) proposed that the article should state that States would endeavour to provide to the extent possible adequate means of transport needed and that tariffs should not ordinarily be higher than those applicable to internal traffic.

77. Switzerland (E/CONF.46/AC.2/L.18) also wanted the obligation with regard to the provision of means of transport to be related to the means of resources of the State of transit and suggested that transit tariffs should not be higher than those normally applied to internal traffic.

78. Pakistan (E/CONF.46/AC.2/L.19) in an amendment sought to exclude an obligation on the part of States of transit to provide transport for traffic in transit and furthermore would have the exemption from customs duties made conditional upon a requirement that traffic in transit should be entered at the proper customs house and should have complied with the laws and regulations of the State of transit.

79. The USSR (E/CONF.46/AC.2/L.20) suggested that tariffs applicable to traffic in transit should not be higher than the tariffs applied by Contracting States for transport through their territory of goods of countries with access to the sea.

Discussion in the Committee

80. The Committee considered this article at its 13th, 15th, 16th and 27th meetings.

81. On behalf of the sponsors, the representative of Nepal explained that the African-Asian land-locked States had thought it necessary to include a provision requiring the State of transit to provide adequate means of transport for traffic in transit. In their experience, the absence of adequate means of transport had been a major obstacle to the growth of their international trade. Representatives of the transit States feared that such an undertaking might be too onerous for the developing transit State, having regard to their own situation with respect to transportation for internal traffic. Moreover, it should be recognized that occasional delays were inevitable in a developing transportation situation and thus any obligations concerning transportation should be related to the means and conditions of the transit State. The Committee accepted the Argentine amendment to this article which sought to meet the anxiety expressed by the representatives of the

[15] For the provision on exemption from customs duties, see article 3 above.

transit States regarding availability of means of transport.

82. With regard to the standard for determining the upper limit of tariffs applicable to traffic in transit one representative favoured a criterion based on tariffs applicable to traffic in transit from other foreign States generally. Another representative considered any reference to internal traffic was unnecessary since internal tariffs usually remained high in response to commercial practices. There was a difference of views regarding the provision that tariffs and charges for traffic in transit should not be higher than those for internal traffic. Certain representatives suggested that the tariff for traffic in transit should not be higher than tariffs applied for transport of goods of non-land-locked countries; in support it was explained that in certain countries there was a different system for charges for national traffic than that applied to foreign traffic. However, other representatives considered that in order to avoid discrimination against land-locked countries and to facilitate transit of their goods, the tariffs should not be higher than those normally charged for internal traffic. The Committee agreed to a proposal by the United Kingdom to transmit to the Plenipotentiary Conference the Secretariat draft with the controversial phrase enclosed in square brackets and a foot-note indicating amendments thereto.

83. Certain representatives argued that the clause barring discrimination on the basis of ownership or nationality of means of transport in this article should be deleted since it was superfluous, having regard to article 2 above and since certain States might wish to discriminate as between friendly and unfriendly States. The Committee decided to retain the clause as it was felt that non-discrimination was essential to the development of the trade of land-locked States. The Committee agreed that traffic in transit should be exempted from customs duties. On the basis of the discussions the Secretariat submitted a text of article 4 contained in document E/CONF.46/AC.2/L.38/Add.5.

84. When considering the Secretariat's text certain representatives argued that the article should only deal with undue or unnecessary delay. However, the Committee accepted the relevant text prepared by the Secretariat but left open the possibility of reservations to this point. The Committee was unable to agree on a standard for determining the upper limit of tariffs on traffic in transit for the use of routes and facilities of the State of transit. It was therefore decided to retain the standard contained in the African-Asian draft and to have the relevant amendments in the report. The representative of the United Kingdom explained that tariffs were charged on transport facilities rather than on routes and therefore the term "transport facilities" should be used in the article. The representative of Pakistan pointed out that if that was accepted, facilities of ports such as storage and warehousing would not be covered by the article. The representative of the Secretariat suggested that the term "facilities" would meet the points raised, as that term would cover means of transport, the roads, port facilities and other related means used for traffic in transit. This suggestion was accepted by the Committee, and it was decided that the explanation of the term should appear in the text of the article.

Decision

85. The Committee recommended the following article:

"1. The Contracting States undertake to provide, according to the availability of transport means at the point of entry, adequate means of transport for the movement of traffic without delay.

"2. The Contracting States undertake to apply to traffic in transit, using facilities operated or administered by the State, tariffs or charges which, having regard to the conditions of the traffic and to considerations of commercial competition, are reasonable as regards both their rates and the method of their application. These tariffs or charges shall be so fixed as to facilitate traffic in transit as much as possible [and shall in no case be higher than those applied to internal traffic].[16] The provisions of this paragraph shall also extend to the tariffs and charges applicable to traffic in transit using facilities operated or administered by firms or individuals, in cases in which the tariffs or charges are fixed or subject to control by the Contracting State. The term 'facilities' as used in this paragraph shall comprise means of transport, port installations and routes for the use of which tariffs or charges are levied.

"3. Any haulage service established as a monopoly on waterways used for transit must be so organized as not to hinder the transit of vessels.

"4. The provisions of this article must be applied under the conditions of equality laid down in article 2, paragraph 1."

Reservations

Czechoslovakia

The Czechoslovak delegation proposed:

(1) That the sentence "and shall in no case be higher than those normally applied to internal traffic" should either: (*a*) be deleted, or (*b*) be amended, in principle, by the following text:

> "The tariffs shall be so fixed as to facilitate traffic in transit as much as possible and shall not be higher than the tariffs applied by contracting States for the transport through their territory to the sea and vice versa of goods of countries with access to the sea."

The Czechoslovak delegation did not refuse to consider any other drafting amendment, which would result from (*a*) or (*b*) above.

(2) That the last sentence:

> "The provisions of this paragraph shall also extend to the tariffs and charges applicable to traffic in transit for use of means of transport, facilities and routes, that are operated or administered by firms or individuals, in cases in which the tariffs or charges are fixed or subject to control by the contracting State."

should be formulated in such a way, which would secure the equality. According to the text, as it stands now, there could be a certain disparity between the States which have a wide extent of state control in this field, and the States which do not undertake control to such an extent.

India

The Indian delegation would like paragraph 1 of article 4 to be redrafted as follows:

[16] The Committee referred this phrase in square brackets and the amendments thereto, which are listed under "*Amendments*" above, to the Conference of Plenipotentiaries.

"The Contracting States will endeavour to provide to the extent possible adequate means of transport for the movement of traffic without unnecessary delay."

This redraft has been suggested because a developing State of transit, while considering sympathetically the legitimate needs of a developing land-locked country, can undertake obligations only to the extent it is in a position to implement them.

In article 4, the second sentence of paragraph 2 should be redrafted to read as follows:

"These tariffs or charges should be so fixed as to facilitate traffic in transit as much as possible and should not ordinarily be higher than those for internal traffic."

This proposed text will ensure that though ordinarily the tariffs or charges would not be higher than those for internal traffic, in such cases or on such routes where special facilities have to be provided, charges may have to be different or even more than those for internal traffic.

Netherlands

In article 4, paragraph 2, the Netherlands delegation agrees to the insertion of the words between brackets on condition that between the words "those" and "applied" the word "normally" is inserted, because without this qualification the formula would in some cases be too restrictive.

Nigeria

The position of the Nigerian delegation is that the word "unnecessary" or "undue" should be inserted before the word "delay" in paragraph 1 in document E/CONF.46/AC.2/L.38/Add.5.

Pakistan

The Pakistan delegation maintains that paragraph 1 of this article should be amended to read as follows:

"The Contracting Parties will endeavour to provide, subject to availability of transport means, adequate means of transport for the movement of traffic in transit without unnecessary delay."

Union of Soviet Socialist Republics

The second sentence of paragraph 2 should be worded as follows:

"These tariffs shall be so fixed as to facilitate traffic in transit as much as possible and shall not be higher than the tariffs applied by Contracting States for the transport through their territory of goods of countries with access to the sea."

The last sentence of paragraph 2 should be so formulated as to preclude the possibility of countries where there is limited state regulation of the level of tariffs and charges being placed in a privileged position in comparison with countries where the State regulation of the level of tariffs and charges is general and applies to all types of transport.

EXCEPTIONS TO THE CONVENTION ON THE GROUNDS OF PUBLIC HEALTH, SECURITY, AND SAFETY

Article 5

(renumbered as article 12 in annex I)

86. Article 5 of the African-Asian draft was taken from the Barcelona Convention with minor changes. It dealt with exceptions to the application of the Convention by transit States on grounds of public health, security, safety and in accordance with general international agreements.

Amendments

87. Czechoslovakia (E/CONF.46/AC.2/L.2) suggested the deletion especially in paragraph 3 of this article of references to restrictive acts which might be taken against traffic in transit by States of transit in accordance with general international treaties and of references to haulage monopolies.

88. The United States of America (E/CONF.46/AC.2/L.14) suggested that passengers should be eliminated from the text of the article.

89. India (E/CONF.46/AC.2/L.17) wanted arms, ammunition and military stores added to the list of types of goods to which States of transit were not obliged to grant freedom of transit and suggested that a new paragraph should be added to the effect that no State of transit was obliged to receive means of transport belonging to an unfriendly State.

90. Pakistan (E/CONF.46/AC.2/L.19) would amend article 5 and also add to it "public morals" as another ground for the prohibition of importation of transit goods (taken from article XX of the General Agreement on Tariffs and Trade (GATT)). It also proposed a new article, based on article XXI of GATT, to the effect that the Convention should not be construed to require any Contracting State to furnish any information contrary to its security interests and to prevent any Contracting State from taking any action for the protection of its essential security interests relating to fissionable material and traffic in arms, ammunitions and other military *matériel* or taken in time of war or other emergency in international relations.

91. In addition, drafting changes were suggested by the United States of America (E/CONF.46/AC.2/L.14), the USSR (E/CONF.46/AC.2/L.20), Pakistan (E/CONF.46/AC.2/L.19), India (E/CONF.46/AC.2/L.17) and Czechoslovakia (E/CONF.46/AC.2/L.2).

Discussion and decision

92. The Committee considered this article at its 13th, 16th, 17th and 27th meetings. The article was intended to allow the transit States to take measures aimed at protecting their legitimate interests and carrying out their international obligations. In accordance with the earlier decision in respect of article 2, it was agreed that persons should come within the scope of the article.

93. The Committee accepted an amendment by Pakistan that action taken to protect public morals should be included in the article.

94. In view of the important questions of principle raised by the Indian and Pakistani amendments in regard to arms, ammunition, etc., the Committee decided to refer those amendments to the Conference of Plenipotentiaries. Delegations of the developing land-locked countries maintained that because sovereign independent States had a universally recognized right of importing arms for their national defence and security, they were not prepared to accept any amendment which aimed at restricting their sovereign rights. On the basis of this discussion and taking account of drafting changes submitted by representatives, the Secretariat prepared a new draft (E/CONF.46/AC.2/L.38/Add.6). Paragraphs 2 and 3 of this draft were adopted by the Committee. With respect to paragraph 1, the Committee de-

cided to transmit the Secretariat text together with the Indian and Pakistani amendments to the Conference of Plenipotentiaries for discussion. The text of article 5 reads as follows (E/CONF.46/AC.2/L.41):

"1. No Contracting State shall be bound by this Convention to afford transit to persons whose admission into its territories is forbidden, or for goods of a kind of which the importation is prohibited, either on grounds of public morals, public health or security, or as a precaution against diseases of animals or plants.[17]

"2. Each Contracting State shall be entitled to take reasonable precautions and measures to ensure that persons and goods, particularly goods which are the subject of a monopoly, are really in transit, as well as to protect the safety of the routes and means of communication.

"3. Nothing in this Convention shall affect the measures which a Contracting State may feel called upon to take in pursuance of a general international Convention to which it is a party, whether such Convention was already concluded on the date of this Convention or is concluded later relating to export or import of transit of particular kinds of articles (such as opium or other dangerous drugs, arms or the produce of fisheries), or intended to prevent any infringement of industrial, literary or artistic property, or relating to false marks, false indications or origin, or other methods of unfair competition."

Reservations

India

Since paragraph 1 of article 5 is being transmitted to the Plenipotentiary Conference for consideration, and since no discussion took place in the Experts Committee in the matter, it is understood that the Indian delegation's amendment appearing in E/CONF.46/AC.2/L.17 relating to this paragraph will be included in the report or at an appropriate place. According to the Indian draft, the first paragraph will read as follows:

"No Contracting State shall be bound by this Convention to afford transit for passengers whose admission into its territory is forbidden, or for arms, ammunition and military stores, or for goods of a kind of which the importation is prohibited, either on grounds of public health, security, national defence or as a precaution against diseases of animals or plants; nor will the State of transit be obliged to receive ships or other means of transport belonging to a State unfriendly to the State of transit."

Netherlands

In the view of the Netherlands delegation, in the second paragraph after the words "are really in transit" the words "and that the means of transport are really used for the passage of such goods" should be inserted, so as to make this paragraph consistent with article 1.

Pakistan

The Pakistan delegation maintains that the words "or for arms, ammunition and military stores" should be added between "territories is forbidden" and "or for goods of" in line 2 of paragraph 1 of this article.

[17] With regard to this paragraph, the Committee did not discuss amendments submitted by India (E/CONF.46/AC.2/L.17) and Pakistan (E/CONF.46/AC.2/L.19).

EXTENSION OF THE SCOPE OF THE CONVENTION

Article 6

(renumbered as article 17 in annex I)

95. Article 6 of the African-Asian draft which was identical with article 6 of the Statute of the Barcelona Convention concerned the possible extension "for valid reasons" of the provisions of the Convention to goods and persons of non-Contracting States or originating from, or destined to, non-Contracting States.

Amendments

96. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed the elimination of the article in its entirety and India (E/CONF.46/AC.2/L.17) of the clause indicating that goods in transit under the flag of a Contracting Party were within the scope of the Convention. The United States of America (E/CONF.46/AC.2/L.14) suggested that persons should be omitted from the ambit of the article. The Union of Soviet Socialist Republics (E/CONF.46/AC.2/L.20) introduced an amendment to the effect that reasons given by a Contracting State for the extension of the provisions of the Convention to non-Contracting States should be those considered valid by the State of transit.

Discussion in the Committee

97. Several representatives questioned the relevance of an article in such terms within the context of the present Convention; others pointed out that in their interpretation the tenor of article 6 was contradictory to the scope of the Convention as clearly set out in article 1. It was explained that article 6 was inserted in the Statute of the Barcelona Convention as a compromise between the views of those who argued that the Barcelona Convention should not apply to non-Contracting States and those who wanted the provisions of that Convention to apply to goods coming from or destined to non-Contracting States. In the light of this explanation it was thought that article 6 had been drafted in a different context from that of the present Convention. Moreover, the scope of the present Convention was limited to traffic in transit originating from or destined to a contracting land-locked State, hence the traffic in transit could have come from any State en route to a land-locked State or could be going to any State from a land-locked State. In these circumstances it was observed that a retention of article 6 in its present form would place a limitation on the transit trade of land-locked States. In spite of these observations certain representatives of the sponsoring Powers wanted the retention of this article and the Committee requested the Secretariat to study the views expressed by representatives and to submit a new text which would further the interests of the land-locked States.

98. The Secretariat submitted a new draft with an explanatory note contained in document E/CONF.46/AC.2/L.38/Add.7. In the note it was explained that the negative language used in the basic text could be construed as casting doubts on the rights of the land-locked Contracting Parties. Such a construction was possible because the text of article 6 in the African-Asian draft provided that the Convention would not impose an obligation to grant freedom of transit to goods or means of transport coming from or destined for a non-Contracting State (except when a valid reason was shown). Such a provision was inconsistent with articles 1 and 2 which provided that benefits of the Convention should apply to traffic which came from

a contracting land-locked State regardless of whether its ultimate destination was another Contracting State and to traffic destined for a contracting land-locked State irrespective of whether its origin was in another Contracting State. Several delegates maintained their objection to an article extending the Convention to situations not covered by article 1.

Decision

99. The Committee decided that there would be no recommendation on the basis of article 6 but that the note submitted by the Secretariat and the draft therein should be referred to the Conference of Plenipotentiaries.

100. The draft article reads as follows:

"The Contracting States shall extend freedom of transit and the other benefits of the Convention to goods in transit which are not otherwise within the scope of the Convention in the following cases:

"(*a*) When such goods have passed through or are intended to pass through a land-locked State which is a party to this Convention; or

"(*b*) When such goods have originated in or are destined for a land-locked State which is not a Party to the Convention,

provided that the reason shown for such transit by a Contracting Party is recognized as valid by the State of transit."

Reservations

Netherlands

The Netherlands delegation would prefer to maintain the article as drafted because it offered an opportunity of extending the scope of the Convention. It agrees to the term of sub-paragraph (*a*) but reserves its position on sub-paragraph (*b*) because this would extend the scope of the Convention to non-Contracting States.

Pakistan

The Pakistan delegation reserves its position on this article of both the basic text and the Secretariat draft and agrees that the Secretariat note with the attached draft should be referred to the Conference of Plenipotentiaries.

Union of Soviet Socialist Republics

This article should be based on the African-Asian draft, together with the amendment submitted by the USSR delegation (E/CONF.46/AC.2/L.20), which states that the reason shown for the transit of goods and means of transport of a non-Contracting State shall be recognized as valid by the State of transit.

United States of America

The United States of America reserved its position on article 6 of both the Teheran tripartite draft and the Secretariat's draft and agreed that the Secretariat's draft of article 6 should be sent forward without a vote and accompanied by the views of delegations which had proposed amendments or deletion.

EXCEPTION FOR EMERGENCY AND VITAL INTERESTS OF STATES

Article 7

(renumbered as article 13 in annex I)

101. This article was taken from article 7 of the Barcelona Convention. It permitted measures taken by a Contracting State, in case of an emergency affecting its safety or vital interests, to deviate from other provisions of the draft convention in exceptional cases and for as short a period as possible, with the understanding that the principle of freedom of transit must be observed to the utmost possible extent.

Amendments

102. The Czechoslovak amendment (E/CONF.46/AC.2/L.2) provided for the temporary limitation or suspension by transit States of "the exercise of the right of transit" during serious international crisis and for the application of such measures to the transit of all States, with notification thereof to each State concerned in good time.

103. The United States of America introduced a drafting amendment (E/CONF.46/AC.2/L.22).

104. India proposed the replacement of the basic text by a new text providing that the Convention would not apply, wholly or in part, in cases of emergency affecting the safety of a State or the vital interests of the country (E/CONF.46/AC.2/L.25).

Discussion in the Committee

105. The Committee considered this article at its 17th, 18th and 27th meetings.

106. There was general consensus in the committee as to the spirit of the provisions in the basic text which were intended to protect the vital interests of transit States. This protection, however, was characterized as an exception to the fundamental principle of the draft convention, namely, the principle of freedom of transit.

107. Some delegations observed that it would be proper to define the special cases in which the exception in article 7 would apply. In this connexion, it was suggested that "the case of an emergency" within the meaning of the basic text would be tantamount to a situation threatening the existence of a country but not to one relating solely to the maintenance of order. Doubts were also expressed regarding the retention of the term "vital interests".

108. While certain delegations favoured the deletion of any reference to the principle of freedom of transit, in a text which was intended to establish an exception to that principle, others considered that the principle should be kept in the text to maintain a fair balance between the exception and the principle.

109. At the request of the Committee and in the light of the discussion which had taken place therein, the Secretariat submitted two alternative drafts which were based on the African-Asian text and the Indian amendment respectively (E/CONF.46/AC.2/L.38/Add.8).

Decision

110. At its 27th meeting, the Committee decided to adopt the first variant of the Secretariat drafts while indicating that India preferred the second alternative. The text reads (E/CONF.46/AC.2/L.41):

"The measures of a general or particular character which a Contracting State is obliged to take in case of an emergency affecting its safety or vital interests may, in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this Convention on the understanding that the principle of freedom of transit shall be observed to the utmost possible extent during such a period.

"[India preferred the following alternative text: The Convention would not apply, wholly or in part in cases of emergency affecting the safety of a Contracting State or its vital interests. This period shall be as short as possible.]"

APPLICATION OF THE CONVENTION IN TIME OF WAR

Article 8

(renumbered as article 14 in annex I)

111. This article was taken from article 8 of the Barcelona Convention. Its main provision was that the draft convention "shall" continue in force in time of war so far as the rights and duties of belligerents and neutrals permitted.

Amendments

112. India submitted an amendment to the effect that the draft convention "may" continue in force in time of war so far as possible (E/CONF.46/AC.2/L.25).

113. The representative of Czechoslovakia, having withdrawn his amendment to this article (E/CONF.46/AC.2/L.2), orally proposed to replace the words "in time of war" by the expression "in time of armed conflict" and stated that this could be left for a decision by the Conference of Plenipotentiaries.

Discussion in the Committee

114. During the discussion of this article at the 18th and 27th meetings of the Committee, the representative of India stated that his amendment was purely formal as it would in any case be for each country to decide, in the event of war, to what extent it could apply the Convention. The majority of the members considered, however, that the Indian amendment involved a change in substance since it would limit the scope of the basic text by substituting the idea of mere possibility for that of necessity. It was also pointed out that this article had withstood the test of time since its inclusion in the Barcelona Convention, and it was not the Committee's task to develop further the concepts contained in this article. The view was also expressed that the basic text sought to protect with scrupulous impartiality both the rights of transit States and the interests of land-locked States.

Decision

115. At its 27th meeting, the Committee decided to retain the basic text without change which reads as follows:

"This Convention does not prescribe the rights and duties of belligerents and neutrals in time of war. The Convention shall, however, continue in force in time of war so far as such rights and duties permit."

Reservation

Austria reserved its right to revert to this question during the future discussion of article 8.

OBLIGATIONS UNDER THE CONVENTION AND RIGHTS AND DUTIES OF UNITED NATIONS MEMBERS

Article 9

(renumbered as article 16 in annex I)

116 This article which was based on article 9 of the Barcelona Convention, stated that the draft Convention did not impose on a Contracting State any obligations conflicting with its "rights and duties" as a Member of the United Nations.

Amendment

117. The United States of America submitted an amendment to replace the word "duties" by the word "obligations" (E/CONF.46/AC.2/L.22).

Discussion and decision

118. In introducing his amendment the representative of the United States explained that the word "obligations" had juridical connotation and was in harmony with both the letter and the spirit of treaties and conventions.

119. After it was pointed out that the words "rights and duties" had been approved by the Committee and inserted in other articles, the Committee, at its 27th meeting, decided to retain the basic text of this article without change. It reads as follows:

"This Convention does not impose upon a Contracting State any obligations conflicting with its rights and duties as a Member of the United Nations."

EQUALITY OF TREATMENT OF GOODS

Article 10

(renumbered as article 9 in annex I)

120. Article 10 of the African-Asian draft was based on article V, paragraph 6 of GATT. It provided for equal treatment of goods by the State of destination regardless of whether or not such goods had been in transit through the territory of another State.

Amendments

121. Czechoslovakia (E/CONF.46/AC.2/L.2), Argentina (E/CONF.46/AC.2/L.15), the United States of America (E/CONF.46/AC.2/L.22), India (E/CONF.46/AC.2/L.25) and Pakistan (E/CONF.46/AC.2/L.26) all called for the deletion of the article from the Convention.

Discussion in the Committee

122. The Committee considered this article at its 18th, 19th, 27th and 28th meetings.

123. Those who proposed the deletion of the article considered it superfluous either because it was irrelevant in the context of the present Convention or because it appeared to deal with non-discrimination which had been covered by the provisions of article 2. Some members expressed doubts as to the exact meaning of the article as it stood; they also objected to reproducing only part of the corresponding provisions of GATT. Representatives of the sponsoring States considered that article 10 as it stood was necessary in the Convention and explained that a similar provision was to be found not only in article V of GATT but also in article 33, paragraph 7, of the Havana Charter of 1948 which dealt with the application of the most-favoured-nation clause. To this it was objected that principle 7 adopted by UNCTAD had expressly stated that facilities and special rights accorded to land-locked States should be excluded from the operation of most-favoured-nation clauses. One representative considered that article 10 created obligations for countries of destination which would comprise land-locked States, States of transit (except those through whose territory the traffic in transit had passed) and other States. With respect to these other States which were non-Contracting States, it was difficult to suppose that the Convention could

apply to them. At the request of the sponsoring States it was agreed that the Secretariat in consultation with them should prepare a new text of the article.

124. The Secretariat submitted a new draft of article 10 contained in document E/CONF.46/AC.2/L.38/Add.9. The representative of the Secretariat explained that the article as now drafted by the Secretariat was aimed at preventing discrimination by States of destination against goods coming from land-locked States and passing through a State of transit and that, as requested by several members, the rest of article V, paragraph 6, of GATT relating to existing requirements of direct consignment had been incorporated in the new draft as an exception. It would mean that a Contracting State which received goods originating in a land-locked State should not give those goods less favourable treatment on the ground that they had passed through a third State. Certain representatives found it difficult to reconcile the principle of the article with the exception to it and others expressed the view that the exception imposed a restriction on the development of the trade of land-locked States.

Decision

125. The Committee decided to transmit the Secretariat draft of article 10 to the Governments and the Conference of Plenipotentiaries.

Reservations

India

In the view of the Indian delegation, article 10 of the draft Convention prepared by the Experts Committee should be deleted, primarily for the reason that the subject matter of this article deals with questions of tariffs which may be imposed by the States of destination. Neither the composition of the Committee nor its terms of reference make the Committee competent to deal with this question. Secondly, this article does not appear to be relevant in a Convention dealing primarily with affording facilities for transit trade of land-locked countries. Although this article is based on relevant provisions of the Havana Charter and the GATT, it is not to be found in the Barcelona Statute. It might be recalled that whereas the Barcelona Statute deals with the question of freedom of transit, the Havana Charter and the GATT deal, besides, with problems relating to tariffs. For this reason also the question of the tariffs is not relevant for the present draft Convention which is primarily based on the Barcelona Statute. The Indian delegation therefore reserve its position regarding the relevancy of this article in the present Convention.

Ivory Coast

The meaning of the article appears to be somewhat obscure.

The delegation of the Ivory Coast therefore reserves its position on this point, but this reservation in no way prejudices the attitude of the Ivory Coast to the substance of the problem raised in the article.

Netherlands

The Netherlands delegation reserves its position because the article tries to deal with two completely different problems at the same time: non-discrimination by transit countries in respect of traffic in transit and non-discrimination by land-locked countries in respect of the treatment of goods imported from another Contracting Party. The second problem seems to fall outside the scope of the Convention.

Pakistan

The Pakistan delegation is of the view that this article in either of its variants (basic text or the Secretariat draft) is, strictly speaking, not relevant to the subject matter of the Convention, and as such should be deleted from the draft Convention.

Union of Soviet Socialist Republics

This article, as it is worded in the Secretariat draft (E/CONF.46/AC.2/L.38/Add.9), opens the way to the imposition of unequal conditions in the country of destination for goods of land-locked States in transit across the territory of any Contracting State.

This article should be completely redrafted on the basis of the African-Asian draft.

Upper Volta

The second sentence of article 10 contains a restriction on the development of transit.

The delegation of Upper Volta is opposed to the retention of this sentence.

PROVISION OF GREATER FACILITIES

Article 11

(renumbered as article 10 in annex I)

126. Article 11 of the African-Asian draft which was identical with article 11 of the Barcelona Convention provided that the Convention would not entail the withdrawal of facilities which were greater than those provided for in the convention and which had been granted to traffic in transit under conditions consistent with the convention. It also envisaged the possibility of Contracting States concluding future agreements granting greater facilities than those provided for in the convention.

Amendments

127. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed the replacement of article 11 by a provision which stated that the convention should not rescind agreements in force between Contracting States or constitute an obstacle to the conclusion of such agreements which did not establish a less favourable régime or which was not inconsistent with the provisions of the convention. Further, Contracting States would be under an obligation to bring previous agreements which were at variance with the provisions of the convention into line with it unless discrepancies were justified by geographical, economic and technical conditions.

128. India (E/CONF.46/AC.2/L.25) introduced a drafting amendment to substitute the words "its provisions" for "its principles".

129. Pakistan (E/CONF.46/AC.2/L.26) also proposed a new wording for the article to the effect that the Contracting States undertook to introduce into agreements on questions of transit which they had previously concluded and which contravened the provisions of the convention, modifications required to bring them into harmony with the convention in so far as geographical, economic and technical considerations would allow. It would also impose an obligation on Contracting States not to conclude future agreements inconsistent with the convention except where geographical, economic and technical conditions justified such exceptional deviations.

Discussion in the Committee

130. The Committee considered this article at its 19th and 28th meetings.

131. In introducing his amendment, the representative of Pakistan explained that it followed the wording of article 10 of the Barcelona Convention with certain omissions and he thought that this was the appropriate way of dealing with the matter. On behalf of the sponsors it was pointed out that article 10 of the Barcelona Convention had been deliberately omitted from their draft to obviate any impression that the right of free transit depended on bilateral arrangements. Several representatives agreed that article 10 of the Barcelona Convention was obsolete in relation to the purpose of the present Convention.

132. In response to a question regarding the legal relationship between the proposed convention and existing agreements the representative of the Secretariat stated that if the parties to an existing agreement on the same subject all acceded to a new convention, the earlier convention would apply only to the extent that its provisions were not inconsistent with the new convention. He pointed out that if some of the States parties to an existing convention did not accede to the new convention the earlier convention would apply as between a State which was a party to both conventions and a State party only to the earlier one. As between a State party to both the new convention and an earlier one, and a State party only to the new convention, only the new convention would apply.

133. Several representatives objected to the description of territory across which traffic in transit passes as territory under "the sovereignty or authority of a Contracting State", stating that this had been taken automatically from article 11 of the Barcelona Convention which did not suit the conditions of the present. It was agreed that the Secretariat redraft of the article should embody the appropriate formula on this subject used in recent United Nations conventions. It was also suggested that the Secretariat redraft should take into account principle VIII of the principles adopted by UNCTAD which concerned the subject matter of article 11.

Decision

134. The Committee accepted the draft submitted by the Secretariat (E/CONF.46/AC.2/L.38/Add.10) and recommended the following text (E/CONF.46/AC.2/L.41/Add.1):

> "This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in the Convention and which, under conditions consistent with its principles, were agreed between Contracting States or granted by a Contracting State. The Convention also entails no prohibitions of such grant of greater facilities in the future."

DOCUMENTATION AND METHODS IN REGARD TO CUSTOMS, TRANSPORT AND ADMINISTRATIVE PROCEDURES

Article 12

renumbered as article 5 in annex I)

135. Article 12 of the African-Asian draft provided for the introduction of simplified documentation and expeditious customs, transport and administrative procedures relating to traffic in transit and the limitation of examination of transit goods to test checks. It also provided that transit goods should move in bulk and that overland traffic in transit should be treated in the same manner as trans-shipment at intermediate ports. Carriers should be responsible to see that goods cross over the frontiers of States of transit. Moreover, owners of goods should not be required to submit documentation or to give any undertaking regarding the passage of goods across the country of transit, unless the goods were moving under their custody.

Amendments

136. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed the deletion of the clauses dealing with the movement of traffic in transit and transit goods in bulk and the responsibility of carriers and owners.

137. Nigeria (E/CONF.46/AC.2/L.8) suggested that owners might be required where necessary to present customs and other documents directly or through agents.

138. Netherlands (E/CONF.46/AC.2/L.16 and E/CONF.46/AC.2/L.23) proposed that the examination of transit goods *might* be confined to test checks and that "carriers" should be replaced by "carriers or holders of goods".

139. Switzerland (E/CONF.46/AC.2/L.18) suggested the deletion of the requirement that transit goods should move in bulk.

140. United States of America (E/CONF.46/AC.2/L.22) proposed the elimination of the provision that transit trade overland should be treated in the same manner as trans-shipment at intermediate ports.

141. India (E/CONF.46/AC.2/L.25) and Pakistan (E/CONF.46/AC.2/L.26) proposed the deletion of the whole article.

142. Union of Soviet Socialist Republics (E/CONF.46/AC.2/L.27) suggested that examination of transit goods should also ensure that there were no other infringements apart from the carriage of contraband and that owners of goods should be responsible for providing covering, customs and transport documentation. Furthermore, the question of guarantees and the responsibility for the passage of goods through the territory of the State of transit should be determined in accordance with the transport agreements that were concluded.

Discussion in the Committee

143. The Committee considered this article at its 19th, 20th, 21st, 25th and 28th meetings.

144. Those representatives who proposed or supported the deletion of the article argued that it dealt with matters of administrative detail and was therefore unnecessary in a convention concerned essentially with general principles. Representatives of the sponsors emphasized that article 12 was of fundamental importance to the land-locked countries and that the article contained general principles and not matters of detail. The representative of India then outlined principles of customs administration taken from a comparative study of procedures in force in various countries by the Custom Co-operation Council which he considered would be a useful basis for a redraft of article 12. He also expressed dissatisfaction with the substance of the article, particularly in regard to the meaning, implication and possible practical consequences of the terms and phrases used. Certain representatives associated themselves with these remarks and drew attention to principle V adopted by UNCTAD accord-

ing to which the State of transit could take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit did not infringe its legitimate interests.

145. The representative of Afghanistan pointed out the difficulties encountered by land-locked States due to the lack of simple and efficient methods and the frequent occurrence of inexcusable delays in the transit States. It was to meet such circumstances that the land-locked States insisted on a clear and comprehensive statement of principles in article 12. In the light of this discussion, the Committee appointed a working party consisting of representatives of Argentina, Czechoslovakia, Nigeria, Nepal, Netherlands, India, the Union of Soviet Socialist Republics and the United States of America, under the chairmanship of the representative of Argentina, to draft a new text of article 12.

146. The working party submitted a new draft (E/CONF.46/AC.2/L.38/Add.13). In this draft, the first sentence of the basic text relating to the application of simplified documentation and expeditious methods was retained. The second sentence was revised to provide for the limitation to "summary examination" and test checks of transit goods as a general rule and the reference to contraband goods was omitted. The third sentence concerning movement of transit goods in bulk was deleted. In the fourth sentence, references to overland transit and to intermediate ports were deleted and, as thus revised, this sentence provided that trans-shipment across the territory of the transit State would be subject to a procedure as simple as possible. Divergent views were expressed on the next three sentences of the basic text relating to the responsibility of the carriers in respect of the crossing of goods over the frontier of the transit State and the responsibility of the owners of the goods in respect of the presentation of customs or other documentation and the undertakings regarding the passage of such goods. Those three sentences were subsequently replaced by two provisions. The first required the Contracting Parties to adopt measures permitting the carrying out of traffic in transit. In this connexion, since no agreement was reached on whether to describe the traffic in transit as "a secure, uninterrupted and continuous" or as "free and unrestricted", the working party decided to include those two expressions in square brackets as variants. The second provision would make measures to facilitate the said traffic in transit depend upon agreement, when necessary, by the Contracting Parties concerned. The Chairman of the working party, in introducing the new text, pointed out that it was the result of prolonged discussion leading to a compromise intended to meet the objections raised to the African-Asian text.

147. During the discussion in the Committee of the working party draft, several sponsors of the African-Asian draft including the representative of Nepal maintained that the new draft differed considerably in substance from the basic text. It was also pointed out that such a term as "when necessary" was too vague and might imply that negotiations could be undertaken at the request of any one of the parties concerned. It was further stated that the words "a procedure as simple as possible" left too much to the judgement of the agent of the transit State. They therefore preferred the retention of the basic text. In regard to the terms "summary examination" and "test checks", one representative explained that the summary nature of these examinations had been stressed with the intention of facilitating the transit trade of land-locked States while the States of transit would have great latitude in deciding how complete their test checks would be in each case. Another representative considered that test checks, especially in the case of minerals, should consist merely of an external examination.

148. Some representatives considered that the article should be deleted either on the ground that administrative details should be arranged by negotiation between the interested States or because neither the working party draft nor the basic text was satisfactory. One of them, while preferring the deletion of the article, was prepared to accept the working party draft subject to his reservation aiming at replacing the expressions in brackets by the term "freedom of transit". He further expressed the view that the term "trans-shipment" should be more clearly defined by referring to goods in the course of their transit. One representative wanted the retention of the provision on prohibition of contraband goods in connexion with test checks.

Decision

149. Since there was no agreement as to either of the alternative texts to be adopted by the Committee, it was decided to transmit both the text adopted by the working party and the African-Asian text (E/CONF.46/AC.2/L.41/Add.1) reproduced below, together with the various amendments to the Governments and the Conference of Plenipotentiaries.

"Text adopted by the Working Party

"The Contracting States undertake to apply simplified documentation and expeditious methods in regard to customs, transport and other administrative procedures relating to traffic in transit. Similarly, trans-shipment across the territory of transit State will be subject to a procedure as simple as possible. As a general rule, the examination of transit goods will be confined to summary examination and to test checks. The Contracting Parties shall adopt administrative and customs measures permitting the carrying out of [a secure, uninterrupted and continuous] [free and unrestricted], traffic in transit. When necessary, they should undertake negotiations to agree on measures that ensure and facilitate said transit."

["The Contracting States undertake to introduce simplified documentation and expeditious methods in regard to customs, transport and other administrative procedures relating to traffic in transit. The examination of transit goods will be confined to test-checks to ensure that contraband goods are not carried. As far as possible, transit goods will move in bulk. Transit trade over-land will be treated in the same manner as trans-shipment at intermediate ports. Carriers will be responsible, under the control of customs authorities and under such conditions as may be prescribed by them, including the placing of customs seals on the goods, to see that the goods cross over the frontiers of the country of transit. The owners of the goods shall not be required to present any customs or other documents individually in the country of transit, either directly or through agents. They will not be required to give any undertakings regarding the passage of the goods across the country of transit, unless the goods move under their custody." (African-Asian text—E/CONF.46/AC.2/1.)]

"*Note:* The following amendments were submitted to the basic text: Czechoslovakia (E/CONF.46/AC.2/L.2), Nigeria (E/CONF.46/AC.2/L.8), Netherlands (E/CONF.46/AC.2/L.16), Switzer-

land (E/CONF./AC.2/L.18), United States of America (E/CONF.46/AC.2/L.22), Netherlands (E/CONF.46/AC.2/L.23), India (E/CONF.46/AC.2/L.25), Pakistan (E/CONF.46/AC.2/L.26), Union of Soviet Socialist Republics (E/CONF.46/AC.2/L.27)."

Reservations

Bolivia

The delegation of Bolivia has a reservation as regards article 12, because "test checks" are not applicable under our system, whereby goods are received in accordance with the particulars given in the manifest and are exempt from all but external inspection.

Chile

The delegation of Chile considers that the sentence in the new text of article 12 reading: "As a general rule, the examination of transit goods will be confined to summary examination and to test checks" is too general and vague and has requested inclusion in the Committee's report of its opinion that the following phrase should be added after the words "test checks": "... to ensure that contraband goods are not carried, that the safety of transit is not jeopardized by the handling of dangerous, explosive or inflammable materials and that there are no other infringements".

India

As regards article 12, the Indian delegation would prefer its deletion, since this article deals with details of administrative procedures whereas the Convention primarily concerns itself with principles. Such details of administrative procedures could more usefully be settled by agreements between the States concerned.

The Indian delegation, however, is prepared to accept the text adopted by the working party subject to the following reservation. The Indian representative on the working party made it clear that in this sentence only such phraseology should be used as might ultimately be agreed to in article 2 by the Committee. With this understanding, the words "free and unrestricted" were suggested, which are placed in brackets in the penultimate sentence of article 12. Since the Committee decided to use the phrase "freedom of transit" in article 2, the same phrase should be substituted for the phrase "free and unrestricted" referred to above. With this change, the penultimate sentence of the text of the working party should read as follows:

"The Contracting States shall adopt administrative and customs measures to (permit the carrying out of secure, uninterrupted, and continuous traffic in transit) (facilitate freedom of transit for traffic in transit)."

Netherlands

The Netherlands delegation reserves its position with regard to the fourth sentence in whichever of the two alternatives may eventually be adopted, because it would seem superfluous.

Pakistan

The Pakistan delegation is not in a position to accept this article in either of the two variants (i.e., the text given in the African-Asian draft or the text prepared by the working party) and maintains its position that this article should be deleted. The Convention should deal with broad principles of transit trade, and not with detailed and technical matters, such as those included in this article.

Settlement of disputes

Article 13

(renumbered as article 19 in annex I)

150. The African-Asian draft of this article provided for the settlement of any dispute relating to the interpretation or application of the draft convention by an arbitration commission composed of three members, two of whom to be appointed by the parties to the dispute and the third one, upon written request, by the Secretary-General of the United Nations.

Amendments

151. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed reference of disputes to a joint commission composed of four members or by agreement of all parties concerned to the Permanent Court of Arbitration at The Hague, in accordance with the 1907 Convention for the Pacific Settlement of International Disputes.

152. Nigeria (E/CONF.46/AC.2/L.29) would amend the African-Asian draft by requiring the third member of the arbitration commission to be acceptable to the parties concerned.

153. India (E/CONF.46/AC.2/L.33) proposed a new text which would provide for the settlement of disputes in conformity with Article 33 of the United Nations Charter, "by negotiation, inquiry, mediation, conciliation or other peaceful means of their choice".

154. The Netherlands (E/CONF.46/AC.2/L.34/Rev.1) and Switzerland (E/CONF.46/AC.2/L.35) proposed a time-limit of six months for the settlement of disputes by the parties and for the reference, after that period, of the disputes to an arbitration commission. The Commission would be composed of three members and the third member would be agreed upon by the parties or, failing such agreement, within three months, should be appointed by the President of the International Court of Justice. According to the Netherlands' amendment, reference to the International Court of Justice would be an alternative to arbitration and the Court could fill a vacancy due to the failure by either party to appoint its own member.

155. The USSR amendment (E/CONF.46/AC.2/L.36) provided for arbitration by the agreement of all the parties concerned.

156. Pakistan (E/CONF.46/AC.2/L.37) proposed to refer the settlement of disputes to the International Court of Justice.

157. Austria supported the amendment put forward by the Netherlands and Switzerland and proposed to add a provision requiring the arbitration commission to apply the provisions of this Convention and established principles of international law in deciding a dispute.

Discussion in the Committee

158. This article was discussed by the Committee at its 20th, 21st and 29th meetings.

159. In introducing the African-Asian text on behalf of the sponsors, the representative of Nepal explained that this article was a new provision replacing article 13 of the Barcelona Convention.

160. One delegation thought that it would not be proper to refer disputes to a third party since no arbitration clause could substitute for the spirit of

mutual understanding and co-operation which was essential to the proper functioning of the Convention and that reference to a third party would only create tensions.

161. Other delegations, however, expressed their agreement with the principle of arbitration, but differed as to the manner of its application. Some of them thought that arbitration should only be established by the mutual consent of the parties to a dispute, such consent being the right of sovereign State. Others favoured compulsory arbitration in the sense that the disputes should be submitted to arbitration at the request of only one of the parties concerned. In this connexion, they considered that since the African-Asian text would allow one of the parties to prevent arbitration by refusing to appoint a member to the commission, provision should be made to prevent such frustration of the arbitral procedure.

162. In view of objection by some members to compulsory arbitration and in order to ensure ratification of the Convention, the representative of Switzerland suggested a procedure in line with the provisions of the Convention on the Liability of Operators of Nuclear Ships, adopted at Brussels on 25 May 1962, which permitted Governments to make reservations with regard to the procedure of compulsory arbitration.

163. In regard to the proposial to refer disputes to the International Court of Justice, several representatives objected, as a matter of principle, to the jurisdiction of the Court without special agreement of the parties concerned.

Decision

164. Because of the substantial differences of views expressed in the amendments and during the discussion, the Committee agreed not to recommend a text of this article but to transmit the African-Asian text and all the amendments thereto, as reproduced below (E/CONF.46/AC.2/L.41/Add.1), to the Conference of Plenipotentiaries.

"Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation or by other peaceful means of settlement between the parties, shall be settled by arbitration. The arbitration commission shall be composed of three members. Each party to the dispute shall nominate one member to the commission, while the third member upon written request shall be appointed by the Secretary-General of the United Nations. The arbitration commission shall decide on the matters placed before it by simple majority, and its decisions shall be binding on the parties concerned." (African-Asian draft—E/CONF.46/AC.2/1.)

["1. Any differences which may arise concerning the interpretation or implementation of this Convention and which cannot be settled by negotiation or any other method for the pacific settlement of disputes agreed upon by the Parties, shall be referred to a joint commission.

"2. The joint commission shall consist of four members. Each Party shall appoint two members, of whom one may be of its nationality and the other must be of a foreign nationality and not usually resident in the territory of the Parties concerned or in their employ. The joint commission shall decide by a majority vote; its decision shall be final and binding on the Parties. Instead of following this procedure, the Parties may, by common agreement, refer the dispute for a ruling to the Permanent Court of Arbitration at The Hague, in accordance with the Convention for the pacific settlement of international disputes, of 18 October 1907." (Czechoslovakia—E/CONF.46/AC.2/L.2.)]

["Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation or by other peaceful means of settlement between the parties, shall be settled by arbitration. The arbitration commission shall be composed of three members. Each party to the dispute shall nominate one member to the Commission, while the third member, who shall be acceptable to both parties to the dispute, shall be appointed, upon written request, by the Secretary-General of the United Nations. The arbitration commission shall decide on the matters placed before it by simple majority, and its decisions shall be binding on the parties concerned." (Nigeria—E/CONF.46/AC.2/L.29.)]

["Any dispute which may arise with respect to the interpretation or application of the provisions of this Convention shall be settled by the parties, in conformity with Article 33 of the United Nations Charter, by negotiation, inquiry, mediation, conciliation or other peaceful means of their choice." (India—E/CONF.46/AC.2/L.33.)]

["Any dispute which may arise as to the interpretation or application of this Convention, which is not settled between the parties themselves within six months, may be referred by one of the parties either to the International Court of Justice or to an arbitration commission, composed of three members. Each party to the dispute shall appoint one member to the commission, while the third member shall be chosen in common agreement among the parties and, if they are unable to agree within a period of three months from the date on which a dispute is referred to an arbitration commission, shall be appointed by the President of the International Court of Justice. In case any of the parties fail to make an appointment within a period of three months from the said date, the President of the International Court of Justice shall fill the remaining vacancy or vacancies. The arbitration commission shall decide on the matter placed before it by simple majority, and its decisions shall be binding upon the parties concerned." (Netherlands—E/CONF.46/AC.2/L.34/Rev.1.)]

["Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation within a period of six months shall be settled by arbitration at the request of one of the parties to the dispute. The arbitration commission shall be composed of three members. Each party to the dispute shall nominate one member to the commission. The third member, who shall preside over the commission, shall be chosen by common agreement among the parties and, if they are unable to agree within a period of three months, shall be appointed by the President of the International Court of Justice. The commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties concerned." (Switzerland—E/CONF.46/AC.2/L.35.)]

["Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation or by other peaceful means of settlement between

the parties, shall be settled by arbitration, established by agreement between all the parties to the dispute." USSR—E/CONF.46/AC.2/L.36.)]

["Any dispute which may arise as to the interpretation or application of this Convention which is not settled directly between the parties themselves shall be brought before the International Court of Justice, unless under a special agreement, or a general arbitration provision, steps are taken for the settlement of the dispute by arbitration or some other means." (Pakistan—E/CONF.46/AC.2/L.37.)]

[Add to text of Article 13: "In deciding a dispute, the arbitration commission shall apply the provisions of this Convention as well as the established principles of international law." (Austria)]

Reservations

Chile

With reference to article 13 of the draft convention concerning the settlement of disputes, the delegation of Chile can accept the fourth alternative text in document E/CONF.46/AC.2/L.38/Add.11 of 16 November 1964, which states: "Any dispute which may arise with respect to the interpretation or application of the provisions of this Convention shall be settled by the parties, in conformity with Article 33 of the United Nations Charter, by negotiation, inquiry, mediation, conciliation or other peaceful means of their choice." (India—E/CONF.46/AC.2/L.33.)

The delegation of Chile has expressed reservations as regards the other texts proposed in the above-mentioned document (E/CONF.46/AC.2/L.38/Add.11) for the settlement of disputes.

Union of Soviet Socialist Republics

This article should be worded as suggested in the amendment in document E/CONF.46/AC.2/L.36, stating that disputes which arise with respect to the interpretation or application of the Convention and are not settled by negotiation shall be settled by arbitration, established by agreement between all the parties to the dispute.

Exclusion of certain territories

Article 14

(deleted)

165. The African-Asian draft of this article which was identical in terms with article 14 of the Barcelona Convention, provided for two exceptions to the application of the draft Convention: (*a*) certain small areas or enclaves of small population lying within or adjacent to the territory of some Contracting States which formed "detached portions or settlements of other parent States" and (*b*) "where a colony or dependency has a very long frontier in comparison with its surface". In those two cases, however, the States concerned were required to apply a régime which would respect the principles of the Convention and facilitate transit and communications as far as possible.

Amendments

166. Czechoslovakia (E/CONF.46/AC.2/L.2), Argentina (E/CONF.46/AC.2/L.32), India (E/CONF.46/AC.2/L.33) and the USSR (E/CONF.46/AC.2/L.36) proposed to delete this article.

167. The Netherlands proposed to delete the sentence relating to the exclusion of a colony or dependency from the operation of the Convention (E/CONF.46/AC.2/L.34/Rev.1).

Discussion in the Committee

168. This article was discussed by the Committee at its 22nd and 23rd meetings. It was pointed out that certain areas and enclaves which the authors of the Barcelona Convention had in mind no longer existed today and that the provisions of this article rather curtailed the right of the land-locked States. A majority of the members considered that all references to colonialism should be deleted from the convention. Some members expressed the view that the fact that colonies and dependencies still existed could not be denied and that some provision should be made for the application of the convention to them.

169. The representative of Argentina proposed that the convention should be universal as far as possible, without exclusions or reservations, and should include a provision to ensure its application to territories or areas under the sovereignty of Contracting States. At the 29th meeting of the Committee, he stated that his delegation would not press for the retention of its proposal.

Decision

170. The Committee decided to delete this article by 10 votes to 4, with 7 abstentions.

Territories forming part of the same sovereign State

Article 15

(Article 15 in annex I)

171. This article was based on article 15 of the Barcelona Convention. It excluded from the provisions of the Convention rights and obligations *inter se* of territories forming part or placed under the protection of the same sovereign State whether or not those territories were individually Members of the United Nations.

Amendments

172. The United States (E/CONF.46/AC.2/L.30) submitted a drafting amendment.

173. The USSR (E/CONF.46/AC.2/L.36) proposed the deletion of this article.

174. The representative of Czechoslovakia suggested to replace the words "placed under the protection of the same sovereign State" by a formula which would take into account the question of sovereignty without any reference to colonialism.

Discussion in the Committee

175. This article was discussed by the Committee at its 23rd and 29th meetings.

176. At the request of several delegations, the representative of the Secretariat made a statement on the meaning of the provisions of this article. In his view, article 15 excluded from the application of the Convention (*a*) the constituent units of confederations or of States which had possessions overseas and (*b*) relations between sovereign States and their protectorates. He pointed out that the last part of article 15 relating to protectorates raised a legal problem since under the United Nations Charter, all Members of the United Nations were sovereign States.

177. Certain representatives considered that the Convention should not contain any reference to colonialism. In this connexion, it was observed that if the article meant federal or confederate States, this should be set forth in clear terms.

178. Another representative considered that since the Barcelona Convention applied *ipso facto* to all overseas territories of a sovereign State there was no reason the present Convention should not apply in the same way.

179. On behalf of the sponsors, the representative of Mali expressed the opinion that the African-Asian text ought to be maintained. He pointed out that the provisions of the article were still applicable in so far as certain countries still claimed to have rights over territories situated overseas and regarding territories placed under a United Nations mandate.

Decision

180. With the understanding that article 15 of the African-Asian draft was an exclusion clause, the Secretariat, at the request of the Committee, submitted the following new draft (E/CONF.46/AC.2/L.41/Add.1) which was adopted by the Committee at its 29th meeting:

"This Convention shall not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part of the same sovereign State."

Reservation

Union of Soviet Socialist Republics:

This article should be deleted.

ASSEMBLY OR DISASSEMBLY OF BULKY ARTICLES

Article 16

(deleted)

181. This article stipulated that the assembly or disassembly of vehicles or bulky articles should not be held to render the passage of such goods outside the scope of "traffic in transit", provided that any such operation was undertaken solely for convenience of transport. These provisions were taken from the interpretative notes to article 33 of the Havana Charter.

Amendments

182. Czechoslovakia (E/CONF.46/AC.2/L.2) had initially proposed to incorporate the substance of this article in the article defining traffic in transit. A similar amendment was submitted by India (E/CONF.46/AC.2/L.33) with the understanding that this article would not permit "the establishment of an assembly, disassembly or re-assembly plant in the State of transit" without its agreement.

183. Argentina (E/CONF.46/AC.2/L.32) proposed to add at the end of the article a provision stating that such operation be "carried out under customs control if necessary".

184. Pakistan (E/CONF.46/AC.2/L.37) proposed to add a paragraph stating that this article did not impose on any of the Contracting States "an obligation to set up or permit to be set up" an assembly plant on its territory.

Discussion and decision

185. The Committee considered this article at its 23rd and 29th meetings.

186. During the first reading of this article, the main concern expressed by several members was that the article should not be considered as implying an authorization to land-locked States to establish plants or other permanent installations on the territory of transit States.

187. At the second reading of article 16, the Committee decided to delete this article in view of the fact that its substance had been incorporated in article 1 as finally approved by the Committee.

RELATION TO MOST-FAVOURED-NATION CLAUSE

Article 17

(renumbered as article 11 in annex I)

188. This article provided that the granting by a Contracting State to a land-locked State of greater facilities than those provided for in the draft Convention, might be limited to the State concerned unless otherwise required by the most-favoured-nation provisions of the draft Convention. It was derived from an interpretative note to the Havana Charter (see below).

Amendments

189. Czechoslovakia (E/CONF.46/AC.2/L.2) proposed that the most-favoured-nation clause should not apply to the articles of the draft Convention "governing conditions of transit or to the relevant agreements in force" between land-locked and transit States.

190. The USSR (E/CONF.46/AC.2/L.36) proposed to add a provision to the effect that privileges and special rights granted to land-locked States in view of their special geographical position should not be affected by the principle of most-favoured-nation treatment.

Discussion in the Committee

191. This article was discussed by the Committee at its 23rd and 29th meetings.

192. In introducing his amendment, the representative of the USSR expressed the view that the draft Convention should reflect principle VII of the principles adopted by UNCTAD in Geneva. The representative of the Netherlands supported the USSR proposal with the reservation that it should be clearly indicated that only advantages greater than those granted under the Barcelona Convention were intended.

193. In reply to a request for clarification of the meaning of the words "the most-favoured-nation provisions of this Convention" at the end of this article, the representative of Nepal explained that those words were intended to ensure that article 17 was in conformity with principle VII of the UNCTAD principles.

194. The representative of the Secretariat pointed out that this article was based on paragraph 6 of the interpretative notes to article 33 of the Havana Charter with the word "Charter" replaced by the word "Convention". However, as the present Convention did not contain a most-favoured-nation clause, the draft article was obscure but he saw no difficulty in amending it so that it would reflect principle VII.

195. The representative of Pakistan noted that there was some uncertainty as to the relationship between article 17 and principle VII. The representative of the United Kingdom stated that article 17 consisted of two elements: first, it allowed any Contracting State to grant greater facilities than those provided for in the Convention; and, secondly, it referred to the most-favoured-nation clause. The fact that the first element

was already mentioned in article 11 of the African-Asian draft should be taken into account in redrafting article 17.

196. At the request of the Committee the Secretariat redrafted this article which consisted of two paragraphs (E/CONF.46/AC.2/L.38/Add.15). Paragraph 1 was based on principle VII of the principles adopted by UNCTAD. Paragraph 2 was a redraft of the African-Asian text, designed to confine its provisions only to land-locked States.

Decision

197. After several representatives expressed their reservations to this article the Committee adopted the following text prepared by the Secretariat (E/CONF.46/AC.2/L.41/Add.1):

"1. The Contracting States agree that the facilities and special rights accorded to land-locked countries in view of their special geographical position are excluded from the operation of the most-favoured-nation clause.

"2. If a Contracting State grants to a land-locked State greater facilities than those provided for in this Convention, such facilities may be limited to that land-locked State, except in so far as the withholding of such greater facilities from any other land-locked State contravenes the most-favoured-nation provision of a treaty between such other land-locked State and the Contracting State granting such facilities."

Reservations

India

The Indian delegation reserves its position with regard to paragraph 2 of article 17.

Netherlands

The Netherlands delegation reserves its position until it is known exactly what special rights and facilities will eventually be accorded to land-locked countries under the present convention. In principle, it would agree to exclude from operation of the most-favoured-nation clause special rights and facilities granted over and above those granted under existing multilateral agreements.

Pakistan

(i) The Pakistan delegation maintains that the words "and special rights" occurring in the second line of paragraph 1 of this article should be deleted.

(ii) The Pakistan delegation reserves its position with regard to paragraph 2 of this article, as its exact implications are rather obscure.

FREE STORAGE OF GOODS

Article 18

(renumbered as article 6 in annex I)

198. This article is a new provision introduced by the authors of the African-Asian draft. It provided that a free period of storage of goods be extended to at least one month in each case at the points of entry, exit and intermediate stages in the State of transit. After this period, no demurrage was to be charged unless the delay in the movement of the goods was due to the fault of owners of goods.

Amendments

199. Nigeria (E/CONF.46/AC.2/L.8), India (E/CONF.46/AC.2/L.33) and Pakistan (E/CONF.46/AC.2/L.37) proposed the deletion of this article.

200. The Netherlands (E/CONF.46/AC.2/L.34/Rev.1) would specify the storage of goods in the State of transit "in areas or premises designated for this purpose", replace the word "demurrage" by the words "taxes or other dues" and require the owners of the goods to show that the delay was not due to their fault.

201. The USSR (E/CONF.46/AC.2/L.36) would amend the article by providing that the free period of storage "shall be established in bilateral agreements between the States concerned".

Discussion in the Committee

202. This article was discussed by the Committee at its 23rd, 24th and 29th meetings.

203. In opposition to the principle of free storage, some delegations put forward the following arguments: (*a*) that the requirement of free storage of goods would imply the granting of more favourable conditions to traffic in transit than to internal traffic; (*b*) that the principle of equal treatment of goods previously adopted in article 4 should apply to warehouse charges as it did to transport charges; (*c*) that it would be contrary to commercial practice to exempt goods in transit from demurrage which was supposed to cover actual services rendered; (*d*) that delays in movement of goods in transit were generally due to circumstances beyond the control of the transit State, such as congestion in sea ports and (*e*) that the port authorities in most transit States were semi-public or private bodies which had their own regulations and could not be bound by governments. These delegations would either favour the deletion of the article or would accept a new text in line with the USSR amendment.

204. Those delegations which favoured the principle of free storage contended: (*a*) that this principle was essential for the promotion of the trade of land-locked States; (*b*) that it constituted a necessary guarantee of freedom of transit; (*c*) that it accorded with the aim of the draft convention which was to grant facilities to land-locked States and (*d*) that demurrage should not be charged to goods in transit when movement of such goods was delayed through no fault of the owner.

205. As to the period of free storage, one representative stated that in Latin America, where the period during which goods could be stored in transit countries free of charge was often as long as a year, the period of only one month would be considered as a limitation on freedom of transit. He suggested leaving the period of free storage in blank. This suggestion was supported by another representative on the ground that it would thus be possible to take into account the geographical situation of each country and existing bilateral agreements. On the other hand, one representative maintained that to allow importers a free period of storage of at least one month would actually discourage them from moving their goods quickly and would upset the whole working arrangement at ports and railway stations.

206. In order to meet the various objections raised, one sponsor of the African-Asian draft suggested replacing the extension of free storage "to at least one month" by the extension "to a reasonable period of

time" and inserting a provision to the effect that the period of time would be fixed by bilateral agreement.

207. At the request of the Committee, the Secretariat prepared two alternative texts of article 18. The first alternative was based on the African-Asian text, taking into account the suggestions made during the discussion. The second alternative was based on the USSR amendment (E/CONF.46/AC.2/L.38/Add.16).

208. The representatives of Nepal, Afghanistan, Paraguay, the Upper Volta, Niger and the Netherlands expressed their preference for the first alternative text.

209. The representative of the Netherlands said that he had no objection to the expression "free storage" in the first text, provided that it did not mean that private warehousing firms would be prevented from charging for storage.

210. The representatives of Nigeria, Switzerland, India and Pakistan indicated their preference for the second alternative.

Decision

211. The Committee decided that both alternative texts would be included in the article for transmission to the Conference of Plenipotentiaries. These texts read as follows (E/CONF.46/AC.2/L.41/Add.1):

[First alternative]

"Free storage of goods at the points of entry, exit and intermediate stages in the State of transit, in areas or premises designated for this purpose, shall be accorded for a reasonable period of time which may be agreed upon by the States concerned. Where this period of time is exceeded owing to a delay in the movement of the goods not attributable to the fault of the owners of the goods, no demurrage shall be charged by the State of transit."

[Second alternative]

"The free period of storage of the goods at the points of entry, exit and intermediate stages in the State of transit shall be established in bilateral agreements between the States concerned."

Reservations

India

The Indian delegation prefers the second alternative to article 18. However, where storage facilities are provided by private bodies or autonomous corporations, the obligations arising out of this article would only imply an undertaking to persuade such bodies or corporations to afford the necessary free storage facilities.

Netherlands

The Netherlands delegation prefers the first alternative and maintains its amendments to this article contained in document E/CONF.46/AC.2/L.34/Rev.1 under paragraph 3 B and C.

Pakistan

The Pakistan delegation prefers the second alternative. However, as pointed out by the Indian delegation, where storage facilities are provided by private bodies or autonomous corporations, the obligation arising out of this article would only imply an undertaking on behalf of the Contracting State to persuade such bodies or corporations to afford the necessary free storage facilities.

Union of Soviet Socialist Republics

The second alternative to article 18 given in document E/CONF.46/AC.2/L.38/Add.16 is preferable.

Delays in transit

Article 19

(renumbered as article 7 in annex I)

212. This article in the African-Asian text began with a provision that traffic in transit would not be subjected to unnecessary delays or restrictions. It further provided that delays in the movement of goods as well as abuses of transit facilities would be subjected to joint investigation by the countries concerned; that such joint action would not affect normal steps taken in individual cases under the laws of the State concerned; and that officials of the country of origin or destination were to furnish on demand to officials of the transit State such particulars relating to the goods as might be called for.

Amendments

213. Czechoslovakia (E/CONF.46/AC.2/L.2) submitted an amendment which would delete the clause concerning "joint investigation" and provide that traffic in transit should proceed within the time-limits prescribed by the laws of the transit State save where such time-limits were laid down in "international agreements".

214. The United States (E/CONF.46/AC.2/L.30) submitted a drafting amendment.

215. The Netherlands amendment (E/CONF.46/AC.2/L.34/Rev.1) sought a better balance between transit and land-locked countries by substituting the word "should" for the words "will" and "shall" in the third and fifth sentences respectively.

216. Nigeria (E/CONF.46/AC.2/L.31) and Pakistan (E/CONF.46/AC.2/L.37) proposed the deletion of the whole article, and India (E/CONF.46/AC.2/L.33) proposed to the retain the first sentence and delete the remainder of the article.

217. Argentina (E/CONF.46/AC.2/L.32) would have abnormal delays investigated by the transit State and, if appropriate, settled "by negotiation" with the land-locked State.

218. The USSR (E/CONF.46/AC.2/L.36) proposed that delays in movement of goods and abuses of transit facilities should be investigated in accordance with bilateral agreements.

Discussion in the Committee

219. This article was discussed by the Committee at its 24th and 29th meetings.

220. There was general agreement on the first sentence of this article which protected traffic in transit against unnecessary delays or restrictions.

221. In regard to the provisions for "joint investigation", some members expressed the view that said procedure would constitute an interference in the administrative jurisdiction of the transit State and that problems of delays should be solved by the competent authorities of the State of transit. One member considered that while minor delays could be settled by the transit State, major delays might in appropriate cases require agreement of the parties concerned. Another view was that not only the question of delays but other matters relating to administrative details

should be settled in bilateral agreements. It was also suggested that it might be proper to include a provision to the effect that a bipartite group should meet once a year to consider means of applying the convention more efficiently and various specific situations.

222. With respect to the last sentence of the article, which required the furnishing of such particulars "as may be called for", several delegations suggested either its deletion or amendment, on the ground that it might imply an obligation to investigate.

223. One sponsor of the African-Asian draft stated that the provision in article 19 that "such joint action will not affect the normal steps taken in individual cases under the laws of the country concerned" would dispel any misgiving as to the intention of the authors to interfere in the administration of other countries. He considered it necessary to retain the principle of joint investigation which would ensure smooth movement of the traffic in transit. In view of the comments made on the possible implication of an obligatory investigation, he would agree to the deletion of the last sentence.

Decision

224. The Committee accepted the first sentence of the African-Asian text.

225. In view of the differences concerning the rest of the article, the Secretariat was requested to prepare two alternative drafts (see E/CONF.46/AC.2/L.38/Add.17).

226. At its 29th meeting, after the delegations of Afghanistan, Nepal, the Netherlands, Senegal and Switzerland expressed their preference for the first alternative text, and the delegations of Argentina, Austria, India, Nigeria, Pakistan and the USSR indicated their preference for the second alternative, the Committee decided to transmit the following text (E/CONF.46/AC.2/L.41/Add.1) to the Conference of Plenipotentiaries:

"Traffic in transit will not be subjected to unnecessary delays and restrictions.

[The following are alternatives for the second part of this article]:

[First alternative]

"Delays in the movement of such goods should be the subject of joint investigation by the appropriate officials of the States concerned. Such joint action will not affect the normal steps taken in individual cases under the laws of the State concerned."

[Second alternative]

"Abnormal delays in transit shall be investigated by the competent authorities of the State of transit and, if appropriate, shall be settled by negotiation with the competent authorities of the land-locked State."

Reservations

India

The Indian delegation prefers the second alternative to article 19, with the suggestion that the phrase "if appropriate" appearing therein be substituted by "if necessary".

Netherlands

The Netherlands delegation prefers the first alternative.

Pakistan

The Pakistan delegation would prefer the second alternative with the modification that the word "appropriate" in the second alternative be replaced by the word "necessary". The first alternative is unacceptable to Pakistan.

Union of Soviet Socialist Republics

The second alternative for Article 19 given in document E/CONF.46/AC.2/L.38/Add.17 is acceptable.

FREE ZONE

Article 20

(renumbered as article 8 in annex I)

227. This article of the African-Asian text provided for the establishment, by agreement between the land-locked and the transit States, of a free zone in the transit State for transit goods only. The free zone would be under the control of the customs authorities of the land-locked State.

Amendments

228. Nigeria (E/CONF.46/AC.2/L.8), India (E/CONF.46/AC.2/L.33) and Pakistan (E/CONF.46/AC.2/L.37) proposed the deletion of this article.

229. Czechoslovakia (E/CONF.46/AC.2/L.2) and the USSR (E/CONF.46/AC.2/L.36) proposed that the establishment of free zones should not be obligatory. Czechoslovakia also proposed to omit any reference to the control of the free zone by the customs authorities of the land-locked State.

230. Argentina (E/CONF.26/AC.2/L.32) would replace this article by a provision making the establishment and functioning of free zones and other facilities in the transit State subject to agreement between that State and the land-locked State.

231. The amendment submitted by the Ivory Coast (E/CONF.46/AC.2/L.39) provided for the retention by the transit State of the rights of policing and supervision.[18]

Discussion in the Committee

232. The Committee discussed this article at its 4th, 24th and 29th meetings.

233. The representative of Czechoslovakia gave an account of the practice and theory of free zones in the context of numerous treaties since the end of the First World War.

234. Some delegations considered that the African-Asian text implied the obligatory establishment of free zones. While they did not object to the principle of free zones, the establishment of such zones, in their view, should be settled by agreement between the States concerned. They would be prepared to consider a new draft which would take into account the amendments proposed.

235. Those delegations, which favoured the deletion of the article, were opposed to the principle of free zones under full control of the customs authorities of the land-locked States, particularly if the concept of free zone connoted extraterritoriality. One delegation further argued, in support of a deletion, that the

[18] For the proposal of the Ivory Coast to add a new article affirming the sovereignty of the transit State over its territory and the right to protect its legitimate interests, see paras. 33 to 40 above (under article 1 *bis*).

establishment of such free zones in developing countries might be a wasteful way of utilizing already scarce human and material resources. Wisdom, in the opinion of that delegation, lay in the joint utilization of custom zones by both transit and land-locked States with appropriate facilities for goods of land-locked States. Another delegation stated that it would be willing to accept a clause whereby transit States would provide storage space for goods in transit.

236. One sponsor of the African-Asian draft stressed that his delegation could not agree to the deletion of this article but was prepared to consider certain amendments thereto as a basis for a redraft.

Decision

237. Since the Committee had not reached a clear enough agreement on article 20 to enable the Secretariat to draft a new text, it was decided that the African-Asian text and the amendments thereto (E/CONF.46/AC.2/L.41/Add.2), as reproduced below, would be referred to the Conference of Plenipotentiaries:

"A free zone should be provided at the ports of entry or exit in the country of transit for transit goods only which should be under the control of the customs authorities of the land-locked country. The establishment of the free zone shall be carried into effect by agreement between the land-locked State and the coastal State." African-Asian text (E/CONF.46/AC.2/1.)

"*Amendments*

"*Nigeria* (E/CONF.46/AC.2/L.8), *India* (E/CONF.46/AC.2/L.33) and *Pakistan* (E/CONF.46/AC.2/L.37): delete this article.

"*Czechoslovakia* (E/CONF.46/AC.2/L.2)

"A free zone may be provided at the ports of entry or exit in the coastal State for transit goods transported from land-locked countries to the sea and vice versa. The establishment of the free zone shall be carried into effect by agreement between the land-locked State and the coastal State."

"*Argentina* (E/CONF.46/AC.2/L.32)

"The establishment and functioning of free zones and other facilities at the ports of entry or exit in the country of transit shall be decided upon by agreement between that State and the land-locked State."

"*Union of Soviet Socialist Republics* (E/CONF.46/AC.2/L.36)

"Free zones for transit goods under the control of the customs authorities of the land-locked country may be established at the port of entry or exit of transit States by agreement between the transit State and the land-locked State."

"*Ivory Coast* (E/CONF.46/AC.2/L.39)

"Countries of transit retaining the rights to take police measures and the rights of supervision recognized by the Barcelona Conference of 1921 and the Geneva Conference of 1923 on the Régime of Ports, a free zone should, if necessary, be provided at the ports of entry or exit in the country of transit . . ." (the remainder of the text to continue unchanged).

Reservations

India

The Indian delegation favours the deletion of Article 20, inasmuch as the concept of "free zones" is not yet fully clear. The implications of a free zone, the desirability and feasibility of its establishment, the questions of costs, sovereignty, local jurisdiction, facilities, prohibitions, and other related matters could best be left to be settled by the States concerned by bilateral agreements.

Netherlands

The Netherlands delegation reserves its position with regard to the establishment of free zones.

Pakistan

The Pakistan delegation maintains that this article should be deleted. The inclusion of the idea of a free zone in this Convention in any form or manner is unacceptable to the Pakistan delegation, both on account of questions of principle involved, and on account of the physical impossibility of establishing such zones in Pakistani ports.

Union of Soviet Socialist Republics

This article should be based on the idea that free zones in the ports of transit States may be established only be special agreement between the transit and land-locked States concerned.

NEW ARTICLE ON RECIPROCITY

(numbered as article 18 in annex I)

238. No provision on reciprocity was included in the African-Asian draft.

239. Pakistan (E/CONF.46/AC.2/L.6) proposed a new article which would require the land-locked countries to accord, on a basis of reciprocity, facilities for transit trade across their territories.

240. The Indian amendment (E/CONF.46/AC.2/L.13) to article 2 of the African-Asian draft proposed the insertion of the words "and on a basis of reciprocity" in the first line of said article.

241. The USSR (E/CONF.46/AC.2/L.36) proposed that a provision should be inserted in the draft Convention concerning privileges and rights granted by land-locked States to transit States on the basis of the principle of reciprocity.

Discussion in the Committee

242. The principle of reciprocity was discussed by the Committee at its 9th, 10th, 12th, 29th and 30th meetings.

243. Some delegations, while agreeing to the principle of reciprocity, considered that it would not be proper to include it in the convention under consideration which was specifically concerned with the rights of land-locked States and that application of reciprocity to rights relating to access to the sea was contradictory to the very basis on which such rights were granted. It was pointed out that the rights of States with a sea coast were already guaranteed by the Barcelona Convention and that the right of access to the sea had been recognized as a natural right of all States and therefore did not raise the question of reciprocity.

244. Other delegations, however, considered that the present convention ought to include the principle of reciprocity which was generally recognized in international law. It was also pointed out that reciprocity had been recognized in article 3 of the Geneva Convention on the High Seas and in principle IV of the principles relating to transit trade of land-locked countries adopted by UNCTAD. The Committee should

avoid situations where a State would be entitled to demand reciprocity under one convention but not under another when it was a party to both conventions. It was further pointed out that while the right of access to the sea could not be granted on a reciprocal basis because of the geographical facts, reciprocity could apply to the passage of goods, transport facilities and other aspects of transit trade. To meet this point, it was suggested that reciprocity would apply "in so far as circumstances allow".

245. As to the place in the draft convention where a provision on reciprocity should be inserted, some delegations would have it incorporated in the preamble together with other general principles. Certain other delegations, considering that the provisions of a preamble were not mandatory and that reciprocity involved a question of substance, favoured its inclusion in the text of the Convention as a separate paragraph or article.

246. At the request of the Committee, the Secretariat presented at the 29th meeting a draft article on reciprocity (E/CONF.46/AC.2/L.38/Add.1) which provided for the application of reciprocity to traffic in transit in situations where goods were routed in transit through the territory of a land-locked State.

247. Some delegations considered that the Secretariat draft would restrict the rights of land-locked States to freedom of transit and one representative considered that it did not reflect the consensus of opinion reached in the Committee to the effect that reciprocity should be granted only to the extent that it was compatible with the situation of States without access to the sea. Another representative observed that the draft might imply the application of the special rights of land-locked States to transit trade in general.

248. On the basis of those observations, a second draft submitted by the Secretariat at the 30th meeting provided for the reciprocal application of the provisions of the Convention "where the context so permits".

249. The representative of Argentina then proposed the following text: "the provisions of the Convention shall be applied in accordance with the principle of reciprocity taking into account the different situations of the land-locked States and the States of transit". To this text, the representative of the USSR proposed an amendment which would insert the word "geographical" before the word "situation". The amendment was accepted by Argentina.

250. In order to take account of a situation in which a land-locked State was also a transit State, a subsequent amendment by Czechoslovakia, accepted by Argentina, would replace the words "land-locked States and the States of transit" by the words "Contracting States". The Czechoslovak amendment was objected to by several delegations.

251. While some delegations favoured the second Secretariat draft, a majority of them expressed their preference for the Argentine text as amended by the USSR. In this connexion, the representative of Argentina suggested that his proposal should be regarded as a basic text, since it met the wishes of the majority, but that it should be indicated that the wording was not final, owing to lack of time to prepare a precise draft at that stage.

Decision

252. The Committee adopted the proposal of Argentina, as amended by the USSR, as a new article in the draft convention. This article (E/CONF.46/AC.2/L.41/Add.2) reads:

"The provisions of the Convention shall be applied in accordance with the principle of reciprocity, taking into account the different geographical situation of the land-locked States and the States of transit."

FINAL CLAUSES

(numbered as articles 20 to 25 in annex I)

253. The African-Asian text did not include provisions for final clauses.

254. Pakistan (E/CONF.46/AC.2/L.37) proposed to add to the African-Asian text new articles concerning the ratification, revision and denunciation of the Convention.

Discussion and decision

255. At its 24th meeting, on the Chairman's proposal, the Committee requested the Secretariat to prepare a draft of a series of final clauses similar to those contained in the Vienna Convention on Consular Relations of 1963.

256. The draft submitted by the Secretariat (E/CONF.46/AC.2/L.38/Add.14) contained six articles under the following headings: (*a*) Signature; (*b*) Ratification; (*c*) Accession; (*d*) Entry into force; (*e*) Notifications by the Secretary-General and (*f*) Authentic texts.

257. Differences of opinion were expressed in regard to provisions that the Convention shall be open for signature and accession by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations.

258. Some representatives considered that the present Convention should apply to all States regardless of their membership in the United Nations. Certain other delegations, while fully supporting the principle of universality, considered that the final clauses adopted at Vienna were appropriate to the present Convention.

259. At its 29th meeting, the Committee decided to transmit the following final clause, prepared by the Secretariat and reproduced in E/CONF.46/AC.2/L.41/Add.2, to the Conference of Plenipotentiaries without further discussion:

"*Article A*

"Signature

"The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

"*Article B*

"Ratification

"The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

"*Article C*

"Accession

"The present Convention shall remain open for accession by any State belonging to any of the four

categories mentioned in Article A. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

"Article D

"Entry into force

"1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the instrument of ratification or accession with the Secretary-General of the United Nations.

"2. For each State ratifying or acceding to the Convention after the deposit of the instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

"Article E

"Notifications by the Secretary-General

"The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article A:

"(*a*) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles A, B and C;

"(*b*) of the date on which the present Convention will enter into force, in accordance with Article D.

"Article F

"Authentic texts

"The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article A.

"IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention."

Reservations

Czechoslovakia

All States shall have the right to participate in the Convention and not only the group of States covered by the Secretariat draft.

Union of Soviet Socialist Republics

The final articles of the Convention should ensure that all States have the opportunity to participate in the Convention and not only those envisaged in the final articles drafted by the Secretariat (E/CONF.46/AC.2/L.38/Add.14).

IV. Recommendation of the Committee

260. The Committee recommended that the Draft Convention on Transit Trade of Land-locked Countries, the text of which, including alternative provisions, was reproduced in annex I of the present report, together with all the records and documents of the Committee, be transmitted to the Conference of Plenipotentiaries to be convened by the United Nations in accordance with the recommendation of the United Nations Conference on Trade and Development.

ANNEX I

Text of the draft Convention on Transit Trade of Land-locked States, transmitted by the Committee to the Conference of Plenipotentiaries

ARTICLE 1

Definitions

1. For the purpose of this Convention,

(*a*) The term "land-locked State" means a Contracting State which has no sea coast.

(*b*) The term "traffic in transit" shall mean the passage of goods, and also pack animals, manual loads, railway stock, road vehicles, sea-going and river vessels and, as agreed upon by the Contracting States concerned, other means of transport, across the territory of a Contracting State, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, when the passage of goods is only a portion of a journey to or from the sea beginning or terminating within the frontier of a land-locked State which is on the same continent as that Contracting State, and when the means of transport are used for such passage. The assembly, disassembly, or reassembly of means of transport, machinery or bulky articles shall not render their passage outside the scope of "traffic in transit" provided that any such operation is undertaken solely for the convenience of their transport.

(*c*) The term "transit State" means a Contracting State situated between a land-locked State and the sea, through whose territory "traffic in transit" passes.

2. The operation of aircraft is outside the scope of this Convention, but not the air transport of goods in transit within the definition of this article.

ARTICLE 1 *bis* (new article)

Principles of international law relating to rights of land-locked States

1. The Contracting States eraffirm the following recognized principles of international law:

The right of each land-locked State of free access to the sea;

The right of each land-locked State of free and unrestricted transit across the territories of States situated between it and the sea coast; and

The right of each land-locked State to use the ports of coastal States.

These principles are essential for the expansion of international trade and for economic development.

2. The State of transit, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests of any kind.

ARTICLE 2

Freedom of transit

1. Freedom of transit shall be granted under the terms of this Convention for traffic in transit. Subject to the other provisions of this Convention, the measures taken by Contracting States for regulating and forwarding traffic across their territory shall facilitate traffic in transit on routes in use mutually acceptable for transit to the Contracting States concerned. Consistent with the terms of this Convention, no distinction shall be made which is based on the place of origin, departure, entry, exit or destination or on any circumstances relating to the ownership of the goods or the ownership, place of registration or flag of vessels, road vehicles or other means of transport used.

2. The terms and conditions on which the means of transport registered in or bearing the flag of a Contracting State will move through the territory of another Contracting State shall be agreed on by the Contracting States concerned.

3. Each Contracting State shall authorize, in conformity with its laws, rules and regulations, the passage across or access to its territory of persons whose movements are necessary for traffic in transit. No distinction shall be made which is based on the nationality of such persons.

4. In order to ensure the application of the provisions of this article, the Contracting States will allow transit across their territorial waters in accordance with the customary conditions and reserves of international law.

ARTICLE 3

Customs duties and special transit dues

Traffic in transit shall not be subject to customs duties nor to any other duties or taxes chargeable by reason of importation or exportation nor to any special dues in respect of transit. Nevertheless on such traffic in transit there may be levied dues intended solely to defray expenses of supervision and administration entailed by such transit. The rate of any such dues must correspond as nearly as possible with the expenses they are intended to cover and, subject to that condition, the dues must be imposed under the conditions of equality laid down in paragraph 1 of article 2.

ARTICLE 4

Means of transport and tariffs

1. The Contracting States undertake to provide, according to the availability of transport means at the point of entry, adequate means of transport for the movement of traffic without delay.

2. The Contracting States undertake to apply to traffic in transit, using facilities operated or administered by the State, tariffs or charges which, having regard to the conditions of the traffic and to considerations of commercial competition, are reasonable as regards both their rates and the method of their application. These tariffs or charges shall be so fixed as to facilitate traffic in transit as much as possible [and shall in no case be higher than those applied to internal traffic]. The provisions of this paragraph shall also extend to the tariffs and charges applicable to traffic in transit using facilities operated or administered by firms or individuals, in cases in which the tariffs or charges are fixed or subject to control by the Contracting State. The term "facilities" as used in this paragraph shall comprise means of transport, port installations and routes for the use of which tariffs or charges are levied.

3. Any haulage service established as a monopoly on waterways used for transit must be so organized as not to hinder the transit of vessels.

4. The provisions of this article must be applied under the conditions of equality laid down in article 2, paragraph 1.

ARTICLE 5 (formerly article 12)

Documentation and methods in regard to customs, transport, etc.

The Contracting States undertake to apply simplified documentation and expeditious methods in regard to customs, transport and other administrative procedures relating to traffic in transit. Similarly, trans-shipment across the territory of transit State will be subject to a procedure as simple as possible. As a general rule, the examination of transit goods will be confined to summary examination and to test checks. The Contracting States shall adopt administrative and customs measures permitting the carrying out of [a secure, uninterrupted and continuous] [free and unrestricted] traffic in transit. When necessary, they should undertake negotiations to agree on measures that ensure and facilitate the said transit. (*Text adopted by the working party.*)

[The Contracting States undertake to introduce simplified documentation and expeditious methods in regard to customs, transport and other administrative procedures relating to traffic in transit. The examination of transit goods will be confined to test-checks to ensure that contraband goods are not carried. As far as possible, transit goods will move in bulk. Transit trade over-land will be treated in the same manner as trans-shipment at intermediate ports. Carriers will be responsible, under the control of customs authorities and under such conditions as may be prescribed by them, including the placing of customs seals on the goods, to see that the goods cross over the frontiers of the State of transit. The owners of the goods shall not be required to present any customs or other documents individually in the State of transit, either directly or through agents. They will not be required to give any undertakings regarding the passage of the goods across the State of transit, unless the goods move under their custody. (African-Asian text—E/CONF.46/AC.2/1.)]

Note: The following amendments were submitted: Czechoslovakia (E/CONF.46/AC.2/L.2), Nigeria (E/CONF.46/AC.2/L.8), Netherlands (E/CONF.46/AC.2/L.16), Switzerland (E/CONF.46/AC.2/L.18), United States of America (E/CONF.46/AC.2/L.22), Netherlands (E/CONF.46/AC.2/L.23), India (E/CONF.46/AC.2/L.25), Pakistan (E/CONF.46/AC.2/L.26), Union of Soviet Socialist Republics (E/CONF.46/AC.2/L.27).

ARTICLE 6 (formerly article 18)

Free storage of goods

[First alternative]

Free storage of goods at the points of entry, exits and intermediate stages in the State of transit, in areas or premises designated for this purpose, shall be accorded for a reasonable period of time which may be agreed upon by the States concerned.

Where this period of time is exceeded owing to a delay in the movement of the goods not attributable to the fault of the owners of the goods, no demurrage shall be charged by the State of transit.

[Second alternative]

The free period of storage of the goods at the points of entry, exit and intermediate stages in the State of transit shall be established in bilateral agreements between the States concerned.

ARTICLE 7 (formerly article 19)

Delays in transit

Traffic in transit will not be subjected to unnecessary delays and restrictions.

[The following are alternatives for the second part of this article]:

[First alternative]

Delays in the movement of such goods should be the subject of joint investigation by the appropriate officials of the States concerned. Such joint action will not affect the normal steps taken in individual cases under the laws of the State concerned.

[Second alternative]

Abnormal delays in transit shall be investigated by the competent authorities of the State of transit and, if appropriate, shall be settled by negotiation with the competent authorities of the land-locked State.

ARTICLE 8 (formerly article 20)

Free zones in ports

[The Committee did not reach an agreement on this article but decided to transmit the following texts to the Conference of Plenipotentiaries.]

A free zone should be provided at the ports of entry or exit in the State of transit for transit goods only which should be under the control of the customs authorities of the land-locked State. The establishment of the free zone shall be carried into effect by agreement between the land-locked State and the coastal State. African-Asian (E/CONF.46/AC.2/1.)

Amendments

Nigeria (E/CONF.46/AC.2/L.8), *India* (E/CONF.46/AC.2/L.33) and *Pakistan* (E/CONF.46/AC.2/L.37): Delete this article.

Czechoslovakia (E/CONF.46/AC.2/L.2):

A free zone may be provide at the ports of entry or exit in the coastal State for transit goods transported from land-locked States to the sea and vice versa. The establishment of the free zone shall be carried into effect by agreement between the land-locked State and the coastal State.

Argentina (E/CONF.46/AC.2/L.32):

The establishment and functioning of free zones and other facilities at the ports of entry or exit in the State of transit shall be decided upon by agreement between that State and the land-locked State.

Union of Soviet Socialist Republics (E/CONF.46/AC.2/L.36):

Free zones for transit goods under the control of the customs authorities of the land-locked State may be established at the port of entry or exit of transit States by agreement between the transit State and the land-locked State.

Ivory Coast (E/CONF.46/AC.2/L.39):

States of transit retaining the rights to take police measures and the rights of supervision recognized by the Barcelona Conference of 1921 and the Geneva Conference of 1923 on the Régime of Ports, a free zone should, if necessary, be provided at the ports of entry or exit in the State of transit . . . (the remainder of the text to continue unchanged).

ARTICLE 9 (formerly article 10)

Equality of treatment of goods

Contracting States shall accord to goods coming from a land-locked State treatment no less favourable than that which would have been accorded to such goods had they been transported from their place of origin to their destination without going through the territory of a transit State. Any Contracting State shall, however, be free to maintain its requirements of direct consignment existing on the date it becomes a party to this Convention in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the Contracting State's prescribed method of valuation for duty purposes.

The provisions of this article shall also be applied by land-locked States to goods coming from another Contracting State.

ARTICLE 10 (formerly article 11)

Provision of greater facilities

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in the Convention and which under conditions consistent with its principles, were agreed between Contracting States or granted by a Contracting State. The Convention also entails no prohibitions of such grant of greater facilities in the future.

ARTICLE 11 (formerly article 17)

Relation to most-favoured-nation clause

1. The Contracting States agree that the facilities and special rights accorded to land-locked States in view of their special geographical position are excluded from the operation of the most-favoured-nation clause.

2. If a Contracting State grants to a land-locked State greater facilities than those provided for in this Convention, such facilities may be limited to that land-locked State, except in so far as the withholding of such greater facilities from any other land-locked State contravenes the most-favoured-nation provision of a treaty between such other land-locked State and the Contracting State granting such facilities.

ARTICLE 12 (formerly article 5)

Exceptions to Convention on grounds of public health, security, safety, etc.

1. No Contracting State shall be bound by this Convention to afford transit to persons whose admission into its territories is forbidden, or for goods of a kind of which the importation is prohibited, either on grounds of public morals, public health or security, or as a precaution against diseases of animals or plants.[a]

2. Each Contracting State shall be entitled to take reasonable precautions and measures to ensure that persons and goods, particularly goods which are the subject of a monopoly, are really in transit, as well as to protect the safety of the routes and means of communication.

3. Nothing in this Convention shall affect the measures which a Contracting State may feel called upon to take in pursuance of a general international Convention to which it is a party, whether such Convention was already concluded on the date of this Convention or is concluded later relating to export or import or transit of particular kinds of articles (such as opium or other dangerous drugs, arms or the produce of fisheries), or intended to prevent any infringement of industrial, literary or artistic property, or relating to false marks, false indications or origin, or other methods of unfair competition.

ARTICLE 13 (formerly article 7)

Exceptions for emergency and vital interests of States

The measures of a general or particular character which a Contracting State is obliged to take in case of an emergency affecting its safety or vital interests may, in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this Convention on the understanding that the principle of freedom of transit shall be observed to the utmost possible extent during such a period.

[India preferred the following alternative text: "The Convention would not apply, wholly or in part, in cases of emergency affecting the safety of a Contracting State or its vital interests. This period shall be as short as possible."]

ARTICLE 14 (formerly article 8)

Application of the Convention in time of war

This Convention does not prescribe the rights and duties of belligerents and neutrals in time of war. The Convention shall, however, continue in force in time of war so far as such rights and duties permit.

ARTICLE 15

Territories forming part of the same sovereign State

This Convention shall not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part of the same sovereign State.

ARTICLE 16 (formerly article 9)

Obligations under the Convention and rights and duties of United Nations Members

This Convention does not impose upon a Contracting State any obligations conflicting with its rights and duties as a Member of the United Nations.

ARTICLE 17 (formerly article 6)

Extension of the scope of the Convention

ARTICLE 18 (new article)

Reciprocity

The provisions of the Convention shall be applied in accordance with the principle of reciprocity, taking into account

[a] With regard to this paragraph, the Committee did not discuss amendments submitted by India (E/CONF.46/AC.2/L.17) and Pakistan (E/CONF.46/AC.2/L.19).

the different geographical situation of the land-locked States and the States of transit.

ARTICLE 19 (formerly article 13)

Settlement of disputes

(Texts reproduced in accordance with the decision of the Committee)

Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation or by other peaceful means of settlement between the parties, shall be settled by arbitration. The arbitration commission shall be composed of three members. Each party to the dispute shall nominate one member to the commission, while the third member upon written request shall be appointed by the Secretary-General of the United Nations. The arbitration commission shall decide on the matters placed before it by simple majority, and its decisions shall be binding on the parties concerned. (African-Asian draft—E/CONF.46/AC.2/1.)

[1. Any differences which may arise concerning the interpretation or implementation of this Convention and which cannot be settled by negotiation or any other method for the pacific settlement of disputes agreed upon by the Parties, shall be referred to a joint commission.

2. The joint commission shall consist of four members. Each Party shall appoint two members, of whom one may be of its nationality and the other must be of a foreign nationality and not usually resident in the territory of the Parties concerned or in their employ. The joint commission shall decide by a majority vote; its decision shall be final and binding on the Parties. Instead of following this procedure, the Parties may, by common agreement, refer the dispute for a ruling to the Permanent Court of Arbitration at The Hague, in accordance with the Convention for the Pacific Settlement of International Disputes, of 18 October 1907. (Czechoslovakia—E/CONF.46/AC.2/L.2.)]

[Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation or by other peaceful means of settlement between the parties, shall be settled by arbitration. The arbitration commission shall be composed of three members. Each party to the dispute shall nominate one member to the Commission, while the third member, who shall be acceptable to both parties to the dispute, shall be appointed, upon written request by the Secretary-General of the United Nations. The arbitration commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties concerned. (Nigeria—E/CONF.46/AC.2/L.29.)]

[Any dispute which may arise with respect to the interpretation or application of the provisions of this Convention shall be settled by the parties, in conformity with Article 33 of the United Nations Charter, by negotiation, inquiry, mediation, conciliation or other peaceful means of their choice. (India—E/CONF.46/AC.2/L.33.)]

[Any dispute which may arise as to the interpretation or application of this Convention, which is not settled between the parties themselves within six months, may be referred by one of the parties either to the International Court of Justice or to an arbitration commission, composed of three members. Each party to the dispute shall appoint one member to the commission, while the third member shall be chosen in common agreement among the parties and, if they are unable to agree within a period of three months from the date on which a dispute is referred to an arbitration commission, shall be appointed by the President of the International Court of Justice. In case any of the parties fail to make an appointment within a period of three months from the said date, the President of the International Court of Justice shall fill the remaining vacancy or vacancies. The arbitration commission shall decide on the matter placed before it by simple majority, and its decisions shall be binding upon the parties concerned. (Netherlands—E/CONF.46/AC.2/L.34/Rev.1).]

[Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled within a period of six months and which cannot be settled by negotiation, shall be settled by arbitration at the request of one of the parties to the dispute. The arbitration commission shall be composed of three members. Each party to the dispute shall nominate one member to the commission. The third member, who shall preside over the commission, shall be chosen by common agreement among the parties and, if they are unable to agree within a period of three months, shall be appointed by the President of the International Court of Justice. The commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties concerned. (Switzerland—E/CONF.46/AC.2/L.35.)]

[Any disputes which may arise with respect to the interpretation or application of the provisions of this Convention which cannot be settled by negotiation or by other peaceful means of settlement between the parties, shall be settled by arbitration, established by agreement between all the parties to the dispute. (USSR—E/CONF.46/AC.2/L.36.)]

[Any dispute which may arise as to the interpretation or application of this Convention which is not settled directly between the parties themselves shall be brought before the International Court of Justice, unless under a special agreement, or a general arbitration provision, steps are taken for the settlement of the dispute by arbitration or some other means. (Pakistan—E/CONF.46/AC.2/L.37.)]

[Add to text of article 13: "In deciding a dispute, the arbitration commission shall apply the provisions of this Convention as well as the established principles of international law." (Austria)]

ARTICLE 20[b]

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

ARTICLE 21

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 22

Accession

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article 20. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 23

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the ———— instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the ———— instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

[b] [Draft articles 20 to 25 follow closely the analogous provisions of the Vienna Convention on Consular Relations, adopted on 24 April 1963.. The Committee did not take a decision on the substance of these articles but decided to transmit the text to the Conference of Plenipotentiaries.]

ARTICLE 24

Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article 20:

(*a*) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles 20, 21 and 22;

(*b*) of the date on which the present Convention will enter into force, in accordance with article 23.

ARTICLE 25

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article 20

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

ANNEX IV

List of delegations

AFGHANISTAN

Representative

H.E. Mr. Abdul Rahman Pazhwak,
Ambassador Extraordinary and Plenipotentiary,
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DOCUMENT A/C.5/1022

Budget estimates for the financial year 1965—United Nations Conference on Trade and Development: report of the Secretary-General

[Original text: English]
[21 January 1965]

1. The General Assembly, at its 1314th meeting held on 30 December 1964, approved resolution 1995 (XIX) in terms of which it established the United Nations Conference on Trade and Development as an organ of the General Assembly. The resolution also provided for the creation of a Trade and Development Board[19] and subsidiary organs. Finally, the resolution called for the immediate constitution of an adequate, permanent and full-time secretariat within the United Nations Secretariat for the proper servicing of the Conference, the Board, and its subsidiary bodies.

2. In document A/5829 the Secretary-General had reported on the administrative and financial implications of the recommendations of the United Nations Conference on Trade and Development in its Final Act in so far as these recommendations related to institutional machinery. In paragraph 12 of that document total additional expenditures for these purposes in 1965 were estimated at $3,073,600, and additional income from staff assessment at $212,000. In its related report (A/5837) the Advisory Committee on Administrative and Budgetary Questions recommended that the General Assembly approve a maximum gross expenditure of $2.5 million for 1965, or a reduction of $573,600 in the estimates submitted by the Secretary-General.

3. The estimates dealt with in documents A/5829 and A/5837 excluded the following requirements for which provision had already been made in the initial budget estimates for 1965:

(*a*) An amount of $9,000 under Section 1 for two sessions of the Interim Co-ordinating Committee for International Commodity Arrangements (ICCICA);[20]

(*b*) An amount of $45,000 under Section 2 for commodity conferences to be convened during 1965 on the recommendation of ICCICA;[21]

[19] The United Nations Conference on Trade and Development, held in Geneva in 1964, elected the fifty-five Member States to serve on the Board for the first term on the understanding that their term of office would begin following General Assembly approval of the institutional arrangements.

[20] Resolution 1995 (XIX) provides in Part II, paragraph 23 (*a*), that the Trade and Development Board would establish a committee on commodities which, *inter alia*, would carry out the functions hitherto performed by ICCICA and that ICCICA would be maintained as an advisory body of the Board.

[21] In accordance with established procedure, the General Assembly appropriates a preliminary amount of $45,000 each year for this purpose; in addition, a special clause is inserted in the annual resolution on unforeseen and extraordinary expenses in terms of which the Secretary-General is authorized to finance under the provisions of that resolution, up to a limit of $25,000, any further expenditures which may prove necessary.

(*c*) An amount of $211,000 under Section 3 for twelve professional and eight general service posts to be transferred from the Department of Economic and Social Affairs to the secretariat for the Conference on Trade and Development;

(*d*) An amount of $50,000 under Section 4 for common staff costs related to the posts referred to under (*c*) above.

4. As indicated by the Secretary-General in his report on institutional machinery (A/5829, para. 7), it is proposed that provision be made for all expenses related to the activities of the Conference on Trade and Development in a separate section of the budget. Should this proposal be accepted, the General Assembly will be requested to approve under a new budget section a total credit which, to date, is composed as follows:

(*a*) Requirements for the institutional machinery as approved by the General Assembly in resolution 1995 (XIX) and as dealt with in documents A/5829 and A/5837;

(*b*) Related requirements already provided for under existing sections of the initial budget estimates as indicated in paragraph 3 above.

5. Accordingly, the following revisions will be required to the initial estimates for 1965:

	Estimate submitted by Secretary-General $	*Appropriation recommended by Advisory Committee* $
Section 1. Travel and other expenses of representatives and members of commissions, committees and other subsidiary bodies	(9,000)	(9,000)
Section 2. Special meetings and conferences	(45,000)	(45,000)
Section 3. Salaries and wages	(211,000)	(211,000)
Section 4. Common staff costs	(50,000)	(50,000)
New Section. United Nations Conference on Trade and Development	3,388,600	2,815,000
Income		
Section 1. Staff assessment income	212,000	130,000

6. All further requirements related to the activities of the Conference would similarly be included in the new budget section. Thus this would apply in the case of the requirements which would arise in the event of a decision by the General Assembly to convene a conference of plenipotentiaries in 1965 for consideration and adoption of a draft convention on the transit trade of land-locked countries, as recommended by the Conference on Trade and Development in annex A.VI.1 of its Final Act. In his report on this subject (A/5849), the Secretary-General has estimated these requirements at $154,800. The related report by the Advisory Committee on Administrative and Budgetary Questions will become available in due course.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1314th plenary meeting, on 30 December 1964, the General Assembly adopted the draft resolution submitted by the President of the General Assembly (A/L.449 and Corr.1). For the final text, see resolution 1995 (XIX) below.

Resolution adopted by the General Assembly

1995 (XIX). Establishment of the United Nations Conference on Trade and Development as an organ of the General Assembly

The General Assembly,

Convinced that sustained efforts are necessary to raise the standards of living in all countries and to accelerate the economic growth of the developing countries.

Considering that international trade is an important instrument for economic development,

Recognizing that the United Nations Conference on Trade and Development has provided a unique opportunity to make a comprehensive review of the problems of trade and of trade in relation to economic development, particularly those problems affecting the developing countries,

Convinced that adequate and effectively functioning organizational arrangements are essential if the full contribution of international trade to the accelerated economic growth of the developing countries is to be successfully realized through the formulation and implementation of the necessary policies,

Taking into account that the operation of existing international institutions was examined by the United Nations Conference on Trade and Development, which recognized both their contributions and their limitations in dealing with all the problems of trade and related problems of development,

Believing that all States participating in the United Nations Conference on Trade and Development should make the most effective use of institutions and arrangements to which they are or may become parties,

Convinced that, at the same time, there should be a further review of both the present and the proposed institutional arrangements, in the light of the experience of their work and activities,

Taking note of the widespread desire among developing countries for a comprehensive trade organization,

Recognizing that further institutional arrangements are necessary in order to continue the work initiated by the Conference and to implement its recommendations and conclusions,

I

Establishes the United Nations Conference on Trade and Development as an organ of the General Assembly in accordance with the provisions set forth in section II below;

II

1. The members of the United Nations Conference on Trade and Development (hereinafter referred to as the Conference) shall be those States which are Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.

2. The Conference shall be convened at intervals of not more than three years. The General Assembly shall determine the date and location of the sessions of the Conference, taking into account the recommendations of the Conference or of the Trade and Development Board, established under paragraph 4 below.

3. The principal functions of the Conference shall be:

(*a*) To promote international trade, especially with a view to accelerating economic development, particularly trade between countres at different stages of development, between developing countries and between countries with different systems of economic and social organization, taking into account the functions performed by existing international organizations;

(*b*) To formulate principles and policies on international trade and related problems of economic development;

(*c*) To make proposals for putting the said principles and policies into effect and to take such other steps within its competence as may be relevant to this end, having regard to differences in economic systems and stages of development;

(*d*) Generally, to review and facilitate the co-ordination of activities of other institutions within the United Nations system in the field of international trade and related problems of economic development, and in this regard to co-operate with the General Assembly and the Economic and Social Council with respect to the performance of their responsibilities for co-ordination under the Charter of the United Nations;

(*e*) To initiate action, where appropriate, in co-operation with the competent organs of the United Nations for the negotiation and adoption of multilateral legal instruments in the field of trade, with due regard to the adequacy of existing organs of negotiation and without duplication of their activities;

(*f*) To be available as a centre for harmonizing the trade and related development policies of Governments and regional economic groupings in pursuance of Article 1 of the Charter;

(*g*) To deal with any other matters within the scope of its competence.

Trade and Development Board

Composition

4. A permanent organ of the Conference, the Trade and Development Board (hereinafter referred to as the Board), shall be established as part of the United Nations machinery in the economic field.

5. The Board shall consist of fifty-five members elected by the Conference from among its membership. In electing the members of the Board, the Conference shall have full regard for both equitable geographical distribution and the desirability of continuing representation for the principal trading States, and shall accordingly observe the following distribution of seats:

(*a*) Twenty-two from the States listed in part A of the annex to the present resolution;

(*b*) Eighteen from the States listed in part B of the annex;

(*c*) Nine from the States listed in part C of the annex.

(*d*) Six from the States listed in part D of the annex.

6. The lists of States contained in the annex shall be reviewed periodically by the Conference in the light of changes in membership of the Conference and other factors.

7. The members of the Board shall be elected at each regular session of the Conference. They shall hold office until the election of their successors.

8. Retiring members shall be eligible for re-election.

9. Each member of the Board shall have one representative with such alternates and advisers as may be required.

10. The Board shall invite any member of the Conference to participate, without vote, in its deliberations on any matter of particular concern to that member.

11. The Board may make arrangements for representatives of the inter-governmental bodies referred to in paragraphs 18 and 19 below to participate, without vote, in its deliberations and in those of the subsidiary bodies and working groups established by it. Such participation may also be offered to non-governmental organizations concerned with matters of trade and of trade as related to development.

12. The Board shall adopt its own rules of procedure.

13. The Board shall meet as required in accordance with its rules. It shall normally meet twice in any particular year.

Functions

14. When the Conference is not in session, the Board shall carry out the functions that fall within the competence of the Conference.

15. In particular, the Board shall keep under review and take appropriate action within its competence for the implementation of the recommendations, declarations, resolutions and other decisions of the Conference and to ensure the continuity of its work.

16. The Board may make or initiate studies and reports in the field of trade and related problems of development.

17. The Board may request the Secretary-General of the United Nations to prepare such reports, studies or other documents as it may deem appropriate.

18. The Board shall, as required, make arrangements to obtain reports from and establish links with inter-governmental bodies whose activities are relevant to its functions. In order to avoid duplication it shall avail itself, whenever possible, of the relevant reports made to the Economic and Social Council and other United Nations bodies.

19. The Board shall establish close and continuous links with the regional economic commissions of the United Nations and it may establish such links with other relevant regional inter-governmental bodies.

20. In its relations with organs and agencies within the United Nations system, the Board shall act in conformity with the responsibilities of the Economic and

Social Council under the Charter, particularly those of co-ordination, and with the relationship agreements with the agencies concerned.

21. The Board shall serve as a preparatory committee for future sessions of the Conference. To that end, it shall initiate the preparation of documents, including a provisional agenda, for consideration by the Conference, as well as make recommendations as to the appropriate date and place for its convening.

22. The Board shall report to the Conference and it shall also report annually on its activities to the General Assembly through the Economic and Social Council. The Council may transmit to the Assembly such comments on the reports as it may deem necessary.

23. The Board shall establish such subsidiary organs as may be necessary to the effective discharge of its functions. It shall establish, in particular, the following committees:

(*a*) A committee on commodities which, *inter alia*, will carry out the functions which are now performed by the Commission on International Commodity Trade and the Interim Co-ordinating Committee for International Commodity Arrangements. In this connexion, the Interim Co-ordinating Committee shall be maintained as an advisory body of the Board;

(*b*) A Committee on manufactures;

(*c*) A committee on invisibles and financing related to trade. The Board shall give special consideration to the appropriate institutional means for dealing with problems of shipping, and shall take into account the recommendations contained in annexes A.IV.21 and A.IV.22 of the Final Act of the Conference.

The terms of reference of the latter two subsidiary bodies and any other subsidiary organs established by the Board shall be adopted after consultation with the appropriate organs of the United Nations and shall take fully into account the desirability of avoiding duplication and overlapping of responsibilities. In determining the size of the subsidiary organs and in electing their members, the Board shall take fully into account the desirability of including in the membership of these bodies member States with a special interest in the subject-matter to be dealt with by them. It may include any State member of the Conference, whether or not that State is represented on the Board. The Board will determine the terms of reference and rules of procedure of its subsidiary organs.

Voting

24. Each State represented at the Conference shall have one vote. Decisions of the Conference on matters of substance shall be taken by a two-thirds majority of the representatives present and voting. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting. Decisions of the Board shall be taken by a simple majority of the representatives present and voting.

Procedures

25. The procedures set forth in the present paragraph are designed to provide a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries.

(a) *Levels of conciliation*

The process of conciliation within the meaning of the present paragraph may take place under the conditions stated with regard to proposals which are before the Conference, the Board or Committees of the Board. In the case of Committees of the Board, the process of conciliation shall apply only to those matters, if any, with respect to which a Committee has been authorized to submit, without further approval, recommendations for action.

(b) *Request for conciliation*

A request for conciliation within the meaning of the present paragraph may be made:

(i) In the case of proposals before the Conference, by at least ten members of the Conference;

(ii) In the case of proposals before the Board, by at least five members of the Conference, whether or not they are members of the Board;

(iii) In the case of proposals before Committees of the Board, by three members of the Committee.

The request for conciliation under the present paragraph shall be submitted, as appropriate, to the President of the Conference or to the Chairman of the Board. In the case of a request relating to a proposal before a Committee of the Board, the Chairman of the Committee concerned shall submit the request to the Chairman of the Board.

(c) *Initiation of conciliation by the President or Chairman*

The process of conciliation within the meaning of the present paragraph may also be initiated whenever the President of the Conference, the Chairman of the Board or the Chairman of the Committee concerned is satisfied that the required number of countries as specified in sub-paragraph (*b*) above are in favour of such conciliation. In cases where the process of conciliation is initiated at the level of a Committee, the Chairman of the Committee concerned shall refer the matter to the Chairman of the Board for action to be taken in accordance with sub-paragraph (*f*) below.

(d) *Time for request or initiation of conciliation*

The request for conciliation (or the initiation of conciliation by the President or the Chairman, as the case may be) may be made only after the debate on the proposal has been concluded within the organ concerned and prior to the vote on that proposal. For the purposes of this provision, the Chairman of the organ concerned shall, at the conclusion of the debate on any proposal, afford an appropriate interval for the submission of requests for conciliation before proceeding to the vote on the proposal in question. In the event that conciliation is requested or initiated, voting on the proposal in question shall be suspended and the procedures provided for below shall be followed.

(e) *Subjects in regard to which conciliation is appropriate or excluded*

The institution of the process of conciliation shall be automatic under the conditions stated in sub-paragraphs (*b*) and (*c*) above. The categories in (i) and (ii) below shall serve as guidelines:

(i) Appropriate for conciliation shall be proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries in the following fields:

Economic plans or programmes or economic or social readjustments;

Trade, monetary or tariff policies, or balance of payments;

Policies of economic assistance or transfer of resources;

Levels of employment, income, revenue or investment;

Rights or obligations under international agreements or treaties.

(ii) Proposals in the following fields shall not require conciliation:

Any procedural matter;

Any proposal for study or investigation, including such proposals related to the preparation of legal instruments in the field of trade;

Establishment of subsidiary bodies of the Board within the scope of its competence;

Recommendations and declarations of a general character not calling for specific action;

Proposals involving action proposed in pursuance of recommendations which were unanimously adopted by the Conference.

(f) *Nomination of a conciliation committee*

When a request for conciliation is made or initiated, the presiding officer of the organ concerned shall immediately inform the organ. The President of the Conference or the Chairman of the Board shall, as soon as possible, after consultation with the members of the organ concerned, nominate the members of a conciliation committee and submit the nominations for the approval of the Conference or the Board, as appropriate.

(g) *Size and composition of the conciliation committee*

The conciliation committee shall, as a rule, be small in size. Its members shall include countries especially interested in the matter with respect to which such conciliation was initiated and shall be selected on an equitable geographical basis.

(h) *Procedure within the conciliation committee and submission of its report*

The conciliation committee shall begin its work as soon as possible and it shall endeavour to reach agreement during the same session of the Conference or the Board. No vote shall take place in the conciliation committee. In the event that the conciliation committee is unable to conclude its work or fails to reach agreement at the same session of the Conference or the Board, it shall report to the next session of the Board or to the next session of the Conference, whichever meets earlier. However, the Conference may instruct the conciliation committee appointed by it to submit its report to the following session of the Conference in the event that the committee shall not have concluded its work or shall have failed to reach agreement during the same session of the Conference.

(i) *Extension of the mandate of the conciliation committee*

A proposal to continue a conciliation committee beyond the session at which it is required to report shall be decided by a simple majority.

(j) *Report of the conciliation committee*

The report of the conciliation committee shall indicate whether or not the committee was able to reach an agreement and whether or not the committee recommends a further period of conciliation. The report of the committee shall be made available to the members of the Conference.

(k) *Action on the report of the conciliation committee*

The report of the conciliation committee shall have priority on the agenda of the organ to which it is submitted. If the organ adopts a resolution on the proposal which was the subject of the report of the conciliation committee, that resolution shall refer explicitly to the report of the conciliation committee and to the conclusion reached by the conciliation committee in the following form, as appropriate:

"*Noting* the report of the Conciliation Committee appointed on (date) (document number),

"*Noting also* that the Conciliation Committee [was able to reach an agreement] [recommends a further period of conciliation] [was unable to reach agreement],".

(l) *Reports of the Board and the Conference*

The reports of the Board to the Conference and to the General Assembly and the reports of the Conference to the Assembly shall include, *inter alia*:

(i) The texts of all recommendations, resolutions and declarations adopted by the Board or the Conference during the period covered by the report;

(ii) In respect of recommendations and resolutions which are adopted after a process of conciliation, there shall also be included a record of the voting on each recommendation or resolution, together with the texts of the reports of the conciliation committees concerned. In the report, the record of voting and the texts of the reports shall normally follow the resolutions to which they pertain.

(m) *Good offices of the Secretary-General of the Conference*

The good offices of the Secretary-General of the Conference shall be utilized as fully as practicable in connexion with the process of conciliation.

(n) *Proposals involving changes in the fundamental provisions of the present resolution*

A process of conciliation shall also be applied under the terms and conditions laid down above in regard to any proposal for a recommendation to the General Assembly which would involve changes in the fundamental provisions of the present resolution. Any question as to whether a particular provision shall be considered fundamental for the purposes of the present sub-paragraph shall be determined by a simple majority of the Conference or the Board.

Secretariat

26. Arrangements shall be made, in accordance with Article 101 of the Charter, for the immediate establishment of an adequate, permanent and full-time secretariat within the United Nations Secretariat for the proper servicing of the Conference, the Board and its subsidiary bodies.

27. The secretariat shall be headed by the Secretary-General of the Conference, who shall be appointed by the Secretary-General of the United Nations and confirmed by the General Assembly.

28. Adequate arrangements shall be made by the Secretary-General of the United Nations for close

co-operation and co-ordination between the secretariat of the Conference and the Department of Economic and Social Affairs, including the secretariats of the regional economic commissions and other appropriate units of the United Nations Secretariat as well as with the secretariats of the specialized agencies.

Financial arrangements

29. The expenses of the Conference, its subsidiary bodies and secretariat shall be borne by the regular budget of the United Nations, which shall include a separate budgetary provision for such expenses. In accordance with the practice followed by the United Nations in similar cases, arrangements shall be made for assessments on States not members of the United Nations which participate in the Conference.

Future institutional arrangements

30. The Conference will review, in the light of experience, the effectiveness and further evolution of institutional arrangements with a view to recommending such changes and improvements as might be necessary.

31. To this end it will study all relevant subjects, including matters relating to the establishment of a comprehensive organization based on the entire membership of the United Nations system of organizations to deal with trade and with trade in relation to development.

32. The General Assembly expresses its intention to seek advice from the Conference before making changes in the fundamental provisions of the present resolution.

1314th plenary meeting,
30 December 1964.

ANNEX

A. List of States indicated in paragraph 5 (*a*)

Afghanistan
Algeria
Burma
Burundi
Cambodia
Cameroon
Central African Republic
Ceylon
Chad
China
Congo (Brazzaville)
Congo (Democratic Republic of)
Dahomey
Ethiopia
Gabon
Ghana
Guinea
India
Indonesia
Iran
Iraq
Israel
Ivory Coast
Jordan
Kenya
Kuwait
Laos
Lebanon
Liberia
Libya
Madagascar
Malaysia
Mali
Mauritania
Mongolia
Morocco
Nepal
Niger
Nigeria
Pakistan
Philippines
Republic of Korea
Republic of Viet-Nam
Rwanda
Saudi Arabia
Senegal
Sierre Leone
Somalia
South Africa
Sudan
Syria
Thailand
Togo
Tunisia
Uganda
United Arab Republic
United Republic of Tanzania
Upper Volta
Western Samoa
Yemen
Yugoslavia

B. List of States indicated in paragraph 5 (*b*)

Australia
Austria
Belgium
Canada
Cyprus
Denmark
Federal Republic of Germany
Finland
France
Greece
Holy See
Iceland
Ireland
Italy
Japan
Liechtenstein
Luxembourg
Monaco
Netherlands
New Zealand
Norway
Portugal
San Marino
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland
United States of America

C. List of States indicated in paragraph 5 (*c*)

Argentina
Bolivia
Brazil
Chile
Colombia
Costa Rica
Cuba
Dominican Republic
Ecuador
El Salvador
Guatemala
Haiti
Honduras
Jamaica
Mexico
Nicaragua
Panama
Paraguay
Peru
Trinidad and Tobago
Uruguay
Venezuela

D. List of States indicated in paragraph 5 (*d*)

Albania
Bulgaria
Byelorussian Soviet Socialist Republic
Czechoslovakia
Hungary
Poland
Romania
Ukrainian Soviet Socialist Republic
Union of Soviet Socialist Republics

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5838	Communication received from the Director-General of the International Labour Office: note by the Secretary-General	Mimeographed
A/5852	Letter dated 21 December 1964 from the Deputy Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General	Ditto
A/L.449 and Corr.1	Draft resolution submitted by the President of the General Assembly	Adopted without change. See above "Action taken by the General Assembly", resolution 1995 (XIX). The text of the resolution appears also in *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15*
E/CONF.46/139	Final Act and report of the United Nations Conference on Trade and Development	United Nations publication, Sales No.: 64.II.B.11
E/CONF.46/141, Vol. I		
E/CONF.46/ AC.2/...		Documents in this series are mimeographed

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United Nations
GENERAL ASSEMBLY
Official Records

ANNEXES
NINETEENTH SESSION
NEW YORK, 1964-1965
Annex No. 14

United Nations programmes of technical co-operation:*
(*b*) Confirmation of the allocation of funds under the Expanded Programme of Technical Assistance

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* Item 45 of the provisional agenda.
For the relevant meeting, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings*, 1314th meeting.

DOCUMENT A/5768

Note by the Secretary-General

[*Original text: English*]
[*4 November 1964*]

Review of activities (sub-item (a))

1. The attention of the General Assembly is invited, in this connexion, to chapter VII, sections I, II and III, of the annual report of the Economic and Social Council.[1]

2. By its resolution 1021 (XXXVII) of 11 August 1964, the Council recommended to the Assembly that it give its approval to an amendment of Council resolutions 521 A (XVII) of 5 April 1954 and 623 B II (XXII) of 9 August 1956 relating to the Working Capital and Reserve Fund of the Expanded Programme of Technical Assistance. The Assembly's attention is also invited to Council resolution 1009 (XXXVII) of 21 July 1964 which approved the participation of the Intergovernmental Maritime Consultative Organization in the Expanded Programme of Technical Assistance.

3. The attention of the General Assembly is also drawn to recommendation A.IV.25 entitled "Conditions of economic and technical co-operation" adopted by the United Nations Conference on Trade and Development.[2]

Confirmation of the allocation of funds under the Expanded Programme of Technical Assistance (sub-item (b))

4. A brief paper will be furnished later under this sub-item, following the forthcoming session of the Technical Assistance Committee.

[1] *Official Records of the General Assembly, Nineteenth Session, Supplement No. 3* (A/5803); see also *Official Records of the Economic and Social Council, Thirty-seventh Session, Annexes*, agenda item 19, document E/3933 (report of the Technical Assistance Committee).

[2] *Proceedings of the United Nations Conference on Trade and Development, Vol. I, Final Act and Report* (United Nations publication, Sales No.: 64.II.B.11), Final Act, annexes, p. 57.

DOCUMENT A/5788

Budget estimates for the secretariat of the Technical Assistance Board for 1965

Report of the Advisory Committee on Administrative and Budgetary Questions

[*Original text: English*]
[*17 November 1964*]

INTRODUCTION

1. The Advisory Committee on Administrative and Budgetary Questions has considered the 1965 budget estimates of the Technical Assistance Board (TAB) secretariat, as submitted by the Executive Chairman of TAB (E/TAC/149).

2. The Advisory Committee's examination of the TAB estimates is complementary to its review of the

administrative budget of the Special Fund and the regular budget of the United Nations, the specialized agencies and the International Atomic Energy Agency (IAEA),[3] all of which have a close bearing on the administrative and financial arrangements and procedures in respect of the Expanded Programme of Technical Assistance (EPTA), and, therefore, of the TAB secretariat.

GENERAL COMMENTS

3. The TAB estimates under review reflect the continuing growth of the Expanded Programme of Technical Assistance which, as in the case of other United Nations programmes of technical co-operation, results from an ever-increasing number of requests emanating from a growing community of nations.

[3] For the Advisory Committee's report on the budget estimates of the United Nations for 1965, see *Official Records of the General Assembly, Nineteenth Session, Supplement No. 7* (A/5807). The Committee will shortly report on the budgets of the specialized agencies and the IAEA for 1965, and on the administrative budget of the Special Fund for 1965. [These two reports were subsequently circulated as documents A/5859 and A/5796.]

4. In its report to the General Assembly at its eighteenth session, the Advisory Committee noted with concern that the ratio of TAB secretariat expenses to total programme costs had resumed an upward trend.[4] The Committee notes that, for 1965, this trend has been slightly reversed: on the basis of a total anticipated programme of some $64 million, the estimated net requirements for the TAB secretariat to be met from EPTA resources in 1965 amount to $4,620,000 or 7.3 per cent, as against an estimated $4,414,000 or 8.0 per cent for 1964. Since it is essential that voluntary funds be utilized to the greatest possible extent for operational purposes, the Advisory Committee would express the hope that the general objective of keeping administrative costs to a minimum will constantly be borne in mind and that every effort will be made to rationalize the over-all administrative pattern with a view to restricting still further the growth of all types of overhead costs.

5. As in previous years, the bulk of the increase in expenditure relates to the field establishment, where costs are shared with the Special Fund as shown in the following table:

[4] *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda items 12, 33, 34, 35, 36, 37, 39 and 76, document A/5598, para. 4.

Year	*EPTA*		*Special Fund*		*Total*	
	Dollars	*Percentage*	*Dollars*	*Percentage*	*Dollars*	*Percentage*
1959 . .	1,461,300	100	—	—	1,461,300	100
1960 . . .	1,511,800	91	150,000	9	1,661,800	100
1961 . . .	2,174,200	84	410,000	16	2,584,200	100
1962 . .	2,706,500	78	771,200	22	3,477,700	100
1963	2,966,772	66	1,504,100	34	4,470,872	100
1964	3,438,600	55	2,814,000	45	6,252,600	100
1965 (proposed)	3,438,600	49	3,662,400	51	7,101,000	100
Increase 1964 to 1965 . .	—	—	848,400	30	848,400	13.5

6. The Advisory Committee notes that the level of the Special Fund subvention towards the total costs of the joint EPTA/Special Fund field establishment will be increased from $2,814,000 (45 per cent) in 1964 to $3,662,400 (51 per cent) in 1965, if the joint proposal of the Executive Chairman of TAB and the Managing Director of the Special Fund is approved. This is attributed to the fact that, in financial terms, the level of Special Fund operations exceeds significantly the comparative EPTA level, and this divergence may reasonably be expected to continue. The relevant comparative figures for 1964 are as follows:

	Approved programmes in 1964		*Estimated income in 1964*		*Share of field budget in 1964*	
	Thousands of dollars	*Percentage*	*Thousands of dollars*	*Percentage*	*Thousands of dollars*	*Percentage*
EPTA	50,781	34	51,592	38	3,438.6	55
Special Fund	98,700	66	85,636	62	2,814.0	45
TOTAL	149,481	100	137,228	100	6,252.6	100

In addition, the Committee has been informed that, in 1965, the level of Special Fund programmes in operation in the field will, for the first time, overtake the level of EPTA operations.

7. In its reports to the General Assembly at its seventeenth[5] and eighteenth[6] sessions, the Advisory Committee, in drawing attention to the substantial increases in the subvention from the Special Fund, stated that while the increases went a long way towards a more equitable arrangement, it doubted whether they covered all costs attributable to Special Fund projects and noted that the special character of the duties assigned by the Special Fund to field offices had added to the complexity of their work.

8. The Committee has been informed that the Executive Chairman of TAB and the Managing Director of the Special Fund are proposing that the EPTA share towards field office costs for 1965 should remain at the 1964 level of $3,438,600, and the full amount of the increase of $848,400 should be borne by the Special

[5] *Ibid., Seventeenth Session, Annexes*, agenda items 12, 40, 41 and 78, document A/5275, para. 8.

[6] *Ibid., Eighteenth Session, Annexes*, agenda items 12, 33, 34, 35, 36, 37, 39 and 76, document A/5598, para. 6.

Fund. It is also proposed that the distribution of costs between the two programmes in future years should be related to levels of programmes and income.

9. The Advisory Committee notes the proposal to relocate the personnel of TAB and the Special Fund—approximately 77 and 170 respectively—outside the Headquarters premises in a building immediately adjacent to the north end of the United Nations complex for a total estimated annual rental of $216,000, one third of which would be borne by TAB. The Committee has been informed that the Secretary-General has discussed the Headquarters space situation with the Executive Chairman of TAB and the Managing Director of the Special Fund and has advised them that, given the anticipated staff increases in 1965, it will not be possible to accommodate within the building, under reasonable working conditions, all of the organizational units located there in 1964. Accordingly, the Executive Chairman and the Managing Director have suggested that, as the legislation governing EPTA and the Special Fund makes it possible for the programmes to accept such rental charges, it is perhaps now appropriate for them to pay for outside accommodation.

10. In the absence of precise information on the space situation at Headquarters in relation to the overall staff requirements for 1965, and more particularly the requirements of the Trade Conference secretariat, the Committee has been unable to form a considered opinion on the question of renting outside premises. At the same time, if recourse must be had to outside rented accommodation for one or other of the units which would normally be housed in the Headquarters building, the proposed arrangements would appear to have certain advantages.

11. The Advisory Committee, in its report to the General Assembly at its eighteenth session,[7] commented on the results of the survey conducted by TAB, at the suggestion of the Committee in its report to the General Assembly at its seventeenth session,[8] concerning the increased reliance on the Resident Representative as a co-ordinator of field programmes, as a source of administrative support for those programmes, and a central source of information on the activities of the United Nations programmes of technical co-operation in the country to which he is accredited.

12. In November 1963, the Technical Assistance Committee (TAC), a Committee of the Economic and Social Council, invited TAB to consider further the administrative improvements and economies which might be effected if the participating organizations made fuller use of the facilities offered by resident representatives' offices, and requested the Executive Chairman to present a report to that Committee in 1964 on progress made in improving co-ordination in the field and in particular on achieving a rationalization of field organization through the increased use of those offices by participating organizations.

13. The Advisory Committee has read with interest the report of TAB to TAC (E/TAC/148), and while it will return to this matter in its report to the General Assembly at its nineteenth session on the administrative and budgetary co-ordination of the United Nations with the specialized agencies and the IAEA,* it feels that it is appropriate at this time to express its reservations concerning what may prove to be, in practice, a move away from co-ordination of technical assistance programmes at the operational level. The Committee would especially draw attention to paragraph 11 of the above document which might be interpreted as an encouragement to participating organizations to expand their individual and independent representation in overseas establishments. The Committee, of course, supports the intent to consolidate further the administrative services in the field, but trusts that progress will continue to be achieved in other directions in which co-ordination is equally important.

[7] *Ibid.*, paras. 7-12.

[8] *Ibid., Seventeenth Session, Annexes,* agenda items 12, 40, 41 and 78, document A/5275, paras. 8 and 9.

* Subsequently circulated as document A/5859.

SPECIFIC COMMENTS ON THE ESTIMATES FOR 1965

14. The total of the estimates proposed for 1965 (E/TAC/149) amounts to $8,282,600 (net of staff assessment), an increase of $1,054,600 (14.5 per cent) over the amount approved for 1964. As indicated in paragraph 6 above, it is proposed that an amount of $3,662,400 or $848,400 (30 per cent) more than in 1964, should be received as a subvention from the Special Fund towards the costs of TAB field offices in recognition of the services which those offices provide to the Special Fund.

Part I. Headquarters secretariat

15. The estimates under part I for the Headquarters secretariat amount to a total of $1,136,600 on a net basis, representing an increase of $206,200 over the provision for 1964—$38,400 under salaries and wages, $141,500 under other departmental costs, $26,300 under common staff costs. This corresponds to an establishment of 77 posts, representing an increase of 5 General Service posts over the figure approved for 1964.

16. The Committee notes that almost 50 per cent of the increase of $206,200 relates to the proposed relocation of the staff of both TAB and the Special Fund in premises outside the Headquarters building. Of the approximate $100,000 involved, $72,000 provides for the rental of office space and the balance for additional items of office equipment and miscellaneous supplies and services. The Advisory Committee's comments on the proposed relocation of TAB and the Special Fund are contained in paragraphs 9 and 10 above.

17. The manning table proposed for TAB Headquarters secretariat in 1965 as compared with that approved for 1964, is as follows:

	1964	1965
Executive Chairman	1	1
Director (D-2)	3	3
Principal Officer (D-1)	2	2
Professional (P-5 to P-1)	23	23
General Service	43	48
	72	77

Part II. Other joint administrative services

18. The Advisory Committee has previously concurred in the treatment of the provision of $45,000 under part II of the TAB budget estimates as a lump-sum subvention to the United Nations in partial recognition of financial and accounting services provided by the Organization to the Expanded Programme.[9] As to the level of the amount of the subvention, introduced in 1961, the Committee understands that, because of the continued expansion of these services a new study is

[9] *Ibid., Nineteenth Session, Supplement No. 7* (A/5807), para. 326 (*a*) (ii).

being conducted by the Secretary-General with a view to revising, in consultation with the Executive Chairman of TAB, the basis of the subvention in the light of the present situation.

Part III. Costs for joint field offices

19. The 1965 estimates under part III amount to $7,101,000 (net of staff assessment), an increase of $848,400 or about 13.5 per cent over the 1964 provision. This results from the expansion of the field programmes on which the Advisory Committee has commented in the first part of the present report (see paragraphs 5 and 6 above).

20. The estimates provide for a net increase of one new office in 1965 for a total of 84, as compared with 83 approved for 1964. They anticipate, however, the strengthening and upgrading of certain existing field offices (see document E/TAC/149, para. 45)—especially at subordinate levels.

21. The manning table proposed for field offices in 1965 is compared below, by categories of staff, with that approved for 1964:

	1964	1965
International staff		
Director (D-2)	25	32
Principal Officer (D-1)	32	32
Professional (P-5 to P-1)	144	156
General Service	75	75
Sub-total	276	295
Local staff		
Professional		
Assistants to resident representatives	5	6
Others	11	12
General Service		
Office assistants	612	692
Others	465	525
Sub-total	1,093	1,235
GRAND TOTAL	1,369	1,530

22. The estimates as a whole reflect the creation of 19 new international professional posts and the 142 local posts. The Committee noted the appreciable increase in the proportion of locally recruited General Service personnel charged with administrative, secretarial and clerical duties, and the stabilization of the number of international General Service staff recruited for these functions.

23. On the basis of the evidence submitted and given present circumstances, the Advisory Committee does not wish to question the manning table proposed for 1965. It does, however, have reservations concerning the ever-increasing number of independent offices in countries which could, without doubt, in certain cases be accommodated through regional offices, and recommends that field establishments be reviewed periodically in the interests of efficiency and economy. To the same end, it hopes that host Governments will provide a greater measure of support to the field offices.

CONCLUSION

24. The Advisory Committee notes that TAC will be invited to approve 1965 estimates for TAB in the amount of $8,282,600 net and to agree on $3,662,400 as the appropriate amount of the subvention to be received from the administrative budget of the Special Fund in 1965 in recognition of the services provided by TAB field offices for Special Fund activities. Aside from its general observations in paragraphs 3 to 14 above, the Advisory Committee has no specific comment to make on these total amounts.

25. The Committee does wish to point out, however, that it has examined the 1965 budget estimates for TAB solely as they have been presented; it has not considered any possible administrative or financial implications of the proposed merger of TAB and the Special Fund.

DOCUMENT A/C.2/224

Memorandum by the Secretary-General

[*Original text: English*]
[*9 December 1964*]

1. Paragraph *b* (V) of annex III of General Assembly resolution 831 (IX) of 26 November 1954 requires confirmation by the General Assembly of the allocations of funds to the organizations participating in the Expanded Programme of Technical Assistance authorized by the Technical Assistance Committee.

2. At its 336th meeting on 25 November 1964, the Technical Assistance Committee requested the Secretary-General to transmit to the General Assembly the following draft resolution:

[*Text adopted by the General Assembly without change. See "Action taken by the General Assembly", below.*]

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1314th plenary meeting, on 30 December 1964, the General Assembly adopted the draft resolution approved by the Technical Assistance Committee and transmitted by the Secretary-General in document A/C.2/224. For the final text, see resolution 1994 (XIX) below.

Resolution adopted by the General Assembly

1994 (XIX). CONFIRMATION OF THE ALLOCATION OF FUNDS FOR THE EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE IN 1965

The General Assembly,

Noting that the Technical Assistance Committee has reviewed and approved the Expanded Programme of Technical Assistance for the biennium 1965-1966,

1. *Confirms* the allocation of funds authorized by the Technical Assistance Committee to each of the organizations participating in the Expanded Programme of Technical Assistance from contributions, general resources and local costs assessments, as follows:

Participating organization	*Allocation (equivalent of US dollars)*
United Nations	11,154,714
International Labour Organisation	5,909,792
Food and Agriculture Organization of the United Nations	13,770,728
United Nations Educational, Scientific and Cultural Organization	9,210,185
International Civil Aviation Organization	2,563,849
World Health Organization	9,221,851
Universal Postal Union	428,437
International Telecommunication Union	1,452,334
World Meteorological Organization	1,484,987
Inter-Governmental Maritime Consultative Organization	25,000
International Atomic Energy Agency	1,083,991
TOTAL	56,305,868

2. *Concurs* in the Committee's authorization to the Executive Chairman of the Technical Assistance Board to make the changes in these allocations as may be necessary to provide as far as possible for the full utilization of contributions to the Expanded Programme of Technical Assistance, and to permit modifications to country programmes requested by recipient Governments and approved by him;

3. *Requests* the Executive Chairman to report any such changes to the Committee at the session following their adoption.

1314th plenary meeting,
30 December 1964.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5710	Report of the Advisory Committee on Administrative and Budgetary Questions	Mimeographed
A/5755	Secretary-General: request for the inclusion of a supplementary item in the agenda of the nineteenth session	*Official Records of the General Assembly, Nineteenth Session, Annexes,* annex No. 2
E/TAC/148	Report of the Technical Assistance Board to the Technical Assistance Committee	Mimeographed
E/TAC/149	Budget estimates for the secretariat of the Technical Assistance Board for 1965: report of the Technical Assistance Committee	Ditto

Printed in U.S.A. 4828—June 1965—2,150

United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 15

Question of South West Africa: report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*

CONTENTS

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* Item 61 of the provisional agenda.

DOCUMENTS A/5690 AND ADD.1-3

Note by the Secretary-General and replies from Governments

DOCUMENT A/5690

[*Original text: English/French/Russian/Spanish*]
[*28 February 1964*]

1. By a letter dated 13 November 1963, the Secretary-General transmitted the text of General Assembly resolution 1899 (XVIII) of the same date, on the question of South West Africa, to the Chairman of the delegation of South Africa to the eighteenth session of the General Assembly, and drew his attention in particular to operative paragraph 5 of the resolution. In accordance with that paragraph, the Secretary-General submitted a report to the General Assembly[1] immediately after receiving the reply of the Government of South Africa.

2. By a note dated 21 November 1963, the Secretary-General also transmitted resolution 1899 (XVIII) to all other Member States and drew their attention to operative paragraph 7, which reads as follows:

"*The General Assembly*

" . . .

"7. *Urges* all States which have not yet done so to take, separately or collectively, the following measures with reference to the question of South West Africa:

"(*a*) Refrain forthwith from supplying in any manner or form any arms or military equipment to South Africa;

"(*b*) Refrain also from supplying in any manner or form any petroleum or petroleum products to South Africa;

"(*c*) Refrain from any action which might hamper the implementation of the present resolution and of the previous General Assembly resolutions on South West Africa."

3. In replies received as at 26 February 1964, eight Member States have informed the Secretary-General of their position concerning the implementation of operative paragraph 7 of the resolution. The substantive parts of these replies are reproduced below.

4. The substantive sections of further replies will be reproduced in addenda to the present document.

DOMINICAN REPUBLIC

[*Original text: Spanish*]
[*6 January 1964*]

(*a*) The Dominican Government has not in the past supplied, is not now supplying and will not in the future supply in any manner or form any arms or military equipment to the Government of South Africa;

(*b*) The Dominican Government will act in the same way regarding the supplying to the Government of South Africa of petroleum and petroleum products, none of which is produced by the Dominican Republic; and

(*c*) Out of respect for the decisions which the United Nations General Assembly has adopted and may adopt, the Dominican Government not only is refraining and will refrain from any action which might hamper the implementation of the present resolution and of previous resolutions on South West Africa but will take all positive measures necessary to promote their effectiveness.

[1] *Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 55, document A/5634.

India

[*Original text*: *English*]
[*6 January 1964*]

The Government of India has for a long time been carrying out the measures mentioned in paragraph 7 of resolution 1899 (XVIII) adopted by the General Assembly at its 1257th plenary meeting on 13 November 1963, on the question of South West Africa.

Kuwait

[*Original text*: *English*]
[*28 January 1964*]

In accordance with its previous attitude, the Government of Kuwait has already instructed all the oil companies operating on its territory to abstain from exporting any oil or oil by-products to South Africa.

This decision, while complying with the provisions of the above-mentioned resolution of the General Assembly, is also in compliance with the policy of the Government of Kuwait regarding this question, as defined in an official policy statement on *apartheid* in South Africa.

The Permanent Representative of Kuwait can confirm that the Government of Kuwait is firmly maintaining its position and all the oil companies in Kuwait are strictly implementing this policy.

Liberia

[*Original text*: *English*]
[*3 December 1963*]

The Government of Liberia has at no time supplied in any manner arms or military equipment to South Africa nor petroleum or petroleum products, and does not intend to do so in the future.

Nepal

[*Original text*: *English*]
[*29 November 1963*]

His Majesty's Government of Nepal has not supplied any arms, petroleum or petroleum products to South Africa and will continue to co-operate with the United Nations in implementing its decisions regarding South West Africa.

Poland

[*Original text*: *English*]
[*9 December 1963*]

Poland has always supported the inalienable right of the people of South West Africa to self-determination and independence, and will fully abide by the provisions of resolution 1899 (XVIII) to contribute to the speedy implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in South West Africa.

Tunisia

[*Original text*: *French*]
[*19 December 1963*]

The Government of Tunisia had decided to carry out political, economic and diplomatic sanctions against the Government of the Republic of South Africa long before the adoption of resolution 1899 (XVIII) by the General Assembly on 13 November 1963. The measures recommended in paragraph 7 of that resolution are fully covered by the action taken by the Government of Tunisia against the Government of the Republic of South Africa.

The Tunisian Government is therefore in a position to assure the Secretary-General that resolution 1899 (XVIII) will be applied *in toto* by Tunisia.

Union of Soviet Socialist Republics

[*Original text*: *Russian*]
[*16 January 1964*]

The Soviet Union, by its nature a socialist State in which no exploitation of man by man exists and which pursues a policy of full equality of rights for all races and peoples, repudiates colonialism and racial discrimination in all their forms and manifestations.

In accordance with these principles, the Soviet Union has advocated and will in the future continue to advocate that the United Nations and its Member States should adopt, individually and collectively, measures such as to guarantee freedom and independence to all colonial peoples, including the people of South West Africa, at the earliest possible date.

During the debate on the question of South West Africa which took place in the Fourth Committee at the eighteenth session of the General Assembly, the Soviet delegation stated that the Soviet Union would support any steps designed to ensure the earliest possible implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in respect of South West Africa and the cessation of the monstrous and inhuman policy of racial discrimination and *apartheid* practised by the Government of South Africa in regard to the indigenous population both in South West Africa and in South Africa itself.

The Soviet Union maintains neither diplomatic nor consular relations with South Africa, nor has it any trade relations with that country. The Soviet Union has of course not supplied and is not supplying any arms or military equipment or petroleum or petroleum products to South Africa.

In keeping with this position, the Soviet delegation supported resolution 1899 (XVIII), including paragraph 7, and also resolution 1979 (XVIII) adopted by the General Assembly on 17 December 1963, which contains a request to the Security Council to consider the critical situation prevailing in South West Africa.

DOCUMENT A/5690/ADD.1

[*Original text*: *English/Spanish*]
[*10 September 1964*]

As of 1 September 1964, four additional replies have been received from Member States to the note of the Secretary-General dated 21 November 1963 concerning the implementation of operative paragraph 7 of General Assembly resolution 1899 (XVIII). The substantive parts of these replies are reproduced below.

Indonesia

[*Original text*: *English*]
[*3 March 1964*]

In transmitting the reply of the Government of Indonesia, the Permanent Representative refers to his letter No. 831/0129 of 14 October 1963[2] and informs the

[2] *Official Records of the Security Council, Eighteenth Year Supplement for October, November and December 1963*, document S/5438/Add.1.

Secretary-General that the Government of Indonesia continues to uphold the policy expressed in that letter of exporting neither weapons, ammunition, nor vehicles for military purposes to the Republic of South Africa. In the same spirit, the Government of Indonesia has refrained from the export of petroleum or petroleum products to the Republic of South Africa, as provided in operative paragraph 7 of resolution 1899 (XVIII).

The Permanent Representative reaffirms his Government's complete compliance with this resolution and all previous resolutions on the question of South West Africa.

JAMAICA

[*Original text*: *English*]
[*18 March 1964*]

(*a*) No arms or military equipment have ever been supplied by Jamaica to South Africa in any manner or form, nor will they in the future be supplied;

(*b*) No petroleum or petroleum products have in any manner or form been supplied by Jamaica to South Africa nor will they be supplied in the future;

(*c*) Jamaica has not taken any action which might hamper the implementation of resolution 1899 (XVIII) or any previous General Assembly resolution on South West Africa and does not propose to take such action.

NIGERIA

[*Original text*: *English*]
[*3 March 1964*]

The Government of the Federal Republic of Nigeria has not supplied and will not supply any arms, petroleum or petroleum products to South Africa.

SPAIN

[*Original text*: *Spanish*]
[*28 May 1964*]

The administrative provisions in force in Spain regulating traffic in arms establish control over the import and export of all arms which are regarded as non-commercial and not usable for purposes of sport. This control is exercised through the action of the military and civil authorities.

Under the administrative provisions now in force in Spain, no governmental control is exercised over the export of other types of arms, that is to say, those which are intended solely for purposes of sport, are unrifled or are of very small calibre.

Since the adoption of resolution 1899 (XVIII), the aforementioned authorities controlling the export of arms have refrained from authorizing any sale or consignment to the Republic of South Africa.

DOCUMENT A/5690/ADD.2

[*Original text*: *English*]
[*9 October 1964*]

A further reply has been received to the note of the Secretary-General dated 21 November 1963 concerning the implementation of operative paragraph 7 of General Assembly resolution 1899 (XVIII). The substantive part of this reply is reproduced below.

SYRIA

[*Original text*: *English*]
[*10 August 1964*]

The Council of Ministers of the Syrian Arab Republic, in its meeting on 7 June 1964, has approved the following measures against the Government of South Africa:

(1) The Syrian Arab Government has never sold or shipped to South Africa any arms, ammunition of any type, military vehicles, or equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa.

(2) The Syrian Arab Government shall not supply South Africa with petroleum or petroleum products.

(3) The Syrian Arab Government shall refrain from taking any measures which will impede or obstruct the implementation of all resolutions of the United Nations relating to South Africa.

DOCUMENT A/5690/ADD.3

[*Original text*: *English*]
[*3 November 1964*]

A further reply has been received to the note of the Secretary-General dated 21 November 1963 concerning the implementation of operative paragraph 7 of General Assembly resolution 1899 (XVIII). The substantive part of this reply is reproduced below.

CZECHOSLOVAKIA

[*Original text: English*]
[*15 October 1964*]

The Czechoslovak Socialist Republic has no diplomatic, consular or commercial relations with the Republic of South Africa. It does not supply either arms or military equipment or petroleum and petroleum products to South Africa.

The Government of the Czechoslovak Socialist Republic fully supports the General Assembly's resolution 1899 (XVIII) and will avoid any supplies of these materials and goods to the Republic of South Africa in the future as well. It is ready, as it has always been, to give its support to all effective measures aimed at the application of the right of the people of South West Africa to self-determination, and at achievement of its independence.

DOCUMENT A/5781

Report of the Secretary-General

[*Original text*: *English*]
[*10 November 1964*]

1. By paragraphs 5 and 6 of its resolution 1805 (XVII) of 14 December 1962, the General Assembly requested the Secretary-General "to appoint a United Nations Technical Assistance Resident Representative for South West Africa" and "to take all necessary steps to establish an effective United Nations presence in South West Africa".

2. Paragraph 5 of General Assembly resolution 1899 (XVIII) of 13 November 1963 requested the Secretary-General:

"(*a*) To continue his efforts with a view of achieving the objectives stated in paragraphs 5 and 6 of General Assembly resolution 1805 (XVII);

"(*b*) To invite the Government of South Africa to inform him of its decision regarding the provisions of those paragraphs not later than 30 November 1963;

"(*c*) To report to the General Assembly immediately after he has received the reply of the Government of South Africa;".

3. The Secretary-General accordingly reported to the General Assembly on 2 December 1963,[3] after receiving the reply of the Government of South Africa. The latter reiterated its position that until such time as the findings and recommendations of the Odendaal Commission of Enquiry had been received and carefully studied, the South African Government could not consider whether outside expert advice would be necessary in connexion with its plans for the further development of the Territory of South West Africa.

4. On 30 June 1964, after the Government of South Africa had received and studied the recommendations of the Odendaal Commission of Enquiry, the following letter was addressed to the Permanent Representative of South Africa to the United Nations on behalf of the Secretary-General:

"I have the honour to refer to paragraphs 5 and 6 of General Assembly resolution 1805 (XVII) of 14 December 1962 on the question of South West Africa, which read as follows:

"'5. *Requests* the Secretary-General to appoint a United Nations Technical Assistance Resident Representative for South West Africa to achieve the objectives outlined in General Assembly resolution 1566 (XV) of 18 December 1960 and paragraph 2 (*g*) of resolution 1702 (XVI), in consultation with the Special Committee;

"'6. *Requests* the Secretary-General to take all necessary steps to establish an effective United Nations presence in South West Africa'.

"The General Assembly, in its resolution 1899 (XVIII) of 13 November 1963, requested the Secretary-General:

"'(*a*) To continue his efforts with a view to achieving the objectives stated in paragraphs 5 and 6 of General Assembly resolution 1805 (XVII);

"'(*b*) To invite the Government of South Africa to inform him of its decision regarding the provisions of those paragraphs not later than 30 November 1963'.

"The Secretary-General, by letter dated 13 November 1963 addressed to the Chairman of the delegation of South Africa to the eighteenth session of the General Assembly,[4] transmitted the text of resolution 1899 (XVIII) and requested information concerning the decision of the Government of South Africa regarding the provisions of paragraphs 5 and 6 of General Assembly resolution 1805 (XVII).

"The Chairman of the delegation of South Africa to the eighteenth session of the General Assembly in his reply to the Secretary-General dated 29 November 1963, stated as follows:

"'You will recall that in the South African Permanent Representative's letter of 2 April[5] it was stressed that until such time as the findings and recommendations of the Odendaal Commission of Enquiry have been received and carefully studied the South African Government cannot consider whether outside expert advice will be necessary in connexion with its plans for the further development of the Territory of South West Africa. The South African Government has not yet received the report of the Odendaal Commission which is understood to be a very voluminous one and the position as stated in the letter of 2 April accordingly remains unchanged.'

"Now that the findings and recommendations of the Odendaal Commission of Enquiry have been received and studied by the South African Government, the Secretary-General would appreciate receiving information concerning the decision of the Government of South Africa regarding the provisions of paragraphs 5 and 6 of General Assembly resolution 1805 (XVII). In this connexion you will note that General Assembly resolution 1899 (XVIII) requests the Secretary-General 'to continue his efforts with a view to achieving the objectives stated in operative paragraphs 5 and 6 of General Assembly resolution 1805 (XVII)'."

5. In a letter dated 5 November 1964, the Permanent Representative of South Africa to the United Nations replied as follows:

"I have the honour to refer to your letter of 30 June 1964, in which you state that 'now that the findings and recommendations of the Odendaal Commision of Enquiry have been received and studied by the South African Government, the Secretary-General would appreciate receiving information concerning the decision of the Government of South Africa regarding the provisions of paragraphs 5 and 6 of General Assembly resolution 1805 (XVII)'.

"Paragraph 5 of this resolution refers to the question of the appointment of a Resident United Nations Technical Assistance Representative for South West Africa. You will recall on this point that the South African Government's standpoint was that until such time as the findings and recommendations of the Odendaal Commission of Enquiry had been received and carefully studied, the South African Government could not consider whether outside expert advice would be necessary in connexion with its plans for the further development of the Territory of South West Africa.

"The South African Government's decisions on the report of the Commission of Enquiry have publicly been set forth in a White Paper presented in Parliament, with the contents of which the Secretary-General is of course familiar.

"On the question of the use of 'outside expert advice' the South African Government has come to the conclusion that it would be neither necessary nor indeed desirable to make use of any services which might be offered in this regard by the United Nations. On the one hand, South Africa is itself capable of fully implementing all the proposals of the Odendaal Commission which are acceptable, and can leave such outside help as the United Nations makes available to other areas in Africa more in need of it. On the other hand, the South African

[3] *Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 55, document A/5634.

[4] *Ibid.*, para. 2.

[5] Document A/AC.109/37.

Government has had no option but to take into account the attitude which the United Nations has in recent years persistently adopted with respect to its administration of South West Africa and with respect to South Africa's attempts to seek an understanding with the United Nations, as exemplified in the invitation extended to the Chairman and Vice-Chairman of the Special Committee on South West Africa to visit the Territory.

"On the specific question of the use of 'outside expert advice' it will be recalled that the joint statement issued in Pretoria by the Prime Minister and the Minister of Foreign Affairs and by the Chairman and Vice-Chairman of the Special Committee included a paragraph in which it was stated: 'The question was raised whether the South African Government might not wish to associate one or two experts from bodies such as the Food and Agriculture Organization and the World Health Organization with the preparation of the development plan which the Government has in mind. The Prime Minister indicated that if this idea should be favourably received the South African Government would be prepared to explore the possibilities of inviting one or two experts working in particular fields with WHO and/or FAO who could be consulted on matters in regard to which they are particularly qualified'. The Secretary-General will, however, be aware that the joint statement issued at Pretoria, including this particular paragraph, was virtually ignored by the United Nations General Assembly which rejected entirely the premise on which the statement had been based.

"It is also relevant in this context that the United Nations Secretariat has adopted an entirely partisan and prejudiced attitude towards the report of the Odendaal Commission of Enquiry. A few examples taken at random from the analysis* of the Odendaal report prepared by the Secretariat, suffice as illustrations:

"A. Speaking of the Commission's proposals for education it is stated (paragraph 170): 'The whole plan is, of course, an ingenious scheme to starve African education of funds and to relieve the Government of the responsibility to find money for non-white education', which is wholly untrue;

"B. With reference to the Commission's emphasis on the ethnic differences between various elements of the South West Africa population and the proposals for the establishment of ethnically based homelands (proposals for the implementation of which is in any event not now under consideration—see the Government's White Paper), it is stated in paragraph 91: 'The fact that the Afrikaners have an almost pathological concern for their language and culture which they regard as 'their soul', and wish to maintain them pure, is no reason why this should be assumed to be true of other groups and therefore be imposed on them', whereas in other countries of Africa even despotism is condoned and defended on the basis that an essentially African ethos exists which, with its related customs, traditions and loyalties, must be understood and respected.

"C. Referring to the Odendaal Commission's finding—as far as health matters are concerned—that the different cultural groups varied widely in their habits and that 'except for the Whites and the Coloureds, the standards of personal hygiene for some others . . . were very low indeed' it is stated in paragraph 118 that 'this state of affairs, if true . . . is tantamount to saying that under a system of rigid social segregation Africans should, in the interests of preserving their old cultures and traditions, be allowed to wallow in their ignorance and disease', while in fact the opposite is true, since the report not only indicates how much more advanced health services are than in many other States of Africa but also proposes extensive further developments.

"D. As an attempted rebuttal of or commentary on the Commission's report extensive use is made of quotations from a book on South West Africa by Ruth First. Nowhere is it mentioned, however, that Ruth First is a leading member of the Communist Party—the party which has been deeply implicated in endeavours to overthrow the South African Government by the use of violence.

"For reasons which will be apparent, the South African Government could not receive advice or aid from an organization which—on the question of South West Africa—could issue a document such as the paper from which the preceding illustrations of bias are taken. In any project providing for technical assistance to South West Africa from United Nations sources or for administration by the United Nations Secretariat the South African Government could at no time feel assured of the wholehearted co-operation of the individuals involved or that they would act without any ulterior political motive.

"As far as the possibility of co-operation with experts from the Food and Agriculture Organization and the World Health Organization is concerned, such co-operation has been rendered impracticable by the decision of the FAO to deprive South Africa of certain rights of membership (which has led to South Africa's withdrawal from the Organization) and by proposals of the World Health Assembly aimed at securing the exclusion of South Africa from membership of the World Health Organization. This also makes impossible what the Government was prepared to consider in its discussions with the Carpio Mission.

"With respect to paragraph 6 of resolution 1805 (XVII) the South African Government feels that no comment is called for, except to recall once again that the whole issue of alleged United Nations jurisdiction in South West Africa has long been a subject of unresolved controversy and is, *inter alia*, at present in dispute at the International Court of Justice."

* Conference Room paper 64/1 prepared for the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

DOCUMENT A/5800/ADD.2

Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: chapter concerning South West Africa

[*For the text of this document, see* Official Records of the General Assembly, Nineteenth Session, Annexes, *annex No. 8, document A/5800/Rev.1, chap. IV.*]

DOCUMENT A/5840

Implications of the activities of the mining industry and of the other international companies having interests in South West Africa: report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

[*Original text: English/French*]
[*5 January 1965*]

Rapporteur: Mr. K. Natwar Singh (*India*)

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Letter of transmittal

22 December 1964

Sir,

I have the honour to transmit to you the report to the General Assembly of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples concerning the implications of the activities of the mining industry and of the other international companies having interests in South West Africa, as requested in paragraph 8 of General Assembly resolution 1899 (XVIII) of 13 November 1963.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Sori Coulibaly
Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

His Excellency U Thant
Secretary-General of the
United Nations
New York

Introduction

1. By operative paragraph 8 of resolution 1899 (XVIII) of 13 November 1963, the General Assembly requested the Special Committee, *inter alia,* "to consider, in co-operation with the Secretary-General and the agencies of the United Nations, the implications of the activities of the mining industry and the other international companies having interests in South West Africa, in order to assess their economic and political influence and their mode of operation" and to report to the General Assembly at its nineteenth session.

2. At its 234th meeting on 25 March 1964, the Special Committee requested its Sub-Committee I to consider the implications of the activities of the mining industry and of the other international companies having interests in South West Africa and to report to the Special Committee.

3. In reply to letters addressed to them by the Secretariat, the International Bank for Reconstruction and

Development, the International Monetary Fund, the International Labour Office, and the United Nations Educational, Scientific and Cultural Organization informed the Secretariat that they were not in a position to supply information concerning the implications of the activities of the mining industry and the other international companies having interests in South West Africa. The Reverend Michael Scott submitted information additional to that which he had provided during the eighteenth session of the General Assembly.[6]

4. Sub-Committee I considered this question between 13 April and 14 October 1964. At the request of the Sub-Committee, the Secretariat, on the basis of all of the information available to it, prepared a working paper on the question.[7] On 14 October 1964, Sub-Committee I adopted a report on the question which is reproduced in the annex to this document.[8]

5. The Special Committee considered this report of Sub-Committee I at its 298th and 300th to 306th meetings, between 30 October and 10 November 1964.

I. Statements by members of the Special Committee

6. The representative of the United States of America stated that her delegation found the conclusions and recommendations in the report of Sub-Committee I disappointing. By its resolution 1899 (XVIII), the General Assembly had requested the Special Committee to assess the economic and political influence of international companies having interests in South West Africa and to report to the General Assembly. However, the report prepared by Sub-Committee I fell far short of expectations in that respect. Its conclusions and recommendations constituted a largely unfounded series of condemnations and gratuitous calls for action which at times became undisguised propaganda attacks on the United States and the United Kingdom.

7. Her delegation noted with concern that the Sub-Committee had exceeded the terms of reference established by the General Assembly and that it had apparently seen fit so to ignore the factual analysis presented in part two of its report as to raise grave doubts about the validity of its recommendations. According to the terms of reference laid down, the Special Committee was "to consider . . . the implications of the activities of the mining industry and the other international companies having interests in South West Africa, in order to assess their economic and political influence and their mode of operation". It was both useful and desirable, of course, for the Special Committee to explore matters which could give an insight into the welfare of the inhabitants and the general material progress of a mandated territory. Her delegation fully supported that undertaking and, indeed, had suggested in the Fourth Committee that the resolution should be made more specific so as to direct the study to the effect of international investments on the welfare of the people of South West Africa. Her delegation had thus hoped to relate the study specifically to the responsibility of the Special Committee for dependent peoples.

8. In any event, the General Assembly's instructions had been ignored. The economic and political influence of international companies had not been assessed. There was little reflection of any process of careful analysis in the Sub-Committee's conclusions and recommendations. The Sub-Committee did not evaluate the activities of the mining industry but strongly condemned the activities of international companies. It then called upon South Africa unilaterally to abrogate contractual agreements with international companies for reasons unspecified. It condemned in general terms the granting of concessions, again unsupported by any semblance of the analysis requested by the General Assembly. Finally, without specifying reasons, it called upon the United States Government to interfere with the lawful activities of lawful American business enterprises. Her delegation failed to see what purpose would be served by sending such a collection of unfounded condemnations and unjustified requests to the General Assembly. Such recommendations were not within the scope of the work which the Sub-Committee had been requested to perform, nor were they consistent with the serious responsibility placed upon the Sub-Committee when it had been founded. The cruder of those recommendations proceeded, not from an assessment of facts, but purely and simply from the economic theories of a minority of the Sub-Committee.

9. By resolution 1899 (XVIII) the Special Committee had been requested to secure the co-operation of the Secretary-General. The Secretariat had accordingly prepared a working paper (see above paragraph 4), stating that it had obtained information from a number of independent sources. The working paper, much of which had been incorporated as part two of the report of the Sub-Committee, had been notable for the thoroughness and balance of the facts it assembled. Thus there were long sections on labour legislation and practices, mining legislation and the various laws of the territory under which foreign companies operated. There was an interesting and comprehensive description of the various international companies, with an indication of the taxes they paid and the labour they employed. The pattern which emerged would have been useful to the Sub-Committee in making its final assessment. For the most part, however, the facts had been ignored rather than construed in reaching the fanciful conclusions and recommendations set forth in the report.

10. For example, paragraph (*b*) of the Sub-Committee's recommendations condemned the international companies for acting for their "sole benefit". Part two of the report, however, noted that not only did 75 per cent of all territorial revenues derived from income tax come from mining, fishing and related companies, but local expenditures of those companies in wages and purchases had risen from R 1.6 million[9] in 1938 to R 20.3 million in 1960 and R 28.3 million in 1963. That substantial contribution to the local economy was disregarded. Paragraph (*b*) stated further that the activities of the international companies represented "one of the major obstacles in the way of the country to independence". The representative of the United States wondered whether the experiences of certain members of the Special Committee would allow them to support that sort of generalization. Many enterprises established during the colonial era had welcomed inde-

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[6] See document A/C.4/626.

[7] This working paper was made available to members of the Sub-Committee and was not distributed as a document. Most of it is reproduced in part II of the report of Sub-Committee I.

[8] See document A/AC.109/L.154.

[9] One rand (R) = 100 cents = 10 shillings = $U.S. 1.40.

pendence and had continued to contribute to the economy of the emerging independent countries.

11. According to paragraph (*c*), the South African Government's support of and participation in the international companies' activities in South West Africa ran counter to the provisions of the Mandate. The fact was that the participation of foreign interests in the development of the Territory was contrary neither to the terms nor to the spirit of the Mandate. There was nothing in the report to explain how the Sub-Committee had come to that conclusion, and that was a typical example of its approach. Part two of the report, based on the Secretariat working paper, analysed the activities of foreign companies within the legislative and administrative limitations imposed on them by the administering Power. The conclusions and recommendations, however, dismissed those limitations and had been drawn up irrationally in such a way as to attack foreign investment as solely responsible for the inequities described in part two.

12. Paragraph (*e*) stated that " . . . the policies of *apartheid* in South West Africa . . . among others, create favourable conditions for the activities of the international companies". The Secretariat study noted that *apartheid* labour laws were responsible for the division of manpower into unskilled African workers and skilled White workers, and for the disparities in wages, but the study did not indicate that any advantage accrued to employers from a large, uneducated and unskilled labour force. In fact, the Chairman of the Anglo-American Corporation had indicated that the contrary was true. He had pointed out that the low productivity of such a labour force and the low wages paid were not only undesirable in themselves, but undesirable for effective industrialization. In describing the training programmes his company had launched in order to overcome that situation, he had noted that such efforts were made more difficult by the legislative colour bars imposed on industry. The Chairman of American Metal Climax had made similar comments.

13. Lastly, the United States delegation could not understand the Sub-Committee's recommendation calling upon the United States to put an end to its support of the Republic of South Africa. The position of the United States Government on the issue of *apartheid* was quite clear, and the implication behind the recommendation was contradicted by that Government's record. Political progress in South Africa was one of its most pressing concerns. It continued to support constructive measures to that end, and politically inspired invective could only obstruct the attainment of that goal.

14. For all those reasons—the unsuitability of the Sub-Committee's conclusions and recommendations in the light of the General Assembly's directive, their rank inaccuracy and their contentious nature—the United States delegation opposed the adoption of the Sub-Committee's conclusions and recommendations in their present form. It hoped that the impropriety of sending such a report to the General Assembly would be obvious to the Special Committee, and that it would act accordingly.

15. The representative of Venezuela thanked the members of Sub-Committee I, and especially its Rapporteur, for the report submitted to the Special Committee. He wished to congratulate the Secretariat in paricular for the important study which formed part two of the report. The Venezuelan delegation had some observations to make on sections II and III of part three of the report, which contained the Sub-Committee's conclusions and recommendations.

16. The Sub-Committee's conclusions, almost in their entirety, failed to conform to the provisions of operative paragraph 8 (*b*) of General Assembly resolution 1899 (XVIII), which had called for the study in question. Furthermore, there were certain discrepancies between those conclusions and the findings in part two of the report.

17. In paragraph 551 of the report it was stated that African agriculture was so undeveloped that the African inhabitants of the territory continued to live at a barely subsistence level. That might well be true, but he failed to see what relation it had to the foreign monopolies operating in South West Africa. The responsibility in that field fell directly on the administering or mandatory Power, not on the companies in question. The drafting of paragraph 551 should therefore be changed. Similarly, paragraph 552 stated that the desire of the Government of South Africa to annex South West Africa was directly connected with the policies of international companies, but there was nothing in part two of the report to justify such a categorical statement. Paragraph 554 stated that the mining and other industries of the territory were entirely owned by foreign companies or individuals of European origin, but part two of the report did not appear to be so categorical on that point; according to paragraphs 374 *et seq.* it appeared that only the mining and fishing industries were wholly owned by foreign companies.

18. In paragraph 565, the text of the conclusions mentioned two Member States by name in addition to the administering Power. It was difficult to see why those two countries should be singled out, for according to part two of the report the companies with interests in South West Africa had connexions with a much larger number of countries—as shown, *inter alia*, by the tables in paragraphs 126 and 308. Furthermore, the wording of paragraph 566 seemed out of place in a report such as that under consideration, which ought to be of such a kind as to be acceptable to the majority of members of the Special Committee. Paragraph 568, again, contained statements with which the Venezuelan delegation could not agree. It stated that the Republic of South Africa derived its main support in the United Nations and outside from those Member States with financial interests in South West Africa. The Venezuelan delegation did not feel that there was any conclusive proof for such a statement, and there was nothing in part two of the report to warrant the assertion that Member States as such had financial interests in South West Africa. Only individuals or companies, which in no way represented Member States, could have such interests.

19. Thus also, although the Venezuelan delegation did not deny that the activities of international companies in South West Africa, and particularly their method of operation, might constitute an obstacle to the Territory's progress towards independence, it could not subscribe to the conclusions of paragraph 569, according to which those factors constituted one of the main obstacles on the road to independence. Finally, the drafting of paragraph 570 of the report did not seem satisfactory to the Venezuelan delegation. It was not, in his delegation's opinion, the study of the activities of foreign companies having interests in South West Africa which confirmed the urgent need to grant and

to ensure the independence of the Territory. Resolution 1514 (XV) ought to be applied fully and as soon as possible to all the Territories without exception, whatever might be the activities of the international companies.

20. The recommendations contained in paragraph 571 of the report also called for a number of observations. In the first place, the Special Committee was not asked in operative paragraph 8 of resolution 1899 (XVIII) to make recommendations to the General Assembly. However that might be, the Venezuelan delegation could not subscribe to certain recommendations which had been made. First, the text of sub-paragraph (*c*) of paragraph 571 ought to be more precise, and might, for example, read:

> "Draw the attention of the Government of the Republic of South Africa to the fact that the concessions granted to international companies in South West Africa and its active participation in the operations of these companies have serious consequences for the African population of the Territory".

Secondly, although the Venezuelan delegation approved the contents of sub-paragraph (*f*), it believed that the recommendation was misplaced. Thirdly, sub-paragraphs (*g*) and (*h*) were not satisfactory, since if the Member States whose nationals owned and operated the international companies operating in South West Africa were to be designated by name, all those States should be named. Finally, sub-paragraph (*i*) did not belong in a report such as that under examination by the Special Committee.

21. During the course of the discussion that preceded the adoption of resolution 1899 (XVIII), the Venezuelan delegation had made a certain number of observations concerning paragraph 8 (*b*) of that resolution. It had declared that it would abstain from voting because it had doubts regarding the competence, not only of the Special Committee, but also of the United Nations itself, to undertake the study proposed. It had stated that the drafting of that sub-paragraph might give rise to incorrect interpretations and that it did not wish to be a party to the establishment of a precedent which the small countries, whose best safeguard lay in strict observance of the provisions of the Charter, might subsequently regret.

22. The report before the Special Committee appeared to justify the fears earlier expressed by the Venezuelan delegation. It had always adopted a very clear-cut attitude both in the Special Committee and in the Fourth Committee, and had even proposed the adoption of much more radical measures than those proposed by the Special Committee or adopted by the General Assembly. For reasons which had been stated, the Venezuelan delegation would vote in favour of the first and second parts of the report of the Sub-Committee, but it would be compelled to vote against the conclusions and recommendations, although those conclusions and recommendations incorporated a certain number of the principles which Venezuela had always supported, consistent with its anti-colonialist traditions. If part three was approved, his delegation would abstain from voting on the report as a whole.

23. The representative of Italy stated that when the General Assembly had asked for a special study on the activities of foreign mining companies operating in South West Africa, it had done so because it thought it would be useful to ascertain whether the presence of foreign companies in South West Africa had any influence on the policies pursued in the Territory by the South African Government—policies in respect of the Mandate, policies of *apartheid* and failure to apply resolution 1514 (XV)—and, if so, how and to what degree that influence was exerted. The report of Sub-Committee I did not, however, throw any fresh light on the question. The General Assembly had presumed that the foreign companies operating in South West Africa exerted some influence on the South African Government and it wished to know how that influence was exerted and by what means. It was therefore not merely a question of stating the facts or of embarking on simple deductions, but, on the contrary, of making a detailed analysis of the situation. The Secretariat was to be congratulated on the working paper which it had prepared for Sub-Committee I and which constituted the greater part of the report. However, the work done by the Sub-Committee itself left much to be desired. In many respects, the Italian delegation had the impression that what was lacking in the report of the Sub-Committee was in fact exactly what the General Assembly had asked for, namely a study of the implications of the activities of international companies in South West Africa. It was already known that those companies existed and it could be supposed that they exerted some influence, but the report did not say anything about the way in which that influence was exerted. All that was to be found in the conclusions had already been stated by many speakers at the eighteenth session of the Assembly and was even to be found in petitions addressed to the Fourth Committee three years previously by the Reverend Michael Scott.

24. The shortcomings of the report were probably partly or wholly attributable to the methods of working which had been adopted by the sub-committees and, in fact, by the Special Committee as a whole. As a member of Sub-Committee III, the representative of Italy could testify that, in spite of the atmosphere of goodwill and mutual understanding evident during the work of that Sub-Committee, there had been great difficulty in certain cases in formulating really original conclusions and in proceeding further than mere generalities.

25. With regard to the recommendations comprising paragraph 571 of the report, the Italian delegation considered that Sub-Committee I had considerably exceeded the terms of reference laid down by the General Assembly. The nature of the recommendations was such that they constituted in themselves a veritable draft resolution on the question of South West Africa as a whole, which Sub-Committee I had not been requested to prepare for submission to the Special Committee. Further, several sub-paragraphs of the recommendations were absolutely unacceptable to the Italian delegation. It therefore considered it necessary either to redraft those recommendations in order to make them compatible with the terms of reference laid down by resolution 1899 (XVIII), or to delete them altogether. The conclusions contained in the report did not in any way constitute a study of the implications of the activities of foreign companies in South West Africa.

26. Perhaps there was a case for appointing a small sub-committee to redraft the last part of the report. If that was impossible, it would be wise to do no more than submit to the General Assembly the working paper prepared by the Secretariat, with the addition of

the statements made by the various delegations on the question under consideration. The Italian delegation thought that the Assembly would then be able to draw the necessary conclusions for itself.

27. The representative of Denmark recalled that in Sub-Committee I his delegation had criticized certain conclusions and recommendations contained in its report and had expressed reservations when those conclusions and recommendations had been adopted.

28. With reference to paragraph 571, and specifically to its sub-paragraph (*d*), the Danish delegation agreed that any activity by foreign companies which was contrary to the interests of the indigenous population of South West Africa should be brought to an end. However, it failed to see the wisdom of demanding that those companies stop operating altogether, as the whole economic life of the country would be disrupted and the indigenous population would be the first to suffer. It would therefore prefer that the sub-paragraph be replaced by the following text:

"Call upon the Government of the Republic of South Africa to take appropriate and urgent steps to put an end to those activities of the international companies in South West Africa by which the African population of the Territory is deprived of the natural wealth of its own country".

29. The Danish delegation could not, moreover, accept sub-paragraphs (*f*) and (*g*) of the same paragraph—both because they referred to resolution 1899 (XVIII), which provided for economic sanctions that the Security Council alone was entitled to demand, and because it was not fair to claim that the United Kingdom and the United States supported the Republic of South Africa. Sub-paragraph (*i*) should also be deleted, since it was inopportune to speak of sanctions as long as the Expert Committee established by the Security Council* had not completed its examination of the practical aspects of the problem of sanctions.

30. The representative of Cambodia stressed that the task of the Special Committee was based on resolution 1514 (XV) and on resolution 1899 (XVIII) which urged all States that had not yet done so to take, separately or collectively, concrete measures with reference to the question of South West Africa. While seeking to implement the Declaration, the Committee must pay attention to the economic situation in the Territory. For an independent State or a State which was destined to be independent, the policy of foreign investments, with its advantages and disadvantages, was the concern of the Government of that State, and the permanent sovereignty of a country over its natural resources was a right which had been fully sanctioned by the United Nations in resolution 1803 (XVII) of 14 December 1962.

31. The Cambodian delegation approved the conclusions and recommendations contained in the report of Sub-Committee I. They had been drawn up in accordance with the principles of the Charter, in particular Article 55, and with the relevant resolutions of the General Assembly.

32. The representative of Ethiopia stated that the United States delegation had used harsh and unsuitable language in its statement. If that delegation disagreed with the conclusions and recommendations made by Sub-Committee I in its report, it should say so and not accuse the members of the Sub-Committee of making "undisguised propaganda attacks on the United States and the United Kingdom". He did not agree that the Sub-Committee had exceeded its terms of reference. The General Assembly had not requested a purely factual chronicle but a study of implications. The whole study would have been a vain exercise if conclusions had not been drawn from it.

33. The United States representative had implied that the international companies had benefited the indigenous inhabitants of South West Africa. The burden of proving such a benefit was upon the United States delegation. Sub-Committee I was not alone in its conclusion that the companies were not promoting the welfare of the African population. The representative of Ethiopia recalled that the same conclusion had been reached by the former Committee on South West Africa, as reflected, for example, in that Committee's reports to the thirteenth and fifteenth sessions of the General Assembly.[10] If the companies really benefited the African population and if the profits from the exploitation of the resources of South West Africa were used for the welfare of its people, the picture would be quite different and the Special Committee would not be considering the question. The United States delegation had accused the Sub-Committee of ignoring the substantial contributions to the local economy made by the international companies. The Sub-Committee had never denied that the companies produced money. The question was whether that money went to the majority of the people of South West Africa or to a small minority and the answer was quite plain. There was no evidence to prove that the resources of South West Africa were not being exploited for the exclusive benefit of the white population.

34. The representative of Sierra Leone recalled that his delegation's position had been stated in May 1964 (261st meeting) when the Special Committee had last discussed the question of South West Africa. In voting for General Assembly resolution 1899 (XVIII), by which the Special Committee had been requested to consider the implications of the activities of the mining industry and the other international companies, his delegation had realized that the Special Committee was being given a gigantic task. Its confidence in the ability of the Special Committee as well as the ability of Sub-Committee I to perform that task had been amply justified, as could be seen from the valuable report submitted by the Sub-Committee.

35. He fully supported the conclusions and recommendations of the Sub-Committee. Its findings were distressing. The discriminatory organization of labour, the relegation of the indigenous inhabitants to a mere subsistence economy, the low level of African wages and the general exploitation of the Territory by South Africa in collaboration with foreign enterprises were injustices which confirmed the need for the kind of study that had been made and the importance of restoring to the people of South West Africa their individual liberty and dignity and of protecting the country's territorial integrity.

36. It was to be hoped that it was the last time the Special Committee would have to make the kind of recommendations appearing in the report. That hope would be realized only if all concerned made every

* Expert Committee established in pursuance of Security Council resolution S/5773.

[10] *Official Records of the General Assembly, Thirteenth Session, Supplement No. 12* (A/3906 and Add.1), para. 170; *ibid., Fifteenth Session, Supplement No. 12* (A/4464), para. 450.

effort to remedy the appalling situation described in the report.

37. The representative of Uruguay said that, for a full understanding of the report, it was essential to bear in mind the history of the question of South West Africa in the United Nations. Because no practical results had been achieved, the organs of the United Nations had been obliged to seek new ways of exerting pressure and achieving a solution to the problem. The delegation of Uruguay had always attached great importance to the problem, because it considered that the situation in South West Africa was one of the clearest injustices which the United Nations was called upon to redress and one of the most flagrant violations of the Charter and of international law as a whole. While, strictly speaking, it might be contended that the Sub-Committee had exceeded the terms of reference contained in paragraph 8 (*b*) of General Assembly resolution 1899 (XVIII), it was important to consider the ultimate objective for which the terms of reference had been drafted. Moreover, paragraph 8 (*a*) of resolution 1899 (XVIII) requested the Special Committee to continue its efforts with a view to discharging the tasks assigned to it by resolution 1805 (XVII) of 14 December 1962, which had requested the Special Committee to discharge, *mutatis mutandis,* the tasks assigned to the former Special Committee for South West Africa.

38. The praiseworthy working paper prepared by the Secretariat showed that the international companies were of great importance to the economy of South Africa. It also showed that the companies' profits did not ultimately redound to the advantage of the Territory itself and certainly did not promote its economic, political or social advancement. It was the obligation of the Government of South Africa, as the Mandatory Power, to ensure that advancement, the interests of the inhabitants of the Territory being paramount.

39. Although his delegation appreciated the need to seek new ways to force the South African Government to fulfil its international obligations and abide by the Charter and the resolutions of the General Assembly, it thought that certain principles should not be sacrificed. The responsibility of the United Nations was clear. It was bound to see that the Mandate was fulfilled in the case of South West Africa, which was gradually being deprived of all its natural resources as a result of the activities of the international companies. The Uruguayan delegation could not, however, endorse the statement in paragraph 568 of the report to the effect that the Member States with financial interests in the Territory gave South Africa its main support in the United Nations and outside, encouraging its continued non-compliance with the Charter and the numerous resolutions of the United Nations on South West Africa. Nothing in the Secretariat working paper or in the record of voting in the General Assembly justified such a statement, which was an expression of opinion and not a logical conclusion. The delegation of Uruguay agreed that the people of South West Africa had the right to dispose of and develop the Territory's human and material resources in the interests of the whole Territory and all its people. Only when independence had been attained and when the United Nations had fulfilled all its responsibilities would they be able to exercise that right.

40. As far as the recommendations were concerned, the delegation of Uruguay could not endorse the recommendation in sub-paragraph (*a*) of paragraph 571. The United Nations could not condemn the principle of granting concessions and assistance to international companies. Each Government, including the South African Government, could and should decide independently on the appropriateness of such policies. What the United Nations could do was to condemn the South African Government's policy of granting concessions and rendering assistance to the international companies which were acting to the detriment of the inhabitants of South West Africa. If sub-paragraphs (*a*) and (*d*) were amended along these lines, the delegation of Uruguay would not oppose them. It objected to sub-paragraphs (*g*) and (*h*), for the reasons he had given in his remarks on paragraph 568, but could accept sub-paragraph (*i*). The Security Council was not the only organ which could request the application of sanctions. The General Assembly and the Special Committee could request the application of sanctions without the juridical consequences involved in a Security Council decision on the matter. The only point at issue was the advisability of making such a request and the prestige of the organ making it. The General Assembly had already made a similar request in resolution 1899 (XVIII).

41. The representative of Uruguay stated that his delegation would ask for separate votes on paragraph 568 and sub-paragraphs (*a*), (*d*), (*g*) and (*h*) of paragraph 571 and would vote against them. If the existing text of the report was retained, his delegation would abstain in the vote on the report as a whole.

42. The representative of Yugoslavia, replying to the delegations which had disputed the validity and pertinence of the conclusions in the Sub-Committee's report, said that the Sub-Committee would have been only too happy to find that the activities of foreign companies in South West Africa were benefiting the people of that Territory, but that was unfortunately not the case.

43. The report clearly showed that parts of the Territory of South West Africa, particularly those with the greatest economic potential, had been taken from their rightful owners, the indigenous people of South West Africa, who constituted 86 per cent of the population, and sold or leased without their consent for unlimited present and future exploitation by foreign companies. The activities of those companies had had only negative consequences for the indigenous people of the Territory. Moreover, the sums which those companies contributed to the Territory represented only a small portion of their actual profits. In 1961 alone, the net profit of Consolidated Diamond Mines of South West Africa, Ltd., after taxation, had exceeded the total budget of South West Africa by nearly R 7 million. In the period 1943 to 1962, that company had shown a profit of R 369 million, whereas the territorial revenue over the same period had amounted to only R 325.8 million. It should be remembered, too, that the mineral wealth of the Territory was a wasting asset and that the two most profitable mining areas would probably be worked out within twenty-five years.

44. The benefit which the Africans derived from those rich industries was extremely small. The industries were concentrated within the Police Zone, from which the majority of the Africans were excluded by law except when they entered as labourers, and by far the greatest part of the territorial revenue was expended within that Zone, largely on assistance to the European farming community. Pursuant to Act No. 56 of 1954,

the Territory was required to make an annual contribution to the Administration of Native affairs of a sum equal to one fortieth of its ordinary expenditure, plus a fixed sum of R 100,000 for the development of Native areas. In 1961-1962 those sums combined had amounted to only about R 477,000. The South African Administrator in South West Africa had estimated that only R 3.4 million out of a total expenditure of R 40.4 million would be necessary to meet the needs of the African population in 1960-1961. Thus, 86 per cent of the population received only 8.4 per cent of total expenditure, and that as if it were charity.

45. The foreign monopolies which dominated the economy of South West Africa were primarily interested in making the biggest possible profits; they neglected the economic and social development of the Territory, risked exhausting its natural resources by excessive exploitation and concentrated upon those branches of the economy that required the least possible investment. Moreover, they were accomplices in the Government's policies of racial discrimination since they both tolerated those policies and used them for their own benefit. For example, in the mining industry the white worker's average wage in 1961 had been R 2,321, whereas the wage of the African worker had been only R 123.8. Legal provisions barred the African workers from advancing to the more highly paid positions. There were no regulations to govern the working hours or holidays of the African workers, nor were the owners of the mines obliged to respect the rights of the African workers. Factory employers were specifically exempted under a Government Notice of 1953 from extending leaves and paid sick leave to African labourers recruited from outside the Police Zone. African workers were excluded in the legislation concerning workman's compensation and were discriminated against in regard to compensation for diseases contracted in the mines; and Africans were, by law, specifically excluded from the provisions relating to the registration of trade unions and the settlement of disputes by conciliation and arbitration. There were no data in the report to show that the foreign companies were dissatisfied with the existing state of affairs or that they were prepared to adopt a new approach towards African workers different from that prescribed under the racist legislation of South Africa.

46. In the light of these facts, the Sub-Committee could not but place a share of the blame for the tragedy of the people of South West Africa on the foreign companies. It could not fail to note that there was a unity of interest between the racist régime of South Africa and those companies in preserving the *status quo* and that the activities of those companies constituted one of the main obstacles to the Territory's development toward independence.

47. The United States representative had made a series of unfounded allegations against the Sub-Committee's report. The Yugoslav delegation rejected those allegations and regretted that the representative's statement had not been based on careful and objective analysis, as it could have made a constructive contribution to the consideration of this very important question.

48. The representative of the Union of Soviet Socialist Republics observed that the angry statement by the United States representative had contained many epithets but few facts. She had said that the Sub-Committee had exceeded its terms of reference by failing to take account, in its conclusions and recommendations, of the (as she described it) positive role played by the international monopolies for the "material progress" of the Territory and the "well-being" of its people. As the Sub-Committee's appraisal of the role of the international monopolies had not been to the liking of the United States representative, the value of the Sub-Committee's recommendations, in her view, must give rise to serious doubt. And in order to discredit the report itself, she had labelled it a "propaganda" document, the aim of which was an "open attack" on the United States of America and the United Kingdom. The question of the terms of reference of the Sub-Committee had already been answered by the representatives of Ethiopia and Cambodia. The statistics which the United States representative had quoted out of context could not conceal the fact that the amount paid by the mining companies to the Territory in the form of taxes constituted a meagre portion of their income. The facts quoted in the report concerning the profits made, dividends issued and taxes paid by Consolidated Diamond Mines of South West Africa, Ltd., and by the Tsumeb Corporation fully justified the Sub-Committee's recommendation in paragraph 571 (*b*). For example, Consolidated Diamond Mines, with a share capital of R 10.5 million, had made profits totalling R 369 million, before taxation, in the twenty years from 1943 to 1962. During that period, the company had paid R 105 million (28.5 per cent of profits) in taxes. Thus the amount of net profit available to the company after payment of taxes had amounted to R 264 million. The operating results of the American Tsumeb Corporation were no less significant. In the fourteen years from 1948 to 1961 inclusive, the Corporation, with a share capital of just over R 2 million, had managed to make profits totalling more than R 140 million, out of which R 35 million (approximately 25 per cent of profits) had been absorbed in taxes and R 91.5 million had been distributed as dividends to shareholders. The Corporation's capital reserves on 30 June 1961 had amounted to R 15 million. The level of dividends paid by the Tsumeb Corporation over the past six years —from 1958 to 1963—on each ordinary R 0.5 share had varied between 350 and 150 per cent. The high dividends had drawn foreign investments into mining operations in the Territory like a magnet.

49. The United States representative had said that she contested the statement in paragraph 571 (*c*) of the Sub-Committee's report that the South African Government's support of the activities of companies in South West Africa was contrary to the provisions of the Mandate, and had maintained that their activity was strictly in conformity with the legislative and administrative limitations imposed on international monopolies by the administering Power. The Mandate had imposed upon South Africa the duty to advance the material and social well-being of the people of the Territory. Instead of this, the South African Government had been actively creating obstacles to the achievement of that goal by extending the policy of apartheid to South West Africa and by enacting discriminatory legislation specifically devised to deprive the Africans of their right to participate in the economic and political life of the country.

50. The United States representative had given the impression that the foreign monopolies did not support the discriminatory legislation initiated by the Verwoerd Government in South West Africa but could do nothing about it. In that connexion, the representative of the USSR recalled that *The Times* of London

had stated some years ago that the real power in South Africa was the gigantic Anglo-American Corporation of South Africa, in which United Kingdom capital was predominant. The facts quoted in the Sub-Committee's report showed that the international monopolies which had entrenched themselves in the Republic of South Africa and South West Africa were controlled by Anglo-American capital. Those monopolies therefore bore the most direct responsibility for the privation and suffering of the African people of South West Africa. They complained that the "restrictive" legislation in South West Africa did not enable them to "provide welfare" for their workers, but at the same time they concluded agreements with the Government of South Africa on concessions for decades to come.

51. The United States representative had said that the monopolies had nothing to do with the fact that South West Africa had not yet attained independence. If so, what was the obstacle, since the Verwoerd Government was in the pocket of the Anglo-American Corporation of South Africa and other companies in which Anglo-American capital was predominant?

52. The United States representative had tried to whitewash the activities of the International monopolies in South West Africa by suggesting that they were making a "substantial contribution" to the welfare of the people and were even virtually advocating the granting of independence to the Territory. However, she had not troubled to support that assertion with facts. She had only repeated what had already been stated many times by the theoreticians of colonialism, namely that the flow of foreign capital into colonial countries and countries now following the path of independent development had a beneficial influence on the development of the economies of such countries. In actual fact, however, the export of capital by the monopolies had been and remained usurious and parasitic in character. The old creditor countries had long received more in profits from abroad than they were exporting in capital. From 1875 to 1912, new foreign investment by the United Kingdom had totalled £ 2,024 million, while its income from capital investment abroad had been £ 3,539 million.[11] Between 1958 and 1962, income from United Kingdom capital investment abroad had amounted to £3,562 million, but the export of private capital had totalled only £1,503 million.[12] Direct private capital investment by the United States abroad had increased by $26,300 million between 1946 and 1961, but the profits from that investment for the same period had reached $26,900 million.[13] It was precisely through the monstrous robbery of the colonial peoples that industrial progress in the metropolitan countries had been accelerated. "It may be said", Nehru wrote in his book *The Discovery of India,* "that a great part of the costs of transition to industrialism in western Europe were paid for by India, China, and the other colonial countries whose economy was dominated by the European powers".[14] The international monopolies did not allow the development of a national industry in the countries falling under their control, and imported into them their own industrial goods, which they sold at a high price. They made those countries cultivate, not the commodities they needed, but those required for sale on world markets. They fixed their own prices for raw materials from those countries and the prices of the industrial goods and foodstuffs which the latter imported. The unequal terms of trade alone meant that the economically under-developed countries lost from $14,000 million to $16,000 million every year. And taking into account that, in addition to this, the income of the imperialist monopolies from capital investments in such countries amounted to $5,000 million a year, the total annual profit extracted from those countries by the imperialists amounted to $20,000 million. That figure equalled one sixth of the total gross national product of all the under-developed countries. The representative of the United States had asserted that "many enterprises established during the colonial era had welcomed independence and had continued to contribute to the economy of the emerging independent countries". It was true that, with the attainment of political independence by the colonies, the monopolies were continuing to invest their capital in various projects in those countries; but that was done with the same aim of making maximum profits. According to the figures of the General Agreement on Tariffs and Trade, imports of private capital into the countries of Asia, Africa and Latin America in the period 1953-1958 had amounted to some $7,600 million, whereas exports of private profits, interest and dividends from those countries had totalled $13,800 million for the same period.

53. In conclusion, he stressed that every paragraph of the conclusions and recommendations in the Sub-Committee's report was abundantly supported by facts. Any objective person who studied the facts cited in the report could not fail to reach the same conclusions and recommendations as the Sub-Committee.

54. The representative of the United Republic of Tanzania, recalling that the United States delegation had criticized the conclusions and recommendations of the Sub-Committee as constituting a largely unfounded series of condemnations and gratuitous calls for action, stated that his delegation, as a member of Sub-Committee I, refused to entertain such contentions, for the facts were clearly set forth in the report.

55. General Assembly resolution 1899 (XVIII), in operative paragraph 7 (*b*) and 7 (*c*), urged all States to refrain from supplying petroleum or petroleum products to South Africa and from any action which might hamper the implementation of General Assembly resolutions on South West Africa. Yet, as was made clear in paragraph 297 of the Sub-Committee's report, the Etosha Petroleum Company had sent geologists to take part in coal and oil exploration work in South West Africa and had supplied the Administration with certain electrical equipment which was being used in that work. That company was the holder of the largest concession, which covered approximately 75,000 square miles and had swallowed the northern Native Reserves of Ovamboland, Okavango and the Kaokoveld. It was clear that it held a dominant position in South West Africa and that its application of the Mandatory Power's labour laws constituted complicity in the extension of the apartheid policies of the South African régime and responsibility for preventing the people of South West Africa from exercising their inalienable right of self-determination.

56. The Secretariat working paper, which had been lauded for its careful preservation of facts, reflected

[11] C. S. Hobson, *Eksport Kapitala* (Moscow, 1928), pp. 176-177.
[12] See *Annual Abstract of Statistics, No. 99* (London, Her Majesty's Stationery Office, 1962).
[13] See *Statistical Abstract of the United States,* 1952-1963 (Washington D. C., U.S. Bureau of the Census, annual).
[14] (New York, The John Day Company, 1946), pp. 299-300.

the ruthlessness with which the South African régime had portioned out the Territory to international monopolies and, by legislation calculated on racial lines, had ensured the constant supply of cheap labour drawn from the African people. It also showed that the profits flowed mainly to the shareholders of the foreign companies, not to the Territory.

57. The Tanzanian delegation fully endorsed the report as a whole and recommended that it should be submitted to the General Assembly. In view of the distressing conclusions that had been reached concerning the implications of the activities of international monopolies in South West Africa, the Committee could not remain inactive but should endorse the recommendations in the report. The Tanzanian delegation considered that those recommendations were in the interests of the people of South West Africa.

58. In conclusion, the Tanzanian delegation could not accept the contention that by making recommendations the Sub-Committee, or the Special Committee, was exceeding its terms of reference. Acceptance of such a contention would render the Special Committee's work academic and of little or no value to the broader interests of the implementation of the provisions of the Declaration on the Granting of Independence of Colonial Countries and Peoples.

59. The representative of Syria expressed regret that the report of Sub-Committee I had been received with unprecedented and provocative attacks. He failed to see in all the statements that had been made any convincing argument which would prove that the Sub-Committee was in the wrong. The conclusions and recommendations in the report were based on facts. If the facts were bitter, that was not the responsibility of the Sub-Committee.

60. The Ethiopian representative had demonstrated that the Sub-Committee had not exceeded its terms of reference. Indeed, it would have been shirking its responsibility if it had failed to bring the harsh facts to light.

61. The activities of mining companies in South West Africa had not demonstrated that they were promoting the interests of the indigenous people of South West Africa. On the contrary, some statements that had been made in the Special Committee would further encourage those companies and would embolden South Africa to pursue its present policies, thus raising a major obstacle to the performance of the Special Committee's duties.

62. He was sure that no member of the Sub-Committee would object to a review of any paragraph of the report that was shown to need redrafting. There was, however, no justification for the accusations that had been levelled at the Sub-Committee.

63. The representative of Iraq thanked Sub-Committee I for having prepared a useful report. In his opinion, the Special Committee could study the implications of the activities of the mining industry and of the other international companies having interests in South West Africa only within the context of the problem of South West Africa as a whole and taking into account that the intransigent and aggressive attitude of the South African Government would not change until vigorous and effective measures were taken to secure the implementation of the relevant resolutions of the General Assembly on South West Africa. What had to be examined was the influence which international companies exerted in perpetrating conditions in the Territory that enabled the South African Government to continue to defy the United Nations.

64. His delegation therefore endorsed the view of the Ethiopian, Yugoslav and various other delegations, that Sub-Committee I had had to consider whether or not those companies were directly or indirectly strengthening the position of the South African Government, whether their activities were beneficial to the people of the Territory and whether their methods of operation were compatible with the rights and interests of the inhabitants. The answer seemed obvious enough. The South African Government was deriving great benefits from the operations of those companies; it was therefore tempted and perhaps encouraged to ignore the wishes of the international community. In regard to the question whether the international companies contributed to any amelioration of the plight of the indigenous population, the mere fact that the wages paid to African workers in 1962 had been only one-twelfth of those paid to the Whites was indicative of the intolerable conditions imposed on the people of South West Africa.

65. He approved the conclusions and recommendations in the Sub-Committee's report. It was true, as stated in paragraph 568, that foreign companies operating in South West Africa were more concerned with profits than with the development of the Territory and the well-being of its population. He believed, however, that the second part of that paragraph was couched in terms that were too categorical. The Sub-Committee had probably intended to say that the Member States with financial interests in South West Africa had indirectly strengthened the position of the South African Government by their failure to control the activities of their nationals. It might be possible to reword the sentence along those lines so as to dispose of the reservations expressed by some members.

66. With regard to the recommendations, he was in favour of retaining sub-paragraphs (*a*), (*d*), (*g*) and (*h*) of paragraph 571, as the Special Committee was fully justified in condemning the South African Government for granting concessions that were detrimental to the interests of the inhabitants. Sub-paragraph (*g*) might, however, be improved by simply asking the Powers concerned to comply with General Assembly resolution 1761 (XVII) and 1899 (XVIII) concerning the measures to be taken against South Africa. The call addressed to the Governments of the United Kingdom and the United States of America in sub-paragraph (*h*) was justified because both Governments were in a position to exert great influence and could, if they wished, contribute greatly to a just solution of the problem of South West Africa.

67. The representative of Australia said that his country had always taken a particular interest in South West Africa because it, too, had been a Mandatory Power under the League of Nations. That interest was sharpened by the fact that it now exercised Trusteeship in respect of two former mandated territories, the course of events in which had been completely divergent from that in South West Africa.

68. As his delegation had said at the eighteenth session of the General Assembly,[15] his Government had approached the Government of South West Africa on the question of South West Africa. The basis of that approach had been that the Australian Government re-

[15] See *General Assembly, Official Records, Eighteenth Session, Fourth Committee,* 1465th meeting.

garded South West Africa as a Non-Self-Governing Territory in respect of which there were specific international obligations, relating particularly to the need to prepare the people for self-government and to apply the doctrines of self-determination and equality of status for all inhabitants.

69. His delegation could say that it had given quite impartial consideration to the report of Sub-Committee I on the implications of the activities of the mining industry and of the other international companies having interests in South West Africa, for as was well known, Australia had no commercial interests in that Territory. He wished to say that he had doubts as to whether the working methods evolved in the Special Committee were suitable for the conduct of a study such as the one on South West Africa entrusted to it. In his view, the basic facts should have been established, the fundamental considerations exhaustively analysed, conclusions arrived at relating to those facts and considerations, and recommendations drawn up in the light of the Special Committee's terms of reference. But there was no evident logical progression from the excellent working paper prepared by the Secretariat, which took up the bulk of the Sub-Committee's report, to the conclusions and recommendations which followed.

70. He agreed with the representative of Denmark with regard to paragraph 571 (*d*) of the recommendations, that any activity of foreign companies which was contrary to the interests of the indigenous population of South West Africa should certainly be brought to an end, but that if foreign companies had to cease operations completely there would be a total breakdown in the country's economic life and the indigenous population would be the first victim. Newly independent countries had to take account of all the factors bearing upon their economic development. A recommendation such as that contained in paragraph 571 (*d*) would be fraught with possibly disastrous consequences, which should receive particular attention in the year of the United Nations Conference on Trade and Development.

71. His delegation did not believe that the idea expressed in the first sentence of paragraph 551 either represented the truth or followed logically from the study. A company, foreign or otherwise, could operate most effectively and profitably only within a balanced economy. Nor did the Australian delegation think that the conclusion in paragraph 552 was true or justifiable. It did not believe that a reservoir of unskilled migrant labour, as referred to in paragraph 560, was a factor making for higher profits in any industrial organization; if anything, the reverse was true. It also did not believe that the observations contained in paragraph 568 were valid in themselves or followed logically from the contents of the study. Nor could it accept the conclusion in paragraph 569, because development towards independence was a matter in which the Government concerned must consider many factors other than the activities of companies, international or otherwise.

72. With regard to the recommendations in paragraph 571, the representative of Australia could find no evidence on which to base the contention in subparagraph (*b*) that the activities of international companies were "one of the major obstacles in the way of South West Africa to independence". He could not accept sub-paragraphs (*f*), (*g*), (*h*) and (*i*), which went far beyond not only the terms of reference of the Sub-Committee but also the competence of the Special Committee itself.

73. Those few examples had convinced the Australian delegation that, whatever the reasons might be, the conclusions and recommendations were not all valid or sufficiently objective. Without suggesting that the operation of many companies in South West Africa did not leave them open to criticism on many points, and while disagreeing with much that the South African Government had or had not done in the Territory, the Australian delegation could view only with concern the idea of adopting the report of Sub-Committee I as it stood, since that report could not further the purposes of the Special Committee.

74. The representative of Poland congratulated Sub-Committee I on its report. He considered the conclusions accurate and the recommendations constructive. Thanks to that report, there was now a better understanding of the question of South West Africa, which had been before the United Nations for nearly eighteen years. The study made would serve to hasten the ending of the tragedy of the people of South West Africa.

75. The report contained a balanced assessment of the economic and political influence and the mode of operation of the international companies with interests in South West Africa, and a clear answer to the question of what forces stood in the way of the attainment of freedom and independence by the people of the Mandated Territory of South West Africa. In that Territory, which was rich in a wide variety of minerals, huge concessions for unlimited exploitation had been granted to foreign companies, whose capital came mainly from the United Kingdom, the United States, Western Europe and South Africa. South West Africa ran the risk of finding itself, in the not too distant future, without its natural wealth. The reserves exploited by Consolidated Diamond Mines would be exhausted in approximately twenty years, those exploited by the Marine Diamond Corporation in ten or so years, and those of the Tsumeb Corporation within twenty-five years. The conclusion in paragraph 555 of the report was therefore fully justified.

76. The same applied to the conclusions in paragraphs 557 and 559 to 561, which derived logically from the facts given in paragraphs 402 to 461 of the report, showing that the method of recruiting African workers in the mines or on Europeans' farms was like a draft, which gave the Africans no choice of employer or type of work. Labour laws barred Africans from skilled jobs, with the aim of maintaining a reserve of unskilled African labour enabling the foreign monopolies and European farmers to reap fantastic profits through the inhuman exploitation of the indigenous inhabitants. The racist policy of *apartheid* deprived the indigenous inhabitants of all basic rights. The nature of the labour laws had quite rightly led the Sub-Committee to draw the conclusion contained in paragraph 558.

77. The main shareholders in the companies and the monopolies controlling them were foreign. The profits of the companies went abroad and were not reinvested in the Territory. The claim that the operations of the companies were contributing to the well-being of the Africans was therefore groundless.

78. Paragraph 568 gave a full and accurate assessment of the role, influence and mode of operation of the foreign monopolies. It had been established that they were exploiting the most easily accessible and the richest of the deposits, for the profit of foreign countries and companies. The foreign monopolies, combined with the South African Government, formed a force inter-

ested in preserving the *status quo* in the Territory and, as stated in paragraph 569, they were an obstacle to the country's development towards independence.

79. In sum, the report made possible a better understanding of why the Government of South Africa, disregarding the numerous decisions of the General Assembly, had consistently failed to fulfil its obligations under the Charter with regard to the Territory. It was encouraged to persist in its attitude, as resolution 1899 (XVIII) had stressed, by the continuing support it received from certain Powers and certain financial groups.

80. The Polish delegation endorsed the Sub-Committee's report and proposed that it be adopted in its entirety by the Special Committee.

81. The representative of India expressed appreciation to Sub-Committee I for its diligence and hard work. His delegation had carefully studied the Sub-Committee's report. The latter indicated that the companies which were systematically exploiting South West Africa's natural resources to the point of threatening their early exhaustion had no sympathy for the General Assembly's recommendations concerning the Territory and seemed to be ignoring the appeals for an economic boycott of South Africa. Their attitude could be interpreted only as constituting support of the racist South African régime and its policy of defying the United Nations.

82. Foreign investment in South West Africa was not contributing to the country's economic development and thus was bringing no benefit to its inhabitants who were the victims of shameful exploitation. The developing countries were of course eager for foreign investment, in the interests of their economic development, and they offered special terms in order to attract it. However, they were opposed to any exploitation of the indigenous population from any quarter whatsoever.

83. The Indian delegation was in general agreement with the conclusions and recommendations of the report of Sub-Committee I, and supported its adoption.

84. The representative of the United Kingdom of Great Britain and Northern Ireland praised the working paper, prepared by the Secretariat, incorporated in part two of the Sub-Committee's report. It was a straightforward presentation of certain facts about the mining and other industries in South West Africa and might well prove useful. It showed that South West Africa, which was extensive in area, was largely desert and poorly endowed with natural resources, apart from deposits of diamonds and other minerals whose exploitation called for substantial investment.

85. The next section of the report presented the statements made by the members of the Sub-Committee. The views of the communist delegations on the question of foreign investment in overseas territories were well known. They applied to foreign investments anywhere, whether in dependent territories or in independent countries, unless they were communist investments. Those views were not shared by many of the newly independent countries, which continued to encourage foreign investment from various sources, including British and American private companies.

86. The ideological convictions which underlay the views of certain members of the Special Committee were reflected in the conclusions and recommendations of the report, to the exclusion of other implications which followed from the Secretariat's working paper. The African members of Sub-Committee I had unquestionably been guided solely by their ultimate objective: that of putting an end to *apartheid* in South Africa. However, much as it respected that objective, the United Kingdom delegation could not support their position. It fully agreed with the African countries with regard to the whole problem presented by *apartheid* and racial discrimination in southern Africa, but it did not like to see legitimate concern for the welfare of the people of South West Africa used as a means of advancing certain political and economic theories.

87. The United Kingdom delegation felt obliged to state its Government's position on some of the recommendations contained in the Sub-Committee's report. With regard to sub-paragraph (*c*) of paragraph 571, which contained a reference to the Mandate, he would remind the Committee that the question of the South West African Mandate was at present under consideration by the International Court of Justice. His delegation therefore felt that it would be improper to make a recommendation to the General Assembly about the way in which the Mandate was being exercised. With regard to sub-paragraph (*g*), he would point out that his Government did not support the Republic of South Africa in the United Nations and had not done so for several years. The members of the Special Committee had only to consult the record in order to satisfy themselves of that fact. With regard to sub-paragraph (*h*), it should be noted that the interests concerned were privately owned and that the United Kingdom Government had no direct control over them. Finally, sub-paragraph (*i*) related to a matter which was under discussion in the Expert Committee established by the Security Council to consider the question of sanctions against South Africa. His delegation thought it preferable to wait until the Council considered the Expert Committee's report.

88. In the opinion of his delegation, the conclusions and recommendations of the Sub-Committee's report gave undue prominence to a well-known minority view. For that reason and the others which he had mentioned, his delegation would be obliged to vote against their adoption.

89. The representative of Iran thanked the members of Sub-Committee I for the manner in which they had carried out their difficult assignment. He was also grateful to the Secretariat for the useful and interesting information which formed part two of the report.

90. Objective examination of the report indicated, first of all, that some of the Sub-Committee's conclusions were not fully consistent with the information contained in part two and, secondly, that certain of the conclusions and recommendations did not readily fall within the Special Committee's terms of reference under resolution 1899 (XVIII).

91. In paragraph 552, for example, the Sub-Committee had concluded that the desire of the Government of South Africa to annex South West Africa was directly connected with the activities of international companies. However, his delegation had not found in part two of the report sufficient evidence to support such a categorical assertion. The same applied to paragraphs 568 and 569, in which it was stated that the activities of the international companies in South West Africa were an obstacle to the country's development towards independence. Similarly, paragraph 562 referred to the especially bad conditions in education in South West Africa. Although it shared that view, his delegation did

not see how the activities of the international companies in South West Africa affected the system of education.

92. On the other hand, his delegation endorsed the conclusions contained in paragraphs 558-561. It was most unfortunate that the States whose companies were active in South West Africa had not taken the necessary steps to make them observe the provisions of the International Labour Conventions to which those States were parties.

93. With regard to the recommendations, his delegation considered that several of them went beyond the Special Committee's terms of reference and related to matters which were within the jurisdiction of the Security Council. That was true of sub-paragraphs (*g*), (*h*) and (*i*), which dealt with economic and political sanctions. Moreover, instead of condemning without distinction all the concessions granted by the South African Government to foreign companies, it might be more logical to condemn those which had been granted to the detriment of the people's interests.

94. In the face of the South African Government's intransigent attitude and its violation of the provisions of the Charter of the United Nations and the South West African Mandate, the Iranian delegation had always declared itself willing to give whole-hearted support to any measure designed to compel the South African Government to comply with its international obligations and respect the right of the people of South West Africa to self-determination and independence. Although it still adhered to that position, his delegation felt that United Nations organs must not adopt decisions which exceeded their powers under the Charter. Observance of that principle could not but make United Nations decisions more effective.

95. In conclusion, the representative of Iran expressed the hope that the members of Sub-Committee I would reconsider the conclusions and recommendations in their report and present them in a form acceptable to a majority of the members of the Special Committee.

96. The representative of the Ivory Coast, after recalling the provisions of General Assembly resolution 1899 (XVIII), said that his delegation appreciated the work done by Sub-Committee I and was grateful to the Secretariat for the detailed information it had provided to the Sub-Committee.

97. The Ivory Coast delegation agreed with the Uruguayan delegation that the Sub-Committee's report could not be properly understood unless the history of the question of South West Africa in the United Nations and the ultimate objective of the United Nations were kept in mind. When the report was viewed in that context, it was apparent that the Sub-Committee had not exceeded its terms of reference by submitting conclusions and recommendations. If the objections which had been raised related to the wording of some parts of those conclusions and recommendations, it might be possible to overcome them through redrafting.

98. It was obvious to the Ivory Coast delegation that the magnitude of foreign investment in South West Africa, to the extent that it served as a means for the systematic exploitation and enslavement of the African population, was a sufficiently convincing argument in favour of the Sub-Committee's conclusions and recommendations. It was prepared to support those conclusions and recommendations but was also willing to consider any specific new proposals.

99. The representative of Madagascar said that his delegation had been surprised to find that certain members of the Special Committee had rejected a large part of the conclusions of the very detailed and objective study that had been prepared by Sub-Committee I. It was to be feared that by thus impeding the Special Committee's work, certain Member States might encourage the South African Government to maintain its present attitude.

100. The Sub-Committee's report clearly showed that the foreign companies operating in South West Africa were not seeking to promote the material and moral well-being of the Africans. The interests of the South African Government coincided with those of the companies and the logical conclusion was that without the support of those companies the policy of *apartheid* could not long survive in the Territory, for the white minority did not by itself represent a powerful economic or political force.

101. The Malagasy delegation felt that the report of Sub-Committee I constituted the study requested by the General Assembly in resolution 1899 (XVIII). It fully approved the substance of the report and favoured its adoption. With regard to the wording of the report, however, it would be glad if the Rapporteur and the members of Sub-Committee I would agree to consider redrafting certain parts of the conclusions and recommendations, in order to render them more acceptable to all.

102. The Malagasy delegation was not opposed to the investment of capital in South West Africa if those investments were to the advantage of the population as a whole. The Malagasy Government itself invited foreigners to invest capital in Madagascar, on condition that those investments were of benefit to the whole of the Malagasy population.

103. The representative of Bulgaria said that the conclusions and recommendations set forth in the Sub-Committee's report were of exceptional importance. They threw a particularly clear light on the nefarious role played by the mining monopolies in South West Africa. The activities of those monopolies helped to perpetuate colonial domination in a Territory where racial discrimination enabled them to make enormous profits, while the salaries of the indigenous population were one-twelfth of those earned by Europeans doing the same work.

104. Nevertheless, certain countries represented on the Special Committee had made it known, through their delegations, that they would not take the recommendations of Sub-Committee I into account, and it seemed clear from the statements made by their delegations that those countries would continue to support the foreign monopolies, thus helping them to perpetuate the ferocious exploitation of the indigenous population of South West Africa.

105. Thus, the United States delegation, after having stated that it failed to see any purpose in sending such a collection of unfounded condemnations and requests to the General Assembly, had described the conclusions and recommendations of the Sub-Committee as crude. What was more, it had implied that the mining and fishing companies rendered great service to the local population. That delegation had forgotten to say, however, that the profits of the international monopolies had increased much more than the income of the South West African Administration and that that income benefited not the indigenous population but the white minor-

ity, which helped the monopolies to exploit the indigenous population.

106. It was implied that the monopolies would like to see the end of racial discrimination in South West Africa but could do nothing about it. But could those monopolies not begin, for example, by paying equal salaries to black and white workers, or, if that was forbidden by law, take other measures to remedy the situation? In fact, foreign monopolies operated in South West Africa not only because the mining possibilities were in themselves more favourable but also because there existed in that Territory a labour force which could be more easily exploited, thanks to discrimination. That was the main conclusion to be drawn from the study prepared by Sub-Committee I, which was stressed in the conclusion of the report.

107. Some delegations felt that the conclusions of the report went beyond any findings which could be made on the basis of the documentation put together by the Secretariat. The Bulgarian delegation disagreed, and believed that, if a thorough examination was made of the data available, the facts would be seen to be even more terrible than appeared from the report and there would be no end to the disclosure of methods used by the mining monopolies to exploit the indigenous people of South West Africa.

108. Certain delegations, lacking arguments in support of their refusal to endorse the Sub-Committee's conclusions and recommendations, were resorting to a variety of subterfuges. For instance, one such delegation had stated that, without suggesting that the operations of many companies were not open to criticism, it viewed with concern the idea of adopting the Sub-Committee's report as it stood because, in its view, the report was not the study which had been requested. That was merely generalizing and could not justify a refusal to endorse the conclusions and recommendations of the report.

109. The Bulgarian delegation believed that the Sub-Committee had performed its task in accordance with its terms of reference, and that its conclusions were based on the information gathered. To refuse to accept the conclusions and recommendations of the report would be to aid and abet the mining monopolies in their plans for the continued exploitation of the indigenous people of South West Africa.

II. Action taken by the Special Committee

110. At the 304th meeting of the Special Committee on 9 November 1964, the representative of Ethiopia introduced draft recommendations, resulting from a meeting of some fifteen delegations, to replace the recommendations contained in paragraph 571 of the report of Sub-Committee I on the implications of the activities of the mining industry and of the other international companies having interests in South West Africa. The text introduced by the representative of Ethiopia is set out in paragraph 178 below.

111. At the same meeting, the representative of the United Republic of Tanzania proposed an amended text to replace the conclusions contained in paragraph 568 of the report of Sub-Committee I. The text submitted by the United Republic of Tanzania is set out in paragraph 157 below.

112. The representative of Chile considered that the report submitted by Sub-Committee I fulfilled the tasks set out in operative paragraph 8, sub-paragraphs (*b*) and (*c*), of General Assembly resolution 1899 (XVIII). The Chilean delegation had supported the adoption of that paragraph in the hope that the study it requested the Committee to undertake would bring to light a new method of dealing with the problem of South West Africa.

113. Chile's position on the problem of South West Africa was well known. It had supported all the General Assembly resolutions seeking to bring to an end the shameful and unjust situation in South West Africa, created by the illegal, expansionist and discriminatory policies of the Republic of South Africa. The delegation of Chile had been a co-sponsor of the resolution condemning the attempt to apply the policies of *apartheid* in South West Africa as recommended by the Odendaal Commission.[16] His delegation, accordingly, commended the Sub-Committee for its efforts and the Secretariat for the work of compilation and research reflected in part two of the report.

114. The Chilean delegation attached great importance to the problem created by the activities of the mining industry and other international companies with interests in South West Africa. The working conditions of the African population, as the report indicated, were indescribably bad. His delegation, therefore, could accept section I of part three of the report.

115. While the Chilean delegation agreed with many of the conclusions of the Sub-Committee, it had some reservations concerning paragraphs 565 and 568. Even in its amended form, paragraph 568 made assertions which were not adequately supported by facts established in the preceding parts of the report.

116. Some delegations had contended that the recommendations of the Sub-Committee exceeded the terms of reference laid down for the Special Committee in General Assembly resolution 1899 (XVIII). The Chilean delegation did not consider it possible to examine those contentions at that stage. In view of the gravity of the problem, it preferred to consider the substance of the recommendations. While it favoured most of the recommendations in the text introduced by the representative of Ethiopia, it was unable to support sub-paragraphs (*g*) and (*h*), which in its view went beyond the Special Committee's terms of reference and made—implicitly, if not expressly—allegations with which it could not agree. The Chilean delegation would therefore abstain from the vote on the conclusions and recommendations as a whole, and from the vote on the report as a whole.

117. The representative of Italy said that his delegation continued to think that, considered in the spirit of General Assembly resolution 1899 (XVIII), the report was unacceptable. It contained, at the same time, both too much and too little: too much because, at least in its recommendations, it exceeded the Committee's terms of reference; and too little because the conclusions did not represent the deep and enlightening analysis which the General Assembly had requested. Those conclusions, which were based on a political and economic philosophy that very few of the delegations represented in the Special Committee could accept, seemed to confuse rather than clarify the issues and were out of step with the general trend to encourage investments which had emerged throughout the world.

118. That was particularly regrettable because the seriousness of the situation in South West Africa was recognized by all. The Italian delegation had been

[16] *Ibid., Nineteenth Session, Annexes,* annex No. 8, document A/5800/Rev.1, chapter IV, para. 232.

second to none in exposing the dangers inherent in the policies of the South African Government. It therefore felt in duty bound to try to improve, or at least round out, the report by providing the General Assembly with all the material it needed. It pointed out in that regard that the working paper prepared by the Secretariat had contained a final chapter (chapter XII) entitled "Implications of the activities of the mining industry and other international companies having interests in South West Africa", which had not been reproduced in the report of the Sub-Committee. That final chapter of the working paper drew the logical conclusions from the material compiled and, in the view of the Italian delegation, represented a major contribution to a study of the problems of South West Africa. He proposed that the chapter be included at the end of part two of the Sub-Committee's report.

119. The representative of Uruguay, recalling that his delegation had asked the Committee to take a separate vote on certain paragraphs of the conclusions and recommendations to which it had been opposed, indicated that the new texts proposed were more satisfactory to his delegation. He thanked those members of the Sub-Committee who had tried to find an acceptable text and was particularly gratified at the amended text concerning the condemnation of South Africa's policy on the granting of concessions. However, even though sub-paragraphs (*g*) and (*h*) had been considerably improved, his delegation would be unable to support them because they singled out by name certain Member States having no administrative responsibility for the Territory and thus created a new situation which was the concern, not of the Special Committee, but perhaps of the General Assembly. For that reason, although Uruguay fully shared the Sub-Committee's concern, it would abstain in the vote on the report.

120. The representative of Venezuela thanked the African and Asian members of the Committee for having invited the Latin American delegations to join them in seeking some way of reaching agreement on the text of the report, and regretted that the consultations had not resulted in the drafting of a text acceptable to all. His delegation, which had always made its position in regard to the policies of the Republic of South Africa unequivocally clear, both in the Special Committee and in the General Assembly, and which had even proposed that South Africa should be deprived of its Mandate for having violated it through the adoption of an attitude incompatible with the Charter, therefore renewed its request that the Special Committee should vote separately on parts one and two of the report and then on the conclusions and recommendations.

121. The representative of Denmark said that, despite the goodwill shown by the delegations which had tried to take account of his delegation's observations on the conclusions and recommendations of the report, the result of those negotiations was disappointing, since the wording remained more or less the same as before.

122. The delegation of Denmark, which had expressed its appreciation of the work done by the Secretariat, would vote in favour of the first two parts of the report, if they were put to the vote separately, and section I of part three. On the other hand, it would abstain in the vote on the conclusions, which it did not consider to be sufficiently borne out by the facts given in the preceding parts of the report. As for the recommendations, it could not support sub-paragraphs (*f*) and (*g*). Both sub-paragraphs referred to General Assembly resolution 1899 (XVIII)—which the delegation of Denmark had been unable to support—and unjustly accused the United States and the United Kingdom of supporting the Republic of South Africa. With regard to sub-paragraph (*i*), his delegation felt, quite apart from the fact that the Security Council was the sole body empowered to decide upon sanctions, that that matter should not be dealt with until the Expert Committee established by the Security Council had considered its practical implications. His delegation would therefore have to vote against the recommendations as a whole.

123. His delegation would accordingly have to abstain in the vote on the report as a whole. It especially regretted having to do so because it was strongly opposed to the policies of *apartheid* applied by the Government of South Africa both in the territory of the Republic and in South West Africa, the horrible effects of which had been manifested only very recently.

124. The representative of the United Kingdom observed that while the recommendations, as redrafted, took account of some of his delegation's reservations, they did not go far enough to permit his delegation to reconsider its position. In those circumstances, it would have to vote against the conclusions and recommendations of the report. His delegation had found the Italian representative's suggestion very interesting but would need time to study it before taking a stand on it.

125. The representative of Ethiopia, replying to the representative of Italy, said that the members of the Sub-Committee, who had prepared the report, advanced no specific economic philosophy. They had simply rejected that of the companies operating in South West Africa. In fact, no one in the Sub-Committee had criticized the investments of any company. The Sub-Committee had censored the system because it ignored the interests of the people of South West Africa. In an independent country, the establishment of a foreign company was a profitable venture for all concerned. Unfortunately, that was not the case in South West Africa.

126. The delegation of Ethiopia was categorically opposed to the Italian proposal that chapter XII of the Secretariat working paper should be included in the report. The working paper had been prepared to facilitate the work of the Sub-Committee, which had drawn up its own conclusions and its recommendations.

127. The representative of Ethiopia considered that all delegations opposed to the policy of *apartheid* should approve the specific measures required. While the Special Committee could not adopt sanctions, it was certainly entitled to request the Security Council to do so. It was also difficult to see what harm there was in citing a resolution such as resolution 1899 (XVIII), which had been adopted by more than 90 per cent of the membership of the General Assembly.

128. He stated that the authors of the revised text regretted that they had been unable to accommodate all delegations, but appealed to them to abstain from a negative vote, which would be against the interests of the inhabitants of South West Africa.

129. The representative of the United States observed that chapter XII of the Secretariat working paper showed the large increase in the gross national product of South West Africa which had resulted from the investments made in that Territory. Despite all the legal restrictions and prohibitions imposed upon the African population, a certain part of that income certainly went to the indigenous inhabitants, who found

employment as a result of the investments. His delegation supported the Italian proposal that chapter XII of the Secretariat working paper, which could be of benefit to all the Members of the United Nations, should be included in the report.

130. The representative of the United Republic of Tanzania said that he, like the representative of Ethiopia, was certain that no member of the Sub-Committee had wished to put forward any political or economic philosophy. In formulating its conclusions and recommendations, the Sub-Committee had taken into account not only the views of its members, but also those of other delegations which were not members in order to elicit the widest possible support.

131. His delegation would vote against the proposal that chapter XII of the Secretariat's study should be included in the report. The Sub-Committee had used the data supplied by the Secretariat, as well as other data, to arrive at the conclusions and recommendations contained in its report. Regarding the reference to an increase in the gross national product of South West Africa as a result of investments by international companies, he observed that the Committee's task had been to assess the effect of the activities of those companies on the economic welfare of the oppressed peoples of South West Africa. There was no evidence to show that the indigenous population of the Territory was enjoying economic benefits resulting from the investments in question. In fact, very much the contrary was true.

132. The representative of Yugoslavia drew attention to various passages of chapter XII of the Secretariat's working paper which, he observed, were reflected in the Sub-Committee's conclusions. The Sub-Committee had based its own conclusions on the Secretariat's working paper, taking into account also the views expressed by the various members.

133. The representative of Australia considered, with reference to the Italian proposal, that the report, to be complete, should have included in it all the documentation which the Sub-Committee was assumed to have utilized in drawing its conclusions.

134. At its 306th meeting on 10 November 1964, the Special Committee voted on the report of Sub-Committee I; the conclusions contained in paragraphs 549 to 570 thereof, as revised by the United Republic of Tanzania; the recommendations introduced by Ethiopia, and the proposal by the representative of Italy to include at the end of part two of the Sub-Committee's report chapter XII of the working paper as originally prepared by the Secretariat. The voting was as follows:

The Italian proposal was rejected by a roll-call vote of 4 in favour to 16 against, with 4 abstentions. The voting was as follows:

In favour: Australia, Italy, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Bulgaria, Cambodia, Ethiopia, India, Iraq, Ivory Coast, Madagascar, Mali, Poland, Sierra Leone, Syria, Tunisia, Union of Soviet Socialist Republics, United Republic of Tanzania, Uruguay, Yugoslavia.

Abstaining: Chile, Denmark, Iran, Venezuela.

Paragraphs 1 to 548 of the report of Sub-Committee I were approved without objection.

The conclusions contained in paragraphs 549 to 570 of the report of Sub-Committee I, as revised by the United Republic of Tanzania, were adopted by 15 votes to 5, with 4 abstentions.

Sub-paragraph (*g*) of the revised recommendations introduced by the representative of Ethiopia was adopted by a roll-call vote of 15 to 7, with 2 abstentions. The voting was as follows:

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

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

Abstaining: Iran, Uruguay.

Sub-paragraph (*h*) of the revised recommendations introduced by the representative of Ethiopia was adopted by a roll-call vote of 15 to 2, with 7 abstentions. The voting was as follows:

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

Against: United States of America, Venezuela.

Abstaining: Australia, Chile, Denmark, Iran, Italy, United Kingdom of Great Britain and Northern Ireland, Uruguay.

The revised recommendations introduced by the representative of Ethiopia, as a whole, were adopted by a roll-call vote of 16 to 6, with 2 abstentions. The voting was as follows:

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

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

Abstaining: Chile, Uruguay.

The report of Sub-Committee I as a whole, subject to the revised text of the conclusions and recommendations adopted by the Special Committee, was approved by a roll-call vote of 16 to 4, with 4 abstentions. The voting was as follows:

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

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

Abstaining: Chile, Denmark, Uruguay, Venezuela.

135. The representative of the United States said that the statement made by his delegation (see above, paras. 6-14) which appeared to have offended some members of Sub-Committee I, had been directed solely at the report they had adopted. In point of fact, it was the United States delegation which was the offended party, since its Government, with that of the United Kingdom, had been accused of being the main support of the Republic of South Africa. The United States position with regard to *apartheid* was so well known that that accusation was incomprehensible, as was the fact that the Special Committee had voted to adopt the accusation.

136. The United States had also regretted the implication contained in the Sub-Committee's conclusions and recommendations that foreign private investment was in large part responsible for the existing situation in South West Africa. The United States certainly did

not deny that the injustices mentioned in the conclusions existed, but it did deny and reject the conclusion that responsibility for that state of affairs rested to some extent with the foreign companies, for such companies had neither the responsibility nor the power to dictate the policy of the country in which they operated. Lastly, the facts presented in part two of the report of the Sub-Committee in no way supported that accusation, which had been rebutted in the initial statement made by the United States delegation. For all those reasons, the United States delegation could not support the conclusions which had just been adopted.

137. As for the recommendations, the United States delegation had opposed their adoption for several reasons. No facts had been adduced in the report to support the assertions made in sub-paragraphs (*c*), (*d*) and (*e*) of the recommendations. If sub-paragraph (*d*) were applied, its probable result would be either the complete ruin of the country's economy or the replacement of foreign companies by South African State or private enterprises, and it was hard to see how the local population would gain anything from that change. As for sub-paragraph (*f*), the United States delegation, as the Committee knew, had supported most of the provisions of the resolutions relating to South West Africa, but had expressed reservations on some of them. With respect to sub-paragraph (*g*), the United States rejected the allegation that it supported the Republic of South Africa. As to sub-paragraph (*h*), the United States Government had no power to dictate to American companies what investment policy they should pursue. The sanctions called for in sub-paragraph (*i*) were a matter either for individual nations, in which case it was for each of them to decide, or for the United Nations, in which case the Charter set forth the conditions required, which, in the opinion of the United States, did not appear to obtain in the present instance. The United States delegation was not opposed to the aim of sub-paragraph (*j*), but it considered that that recommendation, like a number of others, was not within the Special Committee's terms of reference.

138. Lastly, the United States had supported Italy's proposal concerning chapter XII of the Secretariat's working paper because the inclusion in the report of that chapter, which the United States delegation did not necessarily endorse in every respect, could have helped to give the General Assembly a complete picture.

139. The representative of Venezuela explained that, in abstaining on the report as a whole, his delegation had not been casting its vote against the members of the Sub-Committee, still less against its Rapporteur, for whose work it had the greatest respect. It had deeply regretted not being able to associate itself with the members of the Sub-Committee in the votes taken on the recommendations and conclusions. Secondly, its vote had not been a vote directed against the population of South West Africa. Venezuela felt for the people of South West Africa, and had demonstrated that by calling for the only realistic and effective measure which could put an end to their sufferings, namely, the termination of the Mandate of the administering Power responsible for their conditions.

140. The representative of Venezuela agreed that representatives spoke out against South Africa and demanded the termination of the Mandate, but that when the question of ending the Mandate actually arose, the same delegations which criticized South Africa's policy were the first to oppose the Special Committee's recommendations to that effect or the adoption of similar measures by the General Assembly. They were opposed even more strongly to the General Assembly's studying the possibility of ending the Mandate and so speeding up South West Africa's advance to independence.

141. The Venezuelan delegation agreed that effective and adequate measures should be taken in appropriate form. It had called for the termination of the Mandate and was ready to support any measure to that effect. But it was convinced that the recommendations just adopted by the Special Committee were, first, incomplete for the purposes of the effective implementation of the Declaration contained in resolution 1514 (XV), and, secondly, out of place in a report such as that which had just been put to the vote.

142. The Special Committee's terms of reference were sufficiently clear and precise. Paragraph 8 of resolution 1899 (XVIII) left no doubt as to their interpretation. The Venezuelan delegation could not accept the idea that the recommendations and conclusions adopted were justified by other declarations or resolutions of the General Assembly. If that were so, the General Assembly would not have given the Committee the precise terms of reference it had set forth in paragraph 8 (*b*) of resolution 1899 (XVIII), or else it would have made express reference to other resolutions.

143. Lastly, as would be clear from what he had said, the Venezuelan delegation would be the last to put obstacles in the way of South West Africa's achieving its independence as quickly as possible.

144. In abstaining in the vote on the report as a whole, the Venezuelan delegation had acted in response to the appeal made by the representative of Ethiopia.

145. The representative of Cambodia said that his delegation had voted, *inter alia,* for the conclusions and recommendations because they concerned measures to be taken on the question of South West Africa, in accordance with certain principles embodied in the Charter and with resolutions which the General Assembly had adopted by large majorities. Cambodia had decided to have no further relations of any kind with the Government of South Africa, because of the latter's policy of *apartheid* and its attitude on the question of South West Africa. With reference to recommendations (*g*) and (*h*), for which the Cambodian delegation had voted, he nevertheless questioned the necessity of singling out any particular States, since the appeal was directed to all States, including the States involved.

146. The representative of the United Kingdom explained that in voting in favour of the Italian proposal, the United Kingdom delegation had not necessarily endorsed all the conclusions of the final chapter of the Secretariat working paper.

147. The representative of the Ivory Coast said that his delegation had voted against the Italian amendment because it had felt that the conclusions in question were already included in the report of the Sub-Committee.

148. The representative of Australia reiterated that, in deciding on its position with regard to the commercial interests in South West Africa, Australia had acted as a country which had no commercial interest whatever in the Territory but which profoundly disagreed with much of what the South African Government had done and had not done.

149. With regard to the policy of *apartheid,* the Australian position on what the Australian Minister

for External Affairs had called "the hateful doctrine of *apartheid*" was well known.

150. Australia's vote on the Italian proposal had been based on the fact that part two of the Sub-Committee's report entitled "Working paper prepared by the Secretariat" should have included the complete text of that working paper, regardless of the contents, merits or demerits of chapter XII. It was, of course, open to any committee to include or not include parts of a Secretariat document in its report, but if the report reproduced a working paper prepared by the Secretariat, it should, in the opinion of the Australian delegation, reproduce it in full.

151. The representative of Iran said that his delegation had abstained on the conclusions because some of them, in particular those in paragraph 568, were not justified by the information contained in part two of the report. It had voted for the report as a whole for the reasons he had earlier explained.

152. The representative of Sierra Leone said that his delegation had been prepared to support the report in its original form. In view of the conflicting views that had been expressed, it had supported the amended texts of the conclusions and recommendations. His delegation had voted against the Italian amendment because many of the ideas contained in chapter XII of the Secretariat working paper were reflected in the conclusions of the report. He suggested that, in the report, the title "Working paper prepared by the Secretariat" could be altered to read "Reproduced from working paper prepared by the Secretariat".

153. The representative of Denmark said that his country had not been opposed in principle to the inclusion of chapter XII in the report, but as a member of Sub-Committee I it had not been in a position to support the Italian amendment.

154. The representative of Uruguay, explaining his delegation's vote on the Italian amendment, said that since his delegation had not participated in the work of the Sub-Committee it had not been able to familiarize itself with chapter XII of the Secretariat's working paper. Being in doubt, it had preferred to defer to the competence of the Sub-Committee, and had therefore voted against the amendment.

III. Conclusions and recommendations of the Special Committee

155. The Special Committee accordingly adopted, on 10 November 1964, the following conclusions and recommendations.

A. Conclusions

156. After having studied the implications of the activities of the mining industry and of other international companies having interests in South West Africa, the Special Committee has come to the following conclusions:

157. Foreign capital holds a dominant position in the economy of South West Africa and the main sectors of production are controlled by foreign enterprises or by settlers of European descent who are mainly from the Republic of South Africa. It has concentrated on the development of highly profitable primary export industries, namely, mining, fishing and karakul farming, which exploit the Territory's rich natural resources.

158. The foreign companies operating in South West Africa have no interest in developing any sort of a balanced economy in the Territory. Apart from the rich export industries, other sectors of the economy, such as manufacturing, remain undeveloped. African agriculture in particular is so undeveloped that the African inhabitants of South West Africa continue to live at barely subsistence level.

159. The desire of the Government of South Africa to annex South West Africa is directly connected with the activities of international companies which are interested in keeping the Territory as a field for the investment of their capital, a source of raw material and cheap labour.

160. Such economic development as has taken place has been confined to that part of the Territory lying within the Police Zone which contains only 46 per cent of the population, including all the Europeans. It does not extend to the areas outside the Police Zone where more than half of the African population lives. The Africans of these areas are not permitted to participate in the economic activities of the Police Zone, except as contract labourers or servants, and then only on a temporary basis. Otherwise, they are excluded by law from entering the developed area within the Police Zone. The discriminatory laws in South West Africa in respect of mining and labour are designed to exclude the Africans from any direct participation in the mining industry and to guarantee the industry a permanent supply of cheap, unskilled migrant labour. The Africans are prohibited from holding positions of responsibility, which are reserved for Europeans only.

161. The mining and other industries of the Territory are entirely owned and managed by foreign companies or individuals of European origin. As a result of the discriminatory legislation and practices of the Administration which reflect both the outdated concepts of colonial government and the racial policies of *apartheid* of the Mandatory Power, an extremely small proportion of the profits from these rich industries accrue to the Africans, who comprise 86 per cent of the population. The greater part of the Territorial revenue is expanded within the Police Zone, particularly for assistance to the European farming community or for other budgetary items which are mainly of benefit to the Europeans and do not directly concern the Africans.

162. The Territory's mineral resources are being rapidly exploited by foreign companies. The two mining operations which are at present yielding the most fruitful returns, namely, the area currently being worked by Consolidated Diamond Mines of South West Africa, Ltd., in the south of Diamond Area No. 1 and the Tsumeb mine, will probably be worked out within twenty-five years. Thus the country runs the risk of finding itself, in the not too distant future, without the raw materials which now provide the main support for the money economy.

163. The foreign companies operating in South West Africa are concerned above all with making profits and since these companies are owned and operated by foreigners, the surplus profits flow abroad and are not reinvested in the Territory.

164. The policy of *apartheid* which is being carried out in South West Africa by the South African racist régime offers the foreign companies every opportunity for the exploitation of the indigenous inhabitants. In fact, the exploitation of low-paid non-European workers is a feature of the Territory's economic system, especially in its mining industry and agriculture. This

enables the foreign companies and the local European farmers to reap high profits and makes any improvement in the living conditions of the Africans impossible.

165. The laws of the Territory deny Africans the right to strike, break their contracts or refuse to carry out the instructions of their employers, even when conditions are inhuman; penal sanctions are applied against those who do so. There are a number of laws which deny the Africans freedom of movement, residence and even the right to take up employment of their own choice. The effect of the legislation is to deny to African workers most of the means by which they might otherwise improve their conditions of life and to severely restrict their opportunities for personal advancement.

166. The method of recruitment of the indigenous inhabitants for work under contract in mines and on European farms which is carried out by an organization largely controlled by mining interests, is no different from a draft. The Africans who are thus recruited are given no choice as regards their employers or the type of work they will have to do, nor have they a say about the conditions of employment. The work which the Africans perform for mining and other companies is basically forced labour and therefore the African population lives as though in slavery.

167. Labour legislation and practices applied in the Territory show that the foreign companies and the Government of South Africa are maintaining a reservoir of unskilled migrant labour which can be drawn upon as the need arises and which can be sent home if not required. This, among other things, deprives the Native reserves of a large part of the manpower which could be used for local development and further explains the fact that the Administration has not developed those areas beyond the level of a subsistence economy.

168. The very low level of African wages, the lack of development of the Native reserves and the evils of the migratory labour system result in misery and untold sufferings on the part of the indigenous population.

169. The South African authorities have extended to South West Africa the Bantu Education system, which imposes separate standards of education based not only on racial, but also on tribal and linguistic differences. The sums allocated for the education of Africans amount to less than 2 per cent of the Territory's revenues. Conditions are especially bad in the Native reserves which are outside the Police Zone.

170. The Mandated Territory constitutes for South Africa an extension of its own economy, an area which offers ready access for its own capital and European enterprise, a market for its manufactured goods and a source of primary products. The Government of South Africa also uses the Territory of South West Africa as a source of foreign exchange earnings.

171. Moreover, the threat of an extensive boycott on the supply to South Africa of strategic goods offers one explanation for the intensive search now being carried on for petroleum in South West Africa. Discovery of petroleum deposits of any magnitude would not only increase the Territory's economic value for the Republic of South Africa but would greatly diminish the effectiveness of any sanctions involving the prohibition of petroleum deliveries to the South African Government.

172. The fact that the greater part of the Territory's economic production is in the hands of foreign enterprises has serious implications not only for the Territory's economy but also in the political and social fields. With only minor exceptions, the companies which control the mining and fishing industries are either totally or largely subsidiaries of wealthier corporations whose main interests and activities are elsewhere. In the ultimate analysis it can be shown that the overwhelming majority of the mining companies belong to a complex of foreign capital which operates in many areas of Southern Africa, Northern and Southern Rhodesia, the Congo (Leopoldville) and Angola, and in reality is directed by a number of monopolistic combines controlled by financial interests in the United Kingdom, the United States of America and the Republic of South Africa. As a result of this, an overwhelming proportion of the profits obtained in the Territory goes to the above-mentioned countries and also to other countries which invest their capital in South West Africa.

173. The study of the implications of the activities of the mining industry and of other international companies which have invested capital in South West Africa indicates that, together with the Government of South Africa carrying out its reactionary policy towards South West Africa, the foreign companies having considerable capital investments in the Republic of South Africa and in South West Africa also bear the responsibility for the sufferings of the people of the Territory.

174. The study provides further confirmation that South Africa has abused its Mandate in the Territory. Instead of protecting the interests of the people of South West Africa, the South African Government has assumed the right to grant long-term concessions over large areas of the Territory to South African and other foreign companies; it has fostered the exploitation of the indigenous people by enforcing a system of discriminatory laws and practices thereby extending its own policies of *apartheid* to South West Africa; it has sanctioned the rapid depletion of the Territory's natural resources mainly for the direct benefit of South Africa and other foreign interests rather than for the benefit of the Territory itself; and it has grossly neglected the development of the indigenous peoples entrusted to its charge and of the Native reserve areas to which the large majority of them are confined. By its laws, policies and administrative practices, the Mandatory Power, instead of promoting "to the utmost the material and moral well-being and the social progress" of the indigenous inhabitants, has actively impeded the realization of this aim.

175. Foreign companies operating in South West Africa, motivated by high profits rather than the development of the Territory and its people, share South Africa's interest in perpetuating the existing system of administration as long as possible. It is precisely from those Member States whose nationals own companies and have financial interests in the Territory that the Republic of South Africa derives its main support which encourages its continued non-compliance with the Charter and the numerous resolutions of the United Nations concerning the question of South West Africa.

176. The above study leads to the conclusion that the activities of the international companies in South West Africa constitute one of the main obstacles to the country's development towards independence.

177. The study of the activities of foreign companies having interests in South West Africa fully confirms the urgency of the need to grant and ensure the inde-

pendence of the Territory. Only when independence has been attained will the people of South West Africa have the right to dispose of and develop the Territory's human and material resources in the interests of the whole Territory and all its people.

B. Recommendations

178. The Special Committee recommends that the General Assembly:

(*a*) Strongly condemn the Government of South Africa for its policy of granting concessions and facilities to international companies for exploiting the natural and human resources of South West Africa, to the detriment of the African population of the Territory, and for its own participation in such exploitation.

(*b*) Strongly condemn the activities and operating methods of the international companies in South West Africa which exploit the natural resources and the African population of the Territory for the sole benefit of these companies and thus constitute obstacles to the progress of the country towards independence, and its political, economic and social progress.

(*c*) Draw the attention of the Government of South Africa to the fact that its support of and active participation in the international companies' activities, in disregard of the interests of the population of South West Africa, run counter to the provisions of the Mandate and the United Nations resolutions with regard to South West Africa and are a violation of Article 73 of the Charter, which affirms the principle that the interests of the inhabitants of Non-Self-Governing Territories are paramount.

(*d*) Call upon the Government of South Africa to take appropriate and urgent steps to put an end to the activities of the international companies in South West Africa, which are detrimental to the interests of the African population of the Territory and to take urgent steps to safeguard the sovereignty of the people of South West Africa over the natural resources of their country.

(*e*) Once again call upon the Government of South Africa to put an end without delay to the policies of *apartheid* in South West Africa which create conditions favouring the exploitation of the resources of the country by the international companies for the exclusive benefit of foreign monopolies, and which hamper the emancipation movement of the people of the Territory.

(*f*) Once again call upon Member States of the United Nations to comply with the provisions of the United Nations resolutions on South West Africa.

(*g*) Appeal to all States, whose nationals have public or private interests in the international companies in South West Africa, especially the United Kingdom and the United States of America, who are the major partners of South Africa, to cease to give any support to the Government of South Africa and to observe the provisions of General Assembly resolutions 1761 (XVII) of 6 November 1962 and 1899 (XVIII) of 13 November 1963.

(*h*) Further appeal to all States, whose nationals have public or private interests in the international companies in South West Africa, especially in the United Kingdom and the United States of America, to exert their influence to put an end to the activities of the international companies, which are detrimental to the interests of the population of South West Africa.

(*i*) Request the application of more decisive political and economic sanctions against the Republic of South Africa.

(*j*) Take all possible measures towards the attainment of independence by South West Africa at the earliest date.

(*k*) Request the Secretary-General to take the necessary measures, through appropriate channels, to ensure that the international companies having interests in South West Africa are informed of the contents of this report.

ANNEX

REPORT OF SUB-COMMITTEE I*

Rapporteur: Mr. Milos Melovski (Yugoslavia)

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Part One. Introduction

1. On 13 November 1963, the General Assembly adopted resolution 1899 (XVIII), whereby in paragraph 8 it requested the Special Committee "to consider, in co-operation with the Secretary-General and the agencies of the United Nations, the implications of the activities of the mining industry and the other international companies having interests in South West Africa, in order to assess their economic and political influence and their mode of operation" and "to report on these questions to the General Assembly at its nineteenth session".

2. This decision by the General Assembly followed a history of persistent failure by the Government of South Africa to fulfil its international obligations in the administration of the Mandated Territory of South West Africa and to comply with the resolutions of the General Assembly. The Government of South Africa, which refused in the first instance to place South West Africa under the International Trusteeship System, as requested by the General Assembly from 1946 to 1959, also rejected advisory opinions of the International Court of Justice confirming South Africa's international obligations under the Mandate. All efforts by the United Nations, through negotiations and other means, have failed to bring about compliance with, or even recognition of its obligations by South Africa. The Government of South Africa has continued to administer South West Africa on the basis of a system of *apartheid*, contrary to the Mandate, the Charter of the United Nations, the Universal Declaration of Human Rights and the resolutions of the General Assembly, and has refused to recognize United Nations supervisory authority over the mandated territory. In these circumstances, the Governments of Ethiopia and Liberia, on 4 November 1960, initiated contentious proceedings against the Government of South Africa before the International Court of Justice. Subsequently, by resolution 1702 (XVI) of 19 December 1961, the General Assembly established a Special Committee for South West Africa, with the task of achieving, in consultation with South Africa, a number of objectives designed to bring about the abolition of the policy of *apartheid* and to prepare the Territory for full independence. These tasks were later assigned by General Assembly resolution 1805 (XVII) to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By the latter resolution, the General Assembly also requested the Secretary-General to appoint a United Nations Technical Assistance Resident Representative for South West Africa and to establish an effective United Nations presence in the Territory. By its resolution 1899 (XVIII) the General Assembly noted that South Africa had failed to take any steps to implement its resolutions and had refused to allow a United Nations Technical Assistance Resident Representative to be stationed in the Territory, and that there was a continuing deterioration of the situation in South West Africa resulting from the intensification of the policy of *apartheid*. By the same resolution, the Assembly, among other measures, requested the present study.

3. At its 234th meeting, on 25 March 1964, the Special Committee decided to request Sub-Committee I to consider the implications of the activities of the mining industry and of the other international companies having interests in South West Africa, and to report to the Special Committee.

4. At the 239th meeting of the Special Committee on 2 April 1964, the Chairman announced that Sub-Committee I would be composed of the following members: Denmark, Ethiopia, Mali, Syria, the United Republic of Tanganyika and Zanzibar, Tunisia, the Union of Soviet Republics and Yugoslavia.

5. At its 1st meeting held on 13 April 1964, Sub-Committee I elected Mr. Tesfaye Gebre-Egzy (Ethiopia) as Chairman and Mr. Milos Melovski (Yugoslavia) as Rapporteur.

6. The Sub-Committee first considered this item at its 1st, 2nd, 4th, 6th, 7th, 8th and 9th meetings held on 13, 23, 29 April, 13, 21 May and 18 and 23 June 1964, when the Secretariat informed the Sub-Committee of the steps it had taken to collect information concerning the implications of the activities of the mining industry and of the other international companies having interests in South West Africa.

7. Following these statements, members of the Sub-Committee expressed their views concerning the preparation of a working paper by the Secretariat.

8. The Sub-Committee considered that the working paper accordingly prepared would prove useful to the Special Committee and the General Assembly and therefore decided to reproduce the substance of the working paper as part Two of the present report. The Sub-Committee also expressed its appreciation to the Secretariat for the preparation of the working paper.

Part Two. Information on the activities of the mining industry and of other international companies having interests in South West Africa: reproduced from working paper prepared by the Secretariat

CHAPTER I. MINERAL RESOURCES

9. A wide variety of minerals are found in South West Africa, many of them in too small or scattered deposits for economic exploitation. Mining activities are concerned mainly with the exploitation of diamonds, concentrates of lead, copper, zinc and vanadium in various proportions and combinations, and germanium, tin and salt.

10. Lime and marble, manganese, kyanite, beryl, bismuth, phosphates, tantalite, tungsten ores and lithium ores are also exploited on a small scale. In addition, gold, semi-precious stones, feldspar and fluor-spar are among the other minerals produced.

Diamonds

11. Diamonds were first discovered in South West Africa in 1908. Their source at that time was along the littoral from the neighbourhood of Conception Bay for some 300 miles to the south.

12. The diamonds were found to occur for the most part concentrated in the upper layers of detritus, occupying the floors of north-south troughs lying between bare rocky ridges, and contained in other depressions. The detritus was derived from the destruction of marine deposits, and in part from the disintegration of the ancient land rocks forming the land surface. Concentration was effected by the prevailing wind from the south-south-west which blows strongly for many months of the year, and sweeps the particles inland. No diamonds have been found further inland than about fifteen miles from the coast.

13. Following new discoveries at Alexander Bay, to the south of the Orange River, which constitutes the southern

frontier of South West Africa, similar geological formations to the north of the river prompted prospecting in that area and in 1928 important diamond deposits were discovered. Subsequent prospecting showed that the deposits, consisting of diamantiferous gravel terraces, extended northwards for many miles, more often than not under a blanket of sand. These deposits are very rich and today constitute the most important area of diamond mining on land in the Territory.

14. Diamonds are also being mined on a small scale in other parts of the Namib coastal area, between the Ugab and Unjab rivers.

Marine diamonds

15. Prospecting in the sea along the coastline has revealed an important new source of diamonds.

16. Diamonds have been recovered from gravel beds along the coast from the Orange River over a distance of approximately forty kilometres northwards. The gravel is overlain by continuous silt and sand deposits of unverified thickness that are believed to be in excess of twenty to twenty-five feet in most places.

17. Diamonds have been discovered in three apparently isolated diamantiferous deposits close inshore north of the occurrence referred to above. They cover an estimated area of between 800,000 and 900,000 square metres.

18. The first of these deposits, a strike of approximately nine kilometres extending up to 4,500 metres from the shore, lies between Chameis Head and North Rock.

19. The second, a more or less continuous zone of inshore deposits consisting of upper layers of sand and silty material underlain by gravel-rich sediments, is located between North Rock and Sinclair Island. The total area of this strike is about eighteen kilometres in length, extending to an average distance off-shore of about 1,000 metres.

20. The third deposit consists of sub-marine sediments which are located between Plum Pudding Island and Noah's Ark Headland.

21. Further deposits yielding diamonds have been discovered off the coast adjacent to Bogenfels and in Wolf Bay. In the area adjacent to Bogenfels the deposit is overlain by thick layers of sand which can be removed by machinery. In the Wolf Bay area there are diamond-bearing gravels. The deposit is small.

Base metals

Lead

22. The largest base metal mine is at Tsumeb. The ore body is of a pipe-like form, roughly oval in cross section, and varies from 1,000 to 1,500 square metres in cross sectional area. It occurs on the steeply dipping northern limb of a great syncline in the Otavi dolomite, and extends to a depth well in excess of 3,000 feet. The ore is rich in lead, copper and zinc sulphide and contains some cadmium, silver, germanium and arsenic. The deposit is expected to be worked out in approximately twenty-five years.

23. Some sixty-five miles from Tsumeb, the Kombat Mine (formerly called the Asis Mine) produces an ore averaging 6.4 per cent combined copper and lead content. The mine began operating in April 1962.

Lead vanadium

24. At Abenab-West and Berg Aukas in the Grootfontein district lead-vanadium ore is mined. The ore body consists of a steeply dipping reef of clayey materials which intersects an area of bedded limestone in dolomite of the Otavi system.

Copper

25. Copper deposits occur at a number of widely-separated localities between the Orange River and Grootfontein districts in areas occupied by the Fundamental Complex and the lower division of the Nama system. Small-scale production takes place at Otjisonjati in the Okahandja district, and the old Gorab mine south-east of Walvis Bay. Large-scale exploitation is confined to the Tsumeb and Kombat mines.

Zinc

26. Zinc forms a constituent of the ore mined at Tsumeb and at Berg Aukas.

Germanium

27. Germanium, a chemical element, is produced in the form of germanium oxide at Tsumeb. Germanium is used in electronics, especially in the manufacture of transistors.

Other mineral resources

Beryl

28. The ore mineral is of fairly frequent occurrence in the numerous pegmatite bodies which are found in the Warmbad, Karibib, Swakopmund, and Omaruru districts. Apart from their sporadic nature, the occurrences are small and generally contain only a few tons, although a fair amount of beryl has been obtained as a secondary product from lithium ore workings in the pegmatites.

29. Beryl is the commercial source of beryllium, the only stable light metal with a relatively high melting point. Beryllium's properties make it of interest for structural and thermal applications, as well as for nuclear reactors.

Fluor-spar

30. Occurrences are known at Omburo, Spitzkop, Etiro, Ariams, Tsachanabis and Garub but these are not of known economic importance. At Marburg, in the Otjiwarongo district, large mining areas of this mineral are being held for possible future exploitation. Fluor-spar is used as a flux in metallurgy.

Gold

31. Gold has been found at many places in the Territory but so far, the occurrences discovered have been small, and any workings have been short-lived.

32. Mineralized quartz veins, stringers, and lenses are of common occurrences in the schists and mixed rocks of the Fundamental Complex, particularly in the Rehoboth *Gebiet.* The gold content of such veins is small and erratic, and the veins are too narrow and impersistent to be mined and treated economically on a large scale.

Graphite

33. The mineral occurs as a constituent of many of the limestones of the marble series, but such occurrences have not proved to be of economic interest.

34. On the farm Aukam 104 in the Bethanie district, graphite was produced for a number of years from lenses and pockets in granite. The best material was found as stringers in the less pure amorphous material and usually at the granite contact. The crude graphite mined was sent by railway to the Transvaal for treatment. Mining operations were discontinued and have not been resumed.

Kyanite

35. In 1952, kyanite began to be produced from claims on the farms Bethlehem 27 and Waldeck 28 to the south of Windhoek and on the farm Rehoboth-Oos near Rehoboth Rail. The quality of the kyanite rock is erratic and the product has been low grade.

Lithium

36. Deposits of lepidolite occur over a large stretch of country surrounding the Erongo mountains. Until the end of 1949, however, economic production was limited to the output from a few farms south-east of Karibib. Lesser deposits occur in the southern portion of the Warmbad district. The lepidolite is found associated with quartz blows in pegmatites, often with ambligonite and petalite and some beryl. Production of the element has varied widely in recent years. Lithium is the lightest of all solid elements and at ordinary temperatures has a higher specific heat than any other substance except water. The metal is used as a constituent in metal alloys, as a degasifier in the production of high-conductivity copper and

bronze castings and in lubricants. The metal also has nuclear applications.

Manganese

37. In an area of about fifteen miles by six miles situated about 100 miles north-east from the town of Okahandja, shoots and lenses of manganese ore occur in direct association with quartzites contained in the dolomites of the Damara system. Where ore occurs in this area it occurs as steeply dipping elongated lenses on two horizons and appears to be of sedimentary origin. Much detailed prospecting and geological mapping have been carried out. Mining operations are in progress to a depth of 200 feet. Due to the drop in the metal market operations have been curtailed.

Phosphates

38. Sea bird guano is won from islands, or wooden platforms of considerable size constructed in the sheltered waters of bays and lagoons between Sandwich Harbour and Cape Cross. The guano collected from the wooden platforms is of exceptional quality as it is free from sand. The almost entire lack of rainfall along the coastal belt makes accumulations of guano possible. There has been no production of rock phosphates since 1942, the deposits having been exhausted.

39. Considerable quantities of bat guano are found in caves in the Windhoek, Karibib, and Outjo districts.

Prescribed material

40. A number of prospectors have obtained authority from the Minister of Mines under the provisions of the Union Atomic Energy Act to test for, and make observations on, occurrences of radio-active material. Some interesting samples have been found, but so far no discovery of any probable economic significance has been reported.

Salt

41. The main reserves of salt in the Territory lie along the coastal strip between Swakopmund and Cape Cross. The mineral occurs both as stratified rock salt, interbedded with young deposits, and as rock salt and brine in coastal pans. The most important pans are located at Panther Beacon, Cape Cross and south of the Ugab. The former lies close to Swakopmund and is the source of high-grade brine. The Cape Cross pan contains enormous quantities of rock salt and brine. Its situation, some eighty-five miles from the railway, weighs against profitable exploitation due to the expense of transport across the desert road.

Semi-precious stones

42. Amazonite, green and red tourmaline, cat's eye, tiger's eye, green, rose and amethyst quartz, dumortierite and chalcedony are being produced.

Tantalite-columbite

43. This occurs sporadically in the altered pegmatites in the Erongo tin field, on the farm Donkerhuk in the Karibib district, at the Brandberg in the Omaruru district, and the farm Umeis in the Warmbad district where an alluvial deposit of tantalite derived from pegmatites was found in 1949. Production increased in the early fifties and then declined. An upsurge was noted in 1961 and 1962.

Tin

44. Tin ore (cassiterite) was first discovered in South West Africa in 1908. The mineral is found within a large area stretching south and south-west of the Erongo mountains between Otjimbojo and Spitzkop, in another area lying to the east and west of Okombahe, north of the Erongo, and in a third southeast, and north-west of the Brandberg.

45. The most important primary source of the ore is a very large number of pneumatolytically altered pegmatites, either situated within the parent granite, or intruded within the adjoining schists. Tin ore also occurs as a mineral deposit from aqueous solution, and not associated with pegmatites. Erosion of these primary sources has given rise, at certain points, to the concentration of alluvial ore. West of the Brandberg tin ore occurs in quartz veins, and is intimately associated with wolfram.

46. The extraction of tin from alluvial and eluvial gravels has been attended with success over a considerable period, despite a general lack of adequate water supplies in the areas where mining is taking place. Alluvial sources, however, have been largely depleted, and attention is now being directed to the mining of the parent pegmatite, and of quartz bodies in which the tin ore is distributed in a patchy and erratic manner.

Tungsten

47. Wolframite occurs in association with cassiterite (tin ore) in the pegmatites of the Erongo tinfields, and in the quartz veins of the Brandberg West area. The most extensive occurrence of wolframite is on the farm Pristelwitz No. 128, some fourteen miles west of Omaruru where the Krantzberg mines produced fairly large quantities prior to 1944 when a drop in price caused the mine to close down. The mine was reopened in 1951. In 1952 prospecting and small-scale production commenced on the farms Grabwasser Nakies and Kuduberg in the Warmbad district but has now been abandoned.

48. Besides the ores already mentioned, a variety of other minerals have been discovered throughout the Territory, some of which are mined and exported in small quantities. Some of these minerals and their location are described below.

Asbestos (Chrysotile)

49. Chrysotile is found near the 15 kilometre post on the Swakopmund-Windhoek railway line, and at Kuchanas and Kochena in the Karras Mountains of the Keetmanshoop district, where bodies of pyroxenitic serpentine occur. The fibre is short and the proved tonnage small. The large area of old rocks in this portion of the Great Karras range of mountains is imperfectly known geologically, and further exploitation might well result in the discovery of workable deposits of chrysotile.

Corundum

50. Corundum has been recorded from pegmatites in parts of the Warmbad district, in the Khomas Mountains, and in the neighbourhood of Usakos.

Garnet

51. At Husab in the Swakopmund district, great quantities of brown garnet occur as lenses in a well-defined band of marble, and large quantities of float and massive garnet occur north of Spitzkop, and at Arandis in the Swakopmund district.

Iceland spar

52. Iceland spar occurs in nests, sometimes of considerable size, in the amygdaloidal basalts of the Stormberg series in the Gibeon and Rehoboth districts.

Iron

53. Fair iron ore deposits are found in various parts of the country, much of it titaniferous. A deposit at Kalkfeld, in the Otjiwarongo district, was worked at one time to supply the smelter requirements of the Tsumeb mine. High grade ore, low in phosphorous, occurs in the Shaf River valley in the Windhoek district. Itabrite occurs in a range of mountains inland from Walvis Bay. Large deposits of haematite occur in the Nama system rocks in the Kaokoveld. It has recently been reported that a promising deposit has been disclosed in the Outjo district.

Marble

54. Enormous reserves of marble are known to exist between Swakopmund and Karibib. Quarrying operations are carried out near Karibib, where excellent marble in white and a variety of colours is produced. Distant markets with high transport costs prevent the development of a larger industry.

Mica

55. No workable deposits of mica, apart from lepidolite, have been discovered, although the pegmatites of the Erongo and

neighbouring areas carry the mineral as a constant constituent, but of poor quality.

Rutile

56. A partly worked deposit of rutile is situated on the farms Kanoma Ost and Erongo Ost in the Omaruru district.

Chapter II. General legislation affecting mines and minerals

A. *Legislative authority over mines and minerals*

57. By Act No. 23 of 1949, legislative authority over mines and minerals was delegated to the Legislative Assembly of South West Africa,[a] subject to the overriding authority of the South African Parliament. Executive authority was vested in the Administrator-in-Executive Committee.[b] Until 1949, authority over mines and minerals was reserved to the South African Parliament which had delegated both administrative and legislative powers in that respect to the Governor-General of South Africa and the Administrator of South West Africa. By Ordinance No. 20 of 1952, the Legislative Assembly again authorized the Administrator of the Territory to make laws on mines and minerals as well as other matters within its competence, but limited his exercise of such powers to matters of "urgency" and provided for disallowance by the Legislative Assembly.

58. The Odendaal Commission recommended that the South African Government should take over mining and a number of other branches of the South West African Administration. The South African Government has announced that it has deferred a decision on this recommendation pending further expert inquiry and the outcome of the case pending before the International Court of Justice with respect to South West Africa.

B. *Mines, Works and Minerals Ordinance, No. 26 of 1954*

59. Ordinance No. 26 of 1954, as amended, is the principal law governing mining in South West Africa. It consolidated and amended the laws in force in the Territory of South West Africa relating to minerals and to the operation of mines, works and machinery.

60. Under the Ordinance, the right to mine for or dispose of precious and base minerals in the Territory, including its territorial waters, is vested solely in the Administration. Consequently, these activities may be carried on by others only under licences, special grants or permits issued by the Administration and subject to its control. The Ordinance deals, *inter alia*, with the Mines Division, which supervises and controls the mining industry, and with prospecting, mining fees, rights of prospectors, mine owners or land owners and the control of exports.

Mines Division

61. Chapter I of the Ordinance sets up a Mines Division within the Administration of South West Africa to supervise the mining industry and to exercise all rights, powers and jurisdiction vested in the Administrator or conferred upon its officers by any law in regard to minerals, mines and works in the Territory. The Administrator is empowered by the Ordinance to appoint an Inspector of Mines, who is charged with the sole responsibility for the general supervision of all kinds of mines, works and machinery in the Territory. He is directly responsible to the Administrator through the Secretary of the Territory. The Ordinance stipulates that no action for injury or wrong shall lie in any court against the Inspector, or any of his subordinate officers acting under his instructions, for any act done in good faith.

62. The Ordinance sets out the powers of the Inspector. He is given full power to enter upon and inspect mines and works and give instructions regarding safety and health. Any obstruction of the Inspector or his duly appointed assistants in the discharge of their duties is made an offence, as are other breaches of the provisions of this Ordinance. The Ordinance further requires the Inspector to hold inquiries whenever an accident, causing death or grievous bodily harm to any person, at a mine or work, has occurred.

63. The mine managers are empowered, under the Ordinance, to make special rules and regulations for the maintenance of order and discipline in their mines, provided that such rules and regulations do not infringe any provisions or any regulation under the Ordinance. It stipulates that the rules, when made, shall be submitted through the Inspector to the Administrator for approval. If any interested parties have any objections to the rules and regulations isssued by the mine manager, they may lodge their objections in writing with the Office of the Inspector who shall forward them, with his comments to the Administrator. Once approved by the Administrator the rules shall be posted in a public place and shall have the force of law, and their infringement shall carry penal sanctions.

Prospecting

64. Chapter II of the Ordinance deals with prospecting. It begins by delimiting areas where such activities may take place. The area for prospecting under licence is defined as that portion of the Territory lying within the limits of the Police Zone,[c] where claims may be pegged by licensed prospectors subject to the general reservation that the Administrator may, by notice in the *Official Gazette of South West Africa* reserve any area from prospecting or pegging in respect of any one or more minerals for such period or periods as he may deem fit. It also lays down certain conditions concerning prospecting or pegging of claims in urban areas, cultivated and private land.

65. Chapter IV contains special provisions governing prospecting and mining in Native reserves, game reserves, the area outside the Police Zone, and in territorial waters. Except that a Native lawfully resident in a Native reserve may prospect or mine in that reserve if he possesses a licence, no person may prospect or mine in any of these areas unless he is in possession of a special grant or permit issued on instructions from the Administrator.

66. Prospecting without a licence in any part of the Territory is forbidden by chapter II of the Ordinance. The Inspector may demand from any unauthorized prospector payment of the value of any minerals that may have been won or he may, in his discretion, confiscate such minerals for the benefit of the Administration.

67. Under the Ordinance a prospecting licence shall not be issued to any person other than:

(*a*) A European of the age of 18 years or more;

(*b*) A company registered under the provisions of the Companies Ordinance, 1928 (Ordinance 19 of 1928), as amended;

(*c*) A foreign company which has complied with the requirements of the Companies Ordinance, 1928, as amended; Provided that:

(i) Members of the Public Service of the Territory, and teachers in the employ of the Education Department of the Administration of the Territory, may not peg or own any claims or mining areas in the Territory without the prior consent of the Administrator;

(ii) A woman married in community of property may not hold a prospecting licence, unless her husband has given his written consent thereto; and

(iii) In the Rehoboth *Gebiet*, Burghers of the Rehoboth Baster Community, and in Native reserves, Natives lawfully resident therein, shall possess the same right to hold prospect-

[a] The Assembly is composed of eighteen members, who must be Europeans, elected by the European electorate.

[b] The Committee is composed of four members of the Legislative Assembly under the Chairmanship of the Administrator of South West Africa.

[c] The Police Zone is that part of South West Africa, covering about two-thirds of the Territory from the southern boundary northwards, to which European settlement is restricted. Non-Europeans, however, comprise the majority of the inhabitants of the Police Zone. The major portion of the Non-European population lives in the area referred to as "outside the Police Zone" in African reserves in the northern part of the Territory. The term "Police Zone" was originally used during the German administration to denote the northern limit of police services.

ing licences and be subject to the same obligations as Europeans.

68. A holder of a prospecting title holds exclusive right to peg off mineral claims in such parts of the Territory as may be open to pegging by him. Subject to any restriction in force in terms of the Ordinance, such prospector has the sole right to prospect for minerals on claims registered in his name or to transfer such claims to another party holding a valid prospecting licence. A prospecting title does not, however, give the holder the right to win, remove or dispose of any minerals from his claim, except for purposes of identification or assay. In order to mine, he must be in possession of a mining title.

Mining titles

69. Chapter III of the Ordinance makes illegal the mining or erection of mining works for the purpose of winning base or precious metals except by a duly registered mining owner, or with the permission of a duly registered mining owner, on the mining area registered in his name. It also provides that the holder of a prospecting title may at any time secure mining title over his prospecting claims by a deed converting such claim or claims into a mining area. A mine owner is normally required to commence regular mining operations within two years from the date of conversion.

70. The Ordinance enables a registered owner of a mining area to prospect for, develop, recover and dispose of all the minerals specified in the deed of conversion and to carry on all the necessary mining operations, but forbids him to dispose of any minerals except under the authority of, and in accordance with, the terms of a written permit by the Inspector. The mine owner may, however, remove from the site of his mining operations, without first obtaining permission, such reasonable samples as may be required for purposes of identification or assay. Such sample may not, however, be sold unless a permit authorizing the sale has been issued.

Mining fees

71. Chapter III provides for the payment by the mine owner of a mining fee of 3 shillings per hectare or part of a hectare per year. The fee is payable half-yearly in advance. Any person who fails to pay the mining fees for a period of 60 days from the date when they fall due shall be liable to a penalty of one-fourth of the amount due. If the fee and the penalty are not paid within 60 days after the penalty becomes due, the Inspector shall demand immediate payment of the outstanding amount.

Rights of prospectors, mine owners and land owners

72. Chapter V of the Ordinance deals with the respective rights of prospectors, mine owners and owners of land.

73. The holder of a prospecting licence conducting operations on private land may use water, dead wood or roads thereupon and may use such land for the construction of gates, roads, buildings, dumps or storage sites as may be necessary and incidental to his prospecting operations. He may also erect any accessory works as he may consider necessary for his prospecting, development or mining operations. He may not, however, disrupt such farming fixtures as buildings, any cultivated land or its enclosures.

74. The owner of private land, however, has secured to him rights of compensation for the use of roads and wood on his land. This does not include compensation against water opened up by the prospector or mine owner. He is also entitled to compensation for any damage to property on, or forming part of the land; the diminution of the surface value; and for total or partial interruption of the right of occupation of that land

75. Further, the Ordinance permits the land owner to demand adequate security for the fulfilment by the prospector or mine owner of the obligations described above, before allowing any prospecting, developing or mining operations to be commenced on his land. The security measures must be such that they can satisfy the Inspector of Mines. These measures may also be demanded of the prospector or mine owner even after the operations have commenced; and failure to comply with these demands shall have the same consequences as if the demands were made before the commencement of operations.

76. The Ordinance protects farming land by providing that a special permit must be obtained by a prospector before such land is worked and that it shall not be issued until the Inspector of Mines has been notified in writing by the prospector and by the owner of the land that they have entered into an agreement as to the terms under which the land owner will be compensated. In default of a written agreement either party may apply to the Inspector for settlement by a board of adjudication. The owner of farm land may write to the Administrator indicating that farming and mining operations cannot be carried on simultaneously and may make an application that the mine operator be directed to buy the farm or that part of the land which has been, or is likely to be rendered useless for farming. The Administrator, after investigation, may direct the mine owner to buy the land on such conditions as he considers necessary. The penalty for refusal to comply with the purchase order is the cancellation of the mining rights. If there is a dispute between the farmer and the mine owner about the price to be paid for the land, the price and mode of payment shall be fixed by arbitration.

Control of exports

77. Control measures for the export of minerals are contained in chapter VII of the Ordinance. Exportation from the Territory of precious or base minerals is forbidden except under authority of an export permit issued by the Inspector of Mines. Such a permit must be produced in any case where minerals are exported from the Territory.

Other provisions

78. Chapter VII specifies that whenever it is deemed in the public interest to expropriate, wholly or in part, rights granted under the Ordinance, the Administrator shall have the right to do so on payment of compensation, and in the absence of common agreement, by arbitration. In the case of rights held under a registered deed, the Administrator is required by law to give notice of such expropriation to every person, who, on the face of such deed, has any interest in such rights.

79. A producer of precious metals must sell such precious metals through a commercial bank of the Territory and, within fourteen days after the sale, must furnish the Inspector of Mines with an assay certificate showing the price and quantity of such precious metals together with a duplicate credit note of the bank. Failure to comply with this requirement constitutes an offence punishable by a fine of R400, or in default of payment, by imprisonment with or without hard labour for a period not exceeding twelve months.

C. *The Atomic Energy Act of South Africa*

80. The Atomic Energy Act, No. 35 of 1948 of South Africa, as amended, provides for the control of: prospecting and mining for and the treatment of prescribed and restricted materials; the processing, concentration, purification and use of such minerals; and the production and use of atomic energy and radio-active isotopes. The Act establishes an Atomic Energy Board for these purposes.

81. Under the Act, all prescribed materials which are found in South or South West Africa become the property of the Government of South Africa. The Act was amended in 1956, to provide that any moneys collected from the prescribed materials in South West Africa should be paid over to the territorial revenue fund.

82. Materials prescribed under the Act include uranium and other radio-active minerals, which are not produced in South West Africa, and beryl and beryllium ores, which are. Beryl and beryllium ores were declared restricted material by the South African Proclamation No. 19 of 1954, and their export from the Territory was consequently prohibited except under the authority of a permit issued by the chairman or deputy chairman of the Atomic Energy Board.

Chapter III. Diamond production and marketing

A. *Control of diamond mining*

83. The principal law governing diamond mining in the Territory is the Diamond Industry Protection Proclamation, No. 17 of 1939, as amended. The Proclamation established a Diamond Board for South West Africa, which consists of five members appointed by the Administrator to serve for two years, two of the members representing the Administrator, and three representing the producers.

84. The functions of the Board are:

(*a*) To supervise the carrying out of: all inter-producers' agreements, defined as any agreement entered into between the Administrator and producers of diamonds in South Africa or elsewhere for the purpose of regulating and controlling the quantity of diamonds to be put upon the market from time to time, with a view to securing the stability of the diamond market; all sales agreements, defined as any agreements entered into by the Administrator with any person or persons for the sale of diamonds; and all sales of diamonds;

(*b*) To arrange by consultation among all or any producers the allocation of quotas for diamonds for sale, and failing agreement, to notify the Administrator, who shall then determine the allocation;

(*c*) To attend to the receipt, valuation, transport and assortment of diamonds and delivery to the purchasers of the diamonds sold;

(*d*) To collect and receive from the purchasers the records of sales under all sales agreements and the moneys due thereunder and to arrange the due and proper distribution thereof; and

(*e*) To advise the Administrator on the question of terminating any inter-producers' or sales agreements, and generally on all questions relating to the diamond industry, and to perform such other duties in relation to the control and protection of the diamond industry as the Administrator may prescribe.

85. The Administrator may suspend the operation of any resolution passed at any meeting of the Board; and, in cases where he considers that the matter, in respect of which a resolution has so been passed and suspended, is urgent, he may himself forthwith take such action as he may deem fit without referring the matter back to the Board.

86. All diamonds produced or found in the Territory must be delivered to the Board, and no person may possess, buy or receive, sell or deal in, import or export any diamonds unless duly licensed or authorized by the Board. The Board may export or deliver diamonds only in pursuance of a contract of sale entered into by the Administrator, who has the sole authority to market and sell diamonds.

87. In order to ensure that all diamonds are delivered to the Board, the Diamond Industry Protection Proclamation contains, *inter alia*, provisions for the search of employees by their employers. As far as Native or Coloured employees are concerned, they can be searched by, or in the presence of, such claim holder or his responsible managers or such prospector, or a European specially appointed by any one of them for this purpose. European personnel can be searched by claim holders or prospectors or any persons authorized by them, but only in accordance with regulations published by the Administrator.

88. The Proclamation also defines the two diamond areas, 21,182 square miles in extent, stretching along the coast from the mouth of the Orange River to some 40 to 60 miles inland for a distance of over 300 miles. The diamond areas cannot be entered by anyone who is not in the possession of a permit granted by the Board or such other authority as the Administrator may designate. The permits are registered and there are two separate registers, one for European and another for Native or Coloured employees.

89. There are also special restrictions applying to the Native and Coloured persons within the diamond area. In particular, no Native or Coloured employee can leave the field or working section on which he is employed save in the company and under the control of a European, unless he is in possession of a permit approved by the Board and signed by his employer. Any Native or Coloured person found without such permit on any field or working section other than the one on which he is employed may be arrested and searched by the claim holder of such field or by any European person duly authorized by him.

B. *Diamond marketing and trade practices*

90. When South Africa assumed the administration of South West Africa, Government restriction of both production and sales of diamonds had already been established as a matter of policy. In 1922, in his annual report submitted to the League of Nations, the Administrator of the Territory explained the position as follows:

> "In this Territory, as in the Union of South Africa, far more diamonds are producible than can be placed on the market to the best advantage. In view of this, the German Government had already made legal provision for restriction of output here, and the present Administration has inherited and adopted the same policy. That such restriction is in the best interest of the producers is beyond question. Equally, is it in the interest of this Administration, which is dependent on the sale of diamonds for the major portion of its revenue."

91. Under the German administration, South West African diamond output, by German mining companies, had risen from 560,000 carats in 1909-10 to 1,570,000 carats in 1913-14. All sales were made through the Diamanten Regie of South West Africa, incorporated in Berlin in February 1909, a few months after the discovery of diamonds in the Territory, and it was decided that from January 1914, South West African production would be limited for the first time.

92. A few days before the outbreak of the First World War, South African diamond producers and the Diamanten Regie concluded an agreement providing for the creation of a pool of diamond producers, a board of control composed of the producers, and sales to the Diamond Syndicate, the selling agents for De Beers Consolidated Mines of South Africa, Ltd. This agreement was rendered inoperative by the First World War.

93. In 1919, of a total output of 3,200,000 carats produced in South and South West Africa, 65 per cent was produced by three South African companies, De Beers, and the Jagersfontein and Premier Mines, and 18.4 per cent was produced by South West African companies. The combined production of the two areas represented 91.7 per cent of world production at the time. The increase of production in the former Belgian Congo and Angola to over 300,000 carats was considered bad for the industry. In these circumstances, the major South African producers met and, in November 1919, concluded the first inter-producers' agreement. The following were parties to the agreement: the four major producers, referred to as the Conference Producers—namely, the three above-mentioned South African companies and the Administrator of South West Africa, who represented all diamond producers in the Territory. The parties arranged to distribute the world volume of trade in diamonds among themselves on a fixed quota basis, less such volume as was produced by so-called "outside producers"—namely, other producers in South Africa and elsewhere. They also agreed to limit sales to the Diamond Syndicate. The De Beers mines received 51 per cent of the quota, Premier Mines 18 per cent and Jagersfontein 10 per cent; and the Administration of South West Africa was given a quota of 21 per cent for all of the Territory's producing companies. At that time, the South West African companies were still German-controlled.

94. During the negotiations leading to this agreement, the Anglo-American Corporation of South Africa, which had been formed by the late Sir Ernest Oppenheimer only two years before, in 1917, arranged to purchase the rights of the German diamond mining companies operating in the Territory. Sir Ernest Oppenheimer obtained the approval of the South African Government for the transaction in November 1919. The Anglo-American Corporation gained the financial backing of J. P. Morgan and Company, the American financiers, and

in 1920 established the Consolidated Diamond Mines of South West Africa, Ltd., to take over the diamond mining operations. This represented a victory over De Beers, which had also been engaged in independent efforts to acquire the South West African diamond rights.

95. In 1925, a second inter-producers' agreement was entered into, with South West Africa obtaining a quota of 21 per cent for the Consolidated Diamond Mines, plus an additional 2 per cent for its "outside producers". It should be noted, however, that by 1925, the combined production of South and South West Africa represented only about 70 per cent of total world diamond production.

96. The discovery and unrestricted exploitation of alluvial fields in South Africa and the entry of the South African Government into the field as a producer reduced the volume of trade available for the Conference Producers after 1925. Production by "outside" producers within South Africa, including the Government, contributed to the rise in the total South African production from £1,906,618 in 1925 to over £11 million in 1928.

97. South West African production was curtailed, its stockpile of diamonds increased; public territorial revenue from diamonds dropped from £310,085 in 1925/26 to £217,083 in 1926/27 and fell below £100,000 in the succeeding years of world wide depression. The territorial Administration complained to the South African Government, and a conference of South African diamond producers was held in December 1927. The Mandatory Power was urged to introduce a limitation in respect of the alluvial production within its borders and to base diamond sales on the volume of sales effected in 1913. It was estimated that South West African production could be maintained for many years at 1,350,000 carats per year. Sales from South West Africa amounted to only 577,341 carats, valued at £1,620,862, in 1927 compared to 1,570,000 carats, valued at £2,698,500 in the year 1913-1914.

98. Under a new inter-producers' agreement concluded in 1930, the South African Government agreed to a quota limitation of 15.8 per cent for its own State production, leaving to the four Conference Producers an aggregate quota of 84.2 per cent, of which the Territory's quota was 25 per cent, or 21.1 per cent of the over-all total. However, the South African Government had also reserved to itself the right to sell to South African diamond cutters a minimum of £375,000 of diamonds per half year. During the next two years, 1931 and 1932, South West Africa's share of the Conference Producers' sales amounted to a total of £450,000 whereas sales from the South African State diggings amounted to £865,000. Sales by "outside" or independent diggers in South Africa during the same two years amounted to over £3 million. South West African sales actually amounted to 7.5 per cent of the total sales of South African and territorial diamonds for the two years. During the years 1932-1935 South West African diamond production ceased entirely.

99. In 1933, the Legislative Assembly of South West Africa passed the following resolution:

"That in view of the fact that under the present unfavourable economic and financial circumstances, the Territory depends entirely on the income derived from the diamond tax, this House respectfully requested His Honour the Administrator to attempt to obtain increased diamond sales quotas and a warranted minimum sales quota for this Territory on the expiry of the existing agreements relating to the distribution of the diamond sales quota."[d]

100. In 1935, a member of a South African commission of enquiry who had served as a representative of the South West African Administration during an earlier diamond producers' conference, reached the following conclusion:

". . . that the mandated Territory has not received a share in the total volume of trade which is commensurate with its diamond occurrences and adequate from a revenue point of view. If South West Africa were an entirely independent country it would certainly insist upon being treated as a diamond producing country and not as a company which is only a partner in the inter-producers' agreement, without any reservation or guarantee when times are bad to maintain a reasonable part of its most important industry, an industry upon which the well-being and the development of the Mandated Territory are based to such a large extent."[e]

101. Meanwhile, De Beers assumed leadership of the diamond industry, a position which it has since maintained. The framework for the present structure of the industry was also established.

102. The Anglo-American Corporation of South Africa, after acquiring the diamond rights in South West Africa and establishing the Consolidated Diamond Mines of South West Africa, Ltd., obtained membership in the Diamond Syndicate in 1924. At that time, it was also buying shares in De Beers. In 1926, Sir Ernest Oppenheimer, Chairman of Anglo-American and later of Consolidated Diamond Mines, was elected to the board of De Beers and became its Chairman in December 1929. In 1930, when the diamond industry was considered to be undergoing a period of crisis, he proposed the unification of the producers under the leadership of De Beers and the replacement of the Diamond Syndicate by an enlarged Diamond Corporation. He obtained the support, *inter alia*, of N. M. Rothschild and Sons, London; Rothschild Frères, Paris; and Morgan Grenfell and Company, and subsequently, the consent of the South African Government and of the Administration of South West Africa.

103. After 1929, De Beers acquired, partly for cash and partly in deferred shares, control over the Jagersfontein Mine, over Consolidated Diamond Mines and over the Cape Coast Exploration Company. Years later, it obtained control over Premier Mines and a number of other South African diamond mining companies as well as a 50 per cent interest in Williamson Diamonds, Ltd., of Tanganyika. It has direct or indirect shareholdings in a number of other producing companies outside South and South West Africa.

104. The Diamond Corporation, Ltd., which, as has been shown, was formed on the initiative of Sir Ernest Oppenheimer, was incorporated in South Africa in 1930 as a subsidiary of De Beers, and replaced the former Diamond Syndicate. Its function is to acquire and deal in diamonds produced or won by any diamond mining company, government, local authority or person.

105. A few years later, in 1934, the Diamond Producers Association and the Diamond Trading Company, Ltd., were established, following negotiations between the South and South West African diamond producers, the Diamond Corporation, and the South African Government. The Diamond Producers Association, representing all the large South African diamond interests, was composed of the following members: the Government of the Republic of South Africa, the Administration of South West Africa, the Consolidated Diamond Mines, De Beers, and the Diamond Corporation. Producer members of the Association bound themselves to sell exclusively to the Diamond Trading Company, then a wholly-owned subsidiary of the Diamond Corporation. The Diamond Trading Company, Ltd., was in turn to buy only from the Association. The available volume of trade was apportioned among producer members of the Association on the basis of quotas. The Diamond Corporation was to continue buying from outside producers under contract, but was not to extend existing contracts or enter into new contracts with outside producers, except with the approval of the members of the Diamond Producers Association.

106. In later years, the Diamond Producers Association agreement was periodically renewed, with modifications. The Diamond Corporation negotiated new purchase contracts with outside producers, occasionally establishing subsidiary companies for the purpose. Over the years, shares in some of the companies of the "outside producers" have also been acquired

[d] South West Africa, *Votes and Proceedings of the Legislative Assembly,* May 1933, p. 40.

[e] "Report of the Commission on the Economic and Financial Relations between the Union of South Africa and the Mandated Territory of South West Africa", 1935, p. 165.

by the Diamond Corporation by other companies in the De Beers Group and by Anglo-American Investment Trust, which is a subsidiary of the Anglo-American Corporation of South Africa, Ltd.; some "outside producers" have in turn acquired share interests in the Diamond Corporation.

107. The De Beers shares are held either directly or indirectly through its subsidiary, Consolidated Diamond Mines. The Anglo-American Corporation of South Africa, through its subsidiary, the Anglo-American Investment Trust, Ltd., also holds important shares in the trading companies. The percentages held by the two companies[f] are as follows:

[f] De Beers holdings, taken from the Company's annual report for 1963, were the same at the end of 1962 and 1963; Anglo-American's percentage holdings, based on information in *Beerman's Financial Year Book of Southern Africa, 1963,* are for 31 December 1962.

	Authorized and issued capital	*Percentages held*
The Diamond Corporation, Ltd.	22,000,000 shares of R 2 each	80 per cent by De Beers and Consolidated Diamond Mines; 17.86 per cent by Anglo-American
The Diamond Purchasing and Trading Company, Ltd.	R 5,000,000	80 per cent by De Beers and Consolidated Diamond Mines; 17.86 per cent by Anglo-American
The Diamond Trading Company Ltd. ..	R 2,000,000	44.30 per cent by De Beers and Consolidated Diamond Mines; 16 per cent by Anglo-American
Industrial Distributors (1946), Ltd. . . .	R 1,500,000	26.87 per cent by De Beers, Consolidated Diamond Mines and the Diamond Corporation; 13.20 per cent by Anglo-American in ordinary shares, and 30 per cent in 5 per cent cumulative participating preference shares
Industrial Distributors (Sales), Ltd. ...	R 200,000	100 per cent by Industrial Distributors (1946), Ltd.

De Beers also holds shares in three other diamond trading companies: 3,750 shares, valued at R 42,365, in Comptoir diamantaire anversois; and 50 per cent of the shares, valued at R 345,000 and R 1,000 respectively, in Ultra High Pressure Units (Ireland), Ltd., and Ultra High Pressure Units (South Africa), Ltd., both of which are producers of synthetic diamonds.

Central Selling Organization

108. A complex of organized local and centralized marketing arrangements was developed, leading to the establishment of what is known as the Central Selling Organization in London.

109. Consolidated Diamond Mines is a party to the series of agreements which have been concluded among the producers of approximately three quarters of the world's diamonds, establishing the Central Selling Organization. This was formed to ensure orderly marketing of diamonds by preventing fluctuations in price which could disrupt the diamond trade and could adversely affect the demand for diamonds. According to the annual report of De Beers for 1963:

> "Since the inception of the company, it has been the leader in the diamond industry and has to a great degree co-ordinated the production and marketing of diamonds. It was responsible for establishing the present system of sales to the market through the Central Selling Organization and this organization handles over eighty per cent of the total world production of diamonds. The company has substantial holdings in the diamond selling companies of the Central Selling Organization."

110. The principal central selling companies are: The Diamond Purchasing and Trading Company, Ltd., and the Diamond Trading Company, Ltd., both of which dispose of gem diamonds; and the Industrial Distributors (1946), Ltd., and its wholly-owned subsidiary, Industrial Distributors (Sales), Ltd., which dispose of industrial diamonds, and/or drilling material.

111. The entire output of the Diamond Producers Association (including that of the South African Government) and the diamonds purchased by the Diamond Corporation, Ltd., under agreements with producers outside South and South West Africa, are sold through the marketing companies of the Central Selling Organization. In 1963, the Diamond Corporation, Ltd., concluded an agreement with a new potentially major "outside" producer in South West Africa, Marine Diamond Corporation, Ltd., for the marketing of its production through the Central Selling Organization.

112. The following table shows the Territory's share in total sales by the Central Selling Organization and in centralized sales of gem diamonds prior to 1961, when the Organization ceased publication of separate data on sales of gem diamonds:

	Total diamond sales		*Sale of gem diamonds*	
Year	*Central Selling Organization* £	*South West Africa* £	*Central Selling Organization* £	*South West Africa* £
1958 .	65,543,500	14,128,009	49,421,000	13,989,707
1959	91,136,000	15,304,607	63,033,000	15,189,141
1960.. .	89,700,500	15,180,239	63,451,000	15,046,067
1961. . .	95,712,000	17,468,291		16,881,274
1962 ..	91,271,500	17,110,501		16,314,732
1963 . .	115,978,500	20,498,382		19,792,975

113. In the past, during periods when the market was not able to absorb all production, the Central Selling Organization accumulated substantial stocks which were resold during and after the Second World War when there was an increasing demand for both industrial and gem diamonds. At present it is possible to dispose of all diamonds which are produced and no surplus stocks exist. The growing demand for gem diamonds during the past decade has, in fact, been greater than the supply. In South West Africa, predominantly a gem producer, the former policy of curtailing production and sales was

therefore replaced by one of continuing expansion. The Central Selling Organization increased the price for its gems by 5 per cent early in 1963, and subsequently raised the price again by a further 10 per cent.

114. In recent years the annual statements by the Chairman of De Beers, Mr. H. F. Oppenheimer, have provided further information concerning the nature of the Central Selling Organization, as well as an indication of changes in marketing arrangements due to political developments.

115. Reviewing the activities of the company during 1960, he stated:

". . . all the agreements governing the central selling organization, that is to say, the Diamond Producers' Association agreement, the sales agreements between the Diamond Corporation and the Congo, Angola, Tanganyika and West African producers, and the agreements between the Diamond Producers' Association and the gem and the industrial marketing companies, expired at the end of the year. The Association agreement and the Association's agreement with the Diamond Purchasing and Trading Company have been renewed for five years, as have the Diamond Corporation's agreements with the Congo, Angola and Tanganyika producers. The agreement for the purchase of Russian diamonds has been extended. In West Africa, the Sierra Leone Government diamond office, for which we act as managers, is operating entirely satisfactorily and last year the Diamond Corporation bought £10,898,000 worth of diamonds through this channel; this year, these purchases are continuing to run at a high level. The renewal of the contract with Sierra Leone Selection Trust, which produces about 25 per cent of the diamonds mined in Sierra Leone, is still under discussion. The policy of the Government of Ghana, which has laid it down that all diamonds produced in that country must be sold through the market in Accra, made it impossible for us to renew our contracts with the Consolidated African Selection Trust and Akim Concessions. Similar action by the Government of the Republic of Guinea prevented the continued operation of our contract with the Société Guinéenne de Recherches et d'Exploitations Minières. The Akim and the Guinea contracts dealt with only comparatively small quantities of diamonds, and, of the three contracts affected by government action in this way, it is only the Consolidated African Selection Trust Contract which is of real importance."

116. By 1962, according to the Chairman's review of operations for that year:

"In Sierra Leone, new rules for the operation of the Government Diamond Office are now in force, in terms of which the production of the Sierra Leone Selection Trust, as well as that of the individual African diggers, is now marketed through this channel, and arrangements have been made by which 50 per cent of the Sierra Leone Selection Trust goods are sold to the Diamond Corporation, and the remaining 50 per cent to certain substantial diamond firms in the United States of America. . . . In addition to our operations in Sierra Leone, we have been increasingly active in other West African countries, notably in Liberia and the Ivory Coast. We have also in recent months been buying significant quantities of diamonds produced in Venezuela. Our contracts with the diamond mining companies in the Congo, Angola and Tanganyika have on the whole worked smoothly. Unfortunately, however, there has been no resumption of regular diamond production in the Tshikapa area of the Congo and in the Bakwanga district, which is the source of the major Congo production, mainly of crushing boart, there has been illicit digging on a large and increasing scale. This has created difficulties for our organization in marketing crushing boart and has also resulted in very substantial loss of revenue to the Congo Government.

"Our contract to purchase diamonds from Russia has been continued and we are buying increasing quantities of goods from this source. Generally speaking, the proportion of the world production which we market has increased.

"As I explained in my statement last year, our large purchases of diamonds produced by individual diggers in West Africa and elsewhere result in only marginal profits, which could not in themselves justify the effort and risk that they involve. We are carrying on this business, not for the sake of any direct trading profits that it can give, but in order to maintain stable conditions in the market as a whole and to make possible the profitable and orderly marketing of the production from our own mines and the other producers who make use of our marketing organization."

117. By the end of 1963, there were indications of changes in the structure of the buying operations. In reviewing the company's operations for the year, the Chairman stated:

"The political situation in Africa has created new problems for our Group, which operates not only in the Republic of South Africa but in many of the newly independent African States. There is no doubt that centralized marketing of diamonds is necessary for the stability and prosperity of the industry and is of great public importance in many African States where diamond exports are a major source of foreign exchange, and the taxation which diamond mining and dealing provides makes an important contribution to the national revenue. In existing circumstances, however, there are obvious political objections to the purchase of the productions from certain of the African States by companies domiciled, managed or controlled in the Republic of South Africa. This unfortunate state of affairs has necessitated a considerable re-organization of the Group's activities, and buying operations in the newly independent African States are now, in every case, undertaken by companies registered and managed outside the Republic of South Africa and which are not subsidiaries of De Beers. Similarly, on account of Russian support for the boycotting of trade with South Africa, our contract to buy Russian diamonds has not been renewed. These changes will not, however, disrupt the centralized marketing organization in London, which is essential in the interests of all diamond-producing countries, whatever the political differences between them may be.

"The year has been an eventful and, in spite of a buoyant diamond market, in some ways a difficult one. The problems that have arisen have, however, been successfully tackled and we go forward in 1964 with the structure of the industry maintained and in some respects strengthened. It is, however, necessary to emphasize that stability and prosperity depend on co-operation between producers operating in many different countries. The economic advantages of co-operation are generally understood and acknowledged, but nevertheless in the present political situation it is not always easy to obtain."

Chapter IV. Diamond mining companies

A. *General*

118. In 1962, South West Africa ranked sixth as a world producer of diamonds preceded by the Congo (Leopoldville), South Africa, Ghana, Sierra Leone and Angola. As a producer of gem diamonds, which account for more than 90 per cent of South West Africa's output, the Territory was second only to South Africa.

119. The demand for gem diamonds has been so high, according to an article in *The Economist* dated 23 May 1964, that imperfect diamonds, which formerly might have been used for industrial purposes, were being bought by merchants for polishing as gem stones. In South West Africa, existing diamond mines have expanded their operations and prospecting of new areas is under way on land and in the sea.

120. In 1962, 98 per cent of the diamond output of South West Africa was produced by Consolidated Diamond Mines of South West Africa, Ltd., a subsidiary of De Beers Consolidated Mines of South Africa, Ltd. The remaining 2 per cent was produced mainly by a newly formed company, the Marine Diamond Corporation, Ltd., which began mining diamonds from the sea in June 1962 and has since become a major producer, and, to a lesser extent, in the course of smaller

mining and prospecting operations carried out by De Beers, the Diamond Mining and Utility Company, and the Lovegem Diamond Mining Corporation (Pty.), Ltd., a company owned jointly by two residents of South West Africa.

121. During 1963 and the first few months of 1964, there was a "diamond rush" in the Territory. Existing concessions changed hands, and a growing number of companies, mainly South African, but also including other interests, joined to form new companies to mine diamonds in South West Africa. Afrikaaner mining and investment companies for the first time acquired important interests in diamond prospecting and mining in South West Africa, and either De Beers, or its associate, Anglo-American Corporation of South Africa, Ltd., acquired direct or indirect interests in each major new venture. By 1964, the sea along the entire coast of South West Africa was under concession to companies or consortiums.

122. On land, where there were still coastal areas not under concession to companies, individual prospectors were actively engaged in searching for diamonds.

B. *De Beers Consolidated Mines of South Africa, Limited*

123. De Beers Consolidated Mines of South Africa, Ltd., through the Consolidated Diamond Mines of South West Africa, Ltd., holds what has been the most valuable concession area in the history of South West Africa, namely, Diamond Area No. 1 (see below, para. 136).

124. De Beers was registered in South Africa as a public company in 1888. Its board of directors, under the chairmanship of Mr. H. F. Oppenheimer, was composed in March 1964 of the following members: Messrs. E. T. S. Brown, W. Marshall Clark, D. D. Forsyth, R. B. Hagart, J. D. Rudd, D. A. B. Watson, A. Wilson, M. H. de Kock, and Major-General I. P. de Villiers of South Africa; Mr. P. J. L. Crokaert of Belgium; Baron Edmond de Rothschild, head of the Paris finance house; and Messrs. P. V. Emrys-Evans, H. J. Joel, Sir Reginald Leeper, and Mr. P. J. Oppenheimer of the United Kingdom.

125. De Beers has an authorized share capital of R 12,750,000, divided into 800,000 preference shares of R 5 each and 17,500,000 deferred shares of 50 cents (South African) each. The company's issued capital amounted to R 12,496,000, including all of the preference shares and 17,035,276 of the deferred shares. De Beers' total investments on 31 December 1963 had a book value of R 138,399,000 and a market value of R 192,133,000. Its main investments and interests in subsidiaries and other companies included interests amounting to R 16,356,000 in diamond mining and allied companies, of which R 5,697,000 represented interests in the Consolidated Diamond Mines, and R 29,380,000 represented interests in diamond trading companies; its investments amounted to R 20,456,000, of which holdings of preference shares in the Consolidated Diamond Mines accounted for R 1,844,000.

126. The real ownership of De Beers is difficult to determine, according to a company source, since many shares are owned by companies which have widespread international ownership. Taking this into account, and tracing ownership through intermediate companies to its ultimate source, the real ownership of De Beers is estimated by the company to be spread as follows:

	Per cent of total
South Africa	44
Continental Europe	27
United Kingdom	25
United States of America	1
Other countries	3
	100

127. In addition to the mining operations carried out through its subsidiary, the Consolidated Diamond Mines of South West Africa, Ltd., De Beers itself is engaged in comparatively small prospecting and mining operations in the Kaokoveld area of South West Africa, to the south of the Kaokoveld Native Reserve. The Anglo-American Corporation of South Africa, Ltd., acts as consulting engineers and geologists to De Beers and its subsidiary diamond mining companies.

128. In 1963, with an expanding gem diamond market, De Beers increased its interests in the Territory. In December 1963, it acquired a two-thirds interest in a new company which is to prospect and work Diamond Area No. 2, and the sea adjoining (see below, para. 164). Diamond Areas No. 1 and 2 together cover an area of over 21,000 square miles.

129. In the same year, De Beers also secured an outstanding option to acquire a 29 per cent interest in an important new diamond venture, notably Marine Diamond Corporation, which holds a concession in the sea covering an estimated 13,300 square statute miles. De Beers also acquired an option on a smaller sea mining operation at Panther Head.

130. Information concerning Consolidated Diamond Mines, the companies operating in Diamond Area No. 2 and in the Kaokoveld is presented below under separate headings.

131. The complex inter-company arrangements relating to the Marine Diamond Corporation and the Panther Head area are described in a section on offshore diamonds (see below, paras. 184-220).

1. *Consolidated Diamond Mines of South West Africa, Limited*

132. As the producer of 98 per cent of South West Africa's diamond output in 1962, Consolidated Diamond Mines is the principal mining company in South West Africa. The company, originally established by the Anglo-American Corporation of South Africa, Ltd., was incorporated in South Africa on 9 February 1920. It is owned to the extent of 97.5 per cent by De Beers.

133. The company's board of directors, under the chairmanship of Mr. H. F. Oppenheimer, consisted in 1962 of the following members: Messrs. H. T. Andrews, A. G. W. Compton, Major-General I. P. de Villiers, and Messrs. D. D. Forsyth, H. G. Lawrence, and H. MacConachie of South Africa and Mr. R. H. Oppenheimer.

134. The authorized capital of Consolidated Diamond Mines, Ltd. is R 10,480,000, divided into 4,500,000 7½ per cent cumulative preference shares and 5,980,000 ordinary shares of R 1 each. The following shares have been issued:

		Shares held by De Beers on 31 December 1963	
Shares issued	*Value (rands)*	*No. of shares*	*Value (rands)*
4,480,000 7½ per cent cumulative preference shares of R 1 each	4,480,000	1,565,061 (34.93%)	1,844,000
5,500,000 ordinary shares of R 1 each	5,500,000	5,360,387 (97.46%)	5,697,000
	9,980,000		7,541,000

135. The liabilities and assets of the company for the years 1960-1962, according to the company's consolidated accounts, were as follows:

	31 December 1960	*31 December 1961*	*31 December 1962*
Liabilities (Rands)			
Ordinary capital	5,500,000	5,500,000	5,500,000
Reserves	101,209,804	99,476,122	196,295,150
Excess of market over book value of investments	99,114	3,356,285[a]	6,760,796
Ordinary shareholders' funds:			
Amount	106,808,918	108,312,407	118,555,911
Per share (cents)	1,943	1,960	2,160

[a] Mainly Rand Selection Corporation, Ltd., acquired in 1961 by exchange of unquoted shares of De Beers Investment Trust, Ltd.

	31 December 1960	31 December 1961	31 December 1962
Liabilities (Rands) (continued)			
Preference capital outstanding	4,465,000	4,465,000	4,465,000
Minority interests	402	394	386
Current liabilities	18,433,996	23,280,390	20,100,270
Assets (Rands)			
Property and rights	6,800,074	6,814,051	6,813,851
Equipment	12,151,214	1	1
Interest in Diamond Corporation	22,099,142	22,099,142	22,099,142
Trade investments	635,000	601,000	601,000
Total fixed assets	41,685,430	29,514,193	29,513,993
Stores and materials	1,298,280	1,085,212	1,011,102
Diamonds on hand at cost	2,400,760	1,943,886	2,401,991
Fixed loan	400,000	400,000	—
Fixed investments:			
Quoted	19,600	9,219,600[b]	9,219,600
Market value	16,170	12,616,168	15,111,808
Unquoted	13,377,552	4,790,887	6,468,204
Current investments:			
Quoted	4,914,574	6,109,438	6,653,848
Market value	5,017,118	6,069,155	7,522,431
Unquoted	320,000	584,066	553,547
Other current assets (mainly at call and cash):			
Total	65,193,006	79,074,624	80,420,138
Net	46,759,010	55,794,234	60,319,418

[b] *Ibid.*

Concession area

136. Consolidated Diamond Mines holds all mining rights until 31 December 2010 in Diamond Area No. 1, an area 10,259 square miles in extent, some 60 miles wide, stretching 220 miles along the coast from the Orange River to latitude 26° south, and in a small portion of Diamond Area No. 2 immediately to the north. The concession was originally to expire at the end of 1970. In 1931 and 1952, concurrently with the framing of higher taxation rates, the concession period was extended first to the end of 1990 and then to the end of 2010.

History and operations

137. Consolidated Diamond Mines acquired the rights and assets of former German companies operating in its concession area in 1919 for the sum of £3,500,000. In his report on the Mandated Territory for the year 1919, presented to the South African Parliament and the League of Nations, the Administrator of South West Africa stated that the South African Government had acknowledged the rights acquired by Consolidated Diamond Mines "as its interests were not affected thereby. Moreover, it was considered desirable to have the control of the mines in a company registered in the Union".

138. According to pre-existing arrangements between the Imperial Colonial Office in Germany and the Deutsche Kolonial Gesellschaft, which devolved upon the Administration of South West Africa and Consolidated Diamond Mines, respectively, the Administration and the company were each to have a half share of the profits and to share equally in financing the investigation and working of the whole area not at that time pegged by other parties. In 1923, after a study of the subject by Government mining and financial experts, the Administration, by an agreement with Consolidated Diamond Mines, relieved itself of the obligation to provide half of the capital required to prospect and work the area and renounced its right to an equal share of the profits in exchange for a consolidation and revision of royalties payable by it under the pre-existing agreements to the South West Finance Corporation, a wholly-owned subsidiary of Consolidated Diamond Mines which holds the royalty rights as well as other property. Under further agreements concluded in 1931 and 1941, royalty payments by the South West African Administration to the South West Finance Corporation now amount to 22.5 per cent of the export duty and profits tax paid by Consolidated Diamond Mines.

139. By the 1923 agreement, the Administration renounced its rights to a half share in the profits of what has since become the major producing area, in the southern part of Diamond Area No. 1. For its own original half interest in that area, Consolidated Diamond Mines had paid only £25,000 because, earlier prospecting operations having proved unsuccessful, it had been assumed that the southern part of the concession area was barren. However, the discovery in 1927 of rich diamond areas at Alexander Bay, south of the Orange River, led Consolidated Diamond Mines to prospect on the north bank of the river and a year later the company found rich diamond-bearing marine terraces a few hundred yards from the prospecting pits unsuccessfully dug by a German company some years earlier.

140. When Consolidated Diamond Mines began operating after the First World War the source of diamond production was in the northern part of Diamond Area No. 1, the area surrounding Pomona, south of Lüderitz, being particularly rich. These areas were already nearing the end of their payable life, however, when the new deposits near the Orange River were discovered in 1928 and thereafter the northern areas progressively declined in importance. The new deposits were initially opened up only on a small scale and by 1932 the company had ceased production since it was not possible to sell large quantities of diamonds in the declining market.

141. The company resumed operations in 1935, but large-scale working began only after the Second World War. In 1944, the company moved its headquarters from Lüderitz to the present company town of Oranjemund, donating its power station and some equipment and buildings to Lüderitz to compensate that municipality for the losses involved. According to various descriptions of Oranjemund, this mining town, encompassed by the desert, enjoys in miniature almost every social, recreational, medical and shopping amenity found in large centres, including tarred streets lit by fluorescent lights, a modern club catering for all forms of sport, a rifle club, hospital, school and laid-on water and a local commando unit.

142. Apart from elaborate installations created by the mine, the area is considered totally uninhabitable. There are no land communications between the mines and the interior, separated by long stretches of shifting sand. A road linking the mines with the port of Lüderitz, 150 miles to the north, is no longer used for the purpose of carrying stores to the mines. All materials are brought to the mine from Port Nolloth, 40 miles to the south, in South Africa. The harbour at Port Nolloth is operated by the company, and the Ernest Oppenheimer Bridge across the Orange River which links Port Nolloth to the mine was built by the company around 1950.

143. In 1962, the company built a two-mile undersea pipeline to obtain diesel oil and petrol direct from tankers. Until then, fuel had to be transported by road from Port Nolloth.

144. The marine deposits now being worked by the company are found scattered irregularly on the raised prehistoric beaches along the coast over a distance of about 40 miles from the mouth of the Orange River. The workings are situated in an area of complete desert, where the average rainfall is below 2 inches per year, under a surface covered with shifting desert sand, desert gravel and rock pavement.

145. The diamonds are found very unevenly dispersed in gravel, which is usually about one foot thick and overlain by up to fifty feet of sand. In order to recover the diamonds, the sand must first be removed and the gravel must then be passed through a recovery process.

146. In 1963, 7,970,000 cubic metres of sand were moved and 3,071,000 cubic metres of gravel treated in order to recover some 1,138,000 carats of diamonds. The ratio of sand and gravel handled to diamonds recovered is approximately 100 million to one. The diamonds are present in quantities that will repay the costs of treatment only in certain places and consequently

elaborate and expensive prospecting has to be undertaken in order to decide where the gravel should be worked.

Production

147. About 95 per cent of the diamonds produced are gem stones, the remainder being industrial diamonds. According to information contained in the *South West Africa Annual Report* for 1955, Consolidated Diamonds recovered a total of 8,641,000 carats between 1920 and 1953. Production statistics during the last five years of that period are given in the *Mining Year Book for 1953*, compiled by Walter E. Skinner, as follows:

Year	*Carats produced*
1949	243,818
1950	377,959
1951	478,075
1952	512,674
1953	590,534

148. During more recent years there have been further increases in production due to the growing market demand for gem diamonds. The following table shows production in the years 1958 to 1963:[g]

[g] *Beerman's Financial Year Book of Southern Africa*, 1963, p. 78, for the years 1958 to 1962, and *De Beers Consolidated Mines Limited Annual Report, 1963*, for the year 1963.

Year	*Carats produced*
1958	895,744
1959	925,243
1960	933,937
1961	904,494
1962	1,006,909
1963	1,138,050

149. The company has announced that it plans a further increase of production to about 1.5 million carats in 1964.

150. Average field costs of production per carat recovered by the company amounted to R 6.85 in 1960, R 6.87 in 1961 and R 6.13 in 1962; the drop in 1962 being due to the fact that no diamonds were recovered in prospecting operations. In 1961, the average cost per carat for diamonds recovered in prospecting operations amounted to R 34.73, compared to R 6.10 for diamonds recovered in mining operations.

151. Comparable figures of production and sales by Consolidated Diamond Mines, Ltd. in relation to total South West Africa diamond production and sales for 1961 and 1962 are as follows:[h]

[h] South West Africa Administration, Mines Branch, Annual Report of the Mining Inspector for the year ending 31 December 1962.

	1961		*1962*	
	Consolidated Diamond Mines	*South West Africa*	*Consolidated Diamond Mines*	*South West Africa*
Carats produced	904,493	905,814.68	1,006,909	1,027,232.55
Carats sold	967,156	967,752	925,021.50	943,186.75
Value of sales (rands)	36,383,033	36,392,510	33,845,911.42	34,221,022.40

152. The average price per carat sold by Consolidated Diamond Mines Ltd. was R 36.20 per carat in 1961 and R 37.60 in 1962.

Ore reserve

153. In 1962, the ore reserve was estimated at 74,735,035 cubic metres of gravel containing an estimated 23,282,943 carats. At the rate of mining in 1963 the ore reserve would be exhausted in approximately twenty years.

Mining expenses and revenue

154. The company's revenue on diamond account, total revenue, mining expenses and profits before taxes for the years 1958 to 1962 were as follows:

	Diamond account (rands)	*Total revenue (rands)*	*Mining expenses (rands)*	*Profit before taxes (rands)*
1958	28,231,986	32,706,042	7,072,994	25,337,768
1959	32,155,654	38,102,926	6,360,534	31,476,380
1960	30,450,886	37,747,130	6,359,004	30,714,398
1961	35,660,622	43,633,068	6,185,299	37,186,148
1962	31,219,334	38,980,347	6,549,871	32,154,670

155. The company's revenue on diamond account increased to R 41.6 million for the year 1963.

Taxes, net profits and dividends

156. During the period 1 January 1920 to 31 December 1932, Consolidated Diamond Mines, Ltd. paid £2,476,993 to the South West Africa Administration in taxes and £1,697,120 in dividends to its shareholders.[i]

157. In the twenty-year period from 1943 to 1962, the company showed a profit of R 369 million before taxation. Taxation amounted to R 105 million for the period, an average of 28½ per cent of profits according to information contained in the report of the Odendaal Commission.

158. According to a company source, Consolidated Diamond Mines paid R 60,436,000 in taxes to the South West Africa Administration during the period 1958 to 1963 inclusive.

159. Annual consolidated balance sheets of Consolidated Diamond Mines as reported in *Beerman's Financial Year Book of Southern Africa*, shows the company's annual taxation and net profits after taxes to be as follows:

[i] Union of South Africa, *Report of the Commission on the Economic and Financial Relations between the Union of South Africa and the Mandated Territory of South West Africa* (1935), p. 53.

	Taxation (rands)	*Net profits (rands)*
1958	7,500,864	17,836,904
1959	9,569,464	21,906,916
1960	9,245,462	21,468,936
1961	14,032,265	23,153,883
1962	10,862,465	21,328,205

160. Provision for taxation in 1963 amounted to R 14,539,000 according to the annual report of De Beers for that year.

161. Ordinary dividend payments to De Beers and other shareholders from 1958 to 1962, after payments of dividends to preference shareholders amounting to R 334,875 annually, were as follows:

	Rands
1958	8,250,000
1959	11,000,000
1960	11,000,000
1961	11,000,000
1962	12,375,000

162. The following table shows the increases in the rate of the annual dividend per ordinary share since 1946:

Period	*Rate of annual dividend*
1946 to 1949, inclusive	40 per cent plus a 10 per cent bonus
1950	40 per cent plus a 20 per cent bonus
1951	125 per cent
1952 to 1958, inclusive	150 per cent
1959 to 1961, inclusive	200 per cent
1962	225 per cent

Review of activities during 1963

163. The following is an extract from the statement accompanying the annual report of De Beers for 1963, by the Chairman, Mr. H. F. Oppenheimer, who is also the Chairman, *inter alia,* of the Consolidated Diamond Mines:

"Revenue on diamond account by the Company and its subsidiaries at R 81,774,000 was up by R 19,268,000. The most important factor accounting for this increase was the substantially higher production by the Consolidated Diamond Mines of South West Africa Limited. The hope I expressed last year of considerably increased production from the mines at Kimberley was not realized, mainly because of the unexpectedly difficult conditions underground which delayed operations at the old De Beers mine. However, production in Namaqualand was somewhat higher and is likely to increase again this year. At the Premier mine, the caratage produced was substantially higher, but the average value per carat fell because of the increasing production from old tailings which, generally speaking, yield only small and poor-quality stones. The Premier mine has experienced difficult conditions, partly owing to the long-term effects of a large fall of country rock into the mine, which took place at the end of 1962, and partly to teething troubles in the new plant. These difficulties are now being overcome, however, and we should in future benefit increasingly from the large-scale capital programme which has just been completed.

"You will see from the consolidated profit and loss account that mining expenditure at R 20,547,000 was up by R 2,106,000 after allowing for a small decrease of R 23,000 by the De Beers company itself. This is accounted for by increased expenditure of R 1,344,000 at the Consolidated Diamond Mines of South West Africa and R 785,000 at the Premier mine, occasioned by the higher level of production.

"Prospecting and research expenditure was R 4,208,000, compared with R 4,016,000 in 1962. However, the figure for 1963 included the writing-off of over R 1 million of prospecting expenditure by subsidiaries in West Africa, of which the greater part had been incurred in previous years. The 1963 prospecting expenditure also included substantial outlays by De Beers at the new Finsch mine, and by the Consolidated Diamond Mines of South West Africa in connexion with an agreement entered into with the Marine Diamond Corporation Limited.

"General charges at R 3,110,000 are down by R 316,000 but the 1962 and 1963 figures are not fully comparable because, for reasons which I shall mention later, the companies buying diamonds in West Africa for resale through the Central Selling Organization have ceased to be subsidiaries of De Beers.

"The group profit for the year before tax at R 79,225,000 was R 18,605,000 higher than last year. Taxation, however, at R 22,868,000 was up by R 11,625,000, largely owing to the effect in 1962 of the introduction of the pay-as-you-earn system. The net profit attributable to De Beers after taxation and the deduction of minority interests was R 49,928,000, which compares with R 43,762,000 in 1962 and R 43,963,000 in 1961.

"Dividends of R 1.50 per deferred share were declared, being the same as in 1962. As has been announced in the press, the board proposes, subject to the approval of shareholders, to make a capitalization issue of deferred shares on the basis of one new share for each existing share held. This I believe should make for a freer market in these shares, and, I am sure, will be welcomed by shareholders.

"The market for gem diamonds is at present exceptionally firm. You will remember that early in 1963 the Central Selling Organisation adjusted the whole range of its selling assortment and prices, as a result of which there was an over-all increase in gem diamond prices of about 5 per cent. Not only did the increase prove fully justified but the adjustments in the relative prices of the various sizes and qualities went a long way to eliminating the difficulty we had experienced in the past in marketing the smaller sizes of diamonds.

"This is a matter which has to be carefully watched in relation to the fixing of selling prices. Conditions change from time to time, and sometimes rapidly, but at present I can say that the demand for various sizes and qualities of gem stones is in better balance than it has been for some years. Early this year, it was decided further to increase the price in most qualities of gem diamonds by about 10 per cent. As I have already mentioned, our excess stocks of diamonds were exhausted last year, and prices in the open market had risen considerably above those charged by the Central Selling Organisation. In the circumstances the recent increase was accepted by the market as realistic and justified. We are indeed experiencing some difficulty at present in meeting the general demand. Steps are being taken, therefore, to increase the production of the Consolidated Diamond Mines of South West Africa and of Namaqualand. Regular production on a considerable scale is also beginning to come forward from the Marine Diamond Corporation, and is being purchased under contract by the Diamond Corporation. There should also this year be some further increase in the output of the Premier mine, and the production of the old De Beers mine should gradually increase. Provided therefore that there is no unexpected change in market conditions, 1964 should be a good year for the Company."

2. *Diamond Area No. 2*

164. Under an agreement concluded in December 1963, a company, owned two thirds by De Beers and one third by Mr. Paul Getty's Tidewater Oil Company of the United States of America, is to be formed to carry out prospecting and mining operations in Diamond Area No. 2 and in the foreshore and adjacent sea areas to the end of the continental shelf, a total of some 18,000 square miles. Diamond Area No. 2 covers an area of 10,923 miles stretching 150 miles along the South West Africa coast immediately north of Diamond Area No. 1—the main concession area of Consolidated Diamond Mines. The off-shore area includes the sea area adjoining Diamond Area No. 2 and continues an additional 45 miles further south, adjacent to the northern portion of Diamond Area No. 1.

165. The new company owned by De Beers and Tidewater Oil will have the right to mine all minerals other than prescribed materials, oil and gas in Diamond Area No. 2, and all minerals in the off-shore areas. Oil prospecting rights over Diamond Area No. 2 were held in 1962 by another company, Trans-American Mining (see below, para. 284).

166. The mining rights thus obtained by De Beers and Tidewater Oil, apart from those already held in a small portion of Diamond Area No. 2 by De Beers through its subsidiary, the Consolidated Diamond Mines, were acquired from the Diamond Mining and Utility Company (SWA), Ltd., under separate agreements which required the approval of the Administrator of South West Africa.

167. The rights ceded by the Diamond Mining and Utility Company to De Beers and Tidewater Oil were originally obtained from the South West Africa Administration by the Diamond Mining and Utility Company, its subsidiary, Diamond Dredging and Mining Company (SWA), Ltd., and Industrial Diamonds of South Africa (1945), Ltd., three companies of the "Kahan Group" owned largely by the Kahan family of South Africa and under the chairmanship of Mr. M. E. Kahan. In March 1964, a 32 per cent interest in the Diamond Mining and Utility Company, was acquired by

Offshore Diamonds (SWA), Ltd., a company originally incorporated in South West Africa in 1954 under the name Gold Coast Diamond Corporation (SWA), Ltd.

168. The Diamond Mining and Utility Company, which was incorporated in South West Africa in 1948, originally obtained a mining grant in a small portion of Diamond Area No. 2, valid for twelve years from 10 June 1950. In 1954, it obtained the right to prospect for, and later to mine, all minerals other than prescribed materials in the whole of Diamond Area No. 2, except where there were pre-existing rights including those held by Consolidated Diamond Mines.[j] The company's board of directors, as listed in 1962, included Mr. J. H. Cloete, a member of the South African Parliament representing the Namib constituency in South West Africa. Mr. Cloete previously was a member of the Executive Committee of South West Africa in 1957 when, as shown below, an off-shore concession was granted to the company's subsidiary, the Diamond Dredging and Mining Company.

169. The Diamond Dredging and Mining Company of which 85 per cent of the equity is owned by the Diamond Mining and Utility Company, obtained in 1957 exclusive rights until 31 July 1967 to mine for all minerals[k] in an off-shore area extending to a depth of three miles out to sea along the coast of Diamond Area No. 2. These rights were later taken over by the Diamond Mining and Utility Company, subject to a 10 per cent participation in its profits by the Diamond Dredging and Mining Company.

170. The Diamond Mining and Utility Company subsequently ceded the exploitation rights to Industrial Diamonds of South Africa (1945), Ltd., in which it held a 48 per cent interest, in exchange for 20 per cent of the net proceeds on all diamonds recovered. Industrial Diamonds, a company incorporated in South Africa, itself held, and had earlier exploited, mining rights in the southern part of Diamond Area No. 2, at Saddle Hill, where it had recovered 350,000 carats.

171. On 30 April 1960, Industrial Diamonds, according to a report on that company, suspended mining operations as it was unable to raise the necessary capital to carry on a dredging scheme. The right to prospect and mine Diamond Area No. 2 consequently reverted to the Diamond Mining and Utility Company and the Diamond Dredging and Mining Company. Industrial Diamonds had an authorized and issued capital of only R 400,000.

172. During the same year, 1960, the Diamond Mining and Utility Company, which then had a debit balance, ceded its mining rights, for diamonds only, in the northern portion of Diamond Area No. 2, including the contiguous foreshore and sea, to De Beers, in consideration of a loan of R 300,000 and 20 per cent of the net profits earned on any diamonds recovered in the area. In July 1960, the Diamond Mining and Utility Company increased its authorized capital from R 600,000 to R 1 million in 2 million shares of 50 cents (South African) each, of which 1,553,200 shares had been issued and fully paid by June 1962.

173. In 1961, the Diamond Mining and Utility Company which, despite the loan and the increase in its authorized capital during the preceding year, still had an increasing debit balance, obtained from the South West Africa Administration mining rights in the 45-mile long off-shore sea area adjoining the northern portion of Diamond Area No. 1. The company reported, however, that by June 1962 offers for exploration and exploitation of this concession had not proved acceptable and negotiations had terminated.

174. The company also retained diamond exploration and mining rights in the southern part of Diamond Area No. 2 and the sea adjoining. It reported that, during 1961 and 1962, it had made seven tests off-shore opposite the Saddle Hill area of Diamond Area No. 2 and that these tests had established not only the presence of diamonds but also the existence of a large area of diamantiferous gravels. The company considered that it could reasonably be inferred from these results that the rich terrace which had previously been mined by Industrial Diamonds in the Saddle Hill area was merely an extension of a submarine terrace which previously had been believed to extend only over an area of 10,000 by 1,000 metres. According to the annual report of the Inspector of Mines for 1962, mining operations by the Diamond Mining and Utility Company "took place only during July" of that year and resulted in the recovery of only sixty-two carats. By 30 June 1962, the company's debit balance had further increased to R 215,431.

175. In January 1963, in anticipation of the passage of the Territorial Waters Act, No. 87 of 1963, extending the territorial waters of South and South West Africa from three to six nautical miles for mining purposes,[l] the chairman of the company, Mr. M. E. Kahan, obtained the agreement of the Executive Committee of South West Africa to the amendment of the words "three miles into the sea", in his company's two sea concessions, to read "to the boundaries of the territorial waters". In August 1963, the Executive Committee confirmed the granting of the concessions to the limits of the territorial waters. Rights to mine all minerals for twenty years from 12 July 1963 were granted in the extended sea concession.[m]

176. Press comments concerning the granting of this as well as other concessions led, in December 1963, to suits for alleged libel brought by the Deputy Minister for South West Africa and the four members of the Executive Committee of South West Africa against the editors of two of the Territory's main newspapers. After an investigation into the allegations had reportedly begun, *The Windhoek Advertiser*, one of the two newspapers involved, reported, on 18 September 1963, that newsmen had checked a document recording the 1961 sea concession (see above, para. 173) at the Deeds Office and found that the concession was the only concession in the Territory for which no fees were paid.

177. According to the newspaper report, the grant was for a period of twenty-five years, from 12 April 1961 to 31 July 1987, and was subject to the conditions that R 2,000 should be spent annually on the development of the concession and that the concession could not be transferred without the permission of the Administrator. The document further revealed, it was reported, that on 7 May 1963 the concession had been leased and a document to that effect registered in the name of Messrs. Veedol Minerals (see below).

178. Meanwhile, on 28 March 1963, the Diamond Mining and Utility Company leased its mining rights in Diamond Area No. 2 and off-shore areas to Tidewater Oil Company of the United States of America. (This lease did not include the right to mine diamonds in the northern portion of Diamond Area No. 2 which, as stated in paragraph 172, the company had already ceded to De Beers.) Tidewater Oil Company established a subsidiary, known as Veedol Minerals, SWA (Pty.), Ltd., incorporated in South West Africa, to carry out prospecting and mining operations. The lease granted by Diamond Mining and Utility Company to Tidewater Oil Company for its subsidiary, Veedol Minerals, was for a period of twenty-five years with an option, after five years, to purchase the grants. Under the terms of the lease, Veedol Minerals was to pay the Diamond Mining and Utility Company 18 per cent of the sales proceeds on diamonds recovered after deduction of export tax and charges levied by the Central Selling Organisation, and 12 per cent of the sales proceeds on other minerals, including oil recovered in the off-shore areas. Veedol Minerals also agreed to pay a minimum monthly royalty of R 10,000 to the Diamond Mining and Utility Company, beginning after the first year of lease. In addition, Veedol Minerals paid R 300,000 for existing plant and equipment in the Saddle Hill area.

179. The Diamond Mining and Utility Company undertook to procure the lease to Veedol Minerals by Industrial Diamonds of all mining claims, mining areas or other titles held by the latter company which lay within the areas which it had leased to Veedol Minerals. The Diamond Mining and Utility Company accordingly entered into an agreement with Industrial Diamonds in terms of which the latter sold all its claims and titles in

[j] *Official Gazette of South West Africa,* No. 1879.

[k] *Ibid.,* No. 2123.

[l] For certain other purposes, including fishing, it was extended to twelve nautical miles.

[m] *Official Gazette of South West Africa,* No. 2517.

the areas to the Diamond Mining and Utility Company for R 177,500, of which R 50,000 was to be paid in cash by 1 May 1964 and the balance by a transfer of shares in Diamond Dredging and Mining Company.

180. Shareholders of Industrial Diamonds were informed that as a result of the transfer of shares referred to above, a 15 per cent share in the profits of the parent company, the Diamond Mining and Utility Company, would accrue to Industrial Diamonds.

181. In December 1963, Tidewater Oil Company and De Beers agreed on an amalgamation of their interests in Diamond Area No. 2, including the foreshore and sea rights, namely: the mining rights which Veedol Minerals had acquired from the Diamond Mining and Utility Company, together with the diamond mining rights in the northern portion of the area held by De Beers itself and the claims in a part of Diamond Area No. 2 held by Consolidated Diamond Mines. As already indicated above, a new operating company was to be formed under the agreement, two-thirds owned by De Beers and one-third by Tidewater Oil Company, to systematically prospect and exploit the whole of Diamond Area No. 2. Ocean Science and Engineering S.A. (Pty.), Ltd., a subsidiary of a United States firm, was to carry out oceanographic and geological work in the area.

3. *Kaokoveld*

182. De Beers holds three concessions in the north-western portion of South West Africa between the Ugab and the Hoanib Rivers in the Outjo District, south of the Kaokoveld Native Reserve.

183. Its prospecting and mining operations in this area yielded 569 carats in 1961, 1,070 carats in 1962 and 13,203 carats in 1963. The available sales figures for 1962 indicate that 946.25 carats were sold during that year for R 8,897.16.

C. *Off-shore diamonds*

184. The first off-shore concession in South West Africa was granted with effect from 1 January 1957 to Suidwes-Afrika Prospekteerders (Eiendoms) Beperk, to mine in the sea off Diamond Area No. 1; this concession is now held by Marine Diamond Corporation, Ltd., the only company actively engaged in off-shore mining operations.

185. A second concession, in the sea bordering Diamond Area No. 2, was later granted to a subsidiary of Diamond Mining and Utility Company (see above, para. 169). This second concession is valid from 1 August 1957 to 31 July 1967. Both concessions extended initially to the three-mile limit of the territorial waters.

186. On 9 January 1962, the Administrator-in-Executive-Committee of South West Africa decided that no further concessions would be granted in the open sea for the next two years. A year later, it was decided to extend this period until January 1966 when the matter would be reviewed.

187. After this last decision had been taken, the Administrator-in-Executive-Committee nevertheless extended the off-shore concession adjacent to Diamond Area No. 2 to the new six-mile limit of the territorial waters fixed by Act No. 87 of 1963 and, on 22 April 1963, granted a new concession, covering the stretch of open sea along the coast from Diaz Point to the northern boundary of the Territory, a distance of about 700 miles in length. This new concession was granted to Terra Marina, a subsidiary of Bonus Investment Corporation of South Africa (BONUSCOR).

188. These actions by the Administrator-in-Executive-Committee led to demands made in the Legislative Assembly of South West Africa (see below, para. 227) and in the South African Parliament for an investigation into the granting of mining and fishing concessions. A further result was that the Marine Diamond Corporation, which at the time was one of the outstanding applicants for off-shore concessions and had been informed that no new concessions would be granted until 1966, obtained an extension of its own concession to the edge of the continental shelf.

1. *Marine Diamond Corporation, Ltd.*

189. Marine Diamond Corporation, Ltd., which has become the second major diamond producer in South West Africa, holds exclusive prospecting and mining rights for all minerals until 31 December 1997 in the sea bordering Diamond Area No. 1, and stretching from the mouth of the Orange River northward for a distance of about 176 miles. The concession area was extended, for twenty years from 14 October 1963, to the edge of the continental shelf[n] which lies approximately eighteen nautical miles off the mouth of the Orange River and twenty nautical miles off Diaz Point. It is estimated that the total concession area covers 13,300 square miles, exclusive of a coastal concession, eight miles long, held by Atlantiese Diamantkorporasie (see below, para. 214).

190. The acquisition of the concession and the formation of Marine Diamond Corporation was preceded by a series of agreements. In 1957, Suidwes-Afrika Prospekteerders, a company totally owned by Benguella Beleggings Beperk, had obtained the right, valid from 1 January 1957 to 31 December 1997, to prospect and mine for all minerals within an off-shore area covering about 176 miles along the coast of Diamond Area No. 1 and from the low-water mark to three miles out to sea. The total area of this concession was approximately 587 square statute miles. The chief shareholders in Benguella Beleggings Beperk were Messrs. J. M. van Zyl, G. J. van Zyl (both South Africans), and Mr. J. H. Viviers. According to company listings in *Beerman's Financial Yearbook of Southern Africa,* 1963, Mr. G. J. van Zyl is also on the board of a number of other companies, including a subsidiary of Benguella Beleggings Beperk, namely, Suidwes-Afrika Prospekteerders. He is also, among his other functions, the Deputy Chairman of the statutory South African Iron and Steel Industrial Corporation, Ltd. (ISCOR), established by Act of Parliament, chairman and managing director of Marine Products, Ltd., and a director of Seafare Investments Ltd., both of which own fishing companies in South and South West Africa (see below, para. 359). Seafare Investments, also includes among its directors Mr. A. J. R. van Rhyn, Minister of Economic Affairs of South Africa from 1954 to 1958 and formerly Administrator of South West Africa. Marine Products, Ltd. includes among its directors Mr. John Neser, who had served as Secretary for South West Africa and Chairman of the Diamond Board until his retirement from public office during 1957.

191. The original concession granted to Suidwes-Afrika Prospekteerders extended seawards from the high-water mark, but it was altered in 1959 to extend from the low-water mark following a law suit, which was won on appeal by Consolidated Diamond Mines for the right to the foreshore between the high- and low-water marks in its concession area, Diamond Area No. 1.[o]

192. On 8 March 1961, the so-called "Strydom group" obtained an option to acquire, for the sum of R490,422, the entire issued share capital of Benguella Beleggings Beperk, which owned Suidwes-Afrika Prospekteerders. The Strydom Group consisted of Capt. Gert Hendrik Frans Strydom, and Messrs. André Pierre du Preez, Pieter Gysbert Steyn Neethling, Abe Bloomberg, Bernard Friedland, David Bloomberg and Gerald Baigel (South Africans), who later acquired an interest in Marine Diamond Corporation. Capt. Strydom, until his death in 1964, and Messrs du Preez and Neethling were also directors of a number of fishing companies having interests and operating in South and South West Africa (see below, paras. 366 and 370). Capt. Strydom was also a member of Parliament until 1960 and Mr. Abe Bloomberg was still a member of Parliament in April 1964.

193. Under an agreement of 4 May 1961 with a company called Establishment Collins International (i.e., Mr. Samuel Vernon Collins of the United States, head of the American Undersea Pipe-Line Company), the Strydom group ceded its option to Marine Diamond Corporation, which was later in-

[n] *Official Gazette of South West Africa,* No. 2541 of 15 April 1964.

[o] Government Notice No. 5 of 1959, *Official Gazette of South West Africa,* No. 2175.

corporated in South West Africa on 22 March 1962. Meanwhile, Mr. Collins had begun prospecting operations in the concession area in October 1961. Under the agreement, the Strydom group obtained the right in perpetuity to 12.5 per cent of the issued shareholdings in Marine Diamond Corporation, 7.5 per cent of the shareholding to be in shares of R1 each, acquired at a cost of 2.5 cents, and 5 per cent to be acquired at par. The group also obtained the right to a 5 per cent royalty on all diamonds and other minerals won in the concession area or any extension thereof. The Strydom group formed Marine Group Investments (Pty.) Ltd., incorporated on 11 November 1961, to hold its interests in Marine Diamond Corporation. Marine Group Investments later became a wholly owned subsidiary of a new company formed in 1963, Diamond Royalties and Holdings, Ltd., in which the individuals constituting the Strydom group, and including Messrs. Johann Hendrik Vivier and Robert Silverman, hold controlling shares. An offering to the public of 1,998,397 shares in Diamond Royalties and Holdings, Ltd. in April 1963 was underwritten by Bonus Investment Corporation of South Africa (BONUSCOR). The latter is a member of the group which controls Terra Marina to which a 700 mile off-shore mining concession was granted in 1963 (see paras. 187 and 221).

194. On 29 February 1964, Marine Diamond Corporation had an authorized capital of R10,000,000 in R1 shares, and an issued share capital of R3,272,000, in as many shares of R1 each held as follows:

43.75 per cent by Sea Diamonds Corporation, Ltd., incorporated in South West Africa under the chairmanship of Mr. S. V. Collins, and including on its board of directors, in December 1963, nationals of the United Kingdom and the United States as well as Mr. A. Webster, a member of the South African Parliament from South West Africa.

43.75 per cent by a syndicate consisting of the General Mining and Finance Corporation, Ltd., a company referred to more fully below (see below, para. 203), and Anglo-Transvaal Consolidated Investment Co., Ltd., an investment firm incorporated in South Africa in 1933 under the chairmanship of Mr. S.G. Menell.

12.5 per cent by Diamond Royalties and Holdings, Ltd., a company incorporated in South West Africa in April 1963, and owned to the extent of about 70 per cent by the Strydom group. Mr. Abe Bloomberg, M.P. succeeded Capt. G.H.F. Strydom as chairman in 1964.

195. According to a statement by the Chairman of De Beers, in his review of that company's activities during 1962, De Beers entered into an agreement with Mr. S. V. Collins in 1963, in terms of which it undertook to make a loan of R2,000,000 partly to Mr. Collins personally and partly to Sea Diamonds Corporation, Ltd., which is controlled by Mr. Collins. The purpose of the loan was to assist in the financing of two companies, Marine Diamond Corporation, referred to above, and Southern Diamonds, Ltd., another Collins venture which also has diamond concessions in the sea off the west coast of South Africa. In return for the loan, De Beers acquired, *inter alia*, an option, which it could exercise in specified circumstances, to acquire part of the interests of Mr. Collins, who owns about 40 per cent of the capital of each of Marine Diamond Corporation and Southern Diamonds, Ltd., and a right of first refusal, subject to certain prior commitments entered into by Mr. Collins, on any further interest in these companies of which he may wish to dispose.

196. Later in 1963, De Beers entered into an agreement with Marine Diamond Corporation, and its shareholding companies, to prospect the marine diamond mining concession held by Marine Diamond Corporation off the coast of South West Africa, together with the contiguous area of the foreshore between the high- and low-water marks, over which the mining rights are held by De Beers' subsidiary, Consolidated Diamond Mines. The purpose of prospecting these areas was to evaluate and determine their respective diamond content with a view to the possibility of exploiting them as one unit, subject to the consent of the Administration of South West Africa. De Beers agreed to meet the cost of prospecting, which it anticipated would be completed by the end of 1964, and undertook to inform Marine Diamond Corporation whether in its opinion a public flotation of shares was justified. In that case, De Beers would have the right to take up, under certain terms and conditions, a 29 per cent interest in the Corporation. De Beers contracted with Ocean Science and Engineering, S.A. (Pty.), the local subsidiary of an American oceanographic company, to carry out a detailed geological and geophysical survey of this and other marine areas, and work was reported to be proceeding satisfactorily. This contract, together with De Beers' obligations and rights under its agreement with Marine Diamond Corporation and the latter's principal shareholders, was subsequently ceded by De Beers to its subsidiary, Consolidated Diamond Mines.

197. De Beers has until 31 March 1965 to exercise its option to acquire an interest in Marine Diamond Corporation. If it were to do so, the shareholdings in Marine Diamond Corporation would be altered as follows: De Beers, Sea Diamonds Corporation and the syndicate would each hold 29 per cent, while the shares held by Diamond Royalties and Holdings, Ltd. would increase to 13 per cent of the total equity. On the other hand, the 5 per cent royalty accruing to Diamond Royalties and Holdings, through its subsidiary, Marine Group Investments, would be slightly reduced.

198. Meanwhile, under the agreement, De Beers was to grant loan facilities to Marine Diamond Corporation sufficient for normal working and development operations. The latter would declare no dividends until such loans were repaid.

199. De Beers also undertook to procure a contract for the sale of the output of Marine Diamond Corporation on terms no less favourable than those applying to any other member of the Diamond Producers Association; and to arrange for Consolidated Diamond Mines to make available to Marine Diamond Corporation special oil bunkering and fuelling facilities at Oranjemund.

200. Besides the option held by De Beers, another option, to take up 200,000 shares of Marine Diamond Corporation, is held by Diamond Royalties and Holdings, through one of its subsidiaries, Diamantkus Beleggings Beperk. This option expires on 30 June 1965.

201. Since 1963, Federale Mynbou Beperk, one of the companies comprising the Terra Marine consortium, which, in 1963, obtained an off-shore concession covering 700 miles of coastline in the north of the Territory (see paras. 187 and 221), has shared with Anglo-American Corporation of South Africa, Ltd. a substantial interest in General Mining and Finance Corporation, Ltd. The last-mentioned, as has been shown in paragraph 194 above, is, in its turn, an important shareholder of Marine Diamond Corporation.

202. Federale Mynbou Beperk acquired this interest as a result of joining with Anglo-American Corporation in 1963 to form a holding company, Mainstreet Investments, or Mainstraat Beleggings (Edms.) Beperk, in which each has a 50 per cent interest and which has a capital of R22,000,000. Anglo-American Corporation transferred substantial shareholdings in General Mining and Finance Corporation to this new company.

203. Under the terms of the agreement between them, Anglo-American Corporation and Federale Mynbou were each to name three representatives to the board of directors of General Mining including their respective chairman, Mr. H. F. Oppenheimer and Mr. W. B. Coetzer. Mr. Coetzer became chairman of General Mining from October 1963, and Mr. T. F. Muller, who had been until then managing director of Federale Mynbou Beperk, became managing director of General Mining.

Production

204. As stated in paragraph 193 above, Mr. Collins began prospecting in the sea concession off Diamond Area No. 1 in October 1961. Mining operations began on 16 June 1962 and were interrupted toward the end of June 1963 when the mining ship being used, Barge 77, was lost and washed ashore during a heavy gale. Production resumed in September 1963 when a new ship, Barge 111, was brought into operation. On 8 January 1964, an additional ship, the *Diamantkus,* also began mining operations.

205. Barge 111, a 1,254 ton barge (200 ft. × 45 ft. × 12 ft.), is equipped with a 12-inch airlift and 12-inch jetlift for dredging operations. The *Diamantkus* is a 3,812 ton former United States Navy tank-landing ship, converted for sea mining in the United States of America and equipped with mining machinery in Cape Town at a cost of some R3 million. The ship, used as a diamond recovery unit, is equipped with three 16-inch airlifts, three 14-inch jetlifts and a diamond recovery plant capable of treating 300 tons of gravel per hour. It has a power plant exceeding 17,000 horse power which is used for both propulsion and operation of the machinery. A third ship, the *Emerson K*, a 759-ton, 3,000-horsepower former United Kingdom Navy steam tug, is used for prospecting. Other ships are owned or chartered by Marine Diamond Corporation to transport crew, fuel and store and for other ancillary services.

206. By 31 January 1964 the Marine Diamond Corporation had recovered a total of 215,852 diamonds weighing 89,020 carats, of which 163 carats had been recovered in prospecting and the balance in mining operations.

207. The company's increasing production is shown in the following table which is based on data contained in a prospectus issued by Diamond Royalties and Holdings:

	No. of diamonds	*Carats*
Prospecting operations:		
16 October 1961-31 January 1964	—	163 00
Mining operations:		
1962 (16 June to 31 December)	45,001	18,613.36
1963 (1 January to 27 June and 19 September to 31 December)	123,189	53,667.11
January 1964	47,662	16,576.53
TOTAL	215,852	89,020.00

208. The annual report of the Inspector of Mines for South West Africa for 1962 gave slightly higher figures for the company's production during that year. According to that report the company recovered 18,686.62 carats, 18,646.37 carats in mining and 40.25 carats in prospecting operations.

209. During February and March 1964, according to the prospectus, the company recovered an additional 52,781 carats. Production by each of the two mining ships increased as follows:

	Diamantkus (carats)	*Barge 111 (carats)*
February 1964	6,926	1,940
March 1964	16,833	9,572

210. It was anticipated that by 1 July 1964, when Barge 111 and *Diamantkus* were expected to be in full scale operation, the daily recovery of diamonds would be 2,500 carats, equivalent to 75,000 carats per month or 900,000 carats per year. If this output is achieved the company would rank, at least for a few years, together with Consolidated Diamond Mines, as a leading producer.

Sales

211. According to the company prospectus mentioned above, Marine Diamond Corporation had sold 73,563 carats valued at R1,681,509 by 31 January 1964. Calculated on the basis of sales figures for 1962 given in the report of the Inspector of Mines for South West Africa the company's annual sales during its first two years of mining operations were as follows:

	Carats sold	*Value (rands)*
1962	16,122	353,394.20
1 January 1963 to 31 January 1964	57,441	1,328,104.80
	73,563	1,681,509.00

Profits

212. By 31 January 1964, net proceeds of Marine Diamond Corporation amounted to R1,435,877 after deduction of taxes (R152,866), Diamond Board charges (R17,194), and 5 per cent royalty payments (R75,572).

Ore reserves

213. It was estimated that areas in which the highest occurrences of diamonds had been found would yield a further 7,864,031 carats from 1 February 1964 with average dredging operations or 13,516,881 carats with intensive dredging. The potential life of the areas, if production is carried out at the rate of 75,000 carats per month as anticipated, would therefore be less than nine years with limited dredging and about 15 years with intensive dredging.

2. *Panther Head Investments*

214. A small portion of the original off-shore mining concession granted to Suidwes-Afrika Prospekteerders in 1957 was not included in the transfer of that company's mining rights to Marine Diamond Corporation, because it had already been ceded to another company, Atlantiese Diamantkorporasie. The area concerned covers 24 square miles of sea-bed, lying off Panther Head and extending for about 8 miles along the coast of Diamond Area No. 1.

215. This area had been reserved by Suidwes-Afrika Prospekteerders for Mr. J. H. Viviers, one of the principal shareholders of its parent company who, however, transferred his rights to Atlantiese Diamantkorporasie, a company with an issued share capital of R200,000 divided into two million shares of 10 cents each. Atlantiese Diamantkorporasie was entitled to retain the first R60,000 net value of diamonds recovered from the concession area and was obliged thereafter to pay Suidwes-Afrika Prospekteerders 25 per cent of the gross proceeds on diamond sales from the area, after deduction of taxes and other charges.

216. In 1963, Diamond Royalties and Holdings, Ltd. acquired 700,000 of the 10 cent shares of Atlantiese Diamantkorporasie for R1 (100 cents) each, payable in cash, from, among others, three members of the Strydom group who were on the board of directors of Diamond Royalties and Holdings. The company then joined with other shareholders of Atlantiese Diamantkorporasie, who between them held a further 300,000 shares, in forming Chameis Bay Holdings (Pty.), Ltd., and other shareholders were then invited to exchange their shares of Atlantiese Diamantkorporasie for an equal number of shares of the holding company. Thus, through the medium of the holding company, Diamond Royalties and Holdings finally acquired control (50.3 per cent of the equity) of Atlantiese Diamantkorporasie.

217. Meanwhile, Marine Diamond Corporation, by an outright purchase of the parent company in 1961, had acquired full ownership of Suidwes-Afrika Prospekteerders and was thus entitled to 25 per cent of the net proceeds on diamonds sold from the area in excess of R60,000.

218. An agreement between De Beers, Diamond Royalties and Holdings, and Marine Diamond Corporation followed. These three companies formed Panther Head Investments, in which each holds a one-third interest.

219. Under the agreement, Marine Diamond Corporation ceded to Panther Head Investments 60 per cent of its right to 25 per cent of the net value of diamonds mined in the area in excess of R60,000. Diamond Royalties and Holdings, for its part, transferred 660,000 shares in Chameis Bay Holdings to Panther Head Investments, which thus acquired 62.5 per cent ownership of Chameis Bay Holdings, leaving Diamond Royalties and Holdings, Ltd. in possession of the remainder. Panther Head Investments also acquired, through Chameis Bay Holdings, a controlling interest in Atlantiese Diamantkorporasie and its off-shore mining rights in the Panther Head area; the remaining shares in Atlantiese Diamantkorporasie were held by Diamond Royalties and Holdings (44.9 per cent) and the public (4.8 per cent).

220. The agreement between the three companies forming Panther Head Investments was similar to that concluded between De Beers and the Marine Diamond Corporation. It provided for prospecting of the Panther Head area and the contiguous beach area held by Consolidated Diamond Mines in order to evaluate the two areas with a view to exploiting them as one unit, subject to the consent of the Administration of South West Africa. Costs were to be met by Panther Head Investments.

3. *Terra Marina Diamantkorporasie (Edms) Beperk*

221. In 1963, a concession, valid for twenty years from 12 August 1963, covering the off-shore areas three miles to sea and extending some 700 miles along the northern coast of South West Africa to the Angola border was granted to Terra Marina Diamantkorporasie (Edms) Beperk, a company formed for the purpose by a South African consortium consisting of Bonus Investment Corporation of South Africa, Ltd. (BONUSCOR), Federale Mynbou Beperk, Weskus Mynbou Beperk, Spes Bona Mynboumaatskappy Beperk and Federale Volksbeleggings Beperk. The consortium also obtained, with the approval of the South African Cabinet, concessions along the South African coast and on South African islands and their territorial waters off the South West African coast.

222. BONUSCOR (share capital R15,000,000) and Federale Volksbeleggings (share capital R14,500,000), which also have interests in the fishing industry in South and South West Africa, were under the chairmanship of Mr. C. R. Louw who was also chairman of the South African Nasionale Lewensassuransiemaatskappy (SANLAM), of which the board of directors included Mr. Eric H. Louw, former Minister of Foreign Affairs of South Africa. The Prime Minister of South Africa delivered the inaugural address at Sanlam Centre, a building completed by the company in 1963, at a cost of R4,000,000.

223. Federale Mynbou was under the chairmanship of Mr. W. B. Coetzer, who became chairman of General Mining and Finance Corporation, Ltd., which had interests in Marine Diamond Corporation, following the formation of a new holding company, Main Street Investments, jointly owned by Federale Mynbou and Anglo-American Corporation of South Africa, Ltd. (see above, para. 203).

224. After obtaining the mining concession off the northern coast of South West Africa, Terra Marina transferred its rights to Orange Kunene Diamante Beperk, a company with a capital of R1,000,000 divided into 2,000,000 shares of 50 cents each, whose board of directors consisted of the following persons, all residents of South Africa: Messrs. A. P. du Preez (Managing Director), P. Neethling, both of whom have interests in Marine Diamond Corporation as well as in the fishing industry, J. J. M. van Zyl, M. S. Louw, P. H. Meyer, W. B. Coetzer and C. G. W. Shumann.

225. The company is to pay the South West Africa Administration an annual rental of R1,500 and has undertaken to spend R500,000 per annum for the first five years, and subsequently R100,000 per annum for the rest of the concession period, on investigation and development work. The company has undertaken not to operate within the harbour limits of Walvis Bay and Lüderitz, and not to interfere with the sealing activities at Cape Cross, nor to disturb lobster fishing off Lüderitz. No shares are to be issued to the public until the company has proved the availability of diamonds in the concession area. When a public issue takes place, 15 per cent of the shares issued must be made available to *bona fide* residents of South West Africa.

226. It was reported that the company had concluded negotiations in Italy with the foremost Italian company specializing in underwater mining and that two of the latter's directors, Messrs. Borghini and Mazzacurti, went to South Africa in 1964 to confer with executives of Orange Kunene Diamante Beperk.

227. In May 1963, a number of questions were put to the Administrator of South West Africa in the Territorial Legislative Assembly by Mr. J. P. Niehaus, the Leader of the Opposition, concerning the granting of concessions for the exploitation of sea diamonds to Terra Marina. The questions and answers were as follows:

Question: Has the Administrator-in-Executive-Committee decided to withdraw the coastal area and contiguous ocean north of Diaz Point, excluding existing concessions, from concessions for the mining of diamonds?

Answer: Yes.

Question: If so, when was the resolution or resolutions taken and for how long has the said coastal area been withdrawn?

Answer: On 9 January 1962, it was decided that no other concessions in respect of the open sea strip would be granted for the next two years. On 8 January 1963, it was decided that no further concessions to prospect or to mine from the low-water mark to the limits of the territorial waters would be granted for a further period of three years and that the matter would be reviewed during January 1966, on the basis of the results obtained.

Question: Who were the applicants for concessions to mine diamonds at the time of such resolution or resolutions?

Answer: Capt. C. H. F. Strydom, Marine Diamond Corporation Limited, C. H. Rothman and De Beers Company.

Question: Has the Administrator-in-Executive-Committee since then decided to grant concession rights in the entire above-mentioned territory to the Terra Marina Company? If so, why?

Answer: On 22 April 1963 the entire open sea strip north of Diaz Point was granted to Bonusbeleggingskorporasie to prospect for and mine diamonds for the following reasons:

(*a*) It would give another group the opportunity of acquiring an interest in the diamond industry;

(*b*) The group intended, and was also financially strong enough, to devote itself without delay and actively to the investigation and development of the potential;

(*c*) After proper investigation it appeared that the mining of diamonds from sea gravel would not injure the fishing industry;

(*d*) The considerations which influenced the decisions under [the second question] and which were their cause were removed by the understanding reached with Bonusbeleggingskorporasie.

Question: What was the recommendation by the Mines Branch with regard to these concessions, or was it not consulted at all? If not, why not?

Answer: The Mines Branch was consulted but in any resolution of the Executive Committee recommendations by branches are not *ad rem.* In this particular case the Branch actually recommended the granting of the concession.

Question: Were the previous applicants notified of the withdrawal of the above-mentioned resolutions and that they could again apply for concessions?

Answer: No.

Question: If so, which previous applicants were notified; when and how?

Answer: Falls away.

Question: If not, why not?

Answer: For the reasons mentioned under [the fourth question].

Question: Will the Administrator table the terms of such concessions in the House?

Answer: The concession was approved only in principle with instructions that the conditions should be worked out. This has not been finalized.

4. *Other diamond mining companies*

228. Apart from the diamond mining companies described above, there was only one other company actually mining diamonds in the Territory at the beginning of 1963, the Lovegem Diamond Mining Corporation, a private company formed in partnership by two South West African residents who held a concession on the Skeleton Coast between the Unjab and Ugab Rivers. The company, which also had a subsidiary, Precious Minerals (Pty.), Ltd., produced 280 carats of

diamonds valued at £2,658 in 1962, according to the report of the South West Africa Inspector of Mines for that year.

229. In 1963, it was announced that another private company, Desert Diamonds (Pty.), Ltd., formed, *inter alia,* by Mr. Peter le Riche, who had earlier obtained from the South West Africa Administration and sold to Etosha Petroleum Company, with official permission, an oil concession over the whole of the northern part of the Territory, was finding diamonds at Toscanini on the Skeleton Coast.

230. Yet another company, Westies Minerale (Edms) Beperk, was registered in South West Africa during 1963 and granted the right to prospect for, or mine, all minerals within a strip of coast, ten miles wide, stretching northwards from the Hoanib River to latitude 18° in the Kaokoveld Native Reserve, a distance of some 110 miles, and also within a strip of land, one mile wide, stretching inland from Hoanib River through the Sessfontein Native reserve to longitude 14°. The concession, which was originally granted for a period of two years from 1 February 1963,[p] was extended in June 1963 for five more years, until 31 January 1970.[q]

Chapter V. Base mineral companies

A. *General*

231. South West Africa is a leading source of base metals. Lead, copper, zinc and, in smaller quantities, tin are produced. In 1962, the Territory ranked tenth among world producers of lead and was the second largest producer in Africa, following Morocco. The amount which it produced during that year was approximately 35 per cent of the total output of the United States of America which is the world's leading producer. Zinc and tin are also produced in large quantities, but the production of these metals is relatively less important.

232. South West Africa is also the third largest producer in the world of vanadium in concentrates, following the United States of America and the Republic of South Africa. Other metals of some economic significance include: beryllium (output of which has recently declined); lithium (production of which has fluctuated); manganese (production of which has declined owing to a decrease in demand); and tantalite/colombite (which has increased substantially).

233. Major companies producing base metals are: the Tsumeb Corporation, Ltd., owner of the Tsumeb and Kombat mines; the South West Africa Company, owner of the Berg Aukas and the Brandberg West Mines and the Industrial Minerals Corporation (Pty.), Ltd., owner of the Uis tin mine. A description of these companies and their activities follows.

B. *Tsumeb Corporation, Ltd.*

234. The Tsumeb Corporation is the largest mining company in the Territory after Consolidated Diamond Mines at Oranjemund. The Corporation was formed in 1946 by the American Metal Company, Ltd., now American Metal Climax, which retains a direct interest of 29.13 per cent and an indirect interest of 1.87 per cent, the Newmont Mining Corporation which also holds 29.13 per cent of the equity, and the O'okiep Copper Company, Ltd., which holds 9.50 per cent. Other companies owning shares in the Corporation are the Union Corporation, Ltd. with a 15.62 per cent interest, and the Selection Trust, Ltd. with a 14.25 per cent interest and the South West Africa Company, Ltd. with a 2.375 per cent interest. The Newmont Mining Corporation, incorporated in the United States in 1921, manages the mine.

235. Apart from their interests in Tsumeb Corporation several of the companies referred to above also have interests in one or more of their fellow shareholders. American Metal Climax, for example, holds a 19.27 per cent interest in the O'okiep Copper Company; the Newmont Mining Corporation has a controlling interest, amounting to 57.5 per cent, in the O'okiep Copper Company; and Selection Trust, Ltd. has interests in American Metal Climax and in some of the companies in which the latter also has interests.

236. The board of directors of Tsumeb Corporation consists almost entirely of officers of the controlling companies. The chairman, Mr. W. Hochschild (United States) is also chairman of American Metal Climax and a director of O'okiep Copper Company. The managing director, Mr. M. D. Banghart (United States) is also chairman of O'okiep Copper Company and a vice-president of Newmont Mining Corporation. The other full members of the board of directors are as follows:

A. C. Beatty (United Kingdom), chairman of Selection Trust, Ltd. and a director of American Metal Climax;

F. Coolbaugh (United States), president of American Metal Climax and an alternate member of the board of directors of O'okiep Copper Company;

A. Livingstone (South Africa), director of O'okiep Copper Company;

J. Payne, Jr. (United States), vice-president of American Metal Climax and a director of O'okiep Copper Company;

E. T. Rose (United States), vice-president of American Metal Climax;

F. Searles, Jr. (United States), chairman of Newmont Mining Corporation and a director of both O'okiep Copper Company and American Metal Climax;

H. Dewitt Smith, director of O'okiep Copper Company;

T. P. Stratten (South Africa), chairman and managing director of Union Corporation, Ltd.

237. The registered capital of the Corporation is 4,200,000 shares at 50 cents each, valued at R2,100,000. The issued capital is 4,000,000 shares, fully paid, and valued at R2 million. The following table shows the Corporation's current assets and capital expenditures for the years 1956-1963:

	Net current assets and inventories		
	Net current assets (rands)	*Inventories (rands)*	*Total (rands)*
1956	10,845,856	5,385,170	16,231,026
1957	6,123,128	7,053,218	13,176,346
1958	5,132,040	8,763,768	13,895,808
1959	5,718,680	7,081,686	12,800,366
1960	5,434,182	8,268,892	13,703,074
1961	1,284,185	10,032,259	11,316,444
1962	(1,499,897)[a]	12,535,233	11,035,336
1963	(281,580)[a]	11,828,058	11,546,478

[a] Estimates.

	Capital expenditures (rands)
1956	252.696
1957	325,810
1958	1,012,282
1959	764,034
1960	1,040,274
1961	3,310,435
1962	7,595,304
1963	7,523,089

Early history

238. The Corporation acquired the Tsumeb mine in 1946 from the Custodian of Enemy Property of South Africa for the sum of R2,020,000. The properties comprised 1,788 hectares of mining rights and 59,850 acres of grazing and horticultural land in the Grootfontein district. The mine had been brought into production in 1908 by the Otavi Minen and Eisenbahn Gesellschaft (Otavi Mining and Railway Company) which acquired the mining rights from the South West Africa Company.

239. During the ownership of the Otavi Mining and Railway Company, the Tsumeb mine had a profitable career despite periods of idleness caused by the two world wars and the economic depression of 1932. The mine was developed to a depth of 1,900 feet and the ore extracted was rich in lead, zinc

[p] *Official Gazette of South West Africa,* Nos. 2466 and 2482.
[q] *Ibid.,* No. 2516.

and copper, mingled with silver and cadmium. To facilitate the transport of the ore, the company constructed a narrow gauge railway line between Tsumeb and Swakopmund. Up to 1940 the mine yielded nearly a million tons of high grade ore which was sent to Germany for smelting, and in addition about 130,000 tons of copper matte and 45,000 tons of lead were produced at the mine's own smelter.

240. Mining operations were suspended in October 1939 and the workings were allowed to flood. Exports on a reduced scale, however, were maintained from stocks on hand until 1944. In 1947, after the mine had been acquired by the Tsumeb Corporation, it was re-equipped with a new power plant and a modern flotation plant. During the reconstruction period, considerable quantities of ore were recovered from the extensive dumps left by previous mining operations.

241. Dewatering was completed in 1948 and mining was begun in the upper levels as conditions permitted. A flotation plant, with a capacity of 1,000 to 1,200 tons per day, was brought into operation in May 1948. It produces two types of concentrates; copperlead and zinc. In 1949, diamond drilling below the twentieth level revealed that the ore-body extended deeper and increased in over-all dimensions at greater depths. The results were considered sufficiently encouraging to warrant the sinking of a new vertical shaft to a depth of about 3,000 feet. Ore hoisting from the new shaft commenced early in 1955. Mining operations have since progressed to greater depths.

Current development

242. Since the reopening of the mine in 1947, Tsumeb Corporation has developed into one of the great base metal mines of the world. In 1962, the positive reserves of the mine above the thirty level (3,000 foot depth) are 7,300,000 tons containing 4.6 per cent copper, 13.2 per cent lead, and 3.9 per cent zinc. The preliminary estimate of the ore reserves below the thirty level is 3 million tons containing 2.3 per cent copper and 3.4 per cent lead. It is estimated that at the present rate of exploitation, the mine will probably be worked out within twenty-five years.

243. The following table shows the amount of ore produced and refined metals sold during the years 1956-1963.

	Copper		*Lead*		*Zinc*		*Cadmium*		*Silver*	
	Production (tons)	*Refined Metal Sold (tons)*	*Production (tons)*	*Refined Metal Sold (tons)*	*Production (tons)*	*Refined Metal Sold (tons)*	*Production (lb.)*	*Refined metal sold (lb.)*	*Production (ozs.)*	*Refined metal sold (ozs.)*
1956	29,411		89,854	.	20,187		625,071		1,674,277	.
1957	27,668	.	81,729	. .	18,424		592,456		1,555,692	. .
1958	32,240	28,939	87,171	72,539	15,775	22,636	500,018	675,831	1,858,092	1,708,027
1959	32,491	28,991	69,839	79,623	14,433	21,609	450,827	349,724	1,856,561	1,701,934
1960	25,998	27,413	72,299	51,757	12,450	24,882	390,749	399,109	1,406,491	1,531,335
1961	21,629	23,890	65,609	62,644	11,644	14,235	270,973	375,203	1,118,381	1,278,458
1962	25,859	28,095	71,895	64,693	10,528	14,703	240,349	464,433	1,300,516	999,533
1963	27,018	21,632	79,617	90,887	10,480	10,675	252,419	317,063	1,142,864	1,059,836

. Not available.

244. The Tsumeb Corporation plays an important role in the economy of South West Africa.[r] It is one of the largest private employers and taxpayers in the Territory.

[r] The importance of the Tsumeb ores has long been recognized by the Government. As early as 1922, the Administrator of South West Africa reported: "Both from its richness and the size of its orebodies, Tsumeb ranks as one of the greatest base metal propositions in the world."

245. Between 1948 and 1961 inclusive, the Corporation's net profits before taxation totalled more than R140 million. Of this amount, R91.5 million was paid out in dividends and more than R35 million, or approximately 25 per cent of net profits, was paid in taxes. After a capital expenditure of R1.5 million had been written off out of profits during the early years of its operation, the Corporation progressively accumulated reserves which on 30 June 1961 amounted to R15 million.

246. The following table shows the financial results of the Corporation's operations for each of the years 1951 to 1963:

FINANCIAL RESULTS (AS OF 30 JUNE)

(rands)

	Metal sales	*Net operating income*	*Depreciation*	*Taxation*	*Net profit after taxation*	*Dividends*	
						Amount	*per share*
1951	15,235,482	8,507,156	—[a]	—[a]	5,933,886	—[a]	—[a]
1952	21,645,314	13,486,966	—	—	9,290,886	—	—
1953	21,252,968	9,995,728	—	—	6,373,044	—	—
1954	17,808,736	7,050,144	—	—	4,911,262	—	—
1955	23,102,984	11,494,698	—	—	8,178,206	—	—
1956	38,234,776	22,786,680	—	—	16,043,832	—	—
1957	37,307,160	19,867,296	—	—	14,025,750	—	—
1958	27,559,976	11,052,902	—	—	8,452,058	7,000,000	1.75
1959	28,794,550	12,395,728	214,000	3,555,508	8,627,246	9,400,000	2.35
1960	26,515,336	14,060,164	276,000	3,993,848	9,790,426	8,400,000	2.10
1961	23,959,824	10,027,682	804,000	2,437,166	6,786,838	7,000,000	1.75
1962	24,569,022	10,617,859	1,552,000	518,340[b]	8,548,613	3,500,000	.875
1963	22,849,405	7,792,947	2,358,328	14,930	5,209,843	3,000,000	.75

[a] Figures not available.

[b] Under South West African tax laws, capital expenditures are chargeable against taxable income in the year incurred.

Other properties

247. Besides the Tsumeb mine, the Corporation also owns and operates the Kombat mine (formerly known as the Asis mine), located 65 miles from Tsumeb. This mine, which was reopened in 1962, has proved ore reserves of 1,236,000 tons containing 3.7 per cent copper and 2 per cent lead. In addition, probable, although unproved, reserves, containing 2.3 per cent copper and 3.4 per cent lead, are estimated to amount to 2,141,000 tons.

248. The Tsumeb Corporation also has mining claims at Okarusu, nine miles south-west f Tsumeb, and at Gross Otavi, Harasib and Tsumeb West. Recent exploration at Gross Otavi revealed inter-sections of copper-lead mineralization. In the Okarusu area, a fluorspar deposit has been discovered.

249. Apart from the above claims, the Corporation has a 75 per cent interest in one concession area of about 3,000 square miles surrounding its mine, on which active exploration is in progress. The remaining 25 per cent interest is owned by the South West Africa Co., Ltd. The two companies formed the Tsumeb Exploration Co., Ltd. for the purpose of exploring and developing any minerals, other than vanadium and diamonds, which may be found in the area.

Expansion programme

250. In 1959, the Corporation approved an expansion programme involving capital expenditures of more than R17 million. Expenditures were financed primarily by a reduction of the dividend, which permitted a substantial portion of the year's earnings to be retained, and by savings in tax payments owing to allowances made by the Administration of South West Africa for the company's capital expenditures.

251. The expansion programme included the building of a new copper smelter, which was completed in 1962, a lead smelter and refinery, which was completed in 1963, a sulphuric acid plant and an arsenic plant, both of which were completed in 1962. In addition, the capacity of a germanium plant, which had been in operation since 1960, was doubled.

252. The copper smelter, which will process all the copper concentrates produced at the Tsumeb and nearby Kombat mine, is capable of an annual output of 36,000 tons of blister copper. The lead smelter may attain an annual output of 90,000 short tons of refined lead. Apart from these main products the Corporation can now produce annually 400 pounds of high purity cadmium metal, 45,000 tons of sulphuric acid, 1 million ounces of silver, 4,000 tons of arsenic oxitrioxide, germanium dioxide and other by-products.

253. The increased output of Tsumeb Corporation in recent years prompted the replacement of the narrow gauge railway by a standard South African line. The Administration of South West Africa guaranteed to defray the additional working losses resulting from the broadening of the track. These additional losses are calculated by deducting from the total working loss the sum of R196,286, which was the working loss on the narrow gauge railway during its last full working year (1959-60). Since the fiscal year 1961-62, the Administration has included in its budgetary estimates an appropriation of R500,000 annually to cover the additional working losses. So far, however, the losses have exceeded the estimated amount.

C. *The South West Africa Company*

254. The South West Africa Company was formed in London and was registered on 18 August 1892. In 1957, New Consolidated Gold Fields, Ltd., the Anglo-American Corporation of South Africa, Ltd. and the British South Africa Company purchased more than 89 per cent of the issued share capital.

255. The chairman of the South West Africa Company is Mr. A. R. Williams (United Kingdom), who is also a director of Consolidated Gold Fields of South Africa and of New Consolidated Gold Fields, Ltd. Other members of the board of directors include: Mr. E. C. Baring (United Kingdom), who is also a director of Anglo-American Corporation and, among others, Rhodesia-Katanga Company; Mr. H. St. L. Grenfell (United Kingdom), who is also a director of the British South Africa Company; Mr. E. S. Hallet (United Kingdom), who is also a director of Consolidated Gold Fields of South Africa and of New Consolidated Gold Fields, Ltd.; Mr. R. A. Hope (South Africa), who is also a director (local board) of Rhodesian Selection Trust; and Mr. G. J. Mortimer (United Kingdom), who is also a director of Tsumeb Exploration Company.

256. The registered capital of the company is 12 million shares, with a par value of 3 shillings 4 pence each, valued at £2 million. The issued capital is 2,127,228 shares, with a par value of 3 shillings 4 pence, valued at £354,538.

257. The company's assets and liabilities are as follows:

ASSETS

(*£ sterling*)

	Fixed assets	*Exploration and investigation*	*Subsidiary company, trade investments*	*Stores and livestock*	*Stock of ore*	*Debtors*	*Cash*	*Total assets*
1960	505,741	518,485	6,182	230,733	89,896	39,188	1,278	1,391,503
1961	512,676	196,305	6,182	246,338	50,640	50,640	8,863	1,082,694
1962	566,143	175,000	6.182	260,643	89,592	98,593	10,660	1,206,813

LIABILITIES

(*£ sterling*)

	Capital	*Reserves*	*Loans*	*Unclaimed dividends, etc.*	*Overdrafts and creditors*	*Taxation provided*
1960	354,538	190,783	500,000	10,376	335,518	288
1961	354,538	25,342[a]	500,000	10,244	192,463	107
1962	354,538	18,320	500,000	10,088	323,836	31

[a] After writing off exploration expenditure of £350,000 (1961) and £49,094 (1962).

Early history

258. The South West Africa Company was originally formed to acquire a concession granted by the German Government for land, mining and railway rights in Damaraland. The Company was granted the exclusive mineral rights over an area of about 22,000 square miles, including the already known copper deposits of Otavi. It also received the absolute freehold ownership of an area of about three million acres of land in the districts where its concessions are located. In addition, the company was granted the right to construct and work railways within its own territory and to the coast, at its own discretion, for the purpose of developing its mineral and landed property and for public traffic. It was also granted the freehold ownership, including all mineral rights, of a strip of land about six miles wide on either side of railways constructed by it.

259. In 1898, parts of the concession were changed by an agreement with the German Government, under which the latter reserved the right to construct its own railways. As compensation, the company was granted the exclusive mining rights in that part of Ovamboland bounded on the west by the eastern boundary of the Kaokoveld, to the south by the northern boundary of the company's mining territory, to the north by the inland boundary of the German sphere of interest, and to the east by 19 degrees East longitude.

260. In 1900, the Otavi Mining and Railway Company was formed by the South West Africa Company to investigate and exploit the Tsumeb mines. After prolonged negotiations with the German Government, the South West Africa Company proclaimed general freedom of prospecting throughout the area of the Damaraland Concession with the exception of the 1,000 square mile area which embraces Tsumeb and the Otavi valley.

261. At the end of the First World War, the company's rights came to an end. The South African Government, however, renewed these rights from time to time, until 1941, when they finally expired. In 1942, a special grant of exclusive prospecting and mining rights over some 3,000 square miles of the Damaraland concession area was granted to the company by the Administration of South West Africa for a period of five years from 2 January 1942. The grant has since been renewed until 2 January 1967.

262. The company built a small township near its mines at Abenab and Abenab West, twenty miles from Grootfontein. In 1921, vanadium concentrates were first produced from the Abenab mine and, in the early 1930's, Abenab was probably the world's largest producer of vanadium. Neither mine is still being worked.

263. The South West Africa Company has participated in the formation of many other companies for the purpose of exploring and developing the Territory. All of these companies, with the exception of the Tsumeb Exploration Company, were, in due course, liquidated. In 1947, the company signed an agreement with the Tsumeb Corporation, permitting the latter to carry out prospecting and development operations within the Damaraland Concession area referred to above, through a subsidiary company, the Tsumeb Exploration Company, which has an obligation to spend £5,000 per annum (R10,000) during the term of the grant. The South West Africa Company holds a 25 per cent interest in the subsidiary company and under the terms of the agreement it retained full rights over approximately 56 square miles of reserved areas, as well as over all discoveries of ore deposits containing vanadium-bearing minerals in the entire concession area.

264. The company continues to hold eleven proclaimed mining areas, totalling approximately 9½ square miles in the Brandberg West, Cape Cross, Otjiwarongo, Otavi and Grootfontein districts. In addition, it currently holds 112 prospecting claims in various parts of South West Africa.

Current development

265. The company now operates two mines: a lead/vanadium mine at Berg Aukas, thirteen miles east of Grootfontein; and a tungsten/tin mine at Brandberg West.

266. The total ore reserve at the Berg Aukas mine on 30 June 1962 was estimated to be 880,000 tons, of which 770,000 tons were classified as lead-zinc ore and 110,000 tons as vanadate ore. At the Brandberg West mine, reserves were estimated to be 2,780,000 tons containing 0.24 per cent combined metals (tin combined with wolfram).

267. In recent years, the capacity of the ore treatment plant at the Berg Aukas mine has been increased to 7,000 tons per month while at the Brandberg West mine a crushing plant was installed and production recommenced in February 1960, at an initial rate of 20,000 tons of ore per month.

268. In recent years, the South West Africa Company has played a declining role in the Territory's mining industry because of the depletion of the older mines and unsuccessful prospecting.

269. Tables showing the company's production, exports and sales for the years 1961-62, and also the financial results as of 30 June, for the years 1960-62 are given below:

PRODUCTION, EXPORTS, SALES

	1961			1962		
	Production tons	*Exports tons*	*Sales (£ sterling)*	*Production tons*	*Exports tons*	*Sales (£ sterling)*
Lead/vanadium concentrates	11,395	9,291.50	777,626	10,106	8,505.44	625,626
Zinc/lead sulphide concentrates	5,340	1,841	213,290	9,792	8,718.40	282,318
Zinc/lead sulphide and oxide ores	1,150	699	26,910	12,155	7,876.63	82,250
Zinc silicate concentrates	810	781	22,580	6,630	4,194	79,635
Tin/tungsten concentrates	648.69	403.20	250,000	644.04	593.65	307,420
TOTAL SALES			1,290,406			1,384,249

FINANCIAL RESULTS

(£ sterling)

	Products realized including stocks	*Dividends received*	*Total revenue*	*Operating costs*	*Depreciation*	*Profit*
1960	422,459	99,750	661,714	430,771	102,264	—
1961	716,974	83,125	806,541	531,250	90,732	184,559
1962	760,055	41,563	809,468	667,017	100,379	42,072

D. *Industrial Minerals Exploration (Pty.) Limited*

270. The Uis tin mine, in the Okombahe Native Reserve, was purchased in 1958 by Industrial Minerals Exploration (Pty.), Ltd., which is a wholly owned subsidiary of the South African Iron and Steel Industrial Corporation, Ltd. (Iscor). The last-named, a company which has an authorized capital of R55 million, was constituted and incorporated in South Africa by Act of the South African Parliament. Its chairman is Dr. F. Meyer (South Africa) and among its directors is Mr. H. J. Van Eck, who was a member of the Odendaal Commission.

271. In 1961, the Uis tin mine milled 92,927 tons of ore and produced 160 tons of tin concentrate, valued at R140,000, as well as 11 tons of beryl and 15 tons of amblygonite. Columbian concentrate is also recovered. The quantity of ore milled in 1962 increased to 164,444 tons.

272. An expansion programme, being carried out at a cost of R2 million, is expected to be completed in 1964 or 1965. Its objective is to increase the rate of milling from 15,000 tons of ore per month to an anticipated 66,000 tons, and to increase the output of tin concentrate from 30 to 125 tons per month. Tin produced at the mines is supplied directly and exclusively to ISCOR, and it was estimated that production at the increased rate would fill 60 per cent of South Africa's tin requirements. With tin produced at the Uis mine, supplemented by imports from Southern Rhodesia and production in the Transvaal, the South African Iron and Steel Industrial Corporation would be able to fill all its requirements.

273. The ore reserve at the Uis mine is estimated to be 21,500,000 tons. Taking into account the increased rate of exploitation, this would give the mine a further life of about twenty-six years.

E. *Emka Mining and Trading Company, Limited*

274. The Emka Mining and Trading Company, Ltd., in which the Rio Tinto Group hold a 60 per cent interest and two Japanese companies (Nippon Mining Company and C. Itoh and Co.) hold the balance, owns the Onganya copper mine, north-east of Windhoek in South West Africa.

275. In 1962, the mine produced 1,302 tons of copper ore and exported 1,444.68 tons, valued at R97,510. In July 1962, after the mine manager and two African workers had lost their lives from gas poisoning following an explosion, the mine was closed.

276. Extensive exploration was later carried out by the Nippon Mining Company, which planned to embark on an expanded production programme, if the exploration work proved satisfactory.

F. *Rand Mines (S.W.A.) Exploration Company (Pty.), Ltd.*

277. Rand Mines (S.W.A.) Exploration Company (Pty.), Ltd., incorporated in South West Africa in July 1960, is a wholly owned subsidiary of Rand Mines Exploration Company (Pty.), Ltd., which was incorporated in December 1959. Rand Mines Exploration Co. (Pty.), Ltd., in turn, is a wholly owned subsidiary of Rand Mines Ltd., incorporated in South Africa in 1893. It is under the chairmanship of Mr. C. W. Engelhard (United States) and its deputy chairman is Mr. W. M. Clark (South Africa), who is also a director of Anglo-American Corporation, De Beers, and General Mining and Finance Corporation.

278. The company holds two prospecting concessions, valid from 1963 to 1965, one on the coast of South West Africa south of the Ugab River, where it was prospecting for copper and the other on twenty-four farms in the Rehoboth *Baster Gebiet*[8] where it was said to be prospecting for gold. In 1962, the company had abandoned further exploration for tin, which it had been carrying out in a coastal concession.

G. *Other mining companies*

279. There are a few other small mining companies operating in South West Africa and, in addition, a number of individual persons are listed during the first quarter of 1964 as base mineral producers. These are as follows:

[8] *Official Gazette of South West Africa,* Nos. 2472 and 2528.

Producer	*Minerals produced*
Atlantic Explorations Co. (Pty.) Ltd., Karasburg	Tantalite, tin, lithium ores
Atlantic Guano Syndicate (Pty.) Ltd. Swakopmund	Phosphates (seabird guano)
Mr. H. G. Bachran, Okahandja	Semi-precious stones
Belapis (Edms.), Bpk., Cape Province	Semi-precious stones
Mr. J. Berger, Karibib	Beryllium ore, feldspar, lithium ores, marble, semi-precious stones
Mr. A. G. Braunger, Windhoek	Gold
Mr. A. Brusius, Usakos	Semi-precious stones
Cattle and Corn (Pty.), Ltd., Swakopmund	Phosphates (seabird guano)
Mr. D. J. de Beer, Omaruru	Tin
Mr. J. Fainman, Upington (South Africa)	Fluorspar
Mr. R. R. Gossow	Salt
Mrs. B. V. Henckert, Karibib	Beryllium ore, mica, semi-precious stones
Mr. M. Hering	Semi-precious stones
Hering and Piepmeyer, Karibib	Tin
Mr. E. Hornig	Lime
Howard Minerals (Pty.), Ltd., Cape Town (South Africa)	Semi-precious stones
Mr. P. J. Human, Omaruru	Tantalite, tin, tin/wolfram
Mr. F. E. Hundsdorffer, Usakos	Beryllium, ore, lithium ores
Mr. G. Jacobi, Windhoek	Gold
Jooste Lithiummyne (Edms.), Bpk., Karibib	Feldspar, mica
Mr. L. Klein, Swakopmund	Semi-precious stones
Mr. I. Kustner, Swakopmund	Salt
Mr. P. O. Petzold, Karibib	Marble
Mr. M. Roup, Cape Town (South Africa)	Semi-precious stones

Table (continued)

Producer	*Minerals produced*
SWA Lithium Mines (Pty.), Ltd., Windhoek	Beryllium ore, bismuth, columbite, lithium ores
SWA Salt Co. (Pty.), Ltd., Swakopmund	Salt
South West Transport (Pty.), Ltd., Swakopmund ..	Salt
Mr. H. A. Talaska, Wilhelmstal	Semi-precious stones
Tantalite Valley Minerals (Pty.), Ltd., Karasburg ..	Beryllium ore, bismuth, tantalite
Mr. J. H. Viljoen, Usakos	Tantalite

280. No further information is available on most of the above enterprises, which are apparently too small to be more than listed in the various reference books. Only three of them produced enough for their output to be recorded in the annual report of the Inspector of Mines of South West Africa for 1962. Two of these were the South West Africa Salt Co. (Pty.), Ltd. and Mr. R. Gossow. The former is the Territory's main producer of coarse, snoek and fine salt from seawater. Its output in 1962 amounted to 77,639 tons of salt. Mr. Gossow is the leading producer of rock salt. His output in 1962 was 4,721 tons. Both producers market their salt through the Swakopmund Salt Co. (Pty.), Ltd.

281. The third company whose output is recorded in the annual report of the Inspector of Mines is the SWA Lithium Mines (Pty.), Ltd. During 1962 it mined 10,330 tons, of which 7,425 were treated to produce the following minerals: beryl, 37.51 tons; ambligonite, 25.91 tons; lepidolite, 1,748.13 tons; petalite, 872.56 tons; columbite, 855.5 lbs.; and bismuth, 231.0 lbs.

Chapter VI. Prospecting for oil and coal

A. *Oil*

282. The existence of important deposits of petroleum in Angola, where crude oil production and refining is now a major industry in the hands of a Belgian company, Petrofina, S.A., has given rise to the hope of similar discoveries in South West Africa. The search for petroleum has been going on for several years but so far has not been attended by success, except for the discovery of a minor oil seepage in the Erongo mountains and traces of natural gas in the Warmbad district. In recent years the search has been intensified under the stimulus of fresh discoveries in Angola and, in 1963, approximately 150,000 square miles were being prospected.

283. The principal companies engaged in prospecting for oil are Trans-American Mining Corporation, Veedol Minerals S.W.A. (Pty.), Ltd., Etosha Petroleum Co., Artnell Exploration Co., and the Geiaus Oil and Petroleum Prospecting Co. Information on these companies and their activities in South West Africa are given below.

Trans-American Mining Corporation

284. This corporation holds the concession to prospect for oil in Diamond Area No. 2 where surveys were made in 1959. The corporation is a Canadian enterprise which, in this case, is operating on behalf of an American syndicate composed of Mr. Charles Payson, Mr. Julius Fleischmann, Mr. Richard Cowell, Mr. Winton Guest and the Waterford Oil Company. In 1962, Mr. M. E. Kahan, Chairman of Diamond Mining and Utility and Industrial Diamonds of South Africa, which held the concession to prospect and mine for other minerals in the area, said that if the Trans-American Mining Corporation did not immediately carry out prospecting for oil, an application would be made to the Administration to have the grant revert to the Diamond Mining and Utility Company.

Veedol Minerals S.W.A. (Pty.), Ltd.

285. Early in May 1963, Veedol Minerals S.W.A. (Pty.), Ltd., a subsidiary of Tidewater Oil (see para. 178 above), completed an agreement with the Diamond Mining and Utility Company to acquire an interest in diamond mining and other mineral rights in the vicinity of Hottentot Bay on the South West African coast. The concession areas start at the 26th parallel south latitude and extend northward 160 miles.

286. The total area covered by onshore and offshore concessions exceeds 10,000 square miles. The prime object of the company is to find minerals, in particular diamonds, but prospecting for oil is not discounted. Rights to prospect for oil in the offshore concession areas were leased to Veedol Minerals Ltd. in return for a 12 per cent participation by the Diamond Mining and Utility Company in the value of any oil recovered.

Etosha Petroleum Company

287. The Etosha Petroleum Company, a subsidiary of the Texas Eastern Transmission Company, is the holder of the largest concession covering approximately 75,000 square miles and situated roughly between the 18th and 20th latitudes south. The company purchased the concession from Mr. P. Le Riche, to whom it had originally been granted, after obtaining the approval of the South West Africa Administration (see above, para. 229).

288. The concession area includes, *inter alia,* the northern Native reserves of Ovamboland, Okavango and the Kaokoveld. The company is presently engaged in a graphimetrical survey in the eastern part of its concession area. At its closest point, the concession is about 700 miles from the petroleum deposits in the Quicama Region of Angola. Etosha Petroleum Co. is also involved in the investigation of coal by the Administration in the Kanovlei area, within the part of the Territory designated to become a Bushman "homeland" (see below, paras. 296 and 297).

Artnell Exploration Company

289. The Artnell Exploration Company, an American company with main offices in Chicago, holds a concession in the eastern part of the Territory extending south from a point near the Aminuis Native Reserve to Keetmanshoop. The activities of the company have entailed a photo-geological study of its concession area. In late 1963, the company began sinking a deep test hole on the farm "Vreda No. 281", approximately forty miles south-east of Aranos, where it was believed that a maximum stratigraphic section might be encountered. In April 1964, it was reported that the company had finished sinking the borehole at a depth of 6,001 ft. There was, however, still no indication of whether oil was present in the area.

Geiaus Oil and Petroleum Prospecting Company

290. In 1963, the Geiaus Oil and Petroleum Prospecting Co. acquired, for the sum of R150,000, a concession which had been granted earlier in the year to a Mr. E. A. J. Botha. The concession covers the farms "Altporn", "Rosyntvie Bos", "Geiaus", and "Kanubis", in the Warmbad district. Quartz crystals containing liquids and natural gas had been discovered in this area late in 1962. The crystals were reported to have yielded 92 per cent hydrocarbons.

291. The entire share capital of Geiaus Oil and Petroleum Prospecting Company was later acquired by Broad Acres Investment, Ltd. The latter was registered in South Africa in 1946 and has an authorized capital of R1,533,805 in 3,067,610 ordinary shares of fifty cents par value. During the three-year period 1960-1962, the company has suffered an annual loss, averaging approximately R29,000.

Other prospecting activities

292. In December 1963, it was reported that oil had been found seeping from the ground in the foothills of the Erongo Mountains. The discovery had actually been made in the early 1940's by a prospecting farmer, Mr. J. C. Horn, but was not disclosed until 1963. The oil seepage is on the farm "Onguaty", a few miles north-west of Karibib.

293. In 1964, it was reported that a prospecting concession, covering twenty-six farms in the area, had been granted to Mr. Horn, Mr. A. H. du Plessis (a member of the Executive Committee and Deputy Leader of the Nationalist Party in South West Africa) and Mr. G. R. W. Krems of Okahandja. It was later announced, however, that the geologists surveying the find were of the opinion that the oil seepage was so limited that it was not worth exploiting.

B. *Coal*

294. In 1960, the Legislative Assembly of South West Africa passed a resolution appointing a commission to investigate the possibilities of coal-bearing strata in the Territory. In an interim report released on 17 January 1962, the commission recommended that a "comprehensive investigation" of the potential coal-fields of South West Africa should be undertaken. It was stated in the report that in South West Africa, as in South Africa, coal is confined to the Karoo system. The known occurrences of Karoo rocks, as exposed in outcrops or from drilling, cover 30 per cent of South West Africa. Areas recommended for investigation by the commission included the Etjo beds of the Okahandja, Otjiwarongo, Omaruru and Grootfontein districts; the northern part of the Territory near Kanovlei where ecca beds corresponding to those of the Wankie coal fields of Southern Rhodesia might exist under the sands of the Kalahari desert; the northeastern part of the Kalahari where, according to the commission, the strata formation might be similar to that of the coalfields now being explored in nearby Bechuanaland; the area now occupied by the Aminuis Native reserve, the abolition of which was proposed by the Odendaal Commission; and that part of the Ovamboland basin which lies near its western perimeter.

295. The commission's report noted that numerous boreholes had been sunk in the artesian basin during the 1920's. Coal had been encountered on certain farms in the Gibeon district. However, the first genuine coal seam had been drilled in 1951 on the farm "Silurian", which is in the same district, where coal had been found at a depth of 1,000 feet. This coal was of good quality but it had been impossible to estimate the depth; subsequently the Anglo-American Corporation had drilled three holes and found the coal to be between three and six feet thick. In 1957, coal had been discovered in the Aminuis Native reserve but a full investigation of the area had not been undertaken.

296. Since the publication of this report the Geological Department of the South West Africa Administration has undertaken an investigation near Kanovlei. A series of test holes were being drilled over a distance of eighty miles in an eastward direction towards Tsumkwe. The test series was being made not only to determine the presence of coal but also the water strength since the area was designated for future land settlement by Bushmen.

297. The Etosha Petroleum Company, which holds a concession for oil in the region, has posted its own geologists at the test holes and extracts from the holes have been sent to the United States for analysis for coal and oil. The company has also supplied the Administration with certain electrical equipment which is being used to determine the underground strata and rock formation.

298. As noted in the previous section (see para. 289 above), the Artnell Exploration Company, in late 1963, drilled a borehole to a depth of 6.001 feet in the vicinity of Aranos near the Bechuanaland border. The results of the sinking have not yet been made known. The company holds a concession in the area for all minerals including gold, coal and oil. In November 1963, the London and Rhodesian Mining and Land Company offered to build a £20 million (R40,000,000) pipeline to supply South West Africa with coal from the Wankie collieries. South West Africa is at present getting its coal by rail from the Transvaal, about 1,800 miles away. The average price of coal in the Territory was about £4 (R8) per ton and the use of a pipeline might reduce the cost by half.

299. The offer would be considered by the Administration provided 3,000,000 tons of coal a year were guaranteed. The input of coal would be largely dependent on expansion in the iron ore and copper industries. All the coal need not, however, be absorbed in the Territory and substantial amounts could be exported from South West African ports.

CHAPTER VII. EXPORTS AND SALES OF MINERALS

300. During the five-year period 1955-1959, according to statistics furnished by the Odendaal Commission, the mining industry contributed approximately 50 per cent of the gross domestic product of South West Africa. The average annual sale of minerals during this period amounted to £28,289,298 (R56,578,596), of which diamond sales accounted for £15,357,982 (R30,715,964), and lead complex concentrates accounted for £10,918,418 (R21,836,836).

301. In the following years, 1960-1963, there was a marked increase in diamond sales, which average £17,561,853 (R35,123,-706) annually. This increase was, however, more than offset by a drop in revenues from lead concentrates, the average annual sales of which amounted to only £6,734,316 (R13,468,632). Average annual revenue from the sale of all minerals during this period dropped to £26,876,847 (R43,753,694). The following table gives the value of sales of all minerals, diamonds and lead concentrates for the years 1946 to 1963.

SOUTH WEST AFRICA

Value of exports and total sales of minerals, 1946-1963

£

Year	All Minerals	Diamonds	Lead Complex Concentrates[a]
1946	1,635,521	1,475,192	—
1947	2,226,595	1,958,016	—
1948	5,139,816	2,476,490	—
1949	7,094,025	3,217,350	2,751,902
1950	10,449,390	5,839,245	2,863,179
1951	16,470,210	9,150,133	4,770,366
1952	23,251,634	12,526,610	8,084,685[b]
1953	21,927,078	13,584,782	6,667,432[b]
1954	19,984,542	12,068,070	6,768,987[b]
1955	28,054,998	14,857,140[c]	11,783,421
1956	33,064,109	16,429,271	14,621,845
1957	30,408,041	16,070,885	10,902,139
1958	24,521,819	14,128,009	8,136,621
1959	25,397,525	15,304,607	9,148,067
1960	23,950,719	15,180,239	7,701,921
1961	26,395,245	17,468,291	6,996,144
1962	26,065,600	17,110,501	7,028,330
1963	31,095,827	20,498,382	5,210,870

Source: Republic of South Africa, Department of Mines, *Statistical and Other Data on Industrial Minerals,* Quarters ended December 1947 and 1946; South Africa Yearbook, 1949; Republic of South Africa Department of Mines, Quarterly Information Circular, *Minerals,* January 1950-December 1963; *L'Industrie du Diamant en 1955.*

[a] Includes value of copper, cadmium, lead and silver.

[b] Includes value of copper, cadmium, lead, silver and vanadium.

[c] Prior to 1955, trade statistics for South West Africa, including statistics on diamond sales, were published separately by the Department of Customs and Excise of South Africa. From 1955, trade statistics for the Territory were incorporated into those of South Africa. Separate statistics on South West Africa diamond mining, except for the year 1955, were subsequently listed in the *Report on Minerals* issued by the South African Department of Mines. The value of diamond sales for 1955 shown in this table was taken from *L'Industrie du Diamant en 1955.*

302. As shown in the above table, exports of diamonds have increased ten times and diamond sales have increased fourteen times since 1945. The increase has been due in large part to post-war exploitation of earlier discoveries and to a corresponding high demand on the world market. Where a decline in sales is indicated, as in the years 1954 and 1958, this may be due to a sudden release of diamonds on the market from outside sources, prompting producers in the Territory to withhold some of their output and to build up stocks for future sale.

303. From 1949 onwards, both exports and local sales of lead complex concentrates increased until 1957 when prices of lead and other base metals began to drop on the world market. In 1956, the price on the London Metal Exchange for lead was 14¢ (U.S.) per pound and the price in the United States was 16¢ per pound. In 1957, prices had dropped to 9¢ per pound in London and 13¢ per pound in the United States. During the period 1958-1962, prices ranged from 9¢ to 6.5¢ in London and 13¢ to 9.5¢ in the United States of America.

304. Similarly, copper prices which reached a peak of more than 50¢ per pound on the London Metal Exchange in 1956 had declined to 22¢ by the end of 1957, and in the United States of America had declined despite price stabilization from 43¢ to about 26¢. Thereafter, they fluctuated between 20¢ and 28¢ per pound in London and 25¢ to 31¢ per pound in the United States of America.

305. Prices of zinc also fell heavily in 1957. From a peak of 13¢ per pound in London and 13.5¢ per pound in the United States at the beginning of 1957, they fell to about 8¢ and 10¢ respectively by the end of the year. During the period 1958-1962 they varied between 8¢ and 11¢ per pound in London and 11¢ to 13¢ in the United States.

306. As noted in paragraphs 231 and 232 above, other mineral exports of significance are copper ore, lead vanadium, tin, beryllium, lithium and manganese. Exports and local sales of copper ore increased in volume during the years 1956-1962. From 1963 onwards, blister copper assumed importance as a result of the coming into operation of the new copper smelter at Tsumeb. Exports and local sales of lead vanadium concentrates declined during the 1950's but have slightly increased during the past three years. Sales of beryllium have declined continually since 1956, while sales of lithium and manganese have recently decreased. On the other hand, the increased production of tin has begun to show its effect on exports. Local sales of tin almost doubled during the years 1962-1963.

307. The following tables contain detailed information on production, exports and local sales of the principal minerals produced in South West Africa.

TERRITORY OF SOUTH WEST AFRICA

MINERALS

Summary of production, exports and local sales

Minerals	1946			1947			1948			1949			1950		
		Exports and local sales			*Exports and local sales*			*Exports and local sales*			*Exports and local sales*			*Exports and local sales*	
	Production (tons)	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*
Precious minerals															
Diamonds	165,150	158,925	1,475,192	179,554	183,020	1,958,016	200,691	210,281	2,476,490		252,158	3,217,350		453,030	5,839,245
Gem (car.)										280,501					
Industrial (car.)										55,000					
Gold (oz.)	72.68			37.07			488.04			35.42					
Semi-precious stones (lb.)				229.11			162	0.35	20	10.1			0.77		
Base minerals															
Barytes										53					
Beryllium	6			57	59	2,385	99	64	2,556	263	185	12,747	726	403	28,918
Bismuth (lb.)										1			16	13	6,197
Cadmium (in complex concentrates)							570	391		831			672		
Caesium Ore (Pollucite)										1			122 lb.		12
Copper				49,705	18,102										
Ore							74	62	1,123	265	261	3,272	207	205	3,499
Contained in lead complex concentrates							9,116	7,071		10,607	10,576		12,082	11,737	
Blister copper-lead-germanium															
Feldspar															
Fluorspar													80		
Germanium (lb.)															
Contained in blister copper															
Contained in lead complex concentrates															
Metallic															
Lead							95,249	75,769	2,272,415						
Lead complex concentrates										78,703	79,445	2,751,902	74,871	72,905	2,863,179
Lead vanadium concentrates										8,879	9,224	368,022	9,852	9,372	405,747
Lime/aragonite (lb.)															
Lithium	1,882	2,535	6,786	3,450	2,322	12,643	1,616	1,812	6,778	1,159	1,493	10,032	9,790	8,134	37,700
Manganese													1,095		
Marble															
Mica													65		
Molybdenite (lb.)															
Phosphates	1,835	1,835	18,879	2,454	2,454	28,674	1,145	1,145	13,001	1,055	1,050	14,394	640	683	9,438
Salt	15,568	15,568	37,660	13,943	13,943	29,176	16,369	14,343	32.862	17,856	14,935	33,153	18,539	19,593	44,917
Sillimanite (kyanite)															
Tantalite/colombite (lb.)				0.25			17			3	0.8	1,068	7	36	2,806
Tin	283	153	29,374	233	152	28,097	178	168	58,800						
Straight concentrates										112	102	33,123	77	75	26,881
Tin-wolfram concentrates										101	110	30,138	105	111	35,470
Tungsten (scheelite) (lb.)				9	11	3,300	7	12.3	3,805	20	12.4	3,741	4	6	3,485
Zinc															
Concentrates							24,325	8,954		117	42	540	157		
Complex concentrates															

Diamonds		413,123	9,150,133		640,969	12,526,610		621,562	13,584,782		550,987	12,068,070			
Gem (car.)							610,337								
Industrial (car.)															
Gold (oz.)															
Semi-precious stones (lb.)	59.3			3.98						3,477	2,629	3,170	29,483	364	5,775
Base minerals															
Barytes															
Beryllium	830	442	44,940	592	659	89,672	590	591	100,375	564	448	65,157	472	398	46,650
Bismuth (lb.)	500	400	200						140	5,000			4,792	380	125
Cadmium (in complex concentrates)	717	691		556	512		597	504		810	342			702	
Caesium ore (Pollucite)	19	400	40		8.5	1,287			45						
Copper							135[a]			16[a]					
Ore	1,262	34	613	189	283	27,706							135		
Contained in lead complex concentrates	13,619	12,615		15,457	16,018									23,562	
Blister copper-lead-germanium															
Feldspar															
Fluorspar	859	941	4,705	4,870	3,570	17,850	5,641	5,620	28,100	3,065	3,063	15,308	675	675	3,375
Germanium (lb.)															
Contained in blister copper															
Contained in lead complex concentrates															
Metallic															
Lead				58,249	61,403	8,084,685	65,287	65,133	6,667,432	77,147	68,903	6,768,987	216,094	192,323	11,783,421
Lead complex concentrates	92,611	85,145	4,770,366												
Lead vanadium concentrates	6,343	7,184	428,720											7,663	478,286
Lime/aragonite (lb.)										303			1,821	609	3,651
Lithium	11,842	8,725	57,324	9,802	10,012	72,719	10,379	11,989	86,221	7,286	5,534	58,436	8,524	4,671	85,126
Manganese	7,231	4,037	44,146	29,219	27,069	319,901	40,655	40,654	463,292	34,066	30,971	282,460	41,880	30,013	269,532
Marble										411	136	2,082	655	405	3,960
Mica	125													1,944	42,727
Molybdenite (lb.)															
Phosphates	865	865	10,572	1,846	1,846	28,849	1,768	1,768	27,085	908	908	14,735			
Salt	49,148	46,559	132,874	44,253	38,409	123,239	45,438	59,453	101,310	52,196	41,842	135,160	65,532	62,683	211,074
Sillimanite (kyanite)	65	55	412	3,001	2,362	27,239	2,717	1,395	14,850	140	24	246	240	75	729
Tantalite/columbite (lb.)	2	3	3,781	2.2	4.12	4,777	9	7	16,833	26,558	36,253	25,173	14,273	3,873	4,047
Tin				170	142	74,864	290	205	71,952	372	455	130,871	367		
Straight concentrates	67	53	33,017											372	136,000
Tin-wolfram concentrates	66	55	27,008							127			449	448	101,250
Tungsten (scheelite) (lb.)	32	13	28,485	120	144	175,803	1	198	191,230	8,939	198	49,453	1,964		
Zinc				17,248	17,085	1,666,779	17,385a	14,861a	560,468b	22,032[a]	22,123[a]	348,503[b]	709[c]	709[c]	22,000[c]
Concentrates	7,337	25,593	1,367,674												
Complex concentrates	25,677	184	8,350											23,231[a]	

Precious minerals												
Diamonds				996,610	910,803	15,912,796	903,576			930,659		
Gem (car.)	969,883	938,262	16,422,881					713,191	13,989,707		819,352	15,189,141
Industrial (car.)	17,716	2,143	6,390					59,279	138,302		52,223	115,466
Gold (oz.)												
Semi-precious stones (lb.)	13,676	14,365	5,178	7,101	14,412	6,392	45,721	33,912	3,210	29,512	5,990	420

TERRITORY OF SOUTH WEST AFRICA

MINERALS (*continued*)

Minerals	*1956*			*1957*			*1958*			*1959*		
		Exports and local sales			*Exports and local sales*			*Exports and local sales*			*Exports and local sales*	
	Production (tons)	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*	*Production (tons)*	*Tons*	*Value £*
Base minerals												
Barytes												
Beryllium	454	397	46,563	386	311	37,020	246	290	29,227	170	111	12,736
Bismuth (lb.)	610	252	125				2,487	4,005	749	1,728		
Cadmium (in complex concentrates)	1,164	1,164					1,344	1,344		647	647	d
Caesium Ore (pollucite)	147,300	25,021	1,584				67,260	34	300	5,400	27	365
Copper							31,474			36,425		
Ore	999	488	32,722	1,678	1,524	41,123	656	926	21,221	2,652	2,158	48,520
Contained in lead complex concentrates	33,739				29,835		30,818	30,818		33,773	33,773	d
Blister copper-lead-germanium												
Feldspar												
Fluorspar							4	38	168	141	31	111
Germanium (lb.)							7	7	d	8	8	d
Contained in blister copper												
Contained in lead complex concentrates												
Metallic												
Lead												
Lead complex concentrates	239,259	221,361	14,621,845	246,465	248,072	10,902,139	82,535	245,664	8,136,621	68,535	197,763	9,148,067
Lead vanadium concentrates	4,050	6,012	396,110	3,512	4,179	267,870	1,261	4,007	145,625			
Lime/Aragonite (lb.)	5,674	2,490	15,016	3,248	3,096	19,441	3,665	3,663	22,506	3,562	3,562	22,482
Lithium	5,645	4,831	62,906	6,742	8,899	97,014	8,982	12,690	57,453	5,197	3,344	26,825
Manganese	57,262	55,057	610,172	89,661	94,256	1,026,442	103,050	101,982	1,361,389	49,442	44,536	435,500
Marble	60	222	2,427				505	94	795	116		
Mica												
Molybdenite (lb.)												
Phosphates				2,830	2,830	63,677				1,330	857	14,804
Salt	87,265	74,792	234,501	72,992	73,297	222,787	96,688	75.578	187,081	55,433	70,620	162,097
Sillimanite (Kyanite)	2,196	905	8,496	3,890	4,180	43,199	2,985	2,777	25,519	3,243	2,161	21,670
Tantalite/Columbite (lb.)	13,433	6,511	2,442				10,810	22,180	9,536	4,149	892	283
Tin					1,494	490,000	321	445	125,700	10	15	3,750
Straight concentrate	449	587	180,457	634	744	289,000	208	304	93,200			
Tin-wolfram concentrates	649	656	153,000	809	750	201,000	113	141	32,500			
Tungsten (Scheelite) (lb.)	3,865	3,404	1,389	8,856	2,000	23,971	15			26		
Zinc												
Concentrates	29,354[a]	4,366	102,300		16,114	348,600	199	3,036	63,000			
Complex concentrates					46,239		44,728	44,728		21,586	21,586	d
Precious minerals												
Diamonds	935,404			905,814.68	967,752		1,027,232.55	943,186.75		1,194,630		
Gem (car.)		917,759	15,046,067		787,949	16,881,274		800,498	16,314,732		1,181,293	19,792,975
Industrial (car.)		59,066	134,172		119,597	587,017		142,690	795,769		148,352	705,407
Gold (oz.)							184.02	184.02	2,263			
Semi-precious stones (lb.)	2,013	4,000	320	37,911	13,729	3,659	324,171	19,200	4,853	180,477	68,348	5,899
Base minerals												
Barytes												

Cadmium (in complex concentrates)	866	866	[d]	874	874	[d]	609	609	[d]	529	529	[d]
Caesium Ore (Pollucite)		178	860	3,900	3,900	197	1,120	1,120	50			
Copper												
Ore	4,299	2,411	71,507	5,406	5,082.4	235,689	1,601.05	1,612.52	51,381			
Contained in lead complex concentrates	21,480	21,480	[d]	26,418	26,418	[d]	24,571	24,571	[d]	12,871	12,871	[d]
Blister copper-lead-germanium							1,338	793	151,129	22,904	21,074	4,045,806
Feldspar					99.04	400	520	526.08	1,732	2,460	979	3,983
Fluorspar							240	101.49	860	480		
Germanium	21	21	[d]	5.69	5.69		24.54	15.84				
Contained in blister copper							2,119					
Contained in lead complex concentrates				23,200	23,200	[d]	55,392	55,392	[d]			
Dioxide										44,859	675	12,816
Metallic				11,380	11,380	212,862	31,692	31,692	671,623			
Lead												
Lead complex concentrates	217,489	212,704	7,701,921	181,832	182,321	6,996,144	238,126	189,209	7,028,330	169,419	167,556	5,210,870
Lead vanadium concentrates	9,370	8,642	322,509	11,395	9,291.50	388,813	10,106	8,505.44	312,813	11,250	11,771	374,465
Lime/Aragonite (lb.)	3,311	3,311	20,585	3,750.50	4,074	25,116	3,227	3,773.10	22,410	3,222	3,222	18,987
Lithium	5,042	2,719	18,529	4,094	3,353	28,948	2,929	1,969	16,938	1,080	1,275	12,901
Manganese	67,440	64,327	574,350	50,295	66,273	591,890		1,631	13,000		470	4,000
Marble	170			365	95	128	2,083.85	1,008.85	6,075	1,020	332	723
Mica							75			599	636	5,392
Molybdenite (lb.)										1,072	1,072	200
Phosphates				1,033	1,013	17,064	642.60	642.60	10,681	1,516	1,516	26,498
Salt				61,288.05	630.75	131,007	83,304.91	84,005	146,522	71,304	75,016	145,580
Sillimanite (Kyanite)	1,438	159	2,275	3,000	3,040	15,535	1,667	2,177	22,358			
Tantalite/Columbite (lb.)	10,389			6,639.75	3,556	2,381	11,561.25	12,802	7,998	4,562	2,000	
Tin												
Straight concentrate	152	211	47,500	163	197	71,200	277	184	88,169	296	328	164,500
Tin-Wolfram concentrates	541			649	403	125,000	644	594	153,710	843	852	220,400
Tungsten (Scheelite) (lb.)				13,993			4,523	12,802				
Zinc												
Concentrates	616			6,150	2,656	51,455	13,065	17,537	211,102	15,778	20,667	231,837
Complex concentrates	26,930	26,930	[d]	23,162	23,162	[d]	60,962	60,962	[d]	22,365	22,365	[d]

SOURCES: Republic of South Africa, Department of Mines, *Statistical and other Data on Industrial Minerals*, quarters ended December 1950, 1949, 1947 and 1946; *South Africa Yearbook 1949*; Republic of South Africa, Department of Mines, Quarterly Information Circular, *Minerals*, January 1950-December 1963; *L'Industrie du Diamant en 1955.*

[a] Metal recoverable.
[b] Includes value of recoverable Cadmium.
[c] Ores.
[d] Value included in that for lead complex concentrates.

308. The main countries importing minerals from South West Africa are Belgium, the Federal Republic of Germany, Japan, the Netherlands, the Republic of South Africa, the United Kingdom and the United States of America. Major importers of lead complex concentrates are the United States, Belgium and Japan. Much of the concentrate ore of the Territory has in the past been refined in the United States and Belgium. The Federal Republic of Germany is a leading importer of lead vanadium, followed by the Netherlands. Lithium is imported by the United Kingdom, Japan and the Netherlands. Japan also imports copper ore and concentrates. The Republic of South Africa's main import from the Territory is salt. Tables of the principal countries and their imports follow:

MINERALS EXPORTED FROM THE TERRITORY OF SOUTH WEST AFRICA BY COUNTRY

Minerals exported	*1959*		*1960*		*1961*		*1962*		*1963 January-September*	
	Tons	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*
					Belgium					
Beryllium										
Bismuth										
Cadmium[a]	339		445		365		282		234	56
Caesium										
Copper										
Blister copper									2,849	501,416
Ores, straight concentrates							138	2,000		
In complex concentrates[a]	10,800		8,265		8,834		6,841		5,870	
Feldspar										
Fluorspar										
Germanium[a]	8		21							
In blister copper										
In lead complex concentrates					10		43,032 lb.			
Metallic							14,052 lb.	273,646		
Lead complex concentrates	94,246	3,390,806	93,755	3,065,969	92,684	2,979,517	81,017	2,714,118	75,266	2,214,758
Lead/vanadium concentrates	4,206	160,630			5,022	215,513	545	20,115		
Lime/aragonite										
Lithium	467	3,657			1,846	15,665				
Manganese			9,968	89,000	11,509	102,760				
Mica									67	480
Molybdenite										
Phosphates										
Salt										
Semi-precious stones (lb.)										
Sillimanite/kyanite										
Tantalite/columbite										
Tin/wolfram concentrates										
Tin in concentrates										
Tungsten										
Zinc										
Ores, straight concentrates					1,334	28,570	957	20,075		
In complex concentrates[a]	11,456		14,808		12,159		10,272		8,970	
TOTAL	121,522	3,555,093	127,262	3,154,969	133,763	3,342,025	100,080	3,029,954	93,256	2,716,654

MINERALS EXPORTED FROM THE TERRITORY OF SOUTH WEST AFRICA BY COUNTRY (*continued*)

Minerals exported	*1959*		*1960*		*1961*		*1962*		*1963 January-September*	
	Tons	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*
					Federal Republic of Germany					
Beryllium										
Bismuth										
Cadmium[a]							13			
Caesium	50,000 lb.	140								
Copper										
Blister copper									1,005	196,556
Ores, straight concentrates	1,452	20,440	160	2,825	196	2,627				
In complex concentrates[a]							2,320			
Feldspar					99	400	507	1,680	595	4,779
Fluorspar	24	80								
Germanium[a]										
In blister copper							2,119 lb.			
In lead complex concentrates										
Metallic										
Lead complex concentrates							4,980	331,120		
Lead/vanadium concentrates	522	18,040	3,866	136,080			6,698	254,118	7,860	255,750
Lime/aragonite			3	150	400 lb.	100				
Lithium	316	3,357	2	20			294	3,393	465	5,520
Manganese										
Mica									6	49
Molybdenite										
Phosphates										
Salt										
Semi-precious stones (lb.)			2,000	200	13,071	3,619	4,280	1,950	1,237	2,366
Sillimanite/kyanite										
Tantalite/columbite										
Tin/wolfram concentrates							179	46,400	594	153,700
Tin in concentrates										
Tungsten										
Zinc										
Ores, straight concentrates							5,776	69,573		
In complex concentrates[a]							284			
TOTAL	52,314	42,057	2,165	3,195	13,366.2	6,746	25,332.05	708,234	11,762	618,720

Beryllium	12	1,297	7	800						
Bismuth										
Cadmium[a]	9				227		31		1	
Caesium										
Copper										
Blister copper										
Ores, straight concentrates	895	25,080	2,251	68,682	4,886	233,062	1,445	48,755		
In complex concentrates[a]	4,540				9,036		7,240		219	
Feldspar										
Fluorspar	7	31					1	10		
Germanium[a]										
In blister copper										
In lead complex concentrates					2					
Metallic										
Lead complex concentrates	8,227	887,405			18,657	1,696,812	15,029	1,406,871	471	43,612
Lead/vanadium concentrates	66	3,000								
Lime/aragonite							6,000	300		
Lithium	463	3,549	263	2,005	811	6,768	1,253	9,758	62	495
Manganese										
Mica									4	90
Molybdenite										
Phosphates										
Salt										
Semi-precious stones (lb.)									1,244	166
Sillimanite/kyanite					40	1,069				
Tantalite/columbite										
Tin/wolfram concentrates										
Tin in concentrates										
Tungsten										
Zinc										
Ores, straight concentrates										
In complex concentrates[a]	291				1,123		830		2,684	
TOTAL	14,510	920,362	2,521	71,487	34,782	1,944,479	31,829	1,944,479	4,685	44,363

MINERALS EXPORTED FROM THE TERRITORY OF SOUTH WEST AFRICA BY COUNTRY (*continued*)

Minerals exported	*1959*		*1960*		*1961*		*1962*		*1963 January-September*	
	Tons	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*
					Netherlands					
Beryllium										
Bismuth							775	220		
Cadmium[a]										
Caesium							1,120 lb.	50		
Copper										
Blister copper										
Ores, straight concentrates										
In complex concentrates[a]										
Feldspar							19	52	113	507
Fluorspar										
Germanium[a]										
In blister copper										
In lead complex concentrates										
Metallic										
Lead complex concentrates										
Lead/vanadium concentrates	372	13,628	4,776	186,429	4,270	173,300	992	38,580		
Lime/aragonite										
Lithium	964	7,126	2,392	16,101	512	4,224	308	2,888		
Manganese									470	4,000
Mica										
Molybdenite										
Phosphates										
Salt										
Semi-precious stones (lb.)							6,640	1,000		
Sillimanite/kyanite										
Tantalite/columbite										
Tin/wolfram concentrates	15	3,750			403	125,000	415	107,310		
Tin in concentrates			155	35,000	112	25,000				
Tungsten										
Zinc										
Ores, straight concentrates					334	6,540	2,006	39,670		
In complex concentrates[a]										

Beryllium	10	1,470			1	230				
Bismuth										
Cadmium										
Caesium										
Copper										
Blister copper										
Ores, straight concentrates										
In complex concentrates										
Feldspar										
Fluorspar							100	800		
Germanium										
In blister copper										
In lead complex concentrates										
Metallic										
Lead complex concentrates										
Lead/vanadium concentrates										
Lime/aragonite										
Lithium	303	2,196								
Manganese										
Mica										
Molybdenite										
Phosphates	853	14,735					265	5,300		
Salt	41,737	81,226	36,755	63,914	43,047	76,300	42,017	70,396	34,269	53,342
Semi-precious stones (lb.)							3,000	113	39,002	1,134
Sillimanite/kyanite	2,161	21,670			3,000	15,000	1,667	16,670		
Tantalite/columbite	767	153								
Tin/wolfram concentrates										
Tin in concentrates					85	46,200	171	83,709	246	122,000
Tungsten							5,610	2,918		
Zinc										
Ores, straight concentrates					988	16,345	882	13,034	935	14,025
In complex concentrates										
TOTAL	45,831	121,450	36,755	63,914	47,120	154,075	53,712	192,940	74,452	190,501

MINERALS EXPORTED FROM THE TERRITORY OF SOUTH WEST AFRICA BY COUNTRY (*continued*)

Minerals exported	*1959*		*1960*		*1961*		*1962*		*1963 January-September*	
	Tons	*£ Value*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*	*Tons*	*Value £*
					United Kingdom of Great Britain and Northern Ireland					
Beryllium					2	495	1	250		
Bismuth									450	125
Cadmium[a]										
Caesium			178	860						
Copper										
Blister copper										
Ores, straight concentrates										
In complex concentrates[a]										
Feldspar										
Fluorspar										
Germanium[a]										
In blister copper										
In lead complex concentrates										
Metallic										
Lead complex concentrates										
Lead/vanadium concentrates										
Lime/aragonite										
Lithium	805	6,940	62	403	138	1,286	114	900	586	4,600
Manganese	10,000	100,000								
Mica										
Molybdenite									1,072	200
Phosphates										
Salt										
Semi-precious stones (lb.)										
Sillimanite/kyanite			159	2,275						
Tantalite/columbite	125	130			1,156	347				
Tin/wolfram concentrates										
Tin in concentrates										
Tungsten										
Zinc										
Ores, straight concentrates					2,274	17,540	11,168	83,250	15,502	124,955
In complex concentrates[a]										

United States of America

Beryllium	89	9,969	93	9,324	99	11,205	128	12,815	40	3,260
Bismuth										
Cadmium[a]	299		421		273		283		231	
Caesium	4,500	225			3,900 lb.	197				
Copper										
Blister copper									11,521	2,189,504
Ores, straight concentrates	111	3,000								
In complex concentrates[a]	18,432		13,215		6,060		8,170		5,119	
Feldspar										
Fluorspar							1	50		
Germanium[a]										
In blister copper										
In lead complex concentrates							12,360 lb.			
Metallic					6	212,862	17,640 lb.	397,978		
Lead complex concentrates	95,290	4,869,856	118,949	4,635,952	65,882	1,869,145	88,183	2,076,221	68,643	2,148,467
Lead/vanadium concentrates										
Lime/aragonite										
Lithium										
Manganese	34,536	335,500	33,096	295,500	13,608	121,500				
Mica									118	934
Molybdenite										
Phosphates										
Salt										
Semi-precious stones (lb.)	5,990	420	2,000	120			4,020	500	2,140	100
Sillimanite/kyanite							510	5,688		
Tantalite/columbite			2,310 lb.	464	2,400 lb.	2,034	9,900 lb.	6,142	2,000 lb.	2,000
Tin/wolfram concentrates										
Tin in concentrates										
Tungsten										
Zinc										
Ores, straight concentrates										
In complex concentrates[a]	9,839		12,124		9,552		49,576		8,040	
TOTAL	169,087.155	5,219,434	179,898	4,940,896	99,381.2	2,216,943	150,890.95	2,499,394	95,853	4,344,265

Note: Volume is indicated in short tons.

[a] Value included in lead complex concentrates.

Chapter VIII. Income tax and other sources of revenue from mining

A. *Review of mining taxation*

309. Under current legislation, mining companies are taxed on a sliding scale ranging from 22.5 per cent to a maximum of 45 per cent of taxable income in the case of diamond mining companies and 30 per cent in the case of other mining companies, the maximum rate being payable where the taxable income exceeds R1 million. A separate profits tax is payable on certain old diamond concessions, but as this is combined with income tax, in practice it has little significance for companies which already pay income tax at the maximum rate. In assessing their taxable income, mining companies are allowed to deduct all capital expenditures during the year of assessment.

310. In addition to the above, a royalty of 10 per cent is payable on all diamonds exported from the Territory. For historical reasons (see para. 138 above) the territorial Administration in turn pays Consolidated Diamond Mines of South West Africa, Ltd., through a wholly owned subsidiary, the South West Finance Corporation, royalties equivalent to 22.5 per cent of the direct taxes paid by the company (i.e., income tax, plus the 10 per cent export tax). Royalties on other mineral exports are authorized under the law, but are no longer imposed, except on exports of guano.

311. A foreign shareholder's tax, first introduced in 1951 and currently fixed at the rate of 7.5 per cent, is levied on dividends declared on income derived in South West Africa.

312. Prior to the introduction of income tax in 1942, the Territory's revenue from mining operations was derived mainly from special taxes levied on the diamond industry, and to a much lesser extent from duties on the exports of other minerals and from prospecting and claims fees and licences.

313. Until 1931, taxation of the diamond industry took the form of a 66 per cent tax on the gross proceeds of diamond sales, less 70 per cent of the cost of production. This formula, according to representatives of the South African Government, meant that the Administration bore 70 per cent of the working costs and the mining companies 30 per cent. In agreement with the producers, the Administrator revised the system of taxation, effective 1 January 1931. The new system, incorporated in the Diamond Taxation Proclamation, No. 29 of 1931, introduced the export duty of 10 per cent on all diamonds exported from the Territory. It altered the formula for the profits tax to 60 per cent of the gross proceeds less 70 per cent of the working costs. The Administrator was also authorized to make exemptions from taxation, in cases where the assessment could be shown to be unduly burdensome.

314. The introduction of the revised tax measures followed a collapse of the diamond market, and territorial revenue from mining dropped from £115,551 in the fiscal year 1929-30 to £41,354 in 1930-31. The bulk of the revenue (£37,077) was refunded to Consolidated Diamond Mines as an over-payment of tax. Total territorial revenue fell from £868,524 in 1930-31 to £528,582 in 1931-32.

315. In 1941, the profits tax on diamonds was replaced by a tax of 15 per cent on taxable income. Territorial revenue from the diamond industry rose from £50,076 in 1940-41 (less £14,827 in royalties paid to the South West Finance Corporation under the agreement referred to in paragraph 138 above) to £93,059 (less £21,087 in royalty payments) in 1941-42. Income tax based on a sliding scale was introduced for diamond mining companies in 1952, and the maximum rate payable by these companies was fixed at 30 per cent of profits. The maximum rate was increased to 35 per cent in 1955 and to the current maximum rate of 45 per cent in 1962.

316. Other mining operations contributed only a few thousand pounds to territorial revenue in the form of royalties on production. These royalties, except for those on the production of guano, were discontinued in 1942. Additional revenue was also derived from fees and licences for prospecting and mining. With the introduction of income tax for companies and individuals in 1942, mining companies which were not engaged in diamond mining (see preceding paragraph) were required to pay income tax at the rate of 3s. 6d. in the pound. Total income tax collections from all sources during the fiscal year 1942-43 amounted to only £120,000 (R240,000). In 1952, the maximum rate of income tax payable by mining companies, other than diamond mining companies, was increased to 25 per cent, and in 1955 it was again increased to the present rate of 30 per cent. In his annual budget speech to the Legislative Assembly in 1962, the Administrator of South West Africa explained that there was no intention of raising the tax on companies mining base metals, which were already higher than in South Africa and that in any case taxation prospects on base minerals were not "too rosy" in view of the large capital expenditure by the Tsumeb Corporation. The Tsumeb Corporation profits were during 1962-63 not expected to exceed its expenditure, so that there would be a loss in income tax revenue as well as on revenue from the non-resident shareholders' tax.

B. *Current legislation on taxes and on other sources of revenue*

1. *Income Tax Ordinance*

317. The legislation now in force is the Income Tax Ordinance, No. 10 of 1961, as amended, which superseded the Income Tax Ordinance of 1942. For tax purposes, the Ordinance defines "mining operations" and "mining" to include every method or process by which any mineral (excluding guano) is won from the soil or from any substance or constituent thereof.

318. The Ordinance makes a distinction between the rate of tax imposed on the taxable income of companies mining for diamonds and companies carrying on other mining operations. The maximum rate for diamond operations is 45 per cent for each rand of taxable income, while for mining operations, other than mining for diamonds, the maximum rate is 30 per cent. The maximum rate is payable on all taxable income which exceeds R1 million.

319. In determining the taxable income from mining operations, "capital expenditures" incurred during the year of assessment are deducted. These expenditures include "shaft sinking and equipment" together with accessories thereto and prospecting operations (including surveys, boreholes, trenches, pits and other exploratory work preliminary to the establishment of a mine).

320. For the purpose of assessment, a company is recognized as being either a public company or a private company. The following are classified in the Ordinance as public companies:

(*a*) Any company all classes of whose shares are publicly quoted on the specified date by a stock exchange in the list issued under its authority: Provided the Commissioner is satisfied that:

(i) The stock exchange is a recognized and *bona fide* stock exchange under adequate control; and

(ii) The rules and regulations of the stock exchange for granting and continuing a quotation for the purchase and sale of shares provide for full protection of the interests of the public in regard to dealing in the shares of the company; and

(iii) The memorandum and articles of association of the company contain no such restrictions on the right to acquire or transfer any of its shares as are likely to preclude members of the general public from becoming shareholders in any class of the company's shares; and

(iv) The general public is substantially interested in such company; or

(*b*) Any other company in which the Commissioner is satisfied the general public is substantially interested, and the memorandum and articles of association of which:

(i) Contain no such restrictions on the right to acquire or transfer any of its shares as are likely to preclude members of the general public from becoming shareholders in any class of the company's shares; and

(ii) Do not prohibit any invitation to the public to subscribe for any shares or debentures of the company; and

(iii) The business of the company is conducted and its profits are distributed in such a manner that no person enjoys or receives or is entitled to enjoy or receive, by reason of shareholding, participation in the management or otherwise, any advantage which would not be enjoyed or received by him if the company had been under the control of a board of directors acting in the best interests of all its shareholders and had been one which could have been recognized as a public company under paragraph (a); or

(*c*) Any company which the Commissioner is satisfied was incorporated to serve a specified purpose, beneficial to the public or a section of the public, if under the constitution of the company no shareholder is entitled to participate in the profits or income of the company to an extent greater than 7 per cent on the nominal value of his shareholding; or

(*d*) Any society or company registered under the Cooperative Societies Ordinance, 1946 (Ordinance 15 of 1946), as amended; or

(*e*) Any insurance society or company subject to assessment in terms of section sixteen; or

(*f*) Any public utility company, established by or under any law; or

(*g*) Any company the sole or principal business of which in the Territory is mining for gold or diamonds.

321. A non-resident shareholders' tax is imposed at a flat rate of 7.5 per cent. The tax is levied on persons who are not ordinarily resident or "carrying on" business in the Territory.

2. *Diamond Taxation Proclamation*

322. The Diamond Taxation Proclamation, No. 16 of 1941, provides for the levy of special taxes on "rough and uncut" diamonds produced in the Territory. A "diamond profits tax" amounting to 15 per cent of the taxable profit (as determined under the Income Tax Ordinance) is levied on producers. The profits tax combined with income tax may not exceed the maximum rate of 45 per cent.

323. The Proclamation provides further that purchasers are required to pay a diamond export duty, or "royalty" of 10 per cent on the proceeds of the sale of all diamonds exported from the Territory. The Income Tax Ordinance provides that this export duty may be deducted from the taxable income derived by a purchaser who is carrying on trade within the Territory.

324. Section 4 of the Diamond Taxation Proclamation contains several provisos dealing with the way in which the taxable profit is determined:

"(*a*) The amount of money deducted in any year by the Diamond Board from the proceeds of the sale of diamonds of any producer under the provisions of paragraph (*h*) of section four of the Diamond Industry Protection Proclamation, 1939, (Proclamation No. 17 of 1939) (1), shall be allowed to rank as expenditure not of a capital nature incurred in the production of taxable income;

"(*b*) The interest paid in any year by the Consolidated Diamond Mines of South West Africa, Limited in respect of debentures Nos. 1 to 7,500 issued by the aforesaid Consolidated Diamond Mines of South West Africa, Limited towards the purchase of shares Nos. 3; 812,505 to 1,125,003; 3,500,001 to 3,875,000 and 4,500,001 to 4,812,500 in the Diamond Corporation Limited shall be allowed to rank as expenditure not of a capital nature incurred in the production of taxable income. So long as the aforesaid Consolidated Diamond Mines of South West Africa, Limited retains its interest in the said shares, the maximum amount so allowed shall not exceed £37,500 in any year and shall be allowed if the total net sales by the Diamond Trading Company Limited in that year amount to £6,000,000 or more. If the said sales amount to less than £6,000,000 in any year then the amount so allowed shall be reduced in respect of that year by one-sixtieth for each £50,000 by which the said sales fall short of £6,000,000. If in any year the Diamond Corporation, Limited declares a dividend, then the amount so allowed shall be reduced by one-fifteenth of the total interest paid by the said Consolidated Diamond Mines of South West Africa, Limited in that year in respect of the aforesaid debentures for each 1 per cent of the percentage of Diamond Corporation, Limited dividend declared;

"(*d*) Capital expenditure shall during a period of non-production include expenditure on reasonable development and maintenance;

"(*e*) The proceeds of the diamonds won by the producer shall be deemed to be the moneys received by him during the year in respect of the sales of diamonds produced by him within the Territory during that year or any previous year, and in respect of any moneys which, under any agreement for the sale of diamonds produced in the Territory, have accrued to him as additional purchase price by reason of the re-sale by the purchaser of any such diamonds bought during that year or any previous year, such additional purchase price being subject to readjustment in the event of refunds having to be made under any such agreement;

"(*f*) The expenditure incurred in the production of 149,304.425 carats of unsold diamonds, in the possession of the aforesaid Consolidated Diamond Mines of South West Africa, Limited on the thirty-first day of December 1940, shall be allowed at £3.5.0 per carat and shall rank as expenditure incurred in the production of diamonds."

325. The diamond profits tax is payable only in those mining areas held under a special title. These areas are defined in section 10 which reads as follows:

"10. The diamond profits tax shall only be payable in respect of diamonds won or found on mining areas converted under Sections 36-49 of the Imperial Mining Ordinance for German South West Africa of the 8th day of August, 1905, as amended from time to time, or on areas held under special title granted before the 1st October, 1908, by the *Deutsche Kolonial-Gesellschaft für Südwestafrika,* or under special title granted by the Imperial Ordinance of the 18th May, 1912 (Pomona Area), or under special title granted by the agreement of 22nd December, 1910, between the Deutsche Kolonial-Gesellschaft, the Deutsche Diamanten-Gesellschaft m.b.H. and the Vereinigte Diamanten-Gesellschaft m.b.H. (V.D.M. South Block) or under special title by the agreements of the 16th November 1922/15th January, 1923 between the Administrator of South West Africa and the Consolidated Diamond Mines of South West Africa, Limited and the South-West Finance Corporation, Limited (Halbscheid Area and Fiskus Territory) or any extension or amendment of such agreements, or under the special title issued under Section 94 of the Imperial Mining Ordinance for German South West Africa dated the 8th day of August, 1905, as amended from time to time."

326. The territorial Administration in turn pays Consolidated Diamond Mines, through a wholly owned subsidiary, the South West Finance Corporation, royalties equivalent to 22.5 per cent of the diamond profit tax and export duty (see above, para. 138).

C. *Revenue from mining companies*

327. According to a statement made in 1962 by the Administrator of South West Africa, mining, fishing and related companies contribute 75 per cent of the Territory's revenue from income tax. The following table, taken from the report of the Odendaal Commission, shows the breakdown of estimated income tax revenue totalling R 13,600,000 for 1963-64:

	Rands
Diamond mines	8,400,000
Other mines	300,000
Companies	3,000,000
Overseas shareholders' tax	400,000
Individuals	1,500,000
	13,600,000

328. Apart from income tax receipts, revenue amounting to R 4,805,000 was anticipated from the 10 per cent diamond

export duty and the diamond profit tax and R 73,577 from prospecting fees and claims licences. Of a total estimated revenue of R 32.5 million, the Administration expected R 13.2 million from diamond mines, all or almost all from the Consolidated Diamond Mines which is the only company paying the maximum tax rate of 45 per cent.

329. In 1951, a local commission of inquiry contrasted the "huge revenue" accruing to the Territory from mining and the limited territorial expenditure (£8,000) on the industry with territorial revenue and expenditure on the farming industry, and drew the following conclusions:

"It is perfectly clear from where the State derives the lion's share of its revenue and to what the present prosperity in the Territory must be ascribed. And whereas it is acknowledged that the expansion of the farming industry, owing to climatic conditions, is, humanly speaking, nearing its saturation point, mining has, with few exceptions, been confined to mere scratching of the earth's surface.

"Your Commission is therefore convinced that it would be a retrogressive step to do anything which might hamper mining development and not to do everything to retain the confidence that mining concerns have in the administration of the mining industry. It is the bounden duty of the lawgivers to assist and encourage the development of the farming industry but to take any measures which might tend to hamper mining would be tantamount to killing the proverbial goose that lays the golden eggs."

330. In recent years the disparity in territorial revenue from and expenditure on the mining and farming industries has increased. This is due to the further expansion of mining since 1951 and the expenditure of millions of Rands in public funds to stave off a collapse of the live-stock industry during a prolonged drought and serious outbreak of foot and mouth disease.

331. Territorial revenues derived from mining and income tax during the fiscal years 1946-47 to 1962-63 inclusive are shown in the following table:

South West Africa

Revenue from mining and income tax

£

	Diamond export duty	*Diamond profit tax*	*Less royalty payments to South West Finance Corp. (C.D.M.)*	*Royalties*[a]	*Prospecting fees and claim licences, etc.*	*Revenue from mining*	*Income tax revenue*
1946-47	135,115	169,295	71,263	787	6,295	240,229	689,534
1947-48	226,836	421,472	94,693	124	6,512	380,251	769,249
1948-49	244,689	279,695	117,547	—	8,187	414,924	634,206
1949-50	422,143	226,814	129,315	174	8,798	477,594	883,082
1950-51	648,061	762,459	291,973	603	9,275	1,164,425	751,072
1951-52	827,200	926,698	397,151	154	11,972	1,368,873	1,626,110
1952-53	1,126,015	1,030,426	467,131	728	13,769	1,703,807	3,833,667
1953-54	1,952,593	1,004,297	463,212	462	14,960	1,609,100	3,303,758
1954-55	1,273,220	1,228,361	545,654	—	12,624	1,968,551	4,104,918
1955-56	1,582,948	1,673,558	714,633	234	13,338	2,555,527	5,161,261
1956-57	1,723,772	2,003,012	844,979	221	24,738	2,906,772	8,145,539
1957-58	1,630,896	1,843,419	793,029	225	18,943	2,700,484	7,908,971
1958-59	1,596,184	1,436,125	631,040	—	17,750	2,419,019	6,208,658
1959-60	1,390,210	1,834,450	783,599	—	18,138	2,459,199	6,236,766
1960-61	1,619,137	1,750,327	738,830	—	16,722	2,638,251	6,762,769
1961-62	1,725,930	2,130,650	888,705	—	45,622	3,013,497	5,881,176
1962-63	1,756,658	1,703,629	732,386	—	46,328	2,774,230	7,689,194

[a] Royalties are levied on guano.

D. *Double taxation*

332. The Income Tax Ordinance was amended in 1962 to deal with the question of relief from double taxation. The amendment provides, *inter alia,* that, at the request of the Administrator of the Territory, any agreement entered into by the Government of South Africa with another Government whereby arrangements are made for the purpose of "prevention, mitigation or discontinuance of the levying of income tax in respect of the same income", may be extended to the Territory.

333. Agreements for the avoidance of double taxation between South West Africa and South Africa, and between South West Africa and the United Kingdom, have been in force in the Territory since 1959 and 1962 respectively. Under these agreements, income earned in the Territory remains subject to taxation within the Territory. The extension to South West Africa of the agreement already in force between South Africa and the United Kingdom for the avoidance of double taxation had been requested by the territorial Administration, which hoped that it would promote investment in the Territory from sources within the United Kingdom. With respect to companies or citizens of the United States of America possessing investments in the Territory, shareholders are required to pay the United States Government the difference between the South West Africa tax and the United States income tax. In this connexion, the Odendaal Commission expressed the view that there appeared to be no justification for the practice that the government of the country of which a shareholder was a citizen should also receive taxes from a source outside its own country.

E. *Local expenditure by mining companies*

334. Mining companies spent R 20,337,307 during 1960 and R 28,393,430 during 1962, compared to R 1,600,228 during 1938. Details of these expenditures are as follows:

	1938 (rands)	*1960 (rands)*	*1962 (rands)*
Wages:			
Europeans	512,892	4,384,311	4,911,715
Natives	228,724	1,168,765	1,711,706
Local purchases	337,132	9,543,508	13,253,175
Local road, sea and railway transport	367,406	2,213,713	1,848,709
Customs	19,694	111,392	95,807
Machinery purchased	134,380	2,915,618	6,512,318
	1,600,228	20,337,307	28,393,430

Chapter IX. The fishing industry

A. *General*

1. *Development of the industry*

355. Fisheries are one of South West Africa's main economic assets. The Territory possesses an extensive coast-line and the off-shore waters of the Atlantic in this region of southern Africa are counted among the rich fishing areas of the world. A great variety of marine life is to be found and a number of species are fished commercially. By far the most important, however, together contributing more than 90 per cent of the fishing industry's revenue, are pilchards (or sardines), which breed prolifically and are found in large schools especially along the shores near Walvis Bay, and rock lobsters, which cling to the rocky beds of the sea-floor near Lüderitz.

336. Although fishing has long been a major industry in the Republic of South Africa, its development on a large scale along the coast of South West Africa and Walvis Bay is of fairly recent origin. During its early years the industry was concerned mainly with the fishing of snoek, whitefish, lobster and other species for unprocessed consumption, and was limited by the size of the local market and by the fact that high transportation costs made it difficult to enter the South African market which could be supplied more cheaply from Cape Town. It was not until after 1946, when Ovenstone South West Investments, Ltd. began to explore possibilities of exploiting the abundant supply of pilchards that opportunities for large-scale production and processing of this fish for world markets were revealed. In 1948, when the company established the first fishmeal cannery at Walvis Bay, the export value of fishery products amounted to only R 800,000, or roughly 3 per cent of the value of South West Africa's total exports. Since then, however, the fishing industry has grown rapidly and continuously. By 1952 the exported value of fishery products had risen to R 10 million and by 1962 it had further increased to approximately R 24 million. According to a recent forecast by the industry, which takes into account increases in factory capacity and in the fishing quota, laid down by the Territorial Administration, the earnings of the industry in 1964 were expected to amount to approximately R 34.5 million on the basis of 1962 prices. Thus, in the space of sixteen years, the fishing industry has become the second largest industry in South West Africa, second only to the mining industry as a source of revenue and employer of labour.

2. *Production and marketing*

Pilchards and pilchard products

337. The three main centres of the fishing industry are Walvis Bay, Lüderitz and Cape Cross. Pilchard fishing and processing is largely concentrated at Walvis Bay where there are at present six processing factories for the production of canned fish, fishmeal, fish-oil and stickwater. These factories are operated or controlled by the following five companies:[t] Ovenstone South West Investment, Ltd., South West Africa Fishing Industries, Ltd. (SWAFIL), Marine Products, Ltd., Sea Products (SWA), Ltd., and New Western Fishing Industries, Ltd. Pilchards are also to be found in the area of Lüderitz but in the past have not been fished on an industrial scale and it is not known whether the supply is sufficient to justify any large-scale production in that area. A new company, the Angra Pequena Fishing Corporation, recently obtained a licence to operate a factory for fishmeal and fish-oil at Lüderitz. The factory, which began operating in June 1964, is capable of processing thirty tons of fish per hour. The company has announced its intention of combining the activity with the production of rock lobster.

338. Each of the pilchard factories has an equal share in an annual production quota which is determined by the Administration to prevent depletion of the fishery resources. Since production capacity has so far not been sufficient to fill the quota, the latter has not exercised any restrictive influence on production.

339. The importance of the pilchard sector of the industry can be seen from the fact that in 1962 it accounted for more than 83 per cent (R 8.8 million) of the total revenue of the fishing industry. The following table gives details of production in 1961 and 1962:

[t] A seventh factory, owned by South Kunene Fisheries, Ltd., is under construction at Walvis Bay and will be in operation by 1965.

Pilchard industry (Walvis Bay)

	Production (tons)		*Value (million rand)*		*Export (tons)*	
	1961	*1962*	*1961*	*1962*	*1961*	*1962*
Fishmeal . .	77,735	98,773	4.20	6.9	57,974	Not available
Fish-oil . . .	19,710	26,275	1.59	1.8	17,631	Not available
Canned fish .	76,976	66,712	14.52	12.1	66,520	Not available
	1961		*1962*		*1963*	
Fish quota (tons)	275,000		435,000		540,000	

340. All fishmeal and fish-oil sales are pooled and handled by a joint selling organization of the fishmeal and fish-oil producers of South West Africa and the Republic of South Africa. Except for small quantities which are consumed locally, the whole of the Walvis Bay output is exported to other parts of the world. Each producer receives an average price realized from local sales in the course of a full year's business, and it is therefore immaterial to him whether his produce is sold locally or overseas.

341. Fish-oil is used mainly in the edible fat and oil industry and in the soap and paint manufacturing industries, but the latter market is largely dependent upon the output of other oils such as whale and vegetable oil. The bulk of the fish-oil produced is exported to the United Kingdom whereas fishmeal exports are shipped mainly to Europe, Israel, the United States of America, Australia and countries in the Far East.

342. Canned fish is not pooled financially, although the Republic of South Africa does have a co-ordinated selling organization. More than 15 per cent of the canned fish production of Walvis Bay finds a market in the Republic of South Africa and this market is continuing to expand. Other big importers are the United States, the United Kingdom, other countries of Western Europe and, until recently, the Philippines.

343. Although there have been substantial increases in exports by other countries, notably Chile and Peru, the future prospects for this sector of the industry are considered to be good. The market demand for fishmeal, particularly for use in fertilizers, has expanded in recent years to the extent that demand still exceeds supply. The Odendaal Commission concluded that the only limitation to the further expansion of this sector of the industry was the availability of fish. The Administration of South West Africa has exercised great caution in issuing new licences in order to avoid over-exploitation of the fish supply, but nevertheless the quota has been increased each year as more scientific information on the fish resources is obtained. Indicative of the industry's prosperity of growth potential was the response of investors in South West Africa to a recent offering of blocks of shares by the

two new companies mentioned above, Angra Pequena Fishing Corporation, Ltd., and South Kunene Fisheries, Ltd. The shares were offered in February-March 1964 for purchase only by *bona fide* inhabitants of South West Africa. According to reports by the companies concerned, they were oversubscribed sixteen times in the case of Angra Pequena Fishing Company and thirty times in the case of South Kunene Fisheries, Ltd. The overbidding by investors led to complaints in the Legislative Assembly alleging improprieties in the allocation of shares, in particular that blocks of shares had been purchased on behalf of South African interests. These allegations were denied by the companies concerned.

Rock lobster

344. Rock lobster production rates second in importance in the fishing industry, accounting in 1962 for slightly less than 14.2 per cent (R 3.2 million) of total sales revenue for the industry as a whole. Rock lobster fishing and processing is centred at Lüderitz and so far has been in the hands of two companies, South West Africa Fishing Industries Ltd. (SWAFIL) and Sea Products (SWA), Ltd., which also have interests in the pilchard sector of the industry at Walvis Bay. There are four canneries, one of which is operated by SWAFIL, the three others being subsidiaries of Sea Products (SWA), Ltd. (although two are not now in operation). A third company, the Angra Pequena Fishing Corporation Ltd., has recently been established and will also operate a lobster canning factory (in addition to a pilchard factory) in the Lüderitz area.

345. Almost all the produce is exported in the form of frozen lobster tails and canned rock lobster. The total catch has increased substantially in recent years, rising from about 8-9 million pounds in 1960 to nearly 16 million pounds in 1962. Details of production in 1961 and 1962 are as follows:

ROCK LOBSTER INDUSTRY (LÜDERITZ)

	1961	*1962*
Total catch (lb.)	12,721,540	15,892,890
Frozen tails produced (lb.)	3,027,760	3,949,520
Rock lobster canned (lb.)	306,413	319,875
Rock lobster meal produced (tons)	655	946
Value of canned and frozen rock lobster	R 2,272,142	R 3,200,000
Value of rock lobster meal	R30,932	Not available

346. According to the Odendaal Commission this sector of the fishing industry also has good potential for growth. There is strong demand for frozen lobster tails in the world market, so that the expansion of production depends entirely on the available lobster beds which are exploited on a strictly controlled basis.

Other fish and marine products

347. Pilchards and rock lobster together account for more than 90 per cent of the total sales revenue of the fishing industry. The remainder is accounted for by catches of table fish, such as white fish, snoek, steenbras, Cape salmon and tuna, which are mostly fished from Walvis Bay, and by a small-scale sealing industry which is based on Lüderitz and Cape Cross.

348. There are two table-fish factories at Walvis Bay, operated by the Northern Fishing Industries of South West Africa (Pty.), Ltd., a subsidiary of South West Africa Fishing Industries, Ltd., and the Protea Fish Products (Pty.), Ltd., a subsidiary of Irwin and Johnson, Ltd., which is one of the largest South African fishing companies, with headquarters at Cape Town. This sector of the industry has to contend with several problems, namely the small size of the local market, high railway rates which make it difficult to market the fish elsewhere at competitive prices, and the fact that boats often have to travel great distances in search of fish. The main exports are of snoek, for which Mauritius offers the best overseas market, and tuna. The following table gives an indication of the relatively small size of this sector of the industry:

WHITE FISH, SNOEK, ETC. (WALVIS BAY)

	1961	*1962*
Total catch (lb.) (excluding Cape boats)	3,824,858	n.a.*
Total export (lb.)	2,286,235	n.a.*
Total value of catches (snoek and white fish)	R 141,955	n.a.*
Steenbras and Cape Salmon (up to end of November) (lb.)	n.a.*	590,641
Value	n.a.*	R 41,345

* n.a. = not available.

SEAL INDUSTRY (LÜDERITZ AND CAPE CROSS)

	1962
Pelts (number)	29,682
Oil (gallons)	39,204
Meat/bonemeal (lb.)	176,050
Value of products	R 600,000

B. *Fishing companies*

349. The most important controlling groups in the fishing industry of South West Africa are Ovenstone South West Investments, Ltd., South West Africa Fishing Industries, Ltd., Marine Products, Ltd. and Sea Products (SWA), Ltd. Either directly or through subsidiaries these four companies operate five of the six pilchard factories now in production at Walvis Bay, the four rock lobster factories at Lüderitz and one of the two table fish factories at Walvis Bay. The sixth pilchard factory at Walvis Bay is operated by New Western Fishing Industries, Ltd.

1. *Ovenstone South West Investments, Limited*

350. Ovenstone South West Investments, Ltd. (known as OSWILS) was incorporated in 1953. The company holds the entire share capital of the Walvis Bay Canning Company and a 50 per cent interest in Industone Sociedad Anonyma Pesquera, a fishing company which operates at Iquique, Northern Chile. In 1960, OSWILS became an operating company by taking over the production function of the Walvis Bay Canning Company.

351. The company's board of directors, under the Chairmanship of Mr. A. B. M. Ovenstone (South Africa), consisted in 1963 of the following members: J. Ovenstone, D. MacP. Ovenstone, R. J. Ovenstone (South Africa) and J. H. Newman, D.S.O. (South West Africa). Mr. J. Ovenstone has since replaced Mr. A. B. M. Ovenstone as Chairman. The Ovenstone family are also directors of John Ovenstone, Ltd., a fishing company in South Africa.

352. The authorized and issued capital of OSWILS is R 1.2 million in 2.4 million shares of 50 cents each. Tables setting out the company's assets and liabilities are given below:

ASSETS (RANDS)

	Chilean project	*Fixed Assets*	*Investments*	*Stocks*	*Debtors*	*Cash*	*Current assets*	
							Total	*Net*
1960	—	1,072,604	2,141	1,339,928	630,907	479,395	2,450,230	1,472,924
1961	67,513	1,104,645	5,750	1,491,847	599,314	221,768	2,312,929	1,580,067
1962	656,338	1,140,024	8,750	1,486,868	778,735	69,064	2,334,667	1,030,978

LIABILITIES (RANDS)

(As at 31 December)

Dec. 31	Capital	Reserves	Total shareholders' funds Amount	Per share (cents)	Loans, etc.	Bank over-draft	Creditors	Taxation and dividends
1960	1,200,000	1,324,887	2,524,887	105	22,782	—	414,706	562,600
1961	1,200,000	1,535,800	2,735,800	114	22,175	—	318,650	414,212
1962	1,200,000	1,614,550	2,814,550	117	21,540	—	732,250	571,439

353. The Walvis Bay Canning Company was formed in 1943 by the late R. W. Ovenstone. The company has been the pioneer in the pilchard industry at Walvis Bay and erected the first fishmeal factory there in 1948. With the start of the new plant in 1949, the company concentrated on the canning of pilchards and the production of fishmeal and fish body oil.

354. Production statistics for the years 1961-1963 and financial results for the years 1955-1962 follow:

Production	*1961*	*1962*	*1963*
Tons fish caught (quota)	60,000	72,500	90,000[a]
Thousand cartons canned	1,078	750	450[a]
Tons fish meal	10,926	16,171	[b]
Tons fish oil	2,200	3,400	[b]

[a] Expected.

[b] Not yet available.

Results (rands)

	Profits[a]	Taxation	Available on capital Amount	Per cent	Per share
1958	586,196	134,000	452,196	38	19.0
1959	752,848	114,532	638,316	53	26.5
1960	804,400	185,580	618,820	52	26.0
1961	745,346	174,431	570,915	44	22.0
1962	885,566	271,439	621,412	52	25.9

[a] After loss on fixed assets sold or scrapped.

Results (rands)

	Dividends and bonus Amount	Per cent	Per Share (cents)	Share prices Lowest	Highest
1958	240,000	20	10	75	87
1959	240,000	20	10	76	102
1960	360,000	30	15	80	100
1961	360,000	30	15	100	140
1962	480,000	40	20 (7/6/63)	105	200

2. *South West Africa Fishing Industries, Limited*

355. The South West Africa Fishing Industries, Ltd. (SWAFIL), was incorporated in 1947. The company holds the total issued capital of the Cape Lobster Canning Company, Ltd., the Table Mountain Canning Co., Ltd., Lüderitz, and the Seaflower Investment (Pty.), Ltd. and controls the following subsidiary companies: the Northern Fishing Industries of South West Africa (Pty.) Ltd., Ocean Products, Ltd., Capetown and the West Coast Fishing Industries, Ltd. The latter company erected the second fish meal factory at Walvis Bay in 1949.

356. SWAFIL also produces frozen rock lobster tails, canned rock lobster and rock lobster meal at Lüderitz.

357. Its board of directors consists of the following members: E. A. H. F. Behnsen, Chairman, F. W. K. P. Albrecht, W. K. H. Albrecht (all residents of South West Africa), H. G. Galbraith, R. J. Rumbelow and W. H. Stoops (residents of South Africa). Mr. Behnsen, F. W. K. P. Albrecht and W. H. Stoops are also directors of Sea Products (SWA), Ltd. (see below) and Mr. Stoops is likewise a director of Marine Products, Ltd. (see below) and of John Ovenstone, Ltd., in South Africa.

358. The authorized capital of the company is R 800,000 in 1.6 million shares of 50c each. The amount issued as of 31 December 1962 was R 787,612.50 in 1,575,225 ordinary shares of 50c each. The consolidated accounts of the company are set out below:

CONSOLIDATED ACCOUNTS (RANDS)

(As at 31 December)

Liabilities

	Share capital	Reserves	Total shareholders' funds Amount	Per ordinary share (cents)	Taxation	Creditors	Dividends	Total current liabilities
1960	787,612	3,144,002	3,931,614	250	455,960	53,026	315,042	824,028
1961	787,612	3,626,968	4,414,580	280	318,590	47,434	346,549	712,153
1962	787,612	3,823,881	4,611,493	286	490,850	148,416	551,328	1,190,594

CONSOLIDATED ACCOUNTS (*continued*)

Assets

	Fixed assets	Trade invest-ments	Stocks	Debtors	Cash, loans at call, etc.	Current assets Total	Current assets Net	Total assets
1960	1,551,306	202,338	1,532,764	385,248	1,103,986	3,001,998	2,177,970	4,755,642
1961	1,536,805	202,338	1,209,770	449,809	1,678,431	3,388,010	2,675,437	5,127,153
1962	1,623,352	201,963	1,236,108	644,400	2,096,264	3,976,772	2,786,178	5,802,087

Results

	Operating profit	Group profit	Taxation	Remaining profit amount	Per cent	Per share (cents)
1958		1,029,682	360,662	595,026	80	40.0
1959		1,220,034	283,528	911,484	116	58.0
1960	1,275,476	1,097,946	253,968	843,978	107	53.5
1961	1,546,125	1,350,554	316,260	1,034,294	131	65.5
1962	1,790,771	1,578,888	594,363	984,525	126	63.0

3. *Marine Products, Limited*

359. Marine Products, Ltd., was incorporated in 1942 as LAAIPLEK Fisheries, Ltd., and adopted its present name in 1947 after the acquisition of the whole issued share capital of Marine Products, Ltd. The members of its board of directors are: G. J. van Zyl, Chairman, C. H. Brink, F. C. Jameson, Prof. C. G. W. Schuman, W. H. Stoops, J. Neser, J. J. M. van Zyl (all residents of South Africa), S. L. Muller and F. J. van Zyl. Mr. G. J. van Zyl is also a director of Benguella Beleggings Beperk and Suidwes-Africa Prospekteerders (see above, para. 190) and Mr. J. Neser served as Secretary of South West Africa and Chairman of the Diamond Board until his retirement in 1957. Mr. Stoops is also a director of South West Africa Fishing Industries, Ltd., and of John Ovenstone, Ltd.

360. The authorized and issued capital of Marine Products, Ltd. is R 3 million in 6 million ordinary shares of 50c each. The company's assets and liabilities for the years 1960-1962 are set out below:

ASSETS (RANDS)

	Fixed assets	Investments Amount	Investments Valuation	Loans	Stocks and Shares	Debtors	Cash and at call	Total current assets
1960	648,739	950,770	1,951,838	79,222	474,829	1,393,941	82,489	1,951,259
1961	2,614,566	946,477	831,661	528,605	2,705,467	979,461	149,603	3,834,531
1962	2,606,424	1,234,229	1,166,431	714,808	2,578,890	1,099,891	1,145,926	4,824,707

LIABILITIES (RANDS)
(as at 31 December)

	Capital	Reserves	Excess of market over book value of investments	Total share-holders' funds Amount	Total share-holders' funds Per share (cents)	Minority interests	Fixed loans	Current liabilities
1960	875,000	1,151,183	1,001,068	3,027,251	172	—	160,500	1,423,307
1961	3,000,000	2,885,881	Dr.114,816	5,771,065	96	28,981	238,381	1,770,936
1962	3,000,000	3,758,878	Dr. 67,798	6,691,080	112	34,570	230,247	2,356,473

361. Wholly owned subsidiaries of the company are the Tuna Corporation of South West Africa which established the third fishmeal factory at Walvis Bay in 1950; and the Namib Visserye Beperk which erected the sixth fishmeal factory at Walvis Bay as well as the first stickwater factory in 1954. Other subsidiaries, operating in South Africa, are the Nola Industries, Ltd., which manufactures malt at Randfontein and Industrial Oil Processes, Ltd., which processes linseed oil. Overseas investments in the latter company account for 24 per cent.

362. A recent venture of the company concerns the establishment of Gansbaai Marine (Pty.), Ltd., which was registered with a capital of R 600,000 to establish a fish meal and fish body oil factory at Gansbaai. Marine Products Ltd., and the Gansbaai Co-operative are each entitled to take up 45 per cent of the shares in Gansbaai Marine. As of 31 December 1962, Marine Products Ltd., had invested R 216,000 in these shares and the investment now amounts to R 270,000. In addition, Marine Products Ltd. assisted the Gansbaai Co-operative to acquire its 45 per cent share holding in Gansbaai Marine by granting a loan at 31 December 1962 which amounted to R 166,000, and is now R 220,000. The company came into production in January 1963.

363. The company is the registered owner of the Laaiplaats farm at the mouth of the Berg River. On this land the company has erected factories producing fish meal, fish oil, fish solubles and canned fish. A portion of the land has been subdivided into plots to be transferred to the local fishermen.

364. Statistics on production and sales for 1961-62, profits and taxation for 1958-62 follow:

PRODUCTION

	1962	1961
Fishing fleet:		
Own boats	9	11
Other	35	37
Tons fish processed	193,863	169,046
Production:		
Cartons canned fish—all packs	1,315,472	1,342,168
Tons fish meal	44,360	37,942
Tons fish oil	12,443	10,470
Tons malt	12,140	11,212
Tons linseed oil processed	4,132	4,011

SALES

	1962 (rands)	1961 (rands)
Total sales	10,528,030	8,879,082
Net trading profit	2,264,566	1,226,738
Net capital expenditure	237,884	416,803
Depreciation written off	362,431	381,283
Foreign exchange earned	7,199,000	5,901,000

RESULTS (RANDS)
(as at 30 June)

	Profits after deducting minority interest	Taxation	Available Profit		
			Amount	Per cent	Per share (cents)
1958	384,588	58,754	319,090	36	18.0
1959	431,224	69,446	361,778	41	20.5
18 months to 31 Dec. 1960	648,254	81,119	567,135	65	32.5
31/12/61	1,314,766	273,205	1,041,559	35	17.5
31/12/62	2,364,420	724,849	1,639,571	55	27.5

4. *Sea Products (SWA), Ltd.*

365. Sea Products (SWA), Ltd. was incorporated in South West Africa in 1953. Wholly owned subsidiaries of the company are: the Oceana Fishing Company, Ltd. which in 1952 erected the fourth fishmeal factory, and a cannery at Walvis Bay, Lurie's Canning Company, Ltd., and the African Canning Company (South West Africa), Ltd., all located at Lüderitz.

366. The board of directors of Sea Products, Ltd. consists of the following members: Messrs. A. Shapiro, Chairman and managing director (South Africa), F. W. K. P. Albrecht, H. F. Behnsen (both residents of South West Africa, and also directors of South West Africa Fishing Industries, Ltd.) A. F. Lees, A. P. du Preez, W. H. C. Tsantmann and P. G. S. Neethling (South Africa). Until his death in 1964, Capt. G. H. F. Strydom was also a member of the board of directors. Capt. Strydom, a former member of Parliament, and Mr. du Preez were also members of the Strydom Group with interests in diamond mining (see above, para. 192).

367. The authorized and issued capital of the company is as follows:

	Rands
2,120,000 7 per cent non-cumulative preference shares of 50c each	1,060,000
250,000 7 per cent redeemable cumulative preference shares of R2 each	500,000
1,260,000 ordinary shares of 50c each	630,000
TOTAL	2,190,000

368. The assets and liabilities of the company for the years 1960-62 are as follows:

ASSETS (RANDS)

	Fixed assets	Stocks	Debtors and loans	Cash	Current assets		Total assets
					Total	Net	
1960	2,824,576	1,154,948	399,380	88,394	1,642,762	595,640	4,467,398
1961	2,080,590[a]	1,258,620	449,002	32,245	1,739,867	988,396	3,820,457
1962	2,183,352	698,040	1,652,612	25,526	2,376,178	1,207,182	4,559,530

[a] Excess cost of subsidiary companies' share written down by R619,456.

LIABILITIES (RANDS)
(as at 31 December)

	Ordinary capital	Reserves	Ordinary shareholders' funds		Preference capital	Loans	Current liabilities
			Amount	Per share (cents)			
1960	315,000	1,506,244	1,821,244	287	1,560,000	38,972	1,047,082
1961	315,000	1,156,068[a]	1,471,068	234	1,560,000	37,918	751,471
1962	315,000	1,479,330	1,794,330	284	1,560,000	36,204	1,198,996

[a] Excess cost of subsidiary companies' share written down by R619,456.

369. The operations of the company including output, sales and trading profit and financial results for the years 1959-63 are summarized below:

OPERATIONS

	Fish processed, tons	Output					Total sales (rands)	Trading profit (rands)
		Fish meal, tons	Fish oil, tons	Canned fish, cases	Frozen rock lob., cases	Canned rock lob., cases		
1959	56,532	11,815	3,500	260,976	70,306	22,598	3,964,634	1,011,774
1960 . .	58,255	9,875	2,433	831,587	29,197	63,512	4,628,402	1,061,570
1961 .	63,369	12,772	3,277	542,293	73,095	18,461	4,368,497	942,695
1962	73,319	16,167	4,118	630,572	105,465	12,746	5,604,663	1,514,972
1963 (to 31 July)	56,540	14,102	1,880	101,440	88,168	38,482	—	—

FINANCIAL RESULTS (RANDS)

	Taxation	Net profits	Available on ordinary capital after R109,200 preference dividend		
			Amount	Per cent	Per share (cents)
1958 .	95,918	473,334	364,134	115	57
1959 . .	222,328	688,326	579,126	183	91
1960 .	214,596	816,582	707,382	224	112
1961	209,638	693,480	584,280	186	93
1962	541,438	967,962	858,762	272	136

5. *New Western Fishing Industries, Ltd.*

370. New Western Fishing Industries, Ltd. was incorporated in 1952 as a result of the acquisition by Mid-Western Fishing Industries, Ltd., a South African company, of one of the two licences made available in May 1952 by the Administration of South West Africa for the erection of a fish canning and fishmeal and oil factory at Walvis Bay. Its board of directors consists of P. G. S. Neethling, Chairman, A. P. du Preez, managing director, P. H. M. du Plessis (all of South Africa), M. M. Louw, P. R. Rörich, J. van Landsberg Malan and S. A. Walters. Until his death in 1964, Capt. G. H. F. Strydom was a member. Capt. Strydom was also a member of the board of directors of Sea Products, Ltd., as are Mr. du Preez and Mr. Neethling. Capt. Strydom and Mr. du Preez were likewise members of the Strydom Group with interest in diamond mining (see above, para. 192).

371. The company holds a 50 per cent interest in Tulip Investments, Ltd., which has, through Nuwe Westelike Beleggingsmaatskapy Beperk, effective control of the Oceana Group of fishing companies in South Africa.

372. The authorized capital of the company consists of R 800,000 in 1,600,000 shares of 50c each. Issued capital is R 721,050 in 1,442,100 shares.

373. The consolidated accounts of the company for the years 1960-62 are as follows:

ASSETS (RANDS)

	Fixed assets	Invest-ments	Stocks and stores	Debtors	Cash	Current assets		Total assets
						Total	Net	
1960 . .	859,920	603,960	809,140	399,910	97,992	1,306,442	491,898	2,770,322
1961 ...	1,009,552	562,814	1,634,423	427,281	35,183	2,096,887	806,795	3,669,253
1962 . ..	1,046,311	320,814	1,499,310	1,338,338	76,579	2,914,227	1,728,278	4,281,352

LIABILITIES (RANDS)
(as at 30 June)

	Capital	Reserves	Total shareholders' funds		Long-term liability	Creditors	Taxation	Dividends
			Amount	per share (cents)				
1960 ...	721,050	1,196,502	1,917,552	133	38,226	372,230	226,000	216,314
1961	721,050	1,621,392	2,342,442	162	36,719	830,725	207,000	252,367
1962	721,050	2,339,214	3,060,264	215	35,144	585,824	311,700	288,420

RESULTS (RANDS)

	Profits	Taxation	Net earnings			Dividends	
			Amount	%	Per share (cents)	Amount	Per share (cents)
1958 . .	470,924	113,296	355,428	48	24	180,262	12¼
1959	569,916	134,490	435,426	60	30	198,288	13¾
1960	949,426	226,000	723,426	100	50	216,314	15
1961	875,095	207,000	668,095	93	46	252,367	17½
1962	901,979	311,700	590,279	81	40.5	288,420	20

Chapter X. Other industries

A. *General*

374. Compared with the big mining and fishing industries, other industrial activities are relatively less important and involve mainly local capital and entrepreneurship.

375. The economy of South West Africa is still basically agricultural and, apart from mining and fishing, the most important industries are karakul farming, cattle ranching and dairy farming. According to the Odendaal Commission, agriculture and forestry accounted for an average of 19.5 per cent of the gross domestic product during the period 1955-1959 and in 1962 agricultural sales, including karakul pelts and livestock, amounted to about R 27 million. Commercial farming is largely confined to European farms within the Police Zone since agriculture and animal husbandry in the Native reserves is still predominantly of a subsistance character.

376. There are also a small number of manufacturing enterprises, but with the exception of those engaged in the processing of primary produce, such as the meat canning and dairy industries, these are mainly small undertakings catering to the domestic market. According to the Odendaal Commission, manufacturing accounted for an average of only 8.5 per cent of the gross domestic product during the years 1955-1959 and even this small proportion was mainly attributable to the canning of fish.

377. The following sections of the present chapter contain brief descriptions of these industries showing the extent to which foreign interests are known to be involved.

B. *The karakul industry*

378. Karakul sheep were first introduced into South West Africa by the German Administration in 1907 and have since developed into the third most important industry of the Territory. The sheep flourish in hot, dry scrubland and can survive droughts better than most other livestock. Consequently they thrive in the arid country, south of Windhoek. They are not found in the northern non-European areas which, except for parts of the Kaokoveld, are believed to be unsuitable for them on account of endoparasite infestation.

379. The karakul sheep is bred for its pelt which is sold on world markets under the name of Persian lamb. South West Africa is today the principal world producer of this pelt, producing on an average about 2.5 million of the approximately 4.5 to 5 million pelts which are marketed annually. Other producing countries are the USSR, Afghanistan, Iran, China and the Republic of South Africa. Only South Africa, however, offers serious competition to the Territory's producers both in terms of quality and quantity. South African production at present averages about 750,000 pelts each year, but its output has been increasing.

380. The karakul sheep are bred mainly on large European-owned farms averaging about 2,000 head, although some have as many as 5,000. According to the 1962 agricultural census the distribution of the karakul population was as follows:

On European farms (including animals owned by non-Europeans)	2,606,013
In non-European areas (within the Police Zone)	113,133
In non-European areas (outside the Police Zone)	—
Total	2,719,146

381. The pelts are marketed by the farmers at Windhoek where they are purchased, mostly for resale in London at public auctions which are held six times a year and which determine the world market prices through the interplay of supply and demand. About 60 per cent of the combined South West African and South African production is consumed by the garment industry in the Federal Republic of Germany, other leading purchasers being Italy, France, the Scandinavian countries and the United States of America.

382. Karakul farming has played an important role in the development of South West Africa's economy, partly because it is uniquely suited to the Territory's climate, the quality of the pelt being often better in times of drought than at other times. More important, however, is the peculiar stability of world demand during periods of economic recession, the only exception being the United States of America where the market tends to follow the fluctuating pattern of demand for other luxury goods. Production in South West Africa increased rapidly during the period between the two World Wars, but, by 1943, had reached a plateau which appears to represent the Territory's optimum productive capacity. The output of that year has not been exceeded in subsequent years despite an increase in total value from about R 8 million in 1946 to R 12.6 million in 1962. Recent increases in value have been due partly to improvements in quality and to the breeding of new strains producing brown and grey pelts in addition to the customary black pelt. The number and average value of pelts exported from the Territory in recent years were as follows:

Year	*Number of pelts exported*	*Value (rands)*	*Average price per pelt (rands)*
1957	2,633,169	11,212,912	4.26
1958	2,708,644	10,337,992	3.82
1959	2,311,239	9,842,026	4.26
1960	1,975,683	8,653,491	4.38
1961	2,021,748	9,401,128	4.65
1962	2,345,563	12,666,040	5.40

Information on total sales in 1963 is not at present available, but the results of the earliest auctions during the year, at which bidding was keenly competitive, indicated an average price increase of about 10 per cent. This was partly attributable to an announcement that the supply would be temporarily reduced during the year.

383. The local market in Windhoek offers three avenues for the sale of karakul pelts. Firstly, there are the local agents of three brokerage houses which dispose of the pelts to the highest bidder at auction sales in London which is the centre of the world fur trade. The overwhelming majority of all pelts produced are disposed of through this channel. A small percentage, however, are sold directly to exporters, while the third most recent form of marketing is to sell the pelts to a merchant house in South Africa which processes and dyes the pelt and subsequently exports it directly to the country where it will be finally consumed, selling it usually by private treaty.

384. The three brokerage houses, which probably handle between them more than 80 per cent of all sales, obtain the pelts either directly from the farmer or from licensed buyers, who act for the brokers on salary or commission or, in some cases, engage in speculative buying. Each brokerage house is represented in South West Africa through a locally-registered company which acts as its agent.

385. The brokerage house which handles the largest volume of karakul exports is the Hudson's Bay Company, which handles about half of the total number of pelts at its auction rooms in London. The Hudson's Bay Company sells on commission for a farmers' co-operative union in South West Africa which was formed in 1931.

386. The second brokerage house, in terms of the volume of karakul sales which it handles, is Eastwood and Holt, Ltd., an old-established British fur broker with auction rooms in London. The company, which handles about one-third of the trade, also on commission, was one of the earliest to sell karakul pelts from South West Africa and has been closely connected with the development of the industry. In 1947, it established a wholly-owned subsidiary company, Eastwood and Holt (Pty.), Ltd., to handle its affairs in South West Africa. Later, in 1955, Messrs. Boere-Saamwerk Beperk, a company registered in Windhoek, took over the interests of the subsidiary and appointed Eastwood and Holt, Ltd. as its overseas marketing agent.

387. The third brokerage firm, which handles about a quarter of the karakul sales, is also a British firm, Anning, Chadwick

and Kiver, Ltd.. This company obtains its pelts through a wholly-owned subsidiary in South West Africa, African Karakul Auctions (Pty.), Ltd.

388. Farming interests are represented in the Territory by the Karakul Breeders' Association of South West Africa. Sales promotion overseas is conducted by an official Karakul Advisory Board with the resources of the Karakul Industry Development Fund into which is paid 25 per cent of the export duty on karakul pelts to which have been added monetary grants made by the Legislative Assembly and the Farming Interests Fund.

C. *Livestock and meat industry*

389. The livestock and meat industry occupies the second position in the agricultural economy of South West Africa. Cattle ranching is carried on for the most part in the less arid country in the northern parts of the Territory, predominantly on European-owned farms. The northern Native reserves, especially Ovamboland, are considered suitable for cattle-ranching but, although cattle-raising is an important activity in the reserves, the animals are, for the most part, of poor quality due to lack of selective breeding and parasite infestation, and, owing to the prevalence of stock diseases (foot and mouth disease and lung disease), no livestock has been exported from these areas for some years. The quality of cattle bred on European-owned farms is generally high and consists mainly of beef raised for slaughter. According to the 1962 agricultural census, the distribution of the cattle population was as follows:

On European farms (including cattle owned by non Europeans)	1,730,739
In non-European areas (within the Police Zone)	187,985
In non-European areas (outside the Police Zone)	515,654
TOTAL	2,434,378

390. Apart from livestock slaughtered in the Territory, the following surplus slaughter stock was exported for auction in the Republic of South Africa during the years 1958-1962 inclusive:

Year	*Cattle*	*Sheep*
1958	241,981	88,763
1959	240,903	39,237
1960	217,775	24,752
1961	192,977	37,075
1962	167,800	67,437

391. Of the cattle slaughtered in the Territory a fixed quota determined by the Administration may be exported in the form of frozen carcasses. One company, Damara Meat Packers, which is owned and registered in South West Africa, is engaged in this trade. Its export quota amounted to 50,000 carcasses in 1962 and the same in 1963.

392. Of the 92,000 cattle slaughtered locally in 1962, altogether 62,636 were used for canning purposes. There are three meat canneries, at Windhoek. Okahandia and Otavi with a combined capacity of 120,000 cattle per year. These canneries are operated by companies registered in the Territory.

393. The only known South African company having a direct interest in the meat industry is the Imperial Cold Storage and Supply Co., Ltd., one of the directors of which is Mr. G. J. van Zyl, who is also a director of Marine Products, Ltd., Benguella Beleggings Beperk, and Suidwes-Africa Prospekteerders (see paras. 190 and 359). This company owns South West Africa Cold Storage and Stock Farmers Ltd., the activities of which include cattle ranching.

D. *Dairy industry*

394. Dairy products constitute the third most important sub-sector of agricultural production. The industry owes its existence to the Territory's association with South Africa which constitutes its principal export market. According to the Odendaal Commission the first creameries, at Kalkfeld, Dordabis, Windhoek, Omaruru, Okahandja and Rehoboth were established mainly with capital from the Union of South Africa.

395. The industry is controlled by a statutory board consisting of representatives of the Territorial Administration, the producers and manufacturers and butter makers, with the function, among other things, of co-ordinating the production and marketing of dairy products, registering all producers and stabilizing prices. Since 1939, South West Africa has been a partner in the South African dairy industry control scheme and the two boards co-ordinate their policies in regard to marketing and price fixing.

396. The value of the Territory's dairy products in 1962 was as follows:

Commodity	*Value (rands)*
Butter	1,226,000
Cheese	34,000
Buttermilk powder and casein	163,000
Fresh milk	535,000
TOTAL	1,958,000

The value of dairy products exported during the year was estimated at R 751,000.

397. Although, according to the Odendaal Commission, South African capital participated in the establishment of the industry, the only known South African company is the South West Africa Cold Storage and Stock Farmers, Ltd. (referred to in paragraph 393 above) which, in addition to its other activities, operates dairy factories, including a cheese factory, at Gobabis, Kalkfeld and Outjo.

E. *Other industries*

398. In addition to the industries referred to above, there are a number of small processing or manufacturing companies which cater primarily to the domestic market. These include construction companies, breweries, can manufactories and tanneries.

399. The construction industry accounts for a substantial part of all manufacturing activity. As, however, it engages a large number of private companies, the assets of which are not individually important enough for publication, it is not possible to ascertain the extent to which capital from outside South West Africa may participate in it. However, one South African company, Anglo-Alpha Cement, Ltd., which is under the chairmanship of Mr. S. G. Menell, who is also connected with Marine Diamond Corporation, Ltd., owns a 33 per cent interest in South West Africa Portland Cement (Pty.) Ltd., which holds property and limestone deposits for the purpose of eventually establishing a cement factory in the Territory. The Legislative Assembly of the Territory was reported in 1963 to have approved a loan of R 3,000,000 towards the establishment of the factory, total costs of which were estimated at R 4,500,000. The company also sought a guarantee from the Administrator that it would be able to dispose of its production, and the Legislative Assembly passed Ordinance No. 24 of 1963 authorizing the Administrator to prohibit the importing of cement. Pending the construction of the factory, Anglo-Alpha Cement, Ltd. was reportedly given sole import rights. Annual consumption of cement in the Territory amounts to about 100,000 tons, and an additional 30,000 tons would have to be consumed to allow for economic operation of the proposed factory and dividend payments to shareholders.

400. Another large factory, for the manufacture of tin cans, exists at Walvis Bay. This factory is owned and operated by the Metal Box Company of South Africa, Ltd., with headquarters at Johannesburg. The company is a subsidiary of the Metal Box Co. (England), and its shares are traded on the Johannesburg and London Stock Exchanges. The cans are manufactured from tin-plate imported from the United Kingdom and are intended almost exclusively for the fishing industry, since the meat packing industry is still too small to justify production in South West Africa. The factory started operation

in 1957 and manufactures approximately 200 million cans annually.

401. Other manufacturing companies in South West Africa, all of which are locally-registered and controlled, include the following:

Casein:

The Casein Processors of South West Africa (Pty.), Ltd., which operates a factory at Walvis Bay

Jute bags:

The South West Africa Jute Co., Walvis Bay

Breweries:

Hansa-Brauerei (Pty.), Ltd., Swakopmund
The South West Africa Breweries, Ltd., Windhoek

Mineral water:

Paradise Beverages (SWA), Pty., Ltd, Windhoek
Pelican Minerals, Walvis Bay
Felsenquell Mineral Water Works, Grootfontein
Solika, Karibib
Mineral Water Factory, Okahandja
Omaruru Sprudel, Omaruru

Textiles:

Namib Textiles, Swakopmund
South West African Woolsorters, Okahandja

Grain mills:

Suidwestelike Ko-operatiewe Meules Beperk, Otavi

Tanneries:

Swakopmund Tannery, Swakopmund

Chapter XI. Labour conditions

A. *General*

1. *The labour force*

402. The principal employers of labour are the European farmers, the mining industry, including the Consolidated Diamond Mines of South West Africa, Ltd., the Tsumeb Corporation, the Railways and Harbours Administration and the fishing industry. Other important sources of employment are commerce, domestic service, and road construction and maintenance.

403. The population of South West Africa was estimated in 1960 at approximately 526,000, of whom about 240,000 lived in the southern part of the Territory within the "Police Zone" (see para. 64, footnote) and about 286,000 in the northern sector, outside the Zone, which includes the principal Native reserves. There is very little paid employment outside the Police Zone as industrial enterprises are located in the southern sector.

404. African labour, which comprises the bulk of the labour force, is drawn to some extent from local sources within the Police Zone, but comes for the greater part from the Ovamboland reserve, the principal reservoir of labour, and from the Okavango reserve; in addition, some labour is recruited from Angola and the Republic of South Africa. Numbers of labourers are also recruited in the Territory for work in the mines of the Republic. The African labour force is overwhelmingly unskilled and, if the workers are not locally recruited, they are required by law to return to their homes for at least three months after the completion of their contracts. Thereafter, they may be re-employed either by the same employer or elsewhere.

405. By law, only persons and organizations recognized by the Administration of South West Africa are permitted to recruit labour from Ovamboland and Okavango. The only organization so authorized is the New South West Africa Native Labour Association (Pty.), Ltd. (Nuwe SWANLA).

406. Up-to-date information on the total number of persons in paid employment is lacking. The census compiled in 1951 showed the economically active and inactive population within the Police Zone to be as follows:

	European		*Non-European*	
	Male	*Female*	*Male*	*Female*
Total population	26,130	23,800	92,986	63,415
Economically active	16,161	3,057	69,031	11,068
Employed	16,079	3,057	68,117	11,068
Unemployed	82	—	914	—
Economically inactive (total)	9,969	20,743	23,955	52,347
Under 15 years of age	8,750	8,442	21,645	21,423
65 years and over	352	1,005	894	4,401

Total active: 99,317 (19,218 Europeans and 80,099 non-Europeans)

Total inactive: 107,014 (30,712 Europeans and 76,302 non-Europeans)

407. Of the above, 98,339 were in paid employment, of whom 19,154 were Europeans (16,097 men and 3,057 women) and 79,185 were non-Europeans (68,117 men and 11,068 women).

408. In 1946, out of 50,162 African males over the age of fifteen, 33,693 were engaged in agriculture, of whom 27,699 were labourers, herdsmen or farm servants; 2,809 were in mining occupations, including 2,767 labourers; 4,646 were in industrial occupations, including 4,012 general labourers; and 2,821 were in transport and communications, of whom 2,401 were labourers and 310 were messengers. More than half the African labourers on the farms were recruited on contract from outside the Police Zone. In 1953 the total number of Africans so recruited was 25,712, of whom 9,548 were engaged for work in agriculture, 7,045 in the mining industry, 5,456 in industries or urban employment and 3,663 for work in the mines of the Republic of South Africa. By 1955 the number of Africans handled annually by the recruiting organization had increased to 45,500.

409. The number of Africans recruited from outside the Police Zone has, however, varied from year to year, depending on economic conditions. The following figures show only the numbers of Angolans and Ovambo recruited during the years 1959/1961, which were years of drought and therefore reduced farming activity:

	1959	*1960*	*1961*
Angolans	11,200	11,363	12,773
Ovambo	13,575	15,407	14,388

410. Employment in the fishing industry now accounts for several thousand workers (a hostel to accommodate more than 5,800 contract labourers was recently completed in Walvis Bay). In 1960, the number employed in the fishing industry was 3,327, of whom 2,200 were Africans, all of them employed as factory workers.

411. In his budget speech for 1960, the Administrator stated that during 1959-1960 the following numbers of workers had been employed in factories:

	Europeans	*Coloured*	*African*
Men	1,605	824	5,133
Women	242	250	332

The Administrator also reported that, during the same period, the mining industry had employed 1,675 Europeans and 9,445 Africans. The report of the Odendaal Commission gives the following data on employment in the mining industry for the years 1961 and 1962:

Mines	1961		1962	
	Whites	Non-Whites	Whites	Non-Whites
Tsumeb Mine	728	3,032	839	2,847
Consolidated Diamond Mines of South West Africa Ltd.	880	4,024	856	3,614
South Africa Minerals Corporation Ltd.[a]	31	536	—	—
Brandberg West Mine	24	250	24	267
Berg Aukas Mine	63	452	79	603
S.W.A. Lithium Mines Ltd.	10	169	9	131
Kombat Mine	60	352	82	404
Uis Tin Mine	22	79	31	120
Emka Mine	17	181	20	206
S.W.A. Salt Co. Ltd.	24	65	23	79
Other Mines	30	300	40	463
TOTAL	1,889	9,440	2,003	8,734

[a] This mine was closed down in 1962.

412. The ratio of White to non-White workers in the mining industry was 1:4.92 in 1961 and 1:4.31 in 1962, a change which reflected the introduction of mechanized procedures requiring a smaller labour force.

2. *Recruitment*

413. As previously stated only persons recognized by the Administrator are permitted by law to recruit labour from Ovamboland and the Okavango, and the only organization so authorized is the Nuwe SWANLA. The headquarters of this company are at Grootfontein. Until the establishment of Nuwe SWANLA in 1943, there were two recruiting organizations. Nuwe SWANLA was established for the purpose of: (*a*) recruiting labour in Ovamboland and the Okavango for work on mines and farms and elsewhere, provided that recruits might not be employed outside South West Africa without the consent of the Administrator; and (*b*) watching, protecting and furthering the interests of employers and of recruited labour.

414. The company charges a recruiting fee which it fixes in consultation with the Administrator. Its profits, if any, are applied to the maintenance of a Reserve Fund and to improving the general conditions relating to recruiting. In 1954 its capital amounted to £48,750. The recruiting fee for labourers for general work on farms and for male domestic servants was set in 1949 at 16 shillings per recruit, for a contract period of eighteen to twenty-four months, and 12 shillings per recruit for a contract period of thirteen months.

415. The company's affairs are managed by a board of management consisting of two representatives of the principle mining companies, two representatives of the European farming community and one member representing the interests of other employers of contracted labour, notably the South West African Administration and the South African Railways and Harbours Administration.

416. The company operates through recruiting agents stationed in the recruiting areas who maintain regular contact with the chiefs, headmen and sub-headmen. Recruits are given medical examinations and are provided with transportation by motor bus to the main transit depot at Grootfontein and thence by rail to their place of work. There are a number of transit and rest camps en route. The Consolidated Diamond Mines furnishes air transportation for its recruits.

417. Employers of contracted labour are required by law to return their workers to the place of recruitment upon the termination or expiry of their contracts and to pay the cost involved. Africans are required, also by law, to return to their domiciles of origin at the end of a specified period, fixed by regulation at a maximum of two and one half years, in the case of unmarried Africans, and, in other cases, at a maximum of two years.

3. *Control of African labour within the Police Zone*

418. Measures to control the African labour force withi the Police Zone are set out in a number of laws of th Territory, including the Native Administration Proclamatio of 1922, the Extra-Territorial and Northern Natives Contro Proclamation of 1935, the Natives (Urban Areas) Proclama tion of 1951, and the Vagrancy Proclamation of 1920, togethe with amendments and regulations made thereunder.

419. Extra-territorial and northern Africans cannot ente the Police Zone or find employment without a permit or pas issued by an authorized officer. A central register of all suc Africans has been kept since 1951 in order to ensure tha they return to their homes periodically as required by law and do not become detribalized. Every recruited Africa must at all times carry his pass with him and produce it o demand to an authorized officer, any member of the polic and any person to whom he engages himself as a servant.

420. In rural areas, all male Africans over the age o eighteen resident on a farm belonging to a European or a member of the Rehoboth Coloured Community (who is no a "Native") must be in the employ of a farmer. A farme cannot, without the permission of a magistrate, employ mor than ten male Africans over eighteen years of age on th farm where he resides, or more than five male Africans o any other farm. In such areas, every farmer must ascertain before employing an African, that he is in possession of a "proper pass", meaning a certificate signed by his last Europea employer, a magistrate, or other prescribed person, statin that the African has been discharged and is entitled to retur home or to travel elsewhere in search of employment.

421. In cases where Africans were resident on the lan before its allocation to the farmer, the farmer can requir any or all of them either to enter his service, subject to th above limitations, or be removed from his property.

422. Within the "proclaimed areas", which include all th principal towns in the Territory, all male Africans, unles exempted, must be in possession of one of the following (*a*) a permit showing the existence of a contract of servic with an employer; (*b*) a permit to seek work, which is usuall valid for seven days unless a longer period is specified; (*c*) a visitor's permit, for which a fee must be paid and which i valid for fourteen days or less; (*d*) a licence to work a a "togt" or casual labourer or as an independent contractor for which he must pay a fee, must carry a prescribed badg and must take service by the day under prescribed conditions The receipts, permits, licences and badges must be produce on demand by an authorized officer.

4. *Labour inspection and offences*

423. African labour in mines and works is generally unde the control and protection of the Officer-in-Charge of Nativ Affairs for the area concerned, and employers in his area ar required to furnish him with all the wage returns for Africa labour. The employers are also obliged, if they have a compound housing fifty or more Africans, to employ a licence compound manager who is responsible for the labourers an is required to investigate their complaints, to attend to thei lawful requirements and to report to the employer any ill treatment of African labour.

424. Conditions in factories may be inspected by factor inspectors, and every employer must keep a record for eac employee showing the work he performs, his hours of wor and overtime, the wage rates and other particulars which th inspector may examine. There appear to be no legal provision for inspection of labour conditions on farms. It was reporte in 1946 that regular visits to farms were made by polic patrols and the African labourers were entitled to address an complaints to these patrols.

425. The South West Africa Native Labourer's Commission commenting on this procedure in 1948, reported that labourer had no confidence that the police would mete out justice t

hem in their disputes. The Commission recommended the ppointment of labour inspectors for the northern, central and outhern areas and the appointment of senior Native affairs fficials in each district, who would deal with disputes between vorkers and servants, instead of the magistrates acting as Native Commissioners. It appears that few, if any, labour nspectors of that type were appointed as distinct from Native ffairs officials in charge of Native reserves or district nagistrates serving in their additional capacity of Native ffairs officials under the South African Department of Bantu Administration and Development.

. *Allocation of work on a racial basis*

426. According to information contained in the *Official Year Book of the Union of South Africa, 1954-1955,* the African labour force in South West Africa is primarily nskilled. Much of it is farm or domestic labour which, by ts nature, would offer few opportunities for advancement. n the mining industry, where the development of skills is ossible, legal provisions exist which in effect bar the African r Coloured worker from advancing to the more highly paid ositions. Mining regulations issued in 1956 lay down that f the mine or works is owned by a European, the manager nust be a European. Furthermore, if the manager is a European, so also must be all the other supervisory staff, ncluding the ganger and the person in charge of boilers and ther machinery. It must be further noted that in legislation oncerning certain occupational diseases, a "miner" is defined s a male person of European descent, whereas Coloured ersons and Africans working in mines are referred to as labourers".[u]

427. A similar policy towards African and Coloured labour s reflected in the conditions of employment in the principal echnical branch of the Government service, the South African Railways and Harbours Administration. Graded posts in this Administration are normally reserved for Europeans and, ccording to a statement made by the Union Minister of Transport in the Union Parliament in March 1956,[v] it is the olicy not to employ Africans, even on African trains, as iremen, conductors or guards.

B. *Working conditions*

. *Wage rates*

(a) *General*

428. Legislation providing for the establishment of minimum ates of pay for Africans in the Territory was contained in wo proclamations issued in 1944, namely the Natives Minimum Wage Proclamation and the Natives Minimum Wage Amendment Proclamation (Nos. 1 and 5 of 1944). The commission f enquiry into labour conditions, however, reported in 1948 hat certain features of the proclamations had evoked a storm f opposition from the European public, with the result that he proclamations were never put into force. The proclamations ave not since been enforced.

429. In 1949, the South West Africa Legislative Assembly, cting on the recommendations of the commission of enquiry, greed to the following scale of wages for Africans recruited s migrant labourers from the Native reserves outside the Police Zone and from Angola:

Mines, works and industries[w]

(*Class A*)

1/- per shift for the first year; 1/6d. per shift for the second year with the same employer; with food and housing furnished by the employer.

General work on farms

(*Class B*)

Experienced: £1 per month

Inexperienced: 18/-, 19/-, 20/- per month (four monthly increments)

(After twelve months' service, 2/6d. per month increase in respect of service with the same employer.)

(*Class C*)

Experienced: 17/-, 18/-, 19/- per month

Inexperienced: 15/-, 16/-, 17/- per month

(Four monthly increments: after twelve months' service, 2/6d. per month increase in respect of service with the same employer.)

Shepherds

25/- per month for the first year, and thereafter with the same employer, 30/- per month.

House boys

20/- per month for the first year, and thereafter with the same employer, 25/- per month. No fixed wages recommended for locally recruited labour.

430. Another indication of the level of wages was given in April 1951, when a member of the South African House of Assembly from South West Africa read in the House a letter dated 7 March 1951 which he stated was signed by the Chief Native Commissioner for South West Africa, concerning the tax potential of the Africans of South West Africa.[x] The Administration was stated to be of the opinion that the various categories of Africans in the Police Zone had no tax potential. It was true that a few could afford to pay tax but it would not be worth the trouble to collect the tax even from them. It was also stated that according to the magistrates' report for 1950 the average cash wages in the rural areas were as follows:

	Average per month	*Minimum per month*
Labourers on the roads	£5. 9s.2d	£4. 3s.0d
Railway labourers and cost-of-living allowances	3s.1d (per day)	2s.7d (per day)
Mine labourers	£3.10s.8d	£1.19s.0d
Farm labourers	£1.13s.0d	17s.9d
African women . . .	£1. 2s.4d	11s.8d
In urban areas the average wages were as follows:		
Municipal labourers	£5. 3s.3d	£3.14s.6d
Labourers in industries .	£5. 6s.8d	£3. 0s.0d
Domestic servants (male)	£2. 7s.6d	£1. 0s.6d

431. The South West Africa Commission of Enquiry into Non-European Education reported that during 1956 the average monthly wage of farm labourers was £5.8s.9d. In the urban areas the general average monthly wage per employee was £8.6s.0½d. This calculation was based on wages earned by workers employed by the Administration, the railways, the mines, on roads, municipalities, in industry and domestic service. The average monthly earnings for the last mentioned group were stated to be £5.10s.8d.

(b) *The mining industry*

432. More recent information is available concerning wages in the mining industry. The report of the Odendaal Commission contains the following data relating to the total wages paid by mining companies and the average earnings of European and non-European workers:

[u] Pneumoconiosis Act, No. 57 of 1956 (*Official Gazette of South West Africa,* Nos. 2007 and 2019).

[v] Union of South Africa, *House of Assembly Debates (Hansard),* 5 March to 9 March, 1956, cols. 2135-6.

[w] These figures antedate the adoption of the Rand as the unit of currency.

[x] Union of South Africa, *House of Assembly Debates (Hansard),* 3rd April to 6th April, 1951, cols. 3948-9.

All mining companies	*1961* European	Non-European	*1962* European	Non-European
Total wages paid	4,384,311	1,168,765	4,911,715	1,771,706
Average wage . .	2,321	123.8	2,452	202.9

433. From the above data, it will be seen that average wages per worker increased from the one year to the next by 5.6 per cent in the case of European workers and 63.9 per cent in the case of non-Europeans. In comparing the average wages paid to European and non-European workers, account must be taken of differences in the type of work performed and the skills required. As previously stated, most of the non-Europeans are unskilled labourers.

434. According to two samples of completed contract forms concluded in 1962, the wage of a drilling machine operator and mine labourer (a married man) working in the Grootfontein area, as well as that of another labourer assigned to work for the South West Africa Company at Grootfontein, Brandberg, or elsewhere, was 17½ cents for each of the first 155 shifts (one shift per day), 20 cents for each of the following seventy-seven shifts and 22½ cents for the next seventy-seven shifts. The contracts did not cover shifts which might be worked on Sundays or holidays, nor did they contain rates for overtime work; a paragraph which contained a statement that the labourer concerned agreed to work overtime was crossed out on both forms. The pay of the two labourers, excluding any overtime or work on holidays, amounted to an annual wage of R 60.85, or slightly more than £30. A monthly wage of R 5.50 (amounting to R 66 annually) was fixed for a domestic servant engaged at Grootfontein in 1962 for a two-year period, and a kitchen boy was engaged in the Windhoek urban area for a wage of R 5 monthly (or R 60 annually).

435. At the Tsumeb Corporation in 1962, contract labourers worked for six days a week (48 hours) at a commencing wage of 18 cents per daily shift of eight hours, increasing by 2 cents after every thirty shifts. Wages were augmented by bonuses, including bonuses of 2 cents per day for those who were qualified to give first aid, 5 cents per day for boss boys, and also production bonuses for those who operated in the mill, etc. A special bonus ranging from R 10.00 to R 35.00 was paid to workers who returned for a further contract, the amount depending on the length of their previous service with the Corporation. About 30.3 per cent of workers renewed their contracts after their initial twelve months' service. The Corporation also provided food and accommodation, medical service and recreational facilities. In 1962, the Corporation employed 856 Europeans and 3,614 non-Europeans.

436. The Tsumeb Corporation has been expressly concerned to promote the welfare of its employees. In his introductory statement to the annual report of the Corporation for 1963, the Chairman of the Board, Mr. Walter Hochschild, who is also Chairman of American Metal Climax, made the following observation:

"A South African governmental commission on South West Africa has recently made recommendations which include a programme intended to improve the economic welfare of the Native population of the Territory. It is to be hoped that the governmental authorities will now be prepared to sponsor or permit substantial modernization of the standards and conditions of employment and life of the African workers in the Territory."

437. In accordance with this policy, the Corporation has developed the town of Tsumeb from a small mining camp into a largely self-contained community of approximately 7,500 people. It has schools, churches, parks, a company-suported hospital and shops that serve people from a wide surrounding area. The company operates a dairy, truck gardens, citrus groves, timber plantations and cattle ranches. The produce is sold to employees and residents of the area at lower prices than would otherwise be obtainable. A modern hospital is now being built for use by the African community, supplementing the existing hospital facilities for company employees.

438. In 1963, Consolidated Diamond Mines employed about 4,500 workers, of whom 3,500 were Africans, most of them coming from Ovamboland or from Angola. They were employed in positions ranging from unskilled labourers to drivers of heavy earthmoving equipment. Carefully designed training schemes were reported to be in operation to fit Africans for more highly skilled jobs. The minimum cash wage was R 8.55 (£4.5s.6d) per month, paid to beginners during the first five months of their service, after which they received regular increments based on merit and length of service. The cash wages of African workers ranged from the minimum up to approximately R 50 (£25) per month, depending on the position occupied by the worker and also on merit and length of service. The average wage was R 18.96 (£9.9s.6d.) per month. The average African wage had increased by nearly 50 per cent between 1959 and 1963.

439. The company also provided food, housing accommodation, recreational facilities, medical services, transport to and from the workers' homes, all of which cost an average of £10.18s.4d per month for each employee. The food consisted of a scientifically balanced diet giving 3,815 calories per day. Working clothes were also furnished free of charge and, in addition, African employees received free medical attention at a modern, fully equipped hospital recently built by the company.

440. It was reported that many employees returned for one or more further periods after they had completed their first contract. In 1963, almost all the African employees had already completed at least one contract. When an employee returned for a second or subsequent contract, he was engaged at the wage rate which he had been earning at the end of his previous contract. According to the company, this was always higher than the minimum wage rate for beginners, as the worker would have received two automatic service increments during his first period of service, apart from increments which he might have earned by proficiency or on promotion to a higher job category. The company stated that there had been substantial increases in efficiency among African employees in recent years, resulting in higher productivity, and that wages had been increased accordingly.

441. It may be noted that, in the latest annual review of company activities, the Chairman of Anglo-American Corporation, Mr. Oppenheimer, who is also Chairman of Consolidated Diamond Mines, conceded that, although African wages had risen and were rising rapidly, they were nevertheless still too low.

2. *Housing and rations*

442. Recruited labour on farms is usually provided with free housing and the labour contracts specify that the labourer concerned shall be supplied with good, wholesome food, free of charge. Food and lodging are also apparently provided for local Africans working on farms. In the larger mining concerns, African labourers are generally housed in compounds which, under the mining regulations[y] must be approved by a competent authority. The regulations also require that mine or works employers with over fifty African labourers must provide them with rations of good quality in accordance with a minimum scale.

443. In 1948, the commission of enquiry into labour matters expressed the opinion that labourers in the mines were generally satisfied with their housing conditions and that the housing of labourers in towns was adequately controlled by the magistrates and municipal authorities. The commission, however, described housing conditions on farms as generally primitive and un-

[y] Government Notice No. 26, 1925 (*The Laws of South West Africa 1925*, p. 25).

satisfactory, and in some cases non-existent. The commission felt that it should be made compulsory for every farmer to supply his African labourers with a specified minimum standard of housing. The Legislative Assembly of South West Africa, acting on the commission's recommendations, agreed that all farm employers should be required to provide adequate effective and water-tight housing, with sufficient light, air and ventilation, for their workers.

444. As regards food, the Commission found that about 5 to 10 per cent of recruited labourers on the farms were underfed and that the situation with regard to Africans employed by commercial enterprises in urban areas was also unsatisfactory. In the case of the larger mining concerns, the commission found that the diet was well-balanced and considerably in excess of basic requirements. It found that the same was true of recruited workers in domestic service. In this connexion it may be noted that, at a meeting held on 19 January 1960, the South West Africa Farmers' Union, an organization representing European farmers, decided that the daily food ration of contract labourers should be at least 3,640 calories, and suggested that a week's rations on that basis might be made up as follows: 12 lbs. of mealie meal, 1.5 lbs. of meat, 0.5 lbs. of sugar, 1 lb. of bone, and salt.

3. *Hours of work and holidays*

445. As far as can be ascertained from the information available, there appears to be no statutory regulation on working hours or holidays for farm labourers or domestic servants. The hours of work in mines and works are governed by regulations made in 1956 and, in factories, by the Factories, Machinery and Building Works Ordinance of 1952, which came into force in 1955.

446. Normally, no person employed to perform underground work in a mine is allowed to remain on duty underground for more than eight hours a day, or more than a total of forty-eight hours during any week. No work is normally performed on Sundays and the three public holidays. In respect of Europeans, the employer is specifically obligated to grant, for every 310 ordinary working shifts (of eight hours each) not less than twenty-four consecutive working days of paid leave, and upon termination of employment, to pay the employee full pay for accrued leave and two days' pay for each completed month of service from the date on which he last became entitled to leave or, if he had been employed for less than twelve months, one day's pay in respect of each completed month of employment. No such provision is made with regard to African or other non-European employees.

447. The normal hours of work in factories are restricted to forty-eight hours per week, including meal times, and normally an eight-hour day is worked. If overtime is worked, the rate of pay is not less than one and one-third times the normal rate of remuneration, and for work on Sundays, not less than double the normal rate of pay. Alternately, overtime may be paid at not less than one and one-third times the normal rate of pay provided the worker is given one day's holiday with pay in every seven days. In addition to Sundays, three public holidays are given with pay. Every employer is obliged under the Factories Ordinance to grant every employee two weeks leave with full pay for each period of twelve months' service. Upon termination of employment, the employer is obliged to pay the employee full pay for any accrued leave and one day's pay in respect of each completed month of employment from the date on which he last became entitled to leave, or in the case of an employee who has been employed for less than twelve months, from the date on which his employment commenced. Under a South West Africa Government Notice of 1953,[z] however, factory employers are specifically exempted from these leave provisions in respect of African labourers recruited from outside the Police Zone and employed under valid contracts of service in, or in connexion with their factories.

[z] Government Notice No. 257 of 1953 (*The Laws of South West Africa 1953*).

448. The following table shows the average numbers of employees working on Sundays in mining enterprises during the years 1961 and 1962:

	1961		*1962*	
	European	*Non-European*	*European*	*Non-European*
Tsumeb Mine	76	361	75	372
Consolidated Diamond Mines of South West Africa Ltd. . . .	17	265	11	216
Kombat Mine . . .	16	59	21	98
Berg Aukas Mine .	12	57	8	33
Brandberg West Mine	5	32	5	39
Uis Tin Mine	6	20	5	32
Onganya Mine . . .	3	19	1	2
General average	19	116	18	113

4. *Sick pay*

449. In the case of sickness or accident, workers covered by the Masters and Servants Proclamation, 1920, are, according to its provisions and in the absence of any provision to the contrary in a valid contract, entitled to full wages during the first month of incapacity and every other benefit stipulated in the contract during the whole period of incapacity, unless the term of service expires or unless the incapacity extends beyond two months, in which case the master may terminate the contract. Servants engaged in trade or handicrafts receive no wages during incapacity. There is no official information to show whether farm or other labour actually benefits by this provision. According to many African employees in the Territory, their individual treatment is dependent on the attitude of their particular employer.

450. In the case of mines, European employees are, by regulation, specifically entitled to sick leave, up to maximum of three days with pay without presentation of a medical certificate, and thereafter to sick leave with pay on submission of a medical certificate. No similar provision is made for African labourers. In factories, sick leave with pay is granted after twelve months of employment up to a maximum of thirty days, upon the production of a medical certificate. Under Government Notice No. 257 of 1953,[aa] however, factory employers were exempted from granting sick leave with pay to African workers recruited from outside the Police Zone.

5. *Workmen's compensation*

451. In 1956, South African legislation covering workmen's compensation came into force in South West Africa and the existing territorial legislation on the subject was repealed. This change was made at the request of the Administrator-in-Executive-Committee.

452. The South African Workmen's Compensation Act of 1941 (with its amendments), which was thus applied to the Territory, made provision for the appointment by the Governor-General of a Workmen's Compensation Commissioner, answerable to the South African Minister of Labour, to administer the Act. It also provided for the establishment of an Accident Fund (an insurance fund for compensation purposes) in which the Territory now participates.

453. Some categories of workers, including, in practice, most African labourers, are specifically excluded from the legislation. Among the categories of workers so excluded are domestic servants and persons employed in agriculture, unless they are carrying out work connected with any vehicle driven by mechanical power. Other persons not covered are those employed in naval or military service, persons earning more than £1,560 (R 3,120) per year, casual labourers, out-workers and persons digging for or mining alluvial diamonds, alluvial gold or base minerals, unless such employment is in connexion with the use of explosives or any vehicle or machine driven by mechanical power.

454. In the case of non-African workmen, compensation for permanent disablement is paid at set rates, depending on

[aa] *Ibid.*

the degree of disablement. Pensions are given, payable for life, when the permanent disablement exceeds 25 per cent. Pensions for the dependants of deceased non-African workmen are also specified. In the case of African workmen, a lump sum indemnity is payable, the amount, to be determined by the Workmen's Compensation Commissioner, depending on the degree of disablement. The lump sum indemnity may be paid out in weekly instalments. Medical expenses may be defrayed for all workers covered by the Act up to a maximum of two years' treatment, or longer if it will reduce the disablement suffered.

455. The Act contains tables setting forth rates of compensation to be paid for injury or disablement. These rates differ according to the race of the worker involved. In the Act, the term "Native" is used to describe Africans who are members of an aboriginal tribe or race indigenous to Africa, including Bushmen, Namas and Korannas. The decision of the Commissioner on whether or not a workman is a "Native" is final. In cases where the workman is a "Native", the Act provides that a Native affairs official shall assist in the administration of the Act.

456. In 1956, South African legislation relating to payment of compensation in respect of certain diseases contracted by persons employed in mining operations was consolidated in the Pneumoconiosis Act, No. 57 of 1956, which was also applied to South West Africa with effect from 1 August. The Act defines "pneumoconiosis" as a disease of the cardo-respiratory organs caused by exposure to dust.

457. For a European miner, the compensation rates vary from a lump sum of £480 (R 960) for the contraction of pneumoconiosis in the first stage to a lump sum of £480 (R 960) (if he has not previously received it) together with a monthly pension of £25 (R 50) and pensions for his dependants, if any, including £6.10s.0d (R 13) per month for his wife and £4.10s.0d (R 9) for each dependent child, in case of pneumoconiosis in the fourth stage, or tuberculosis with pneumoconiosis. He may also receive £7.10s.0d (R 15) per month if he needs a constant attendant. The dependants of pensionable deceased European miners are also entitled to receive pensions, including the payment of £12.15s.0d (R 25.50) per month to the widow, and £6.7s.6d (R 12.75) for each dependent child. Coloured labourers receive £175 (R 350) for pneumoconiosis in the first stage, with a maximum monthly pension of £10.10s.0d (R 21) and pensions for their dependants, if any, including a maximum of £3.0s.0d (R 6) for the wife and £1.10s.0d (R 3) for each dependent child. A widow of a deceased coloured labourer may receive a maximum pension of £6.0s.0d (R 12) per month and each dependent child may receive £3.0s.0d (R 6) per month. The maximum an African workman may receive as compensation for the contraction of pneumoconiosis in any stage, or tuberculosis, is £240 (R 480). In the event of his death, his dependants, if any, are entitled to the sum he would have received had he not died. No benefits appear to be provided if the workman had received the maximum of £240 (R 480) before death. Awards made to an African workman, or to his dependants, are paid to the relevant Native authority, which may pay the benefit to the labourer or his dependants, either in full or in instalments.

6. *Wage and industrial conciliation: trade unions*

458. The Wage and Industrial Conciliation Ordinance, 1952 (No. 35 of 1952), which came into force on 1 August 1953, provides for the determination of conditions of employment, the registration and regulation of trade unions and employers' organizations, the prevention and settlement of disputes between employers and employees and the regulation of conditions of employment by agreement and arbitration. Under this legislation, however, Africans are specifically excluded from the provisions relating to the registration of trade unions and settlement of disputes by conciliation and arbitration. It may be noted in this connexion that the South African Government reported to the League of Nations in 1930:

"The mine authorities fully appreciate that it is in the interests of the mining industry for the Administration to act as a guardian to the native employees, and so to prevent their being influenced by agitators which might result in their taking joint and ill-advised action on their own account in order to right fancied wrongs. The Administration has received willing co-operation and ready acquiescence whenever it has required anything in the interests of Natives to be done."[bb]

459. The ordinance is applicable to every trade except to persons employed in farming operations, in domestic service in private households, in employment with the Government of the Republic of South Africa or the Administration of South West Africa, or unpaid workers in charitable institutions, colleges or schools or other educational institutions maintained by public funds. An association composed wholly of persons employed by the Government of the Republic, including the Railways and Harbours Administration, or the Administration of South West Africa, may, however, receive permission to be registered as a trade union.

460. Although Africans are specifically excluded by legislation from the provisions relating to the registration of trade unions, and the settlement of disputes by conciliation and arbitration, they are not specifically excluded from belonging to trade unions and, in fact, the prescribed application for the registration of a trade union, included in the regulations made under the ordinance, contains a column in which the number of African members of the trade union is to be indicated. No information is available on whether or not any Africans do belong to any trade union; but, apparently, they did not, in 1954, belong to the one trade union, the South West African Mine Workers' Union, known to be in existence at that time. Allegations made by the General Secretary of this Union in 1954 and investigated and reported upon by a commission of enquiry, made it clear that African labourers had on their own account gone out on strike on more than one occasion. The following table reflected the number of registered trade unions and employers' organizations on 31 December 1956:

TRADE UNIONS

Industry	*No. of organizations*	*Membership*
Mining	1	340
Printing	1	60
Building and motor	1	380
Local authority	1	150

EMPLOYERS' ORGANIZATIONS

Industry	*No. of organizations*	*Membership*
Motor	1	80
Printing	1	8
Building	1	68

461. In 1962 there was an unofficial strike at the Tsumeb Mine, when a number of African workers recruited from Ovamboland refused to work in the newly constructed copper smelters, claiming that it was too hot for them. Sixty-one workers were sentenced to payment of fines (R 10) or imprisonment (thirty days) for contravening the terms of the Masters and Servants Proclamation by refusing to carry out orders. Forty-four others were sentenced to imprisonment (fifty days) without option of a fine under the Proclamation on Control and Treatment of Natives on Mines of 1917.

C. *Laws and Regulations regarding labour*

462. The basic legislative texts governing labour in the Territory of South West Africa may be divided into five groups, namely: the Masters and Servants Proclamation; Proclamation on Control and Treatment of Natives on Mines and the Native Labour Proclamation; the Extra-territorial and Northern Natives Control Proclamation; the Natives (urban areas) Proclamation, and other Labour Regulations.

[bb] *Report presented by the Government of the Union of South Africa to the Council of the League of Nations concerning the Administration of South West Africa for the year 1930* (Pretoria, Government Printers, 1931), para. 665.

. *The Masters and Servants Proclamation No. 34 of 1920, as amended by Proclamations Nos. 19 of 1923, 10 of 1927, 22 of 1938, 7 of 1947 and 26 of 1950*

463. The main provisions of the Masters and Servants ³roclamation as amended are outlined below.

464. Part I of the Proclamation, as amended, defines a ervant as:

(*a*) Any person employed for hire, wages or other re-nuneration to perform any handicraft or other bodily labour:

(i) In agriculture, industries, building or other like em-loyment;

(ii) In domestic service or as a boatman, porter, groom, iorse-tender, gardener, driver, herd or other occupation of a ike nature;

(iii) Persons employed as clerks, shop assistants, printers, ompositors, or as skilled photographic assistants, lithographic rtists, or other persons engaged in artistic handicrafts of a ike nature;

(iv) Any person indentured or bound by any contract of pprenticeship according to law;

(v) Persons employed on piece-work, that is to say whose emuneration of whatever nature is payable solely in proportion o the amount of work done or services rendered.

(*b*) Any Native employed for hire, wages, or other re-nuneration on any description of work by, or on behalf of:

(i) The Administration of South West Africa;

(ii) The Railways and Harbours Administration of the Republic of South Africa;

(iii) Any local authority;

(iv) Any person engaged under contract in constructing ny line or railway or harbour works.

465. For purposes of this definition, the term "Native" ieans and includes every person other than a European, and he term "local authority" means and includes the council of ny municipality, any village management board and any other ublic body which the Administrator may, by government otice, declare to be a local authority for the purpose of the rincipal proclamation as amended.

466. Part II of the Proclamation, as amended, lays down ules and conditions governing contracts of service. Among :s provisions are that no oral contract may be valid or inding for a period of more than one year and unless the ervice stipulated for commences within one month from the ate of contract. Written contracts are neither valid nor inding unless they are signed in the presence of a magistrate r other proper officer (including a Native affairs or a police fficer), in which case they may not be valid or binding for period longer than five years. Written contracts must be rawn up as nearly as possible in accordance with a standard orm. The Proclamation provides further that a servant's ages, if contracted in money, may not be paid in kind, or *ice versa*. It also contains detailed provisions concerning the mployer's obligations towards a contracted servant in the vent of the latter becoming sick.

467. Part III of the Proclamation deals with contracts of pprenticeship. No such contract is valid unless it is in riting and signed by the master and parent or guardian, s the case may be, of the apprentice and also by the pprentice himself, if he has attained the age of sixteen. The uration of an apprenticeship is restricted to maximum periods hich are different in the case of children under sixteen years, estitute children and minors over sixteen who voluntarily pprentice themselves to a skilled trade. Special provisions xist for the protection of children under sixteen and destitute hildren.

468. Part V deals with offences under the Masters and Servants Proclamation. Jurisdiction in all disputes arising etween masters and their servants and apprentices with eference to their relative rights and duties or any other iatter covered by the Proclamation resides with the magistrate f the district. The Proclamation sets out detailed penalties or breach of contract or other offences on the part of either servant or master. Thus, certain categories of servants or apprentices who, *inter alia*, neglect or refuse to perform their contracted duties may be fined a sum not exceeding £5 and, in default of payment, may be imprisoned for a period not exceeding six weeks. For more serious offences, such as desertion or wilful breach of duty resulting in damage to property, the penalties may be increased to a fine of £5 or three months' imprisonment. Masters may also be sentenced to fines or imprisonment (up to a maximum fine of £5 or one month's imprisonment) for certain specified offences, notably withholding of wages or failure, upon demand, to supply food, clothing and lodging, etc., if stipulated in the contract.

2. *Proclamation on Control and Treatment of Natives on Mines, No. 3 of 1917, as amended*

469. Proclamation No. 3 of 1917 was amended by Proclamation No. 6 of 1924, No. 6 of 1925, No. 15 of 1928, No. 33 of 1929, No. 35 of 1930, No. 16 of 1935, No. 27 of 1931, No. 4 of 1939 and Union of South Africa Act No. 51 of 1956.

470. The Proclamation, as amended, deals generally with the control and treatment of Africans on mines or works. The officer in charge of Native affairs in any district is charged with the supervision of African labourers on any mine or work, is required to investigate the conditions under which they are employed and to redress and, if necessary, report on any grievances. The Proclamation provides penalties, not exceeding a fine of £5 or imprisonment up to a maximum of two months for labourers who commit certain offences, such as insubordination, refusal to perform contracted duties, while any employer who fails to carry out his obligations under the Proclamation may be liable, on conviction, to a fine not exceeding £50 or, in default of payment, to imprisonment for a period not exceeding six months.

471. The Proclamation, as amended, enables the Administrator to make regulations on a number of subjects, notably the recruitment of Africans, employment contracts and conditions of employment, the duties of employers, sanitation and housing, rations, hospital accommodation, etc. Regulations framed under the Proclamation are contained in Government Notices No. 26 of 1925 and No. 64 of 1940. The latter provides, *inter alia*, that every employer shall arrange adequate hospital accommodation for the care and treatment of sick and injured labourers.

472. Proclamation No. 3 of 1917 also provided for the payment of compensation to African labourers or their dependants in the event of accidental injury or death. These provisions were superseded by Act No. 51 of 1956 which made applicable to South West Africa, with certain amendments, the Workmen's Compensation Act of South Africa (Act No. 30 of 1941). The provisions of this Act are described in paragraphs 451-455 above.

3. *The Extra-territorial and Northern Natives Control Proclamation*

473. Proclamation No. 29 of 1935 came into operation on 1 March 1936, and makes provision for the control of Africans recruited beyond the boundaries of the Territory, or beyond the limits of the Police Zone, and for labour within the said Zone, as well as for control of such Africans who have voluntarily entered the said Zone. According to this Proclamation, every extra-territorial African and every northern African shall be in possession of an identification pass, a register of all these Africans shall be compiled, and no such African shall offer himself for employment unless he is able to produce an identification pass. The Proclamation also provides, *inter alia*, that no person shall knowingly employ any extra-territorial or northern African unless he has previously obtained written permission to do so.

474. There are several minor amendments to this Proclamation, the most important of which are contained in Proclamation No. 59 of 1949 and No. 51 of 1950. The first requires an extra-territorial or northern African to return to his domicile of origin after completion of his contract of employment; the second, *inter alia*, repeals section 4 of the principal Proclamation, concerning the compilation of a register, and

substitutes a new section providing that a register of all extra-territorial and northern Natives in the Territory shall be kept and identification passes shall be issued provided that these Africans who have been resident in the Territory for a period of ten years or more may be exempted from such registration subject to the approval of the Chief Native Commissioner.

475. Proclamation No. 51 also provides that the register shall be kept up to date so as to constitute a complete record of all extra-territorial and northern Africans in the Territory.

4. *The Natives' (Urban Areas) Proclamation, 1951*

476. The Natives' (Urban Areas) Proclamation of 1951 (South West Africa Proclamation No. 56 of 1951) repealed twelve different proclamations and amended and consolidated the laws in force in the Territory which provide for control over the residences for Africans in urban areas, the removal of "redundant" Africans, i.e., those in excess of the labour requirements of a given area; the registration and control of contracts of service with Africans in urban areas and the regulation of the entry of Africans into, and their residence in, such areas; the restriction and regulation of the possession and use of kaffir beer (African brew) and other intoxicating liquor by Africans in such areas, and other incidental matters. As concerns labour, the most important section is section 22, as amended by Ordinance No. 25 of 1954, which makes the following provisions:

"The Administrator may, by notice in the *Gazette,* declare any urban area or any area, defined in such notice, in which there is a large number of Natives, to be an area subject to the provisions of this section, and may exercise in respect of that area or may, by the said notice or by any subsequent notice, require any urban local authority to exercise in respect of the whole or any part of that area, such of the following powers as may be specified in the said notice or in any subsequent notice:

"(*a*) To require the registration by the employer of every contract of service entered into by a male Native, including any such contract already in existence at the date of the proclamation of the area and the payment by the employer in respect of such registration of a fee which may differ in different proclaimed areas, not exceeding two shillings per month; to require employers of such Natives to report the termination of such contracts or the desertion from service of such Natives, and to require every such Native under a contract of service and every employer of such a Native to produce on demand to an authorized officer such evidence of the contract as may be prescribed. The registering officer may refuse to register a contract of service if he is satisfied that it is not *bona fide.* The registration of a contract of service under this proclamation shall be regarded, where the Native is a Native labourer under Proclamation of the Administrator No. 3 of 1917, as amended, as the registration of the Native to his employer for the purposes of that Proclamation;

"(*b*) To require every male Native entering the proclaimed area, unless specifically exempted by regulation, to report his arrival within a prescribed period, to obtain a document certifying that he has or has not obtained permission to be in the proclaimed area, and to produce that document on demand to an authorized officer;

"(*c*) To refuse permission to be in the proclaimed area to any such Native:

"(i) Whenever there is a surplus of Native labour available within the proclaimed area as disclosed by any return rendered under section twenty-four or the records of the Administration or the urban local Authority;

"(ii) If he fails to show that he has complied with the laws relating to the carrying of passes by Natives;

"(iii) If he appears to the prescribed officer to be under the age of eighteen years, and does not prove to the contrary to the satisfaction of the prescribed officer, unless he is accompanied by, coming to, or residing with his parent or guardian in the proclaimed area: provided that such permission may be granted to any such Native who is not so accompanied, if he is coming to approved employment and if the person introducing him or employing him or about to employ him undertakes to return him to his home when required by the prescribed officer to do so and makes a deposit with the prescribed officer to cover the cost of such return when called upon by him to do so: provided further that any such Native whose parent or guardian cannot readily be found and who is, in the opinion of the prescribed officer, after reference to a medical officer, physically capable of performing work approved by the Native Commissioner of the area, may be granted such permission in order that he may accept employment for the performance of such work, pending inquiry by the prescribed officer as to the consent of his parents or guardian;

"and to require any Native referred to in sub-paragraph (iii) to depart from the urban area or to cause him to be removed to his home;

"(*d*) To prohibit any female Native from entering the proclaimed area for the purpose of residing or obtaining employment therein after a date to be specified in any such notice, without a certificate of approval from an officer designed by the urban local authority and one from the magistrate or Native Commissioner of the district where she resides and to require any female Native who is within the proclaimed area to produce the said certificates on demand by an authorized officer: provided that:

"(i) No such certificate shall be issued to any female Native who is under the age of twenty-one without the consent of her guardian; and

"(ii) Subject to the necessary accommodation being available, a certificate (which may be for a limited period and may at any time after one month's notice be cancelled by the officer so designated) shall upon application be issued to any female Native who produces satisfactory proof that her husband, or in the case of an unmarried female, her father has been resident and continuously employed in the said area for not less than two years;

"(*e*) To require every Native who entered the proclaimed area, or who remains in the proclaimed area without entering into employment after the termination of a contract of service, or after the expiration of his licence as a 'togt' or casual labourer, or after discharge from imprisonment to report to the prescribed officer and to reside at a place to be indicated by that officer until he has found employment and, if he fails to find employment within a period (not being less than seven or more than fourteen days) to be fixed by that officer, to depart from the proclaimed area within a period specified by the prescribed officer and not to return within a period specified by him: provided that Natives born and permanently residing in such area shall not be required to comply with such requirements without the approval of the Administrator and that exemption from such requirements may be allowed in circumstances to be prescribed;

"(*f*) To establish, equip, control and manage such accommodation as may be needed for Natives seeking employment in the proclaimed area;

"(*g*) To prohibit any male Native from working as a 'togt' or casual labourer or from carrying on any work as an independent contractor in the proclaimed area unless the prescribed officer has by licence authorized him to do so for a period stated therein, and unless he has paid such licence fees as may be prescribed, and to require any Native so working to carry such badge as may be prescribed, and to take service by the day under such conditions as may be prescribed;

"(*h*) To prohibit any male Native who is not under a contract of service from remaining in the urban areas for a longer period, not exceeding fourteen days, than is prescribed, unless the prescribed officer has issued to him a certificate of registration authorizing him to do so for a period stated therein, and unless he has paid such registration fees as may be prescribed, and to require any Native so

registered, who is not under a contract of service, to carry such documents as may be prescribed, and to produce them on demand by an authorized officer: provided that Natives born and permanently residing in such area shall not be required to comply with such requirements without the approval of the Administrator. Provided further, that the wife, minor child or *bona fide* dependant of any Native exempted in terms of sub-section (2) while accompanying or ordinarily residing with such Native, and a Native entering the proclaimed area for any purpose other than that of seeking or taking up employment therein, and holding such document as may be prescribed, shall be exempt from the provisions of paragraph (*e*) of this sub-section, but any Native entering the proclaimed area for any such purpose shall produce such prescribed document held by him on demand by an authorized officer."

5. *Other labour regulations*

477. Ordinance No. 12 of 1938 regulates apprenticeship to certain trades and the carrying out of contracts of apprenticeship of persons thereto, provides for the establishment, power and functions of committees to regulate such matters and makes provision for matters connected with the training of apprentices and as to other matters incidental to contracts of apprenticeship. No person shall enter into any control of apprenticeship in respect of a designated trade except in accordance with the provisions of the ordinance. The ordinance provides, *inter alia,* for contracts of apprenticeship, an apprenticeship committee and trade certificates. Ordinance No. 15 of 1948 amends the apprenticeship ordinance of 1938. The amendment provides, *inter alia,* that no person shall employ a minor for longer than three months or for a period that will exceed six months unless a contract of apprenticeship has been entered into in accordance with the ordinance.

478. Ordinance No. 15 of 1939 amends and consolidates the law relating to shop hours, the hours of employment of shop assistants, and other shop employees, and makes provision in regard to wages payable to shop assistants, the general conditions of employment of shop assistants and other incidental matters. The Shop Hours Proclamation of 1921 was repealed.

479. Proclamation No. 1 of 1944 makes provision for the payment of minimum wages to Africans in the Territory according to a schedule contained in the Proclamation. The minimum wages vary according to sex, class and area in which such Africans work. The proclamation also contains provisions concerning quarters and food for employees, lays down how the age of an employee should be determined, provides for classification of employees in groups, sets forth penalties, etc. (see above, para. 428).

480. Proclamation No. 44 of 1951 confers powers upon the Commissioner appointed to inquire into the question of representation of other organizations on the Board of Management of the South West Africa Native Labour Association, Ltd., and the amendment of articles of association thereof.

481. Ordinance No. 35 of 1952, *inter alia,* establishes a wages board, provides for the determination of conditions of employment, makes provision for the registration and regulation of trade unions and employer's organizations, for the prevention and settlement of disputes between employers and employees, for the regulation of conditions of employment by agreement and arbitration, and for other incidental matters. This ordinance is divided into chapters relating to the following matters:

Chapter I. Wage determination (sections 3-9);

Chapter II. Settlement of Industrial Disputes (sections 20-48);

Chapter III. Administration and general (sections 49-80).

482. Safety regulations in mines, works and factories are contained in the Regulations made under the Provisions of the Mines, Works and Minerals Ordinance 1954 (Ordinance No. 26 of 1954), a summary of which appears in paras. 59-79 above.

483. Parts two and three deal exhaustively with the safety precautions and standard specifications for all work in the mines and for machinery and factory conditions. They cover, among other things, the appointment of a sufficient number of managers, assistants, overseers, shift bosses, etc., for ensuring safety in mines and works. The regulations also provide for the notification of accidents happening in mines and works.

484. The Factories, Machinery, Building Works Ordinance of 1952 contains provisions concerning supervision by inspectors of the use of machinery, the precautions to be taken against accidents to persons employed on building or excavation works and related matters. Apart from stringent regulations and prescribed safety measures at dangerous places, various methods are provided to make employees safety-conscious, including the following:

(*a*) The showing of films to all new-comers on safety practices and the use of protective clothing;

(*b*) Lectures on safety at working places in the industry itself;

(*c*) Regular "safety meetings" of supervisors at which all accidents, mining methods, the handling of materials and regulations are discussed;

(*d*) The display of safety posters at the various places where employees gather;

(*e*) The use of protective clothing;

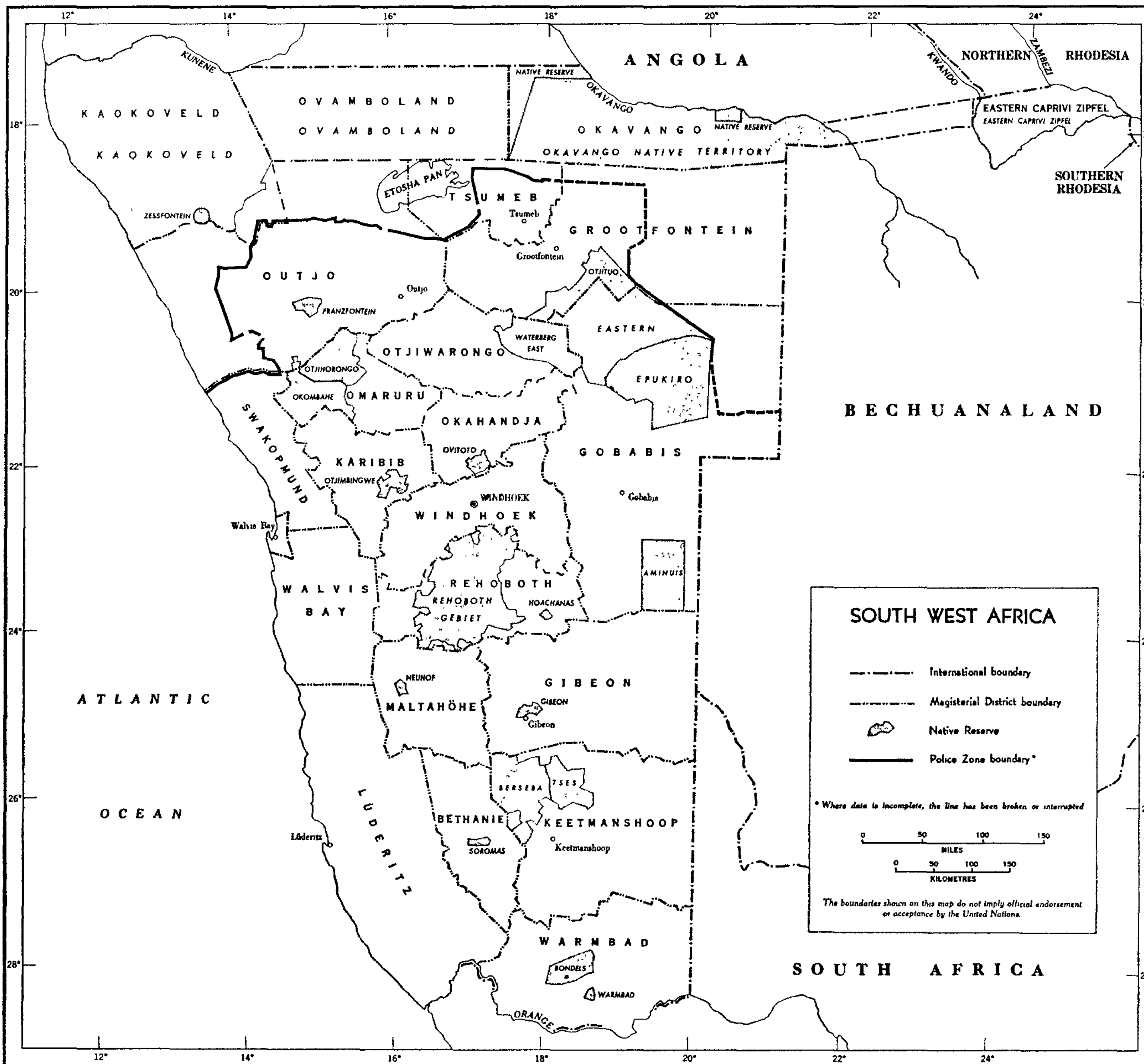
(*f*) Training in, and application of, first aid.

Appendices

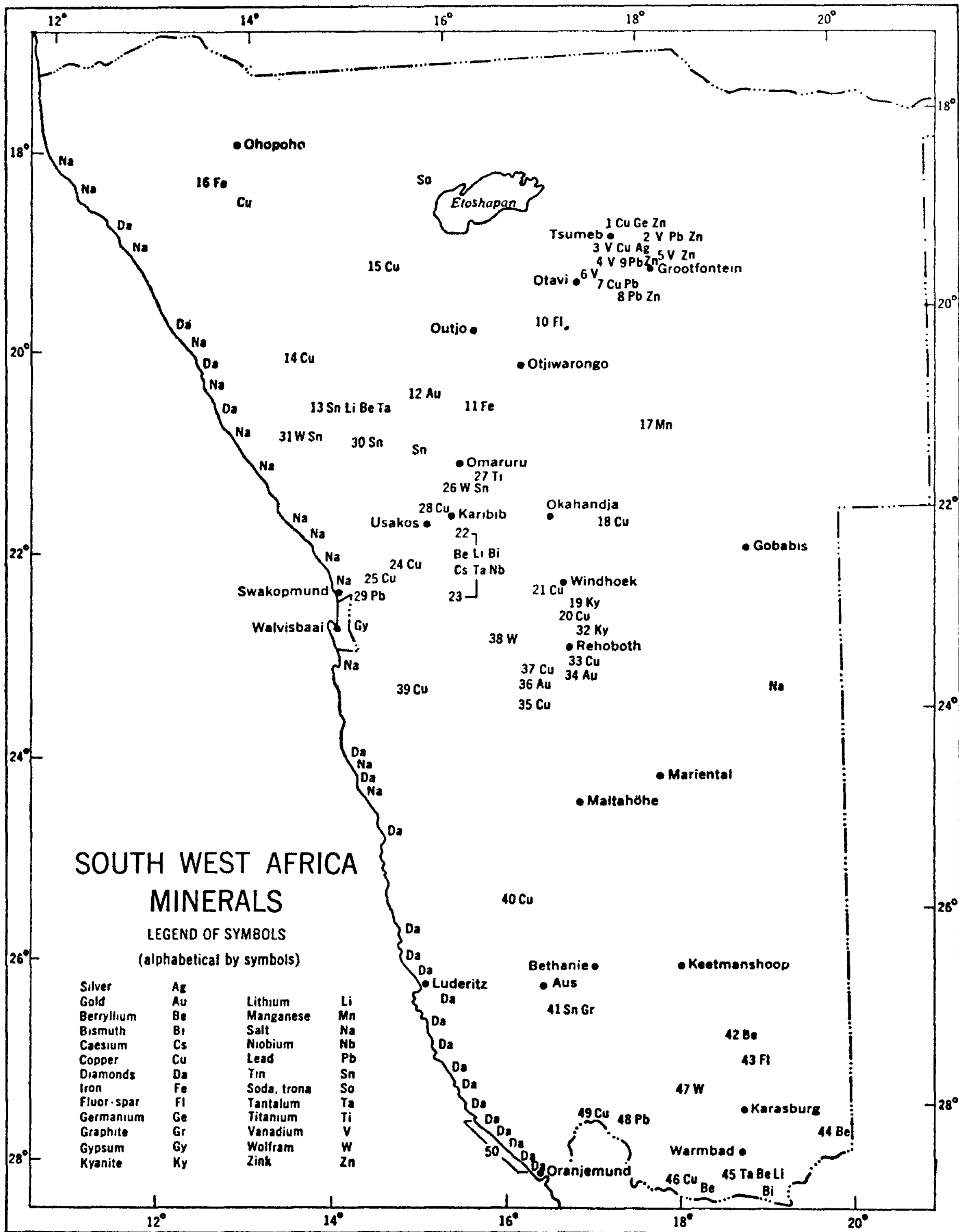
Appendix A

MAPS OF SOUTH WEST AFRICA

Map 1. Police Zone, Native reserves and Magisterial districts



Map II. Mines and mineral resources

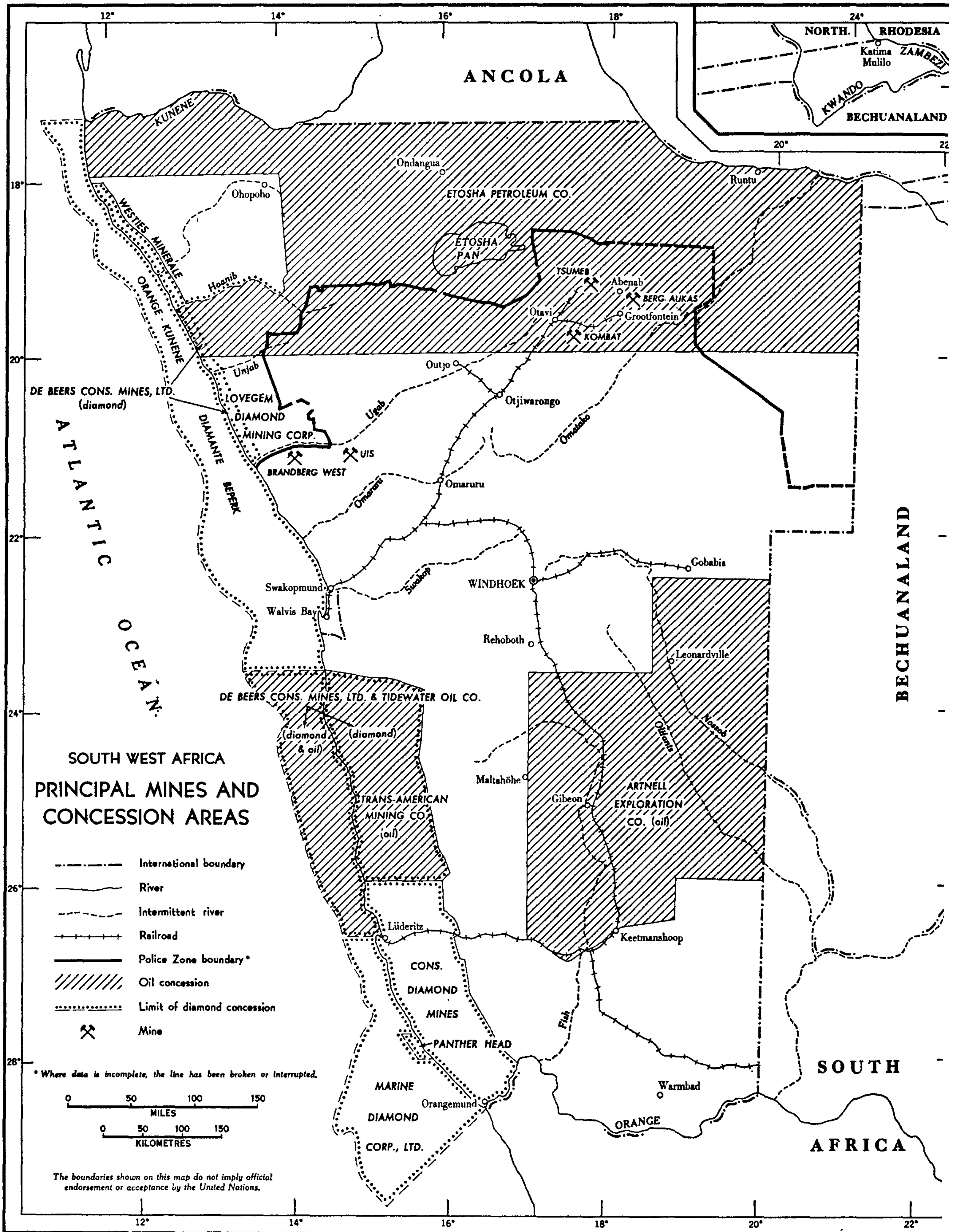


1 Tsumeb mine
2 Abenab mine
3 Friesenberg Alt Bobos Karavotu Uris
4 Harasib Uitsab
5 Berg Aukas mine
6 Baltika
7 Kombat mine Guchab
8 Rietfontein prospect
9 Harasib Pb-Zn prospect
10 Okorusu
11 Eisenberg
12 Ondundu mine
13 Goantagab
14 Copper valley
15 Copper mine
16 Ongaba Owibende
17 Otjosondu mine
18 Onganja (Otjazanjati) mine
19 Kyanite
20 Oamites
21 Matchless mine
22 Helikon Rubicon Aurora
23 Orion (Donkerhoek)
24 Kainkagchas
25 Khan mine
26 Kranzberg mine
27 Giftkuppe
28 Onguati
29 Namib lead mine
30 Uis tin mine
31 Brandberg West mine
32 Uisib
33 Swartmodder
34 Neuras
35 Klein Aub
36 Kobos Noois Dymoeb etc.
37 Kobos
38 Natas
39 Gorob mine
40 Sinclair mine
41 Aukam
42 Dassiefontein
43 Garub
44 Border
45 Tantalite valley Kinderzitt
46 Haib river mine Kromrivier mine
47 Grabwasser
48 Aiais
49 Loreley mine
50 Consolidated Diamond Mines-Main working area

Trigsurvey, 1963.
Government Printer, Pretoria, 1963.

Reference: *Report of the Commission of Enquiry into South West Africa Affairs, 1962-1963.*

Map III. Principal mines and concession areas



APPENDIX B

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Part Three. Consideration by the Sub-Committee

485. After the working paper had been prepared by the Secretariat, the Sub-Committee considered the question from its 10th to 14th meetings held on 14, 21 and 23 September and 13 and 14 October 1964.

I. STATEMENTS BY MEMBERS

486. The representative of the Union of Soviet Socialist Republics said that the question of South West Africa had been before the United Nations since the very inception of the Organization. The Republic of South Africa had stubbornly refrained from discharging its international obligations under the Charter of the United Nations and had ignored the decisions of the General Assembly and other United Nations organs concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960, with respect to South West Africa.

487. The Government of the Republic of South Africa, in violation of the international status of South West Africa, had converted that Territory into a colony of its own and had extended to it the savage policy of *apartheid* and racial discrimination which had been condemned by all peoples. As a result of these unlawful acts on the part of the South African Government, there had arisen in the Territory of South West Africa a situation the continuation of which constituted a threat to international peace and security, as had been pointed out in General Assembly resolution 1899 (XVIII).

488. The facts showed that the gross violation by the Government of the Republic of South Africa of the Charter of the United Nations and of the Organization's numerous decisions on the question of South West Africa over a period of many years had been possible only because that Government had received and was continuing to receive active support, both within and outside the United Nations, from certain influential Western Powers and primarily from the United Kingdom and the United States, which had large economic and financial interests in the Territory. That fact had been recognized by the General Assembly which, in the aforementioned resolution, observed that "the continuing support received by the Government of South Africa from certain Powers or certain financial groups" encouraged it "to persist in its attitude".

489. The representative of the USSR pointed out that the Committee of Twenty-Four had already examined the question of the general situation in South West Africa and had taken its decision on that subject. The examination of that question had uncovered a picture of monstrous crimes committed by the South African racists against the African people who

inhabit South West Africa. Bestial exploitation, racist laws, hunger, poverty, the denial of rights, persecution and humiliation—such was the lot of the African who lived in South West Africa. Another aspect had also emerged in the course of the discussion. The South African Government was no longer content with having, in effect, brought the Mandated Territory of South West Africa under its political and economic domination. It now laid claim to the direct incorporation of that Territory into South Africa. The notorious Odendaal Plan pursued precisely that goal. Its implementation, as had been emphasized in the statements of most delegations on the Committee and in those of the petitioners, would be a real catastrophe for the people of South West Africa. A sinister role in the implementation of that plan was being played by the international monopolies operating in this part of Africa.

490. The course of action which involved the annexation of South West Africa, the unconcealed pillage of its natural wealth, and the implementation of the criminal practice of *apartheid* in the Territory was not merely the home-grown product of a few white colonizers from the Republic of South Africa itself, but the creation of imperialist monopolies and a group of Western Powers.

491. The representative of the USSR stated that all branches of the economy of South West Africa—its mining industry, all agriculture, the few factories in the Territory—were in the hands of foreigners and White settlers. The dominant position in the Territory's economy was occupied by foreign monopoly capital. Its bastions were strongest in the mining industry, which was the most highly developed branch of the South West African economy. The overwhelming majority of the mining companies operating there belonged to a system made up of a few financial and mining monopolies which had enmeshed in the network of their interests, in addition to South West Africa, such countries as the Republic of South Africa, Northern and Southern Rhodesia, the Congo (Leopoldville), Angola, Bechuanaland and Swaziland, and others. The main shareholders in the individual companies and in the monopolistic combines controlling them were the representatives of financial and industrial circles in the United Kingdom, the United States and the Republic of South Africa.

492. The USSR representative further stated that the situation in South West Africa afforded a graphic example of the adverse influence which domination by foreign monopolies had on the economic development of colonial countries and on the living conditions of their indigenous population. Such factors as the one-sidedness and deterioration of the South West African economy, slanted as it was towards the production of raw materials for export; the absence of a developed processing industry from the country; the beggarly level of living of the non-European population; those and other factors had been derived directly from the mastery of the foreign companies, whose activities were facilitated considerably by the fact that colonial customs prevailed in South West Africa.

493. According to particulars given by the magazine *New Africa* in May 1964, almost half the Territory of South West Africa was given over in concessions to foreign monopolies for the mining, prospecting and exploration of the natural resources of the soil. The foreign monopolies were plundering the basic wealth of South West Africa—its useful minerals. The chief role in despoiling the country in that way was played by two monopolies: Consolidated Diamond Mines of South West Africa, Ltd., and Tsumeb Corporation, Ltd. According to the figures for 1961, the former company's share in the total value of minerals extracted in South West Africa was 68 per cent, and that of the latter company 26 per cent. Together the two companies thus controlled 94 per cent of the extraction of useful minerals in South West Africa. Those, as well as other foreign companies, were controlled mainly by British and American capital. Furthermore, the mining output of South West Africa was exported, for the most part, to two Western countries—the United Kingdom and the United States.

494. The representative of the USSR pointed out that the activities of the foreign monopolies in South West Africa were indissolubly linked with the policy of *apartheid* which the Verwoerd Government was implanting in that Territory. I was precisely that policy of cruel racial discrimination agains Africans which permitted the foreign monopolies to mak fantastic profits by inhumanly exploiting the African workers According to the official data of the Republic of South Afric reproduced in the working paper prepared by the Secretaria the wages paid to African workers in South West Africa i 1962 amounted on the average to one-twelfth of those paid t White workers. For the African population of South Wes Africa, conditions were such that any attempt on their par to stand up for their rights was punished in the most savag manner. The working paper prepared by the Secretariat showec for example, that barbarous treatment was meted out to th African workers of the Tsumeb company when they refusec in 1962, to work in the unbearable heat of the company' mines. The Verwoerd Government, it was evident, sided wholl with that Anglo-American monopoly.

495. The practice of *apartheid* by the South African racist in South West Africa and the interests of the monopolies wer two sides of the same coin. They were, he said, Siamese twin that could not exist without each other. The identity of th foreign monopolies' interests with those of Verwoerd's fasci régime had been eloquently demonstrated by the followin frank acknowledgement on the part of a British businessma quoted in the American magazine *Time* of 21 December 1962 "If it weren't for *apartheid*—never mind whether we like it c not—we would not think of investing there" (i.e., in Sout Africa). The monopolies had determined their approach t investment in South West Africa in the same cynical fashio

496. The USSR representative noted that all of the for going had led to one important practical conclusion: since th practice of *apartheid* in South West Africa and the Verwoer Government's attempts to annex that Territory had as the economic basis the monopolies' interest in profits, the foreig monopolies were therefore the most directly responsible for th unbearable situation which had been created for the indigenou population in South West Africa.

497. Another fact which demanded attention was that th companies operating in South West Africa and the monopoli active in other southern African territories still under coloni rule were component parts of a single complex of foreig capital which was exploiting the natural resources of this pa of the world. They formed the backbone of a single conspira of colonizers who did not wish to return to the indigeno black population the land and resources which they had practice wrested from them.

498. The representative of the USSR pointed out that system of mutual shareholding was generally characteristic the whole organizational structure of the monopolistic grou operating in this area. Mutual participation in profits w reinforced by the personal union reflected in closely interlocki company directorships. In view of all that, it could be said th there was a single financial oligarchy, bound together by con mon interests, which exercised economic domination over a va stretch of Africa extending from Cape Town to Katanga a which determined in a telling degree the Government policy individual Western Powers in regard to that area.

499. What the USSR delegation was concerned with, the was the fact that the bastions which foreign capital had seiz in the economy of South West Africa bore a close connexi with the dominance of foreign monopolies throughout the r gion, which was rightly termed the "preserve of colonialism in Africa. Was it surprising that the colonialists were strivi to block the attainment of independence by African countri anywhere along the northern frontier line of Angola, Southe Rhodesia and Mozambique?

500. The ruthless suppression of any move by the Africa in these countries towards gaining their rights and independen was a necessity to the largest international monopolies for t sake of so-called stabilization and security in the area greatest concentration of their capital. Being profoundly inte ested in such guarantees, the United Kingdom, the Unit States, Belgium and other monopolies which were active the mining industry and which had laid deep roots in that pa

f Africa wished to preserve colonial methods in the area at ny price, for those methods secured them the largest profits. 'eeling the ground burning under their feet, the monopolists vere hurrying to do business, to make money while there was till time. They were working as a rule—and that included iouth West Africa—only the most easily accessible deposits vith the highest percentage content of metals and minerals, hus using up the raw material supply of the countries conerned.

501. The representative of the USSR pointed out that a tudy of the material placed at the Sub-Committee's disposal y the Secretariat and of data from other sources on the ctivities of foreign monopolies in South West Africa showed hat the salient factors in the situation were the following:

(*a*) The economy of South West Africa was entirely in the ands of foreign companies. Although the inflow of foreign apital had fostered the growth of production in the Terriory to some extent, its development had been a one-sided ffair. Foreign capital had been invested mainly in the mining ıdustry and in those branches of the economy which worked lmost entirely for export. A significant fact in this connexion vas that development had been confined to that part of the 'erritory south of the boundaries of the so-called Police Zone—he residence of the White settlers.

(*b*) The foreign monopolies operating in the Territory of iouth West Africa were not interested in establishing any ort of balanced economy in the Territory, in developing rocessing industries capable of turning out goods for the 'erritory's domestic market and thus of competing with similar ıdustries in the world's capitalist countries. Inasmuch as the ıining industry was the branch of the South West African conomy in which foreign capital made the biggest profits, ıvestment was directed into that industry. The profits earned y foreigners were not left in the country and thus did not erve the Territory's economic development. They were transerred to the Republic of South Africa and also to the United Kingdom and the United States; for the Verwoerd Governıent, the obedient tool of the monopolies and their ally in lundering the indigenous inhabitants of South West Africa, ı no way restricted such transfers.

(*c*) The foreign monopolies were plundering the country's asic resources—namely its useful minerals. As a rule only the eposits with the highest mineral content were worked—those vhich could be exploited without great risk or major capital ıvestment. Thus the most accessible mineral reserves of South Vest Africa were being drained away with every passing year, nd the country ran the risk of finding itself, in the not too istant future, without the raw material supply which was so ital to the development of processing industries.

(*d*) The development plan for South West Africa put forvard by the Odendaal Commission made no provision for any erious improvement in the Territory's economy, especially in he areas where the indigenous inhabitants—the Africans—ived. As in the past, no change was contemplated in the tructure of industrial development in the Territory. That pecialization of South West Africa in the production of cerain specific types of primary export commodities placed the 'erritory in complete economic subjection to the international ıonopolies, deformed its economy and made it highly vulnerable o the fluctuations of the world market and the state of proluction in the countries of main capital inflow. Even now, 95 er cent of South West Africa's output of minerals was exorted. South West Africa was a major exporter of various ıon-ferrous metals, and yet had to import from the developed ountries of the West all of its requirements of metal manuactures, including even the simplest items. The country was ıot entirely self-sufficient in even the staple foodstuffs, and onsequently had to import a considerable quantity of provisions rom South Africa every year.

(*e*) The fact that the Territory's economy was dominated by he foreign monopolies, with their selfish interests, resulted n hunger, misery and untold sufferings on the part of hundreds f thousands of African workers. While Europeans (forigners and white settlers) were in charge of all branches of the economy of South West Africa, the non-Europeans were obliged to work at undertakings owned by the Whites. Thus, the nationalist Government headed by Prime Minister Verwoerd was not alone in bearing responsibility for the heyday of reaction in South Africa, the general lawlessness and the torments inflicted on African workers; the foreign companies which had substantial capital investments in the Republic of South Africa and in South West Africa shared in that responsibility. The entire system of racist laws applicable in South Africa and extended to South West Africa by the South African Government was designed to ensure that the work of the Africans, which was the source of the profits, was paid for at the lowest possible rate, while the Africans themselves reduced to virtual slavery, were denied all political, economic and other rights and freedoms. The policy of *apartheid* which was being applied to South West Africa by the South African racist régime, offered the foreign monopolies every opportunity for monstrous exploitation of the indigenous inhabitants.

(*f*) The work which the indigenous inhabitants performed for mining and other companies was basically forced labour. A system of passes was used. The recruitment of Africans for work in mines and on European farms amounted to a draft. An African who was thus recruited was given no choice as regards his employer or the type of work he would have to do, nor had he a say about the conditions of employment. If an African left his work before the expiration of the labour contract, that was regarded as a crime under ordinary law and was prosecuted and punished as such. He might also be prosecuted for disobedience, a breach of work regulation, a show of disrespect towards his European overseer, etc.

(*g*) Every aspect of life in South West Africa was permeated by racial discrimination. Such discrimination in the sphere of production was most clearly manifested in the principle of the "colour bar", which was most consistently applied in the mining industry. That meant that, in accordance with existing laws and established practice, Africans were prohibited from holding positions of responsibility, which were reserved for Europeans. The Africans were forced to perform low-paid, unskilled or, at best, semi-skilled work. The African's wages were kept at a level just high enough to keep him from starving, and bore no relation to the usual wage scales which were designed to ensure a normal renewal of the labour force.

(*h*) The mining companies and the other firms which were active in South West Africa did their utmost to hamper the spread of culture and education among the African population. They were greatly aided in this endeavour by the Government's education policy. The South African authorities had extended to South West Africa the racist Bantu Education Act, which imposed segregation not only on racial lines but even according to tribes. For a long time the sums allocated for the education of Africans amounted to only 1 per cent of the Territory's revenues. Conditions were especially bad in the reserves outside the Police Zone. At present, in those localities where schools for Africans existed, only two out of ten African children of school age were able to attend. It was very rare for an African child to attend school for more than two years.

502. It followed from the above that the foreign monopolies which were active in South West Africa, first and foremost among them the mining companies, were directly responsible for the situation prevailing in the Territory, a situation which had been censured time and again in General Assembly resolutions.

503. The representative of the USSR stated that because of the participation of United Kingdom and United States capital in the exploitation of the natural resources and of the indigenous population of South West Africa, the interests of the United Kingdom and the United States coincided with those of the Republic of South Africa as regards both the preservation of the Territory's present *de facto* status, established arbitrarily by the South African Government, and the maintenance in the Territory of a colonial régime. For that reason, the Governments of the United Kingdom, the United States and a few other Western countries gave their full support to South Africa whenever the questions of its failure to comply with its obligations under the Charter of the United Nations

and with United Nations resolutions concerning South West Africa, and its policy of *apartheid* were raised at the United Nations. They carried that support to the length of refusing to obey United Nations resolutions on the application of political and economic sanctions against South Africa, thereby nullifying the efforts of a great many other States which were applying those sanctions. Naturally, without such backing the South African Government would never dare to flout the will of the great majority of Members of the United Nations and world public opinion, which clamoured for the immediate cessation of the inhuman policy of racial discrimination and for the granting of independence to South West Africa.

504. Study of the activities of the foreign monopolies in South West Africa fully confirmed the urgent need to grant independence to the Territory. Only then would the people of South West Africa—the real owners of their country's wealth—have the right to dispose of that wealth and make use of it for their country's well-being and prosperity. Any delay in carrying out United Nations resolutions on South West Africa endangered the just struggle of the African peoples in yet another way.

505. The representative of the Union of Soviet Socialist Republics noted that recently the foreign monopolies, especially United States firms, had intensified their search for petroleum in South West Africa. The possible far-reaching consequences of those activities had to be evaluated correctly. Usually the discovery in a country of mineral deposits, particularly petroleum, was a cause for rejoicing, since it increased the country's fuel and other resources. But in this particular case, since the petroleum would be in the hands of the foreign monopolies, such a discovery would only hurt the cause of liberation of the South West African people. Discovery of petroleum deposits of any magnitude in South West Africa would not only increase the Territory's economic value for the Republic of South Africa, but would have political consequences as well. If the United States monopolies should be successful in their search for petroleum in South West Africa, the effectiveness of such sanctions as prohibition of petroleum deliveries to the South African Government would be greatly diminished. That was another earnest reminder that it would be necessary to fight for the immediate application of the relevant United Nations resolutions concerning South West Africa.

506. Hence the South African racists' aggression against South West Africa in the interests of international monopolies should be brought to an end. The international monopolies, which exploited the natural wealth and human resources of South West Africa, should be condemned categorically by the United Nations, and the most effective sanctions should be applied forthwith against the South African racists. The people of South West Africa should be set free, as was required by the Declaration on the Granting of Independence to Colonial Countries and Peoples.

507. The representative of Syria said that the Syrian Government's interest in the question of South West Africa and its sympathy for the people of that Territory were well known. The South African Government continued to be conspicuous by its rebellious attitude to the United Nations and to the Charter, defying all the resolutions that had been adopted on the subject of South West Africa and refusing to carry out its obligations under the Charter. It had turned South West Africa, a mandated territory, into a colony which it regarded as part of its own territory and in which it was applying its odious policies of *apartheid*.

508. The USSR statement, he continued, had made it clear that natural resources of the Territory were being exploited for the benefit, not of the indigenous people who owned those resources, but of foreign financial groups. The people of South West Africa had shown great patience so far, but he wondered how long they could go on waiting. In any event the international community could remain silent no longer, and it was the duty of the United Nations to put an end to that untenable situation. The South African Government ought to measure the full gravity of the situation and realize that it must act while there was still time.

509. The Sub-Committee, in its recommendations, shoul urge the Special Committee to make that Government under stand that it was being given a last warning and that, if . rejected that warning outright, the United Nations would b forced to take vigorous action. In addition, an appeal shoul be made to the foreign Powers which had interests in tha part of Africa to stop aiding the racist Government of Sout Africa, in any way whatsoever, in its scandalous policies c racial segregation and exploitation of human beings.

510. The representative of Tunisia said that his delegatio wished to thank the Secretariat for the valuable and voluminou documentation which it had provided for the Sub-Committe In the pursuit and accomplishment of the Sub-Committee task, that material would constitute an inexhaustible sourc of information. He recalled that the Special Committee ha once again denounced the police régime of South Afric Renewed appeals had been made to the South African Goverr ment to implement without delay the provisions of the man resolutions adopted on the subject by the United Nation Unfortunately the Republic of South Africa, heedless o international opinion, was imperturbably pursuing its polici of *apartheid* in the Territory and was reducing its inhabitan to a thinly disguised state of slavery. The task of the Sub Committee, under resolution 1899 (XVIII), was to determin the share of responsibility borne by those who, behind semblance of legality, controlled all economic activity in th Territory.

511. The Territory of South West Africa was a vast re servoir of wealth of all kinds, exploited intensively and ex clusively by non-Africans at the expense of the indigenou inhabitants. Diamonds occupied an important place in th mining industry. Consolidated Diamonds of South West Afric Ltd., established in 1920 by the Anglo-American Corporatio with the support of the American financial house of J. F Morgan and Company, accounted for 98 per cent of th Territory's diamond sales in 1962. Consolidated Diamond was now owned by De Beers Consolidated Mines, Ltd., powerful company which held a *de facto* monopoly of th prospecting and mining of diamonds. According to De Beer own estimates, 44 per cent of its share capital was held b South Africa, 27 per cent by Western European countries, 2 per cent by the United Kingdom, 1 per cent by the Unite States and 3 per cent by other countries. Continuing its ex pansion, De Beers was seeking to gain possession of smalle companies. In 1963 and the first few months of 1964, whe there had been a boom in diamonds, many South African com panies had combined to form new companies to mine diamond in South West Africa. De Beers, and its associate, the Anglo American Corporation of South Africa, had directly or in directly acquired shares in all the major new firms. In additior they owned large blocks of shares in Comptoir diamantair anversois and in the Irish and South African Ultra Hig Pressure Units which manufactured synthetic diamonds. A to the marketing of diamonds, De Beers held 80 per cent o the capital of the main trading companies, such as the Diamon Corporation and the Diamond Purchasing and Trading Com pany Ltd., while its associate, Anglo-American, held th remaining shares. De Beers also controlled the Diamon Trading Co. and Industrial Distributors. It had extended it range of activities outside Africa and joined forces wit dependable allies. In December 1963, it had become associate with the United States company belonging to Mr. Getty an the two companies combined their common interests in th diamond industry. They had engaged another United State company, Ocean Science and Engineering S.A. (Pty.) Ltd to carry out oceanographic and geological work in the coasta area.

512. Offshore concessions had also been granted to othe foreign companies which, though just beginning, were non the less prosperous. These included the Marine Diamon Corporation, with a board of directors composed chiefly o United Kingdom and United States nationals, and in whicl a United States citizen, the General Mining and Finance Cor poration Ltd. and the Anglo-Transvaal Consolidated Invest ment Company Ltd. held 87.5 per cent of the shares. Othe

ompanies, including one established by a South African consortium, were active in prospecting for diamonds.

513. In addition to its diamond production, South West \frica was one of the major producing areas for lead, copper, inc and tin. Like diamonds, those minerals were being exloited by large foreign companies with interlocking interests. The largest, Tsumeb Corporation Ltd., had been formed by the \merican Metal Company, which had later become American Aetal Climax, Inc. The mine was managed by the Newmont Aining Corporation, incorporated in the United States in 1921. \nother company, the South West Africa Company, repreented United Kingdom interests; its Chairman, a United Kingdom national, was a director of Consolidated Gold Fields. t had participated in the formation of many other prospecting ompanies and was operating a lead mine and a tungsten and inc mine. Other mining companies were Industrial Minerals Exploration Ltd., a South African firm, the Emka Mining and Trading Company, which had Japanese participation, and the Rand Mines Exploration Company, a United States-South \frican company.

514. The representative of Tunisia noted that the search for etroleum was being intensified. Oil prospecting was being arried out by the Trans-American Mining Corporation, a Canadian enterprise operating on behalf of an American yndicate, and by other companies which were subsidiaries of Jnited States concerns, including the Texas Eastern Transaission Company.

515. The fishing industry, the building industry and karakul heep-farming were in the hands of South African companies vhich made use of foreign companies only for marketing.

516. All those giant companies, which had ramifications hroughout the whole economy, took advantage of the Territory's racist legislation to pursue a policy of exploitation nd repression. According to the working paper prepared by he Secretariat, the value of ore exports had risen from R 52,131,199 in 1961 to R 62,191,655 in 1963. The output of the shing industry had increased from R 10 million in 1952 to R 24 million in 1962, and would amount to approximately R 34.5 million in 1964. The net profits of Consolidated Diamond Aines had amounted to more than R 23 million in 1961 alone. From 1948 to 1961 the net profits of the Tsumeb Corporation ad exceeded R 140 million, of which R91.5 million had been istributed as dividends. Unfortunately that increase in exports nd profits was not matched by additional income and prosperity or the African workers, whose remuneration and treatment emained subject to the rigours of a thinly veiled régime of orced labour. The companies were pursuing their gigantic evelopment plans in order to reduce the Territory to a ource of wealth for themselves; neither the Territory nor s inhabitants derived any of the benefits.

517. Furthermore, the legislation governing mining and abour was designed to bar Africans from any direct participaion in the mining industry. Africans were allowed to prospect nly in the Native reserves of their legal domicile, whereas Europeans could do so in any part of the Police Zone, and, vith a permit, in the Native reserves, including those outside he Police Zone. Nothing had been done to enable non-Europeans to obtain loans or to acquire the necessary technical nowledge. Africans were completely barred from supervisory osts and skilled jobs. Efforts were made to maintain a eserve of unskilled African labourers who could be used as equired and dismissed when they were no longer needed or s soon as they began to learn the trade. That was the whole urpose of the short-term contract. Africans' wages remained ery low and bore no relation to the work performed. In 962 the average wage for Europeans had been R 2,452 and hat for Africans R 202. Furthermore, Africans were foridden, on penalty of fine or imprisonment, to strike, break heir contracts or refuse to carry out their employers' instrucions. Other legislation deprived them of freedom of movenent and of the right to free choice of residence and even f employment. Government Notice 257 of 1953 exempted mployers from the obligation to grant sick leave with pay o African factory workers recruited from outside the Police Zone, whereas European factory workers were entitled to a maximum of 30 days' sick leave with pay after twelve months of employment.

518. In South West Africa, therefore, foreign interests constituted, not an economic undertaking obedient to international rules, but a movement of organized robbery which, on the strength of *apartheid,* reduced Africans to slavery and placed them more firmly in the grip of the racist policies of the Republic of South Africa. Such degrading exploitation must be condemned. It was an affront to the whole of mankind and to the principles of freedom and equality. It was time for the pillage and enslavement of South West Africa to come to an end. There were means and, if need be, enforcement measures whereby South Africa could be compelled to honour its obligations under the Mandate. It was also necessary, however, to denounce those who, without openly favouring the existing situation, came to terms with it, and whose presence in South West Africa served to encourage the pursuit of an inhuman and barbarous racist policy.

519. The Tunisian delegation therefore appealed to all the companies, their shareholders, the international stock brokers and all South Africa's partners to bring to an end the shameless exploitation of the African population and to use their influence to win over South Africa to a better frame of mind. They should perhaps be informed that their complacency encouraged the continuation of the situation and be warned that their association with South Africa could have very serious consequences both for their own future and for that of the Territory.

520. The representative of the United Republic of Tanganyika and Zanzibar stated that the voluminous working paper prepared by the Secretariat was useful in that it reflected the deep involvement of foreign monopoly capital, whose activities had brought about the distressing situation now obtaining in South West Africa. The question of South West Africa had been discussed continuously since the inception of the United Nations. However, nothing materially fruitful had been achieved due to the fact that the racist South African régime had disregarded the numerous resolutions of the General Assembly and had set the shameful stamp of *apartheid* on the Territory. With the ardent support of foreign monopoly capital, it was extracting considerable profits from that Territory at the cost of the blood and sweat of the indigenous population.

521. The state of affairs was revealed plainly in the Secretariat working paper, which showed that the South African Government and the foreign monopolies active in South West Africa were in no way interested in the advancement of the indigenous inhabitants, who made up 86 per cent of the population. The policies of *apartheid* had been condemned time and again by the United Nations and the world at large, yet the plight of the people of South West Africa was a direct result of those atrocious policies promoted by the greed of the foreign monopoly groups with vested interests in the Territory. It was therefore small wonder that the South African Government had enacted mining legislation which barred Africans from participation and thereby guaranteed cheap labour and super-profits for the mining oligarchy. Thus Consolidated Diamond Mines, had made a net profit after taxation of R 21,328,205 in 1962. Needless to say, the bulk of mining profits went to the United States and the United Kingdom, where many of the monopolies were rooted, and were not reinvested in South West Africa.

522. It was now beyond any doubt that the real power in South West Africa was in the hands of those foreign monopolies. Foreign capital monopolized the economy and the monopolies were not interested in the development of a balanced economy.

523. South West Africa had thus become a colony of the foreign monopolies and of the South African Government and the people of the Territory had been deprived of their legitimate rights. Although these facts were universally recognized, certain Powers, such as the United States and the United Kingdom, had given their support to the South African régime, which acted as the cover for the gross exploitation

of the Territory and its people, and their support was reflected in resolution 1899 (XVIII). Given that support, the South African Government had been able to flout the authority of the United Nations and to pursue its colonial and *apartheid* policies in the Territory of South West Africa. Those policies and the activities of the foreign monopoly firms which the Government backed should not be allowed to continue with impunity, for their continuance would certainly constitute a threat to international peace and security. The Sub-Committee must therefore recommend that the resolutions on South West Africa should be implemented without delay. At the same time the foreign monopolies must be categorically condemned and made to change their practices, which were against the interests of the people of South West Africa.

524. The deep involvement of foreign monopolies in South West Africa was mainly due to the fact that the people of the Territory had no say in the conduct of their own affairs. The wrong could be righted by making the Territory independent and sovereign. The Sub-Committee should therefore recommend the immediate independence of South West Africa and steps should be taken to implement that recommendation.

525. The representative of Mali observed that the working paper prepared by the Secretariat contained some very pertinent information on the activities and operating methods of mining companies and other relevant enterprises. In his opinion, the General Assembly, in resolution 1889 (XVIII), had particularly wanted the Special Committee to submit a report on the manner in which the activities of mining and other international companies having interests in South West Africa influenced the Territory's development towards independence. In the light of the information at its disposal, the Sub-Committee could state that not only had those activities influenced the way of life of the South West African peoples, they had actually retarded the liberation of those peoples. That had also been confirmed by the petitioners who had been heard. The Sub-Committee could, therefore, submit a report to that effect to the Special Committee.

526. The Secretariat had furnished very important data for evaluating the situation. Given what was known about the implications of the activities of the companies concerned, and taking into account especially their contributions to the South African Government, there was good reason for expressly emphasizing the fact that their action was retarding the independence of South West Africa. They were working both directly and indirectly against the interests of the people, first by enforcing social legislation, and secondly, by giving the Government financial support.

527. The representative of Denmark considered that the working paper prepared by the Secretariat on the implications of the activities of the mining industry in South West Africa would greatly assist the Special Committee in the performance of its tasks.

528. His delegation noted with regret that the people of South West Africa received a small and disproportionate share of the profits derived from the exploitation of the Territory's resources. It disapproved, moreover, of the legislation and economic practices applied in the Territory, for they made any improvement in the living conditions of the Africans impossible.

529. He hoped that the Sub-Committee would not only formulate appropriate conclusions but would also make recommendations that would enable the General Assembly and the Special Committee to resolve the question in the interest of the people of South West Africa.

530. The representative of Yugoslavia stated that the working paper prepared by the Secretariat contained an abundance of valuable data concerning the Mandated Territory of South West Africa and the position in which it had been placed as a result of the policies of the South African Government. It would in his opinion prove useful for the Sub-Committee and for the Special Committee and the General Assembly itself.

531. South Africa had cruelly misused its Mandate over South West Africa and ruthlessly exploited the Territory and its people. Acting with no sense of limitation, the Sout African Government had assumed the right to sell long-teri concessions in the Territory to foreign and South Africa monopolies and had simultaneously made efforts to annex th Territory formally. The policy of *apartheid* had also bee applied to South West Africa, where the African populatio had been reduced to a condition tantamount to slavery. Th indigenous inhabitants had been made strangers in their ow country, and denied the most elementary necessities of lif Their very existence had been threatened.

532. The policy of systematic discrimination known a *apartheid* had been condemned everywhere. Unfortunately, mer formal condemnation on moral grounds was being used by som Governments to screen their failure to take other more effe tive steps to make the South African Government respect i international obligations towards that Territory and respe the most elementary of human rights.

533. The Yugoslav position in that matter was well knowi Yugoslavia had always condemned the policy of *apartheid* an racial discrimination pursued by the Government of Sout Africa and its attitude towards South West Africa. It ha always supported and would continue to support the legitima interests and demands of the people of the Territory as we as the efforts of the United Nations and the internation community to eliminate those tragic remnants of the coloni era.

534. The representative of Yugoslavia considered that th foreign economic interests which enable the Government c South Africa to continue with its inhumane policy of *aparthei* and racial discrimination and to oppose the resolutions adopte by the United Nations shared with South Africa the respo sibility for what was happening in South West Africa. Th statements of fact made by various delegations and the dat supplied by the Secretariat showed to what extent foreig capital dominated the economy of South West Africa.

535. Large parts of the Territory had been given, on lon term concessions and for unlimited exploitation, to foreig companies whose capital came mainly from the United Kingdon the United States, some other Western European countri and South Africa itself. Large concessions had, for exampl been obtained by: the Consolidated Diamond Mines of Sout West Africa Ltd. over an area of 21,000 square miles until th year 2010, although it had been estimated that existing re sources would be depleted in less than twenty years at th rate set in 1963; the Marine Diamond Corporation, over a offshore area covering approximately 13,300 square miles unt the end of 1997; and the Tidewater Oil Company and the D Beers firm, in an area covering about 18,000 square miles.

536. These concessions constituted tremendous obstacles t South West African independence. There could be no dou that the Government of South Africa had in this way delib erately tied its interests to those of the companies concerne in order to maintain the present status of the Territory as lon as possible. The Territory's vast wealth of natural resourc was not being rationally exploited, nor were all branches c the economy and parts of the country being properly an equally developed. The indigenous African population, th rightful owners of these resources, did not dispose of the and derived no benefit from them. The aim of the foreig companies which controlled the economy was not to develo South West Africa for the good of the people but rather t realize as great a profit as possible. The profits, which wer enormously disproportionate to the invested capital, did nc as a rule remain in the Territory. Even if any profits remaine in the Territory, they were not reinvested in such a way a to help its economic development. The data made available i the Secretariat's working paper indicated that the mining o diamonds and other minerals had recently been accelerated t the point where it threatened to exhaust South West Africa' natural resources.

537. The figures in that regard were quite revealing. Withi the twenty-year period from 1943 to 1962, the gross income c a single company, the Consolidated Diamond Mines Compan Ltd., had amounted to R369 million (of which R105 millio

ras paid in taxes), the joint net profits of that company and 'sumeb Corporation for that twenty-year period amounted o R372 million, whereas the total Territorial revenue for the ame period had been only R325.8 million. The data explained loquently why those companies were fighting so stubbornly o preserve the present status of the Territory and why every ttempt by the United Nations to find a solution of the roblem was resisted by exactly those countries from which he capital investment originated.

538. The foreign companies were directing the South West African economy exclusively toward the development of rimary export industries which yielded the highest profits rith the smallest investment, *viz.*, diamonds, other minerals, shery products, karakul sheep and meat. The agriculture of he Africans allowed them to live at barely subsistence level.

539. Economic development, if it could be called developent, was confined to that part of the Territory known as he "Police Zone", which comprised only 46 per cent of the otal population, including all of the Europeans.

540. The living conditions of the African population should ommand the Sub-Committee's attention not only as an conomic problem but also because of the moral, social and umanitarian elements involved. While the indigenous people ved as though in slavery, being deprived of all rights and of ll participation in the political, economic and cultural life f their own country, all-powerful foreign monopolies, with e blessing of the South African Government, enjoyed the illest possible freedom of action.

541. Since more than half of the Africans lived in the Tative reserves outside the Police Zone, they did not parcipate in the monetary economy of the Police Zone, from rhich they were normally excluded by law. Moreover, by far e greater part of the Territorial revenue was expended rithin the Police Zone, largely for the benefit of the European arming community and other items which did not directly oncern the African population. According to Administration iformation, out of a total budget of R40.4 million for the scal year 1960-61, only R3.4 million was for the African opulation.

542. The labour laws were expressly designed to exclude e Africans from any direct participation in the mining inustry and to maintain a reservoir of cheap, unskilled migrant ibour which the employers could draw upon or dispense with s they thought fit. In addition, the Territory's laws denied) Africans the right to strike, to terminate their contracts r to refuse to carry out their employers' instructions; if ey did so, they were subject to penal sanctions. There were lso a number of laws which denied them freedom of movement nd residence, and even the right to choose their own mployment.

543. The foreign companies, whose interests coincided with iose of the South African Government, made every effort) preserve the existing situation in South West Africa and ad directly or indirectly become the co-sponsors of one of e most inhuman policies in the history of contemporary ociety. The presence of those companies in the Territory ierefore constituted a major obstacle to the people's progress owards freedom and independence.

544. In those circumstances, the Yugoslav delegation conidered that the United Nations should redouble its efforts) enable the people of South West Africa to attain indeendence. The Declaration on the Granting of Independence) Colonial Countries and Peoples should be applied to South Vest Africa without delay and with no pre-conditions. The Organization should once again condemn, in the strongest ossible terms, the persistent refusal of the South African iovernment to listen to reason and to renounce its policy of *partheid* and to enable the Territory's attainment of inependence. The United Nations should also condemn the ctivities in South West Africa of the foreign economic iterests, which were direct or indirect accomplices of the outh African Government in its crimes against the Teritory's population.

545. The United Nations should once again appeal to all Governments to support the General Assembly resolution which called for economic and diplomatic sanctions against South Africa, in order to make the Government of that country implement the Assembly's resolutions concerning the South African Government's policies of *apartheid* and racial discrimination and its attitude toward South West Africa. The Organization should, in particular, appeal to those countries from which capital had been invested in South West Africa to join in the efforts being made by the international community to eliminate a situation which was quite intolerable in the world of today.

546. In conclusion, the representative of Yugoslavia expressed the hope that the people of South West Africa would before long be able to join their African brothers in the international community of independent States. In its struggle to attain that goal, the Territory's population and all who were on its side would have the unreserved support of Yugoslavia.

547. The representative of Ethiopia expressed the opinion that the working paper prepared by the Secretariat under the Sub-Committee's guidance would prove of great assistance to the General Assembly in its future discussion of the question of South West Africa.

548. He stated that the situation in South West Africa was deplorable, and his delegation had already, on many occasions, shown that South Africa had violated the Mandate entrusted to it under the Covenant of the League of Nations as well as the General Assembly's resolutions. He also recalled that the Governments of Ethiopia and Liberia had brought a dispute against South Africa in this connexion before the International Court of Justice and therefore he need not review the situation again.

II. Conclusions

549. Having studied the implications of the activities of the mining industry and of other international companies having interests in South West Africa, Sub-Committee I has come to the following conclusions.

550. Foreign capital holds a dominant position in the economy of South West Africa and the main sectors of production are controlled by foreign enterprises or by settlers of European descent who are mainly from the Republic of South Africa. It has concentrated on the development of highly profitable primary export industries, namely, mining, fishing and karakul farming, which exploit the Territory's rich natural resources.

551. The foreign companies operating in South West Africa have no interest in developing any sort of a balanced economy in the Territory. Apart from the rich export industries, other sectors of the economy, such as manufacturing, remain undeveloped. African agriculture in particular is so undeveloped that the African inhabitants of South West Africa continue to live at barely subsistence level.

552. The desire of the Government of South Africa to annex South West Africa is directly connected with the activities of international companies which are interested in keeping the Territory as a field for the investment of their capital, a source of raw material and cheap labour.

553. Such economic development as has taken place has been confined to that part of the Territory lying within the Police Zone which contains only 46 per cent of the population, including all the Europeans. It does not extend to the areas outside the Police Zone where more than half of the African population lives. The Africans of these areas are not permitted to participate in the economic activities of the Police Zone, except as contract labourers or servants, and then only on a temporary basis. Otherwise, they are excluded by law from entering the developed area within the Police Zone. The discriminatory laws in South West Africa in respect of mining and labour are designed to exclude the Africans from any direct participation in the mining industry and to guarantee the industry a permanent supply of cheap, unskilled, migrant

labour. The Africans are prohibited from holding positions of responsibility, which are reserved for Europeans only.

554. The mining and other industries of the Territory are owned and managed entirely by foreign companies or individuals of European origin. As a result of the discriminatory legislation and practices of the Administration which reflect both the outdated concepts of colonial government and the racial policies of *apartheid* of the Mandatory Power, an extremely small proportion of the profits from these rich industries accrue to the Africans, who comprise 86 per cent of the population. The greater part of the Territorial revenue is expended within the Police Zone, particularly for assistance to the European farming community or for other budgetary items which are mainly of benefit to the Europeans and do not directly concern the Africans.

555. The Territory's mineral resources are being rapidly exploited by foreign companies. The two mining operations which are at present yielding the most fruitful returns, namely, the area currently being worked by Consolidated Diamond Mines, Ltd. in the south of Diamond Area No. 1 and the Tsumeb mine, will probably be worked out within twenty-five years. Thus the country runs the risk of finding itself, in the not too distant future, without the raw materials which now provide the main support for the money economy.

556. The foreign companies operating in South West Africa are concerned above all with making profits and since these companies are owned and operated by foreigners, the surplus profits flow abroad and are not reinvested in the Territory.

557. The policy of *apartheid,* which is being carried out in South West Africa by the South African racist régime, offers the foreign companies every opportunity for the exploitation of the indigenous inhabitants. In fact, the exploitation of low-paid non-European workers is a feature of the Territory's economic system, especially in its mining industry and agriculture. This enables the foreign companies and the local European farmers to reap high profits and makes any improvement in the living conditions of the Africans impossible.

558. The laws of the Territory deny Africans the right to strike, break their contracts or refuse to carry out the instructions of their employers, even when conditions are inhuman; penal sanctions are applied against those who do so. There are a number of laws which deny the Africans freedom of movement, residence and even the right to take up employment of their own choice. The effect of the legislation is to deny to African workers most of the means by which they might otherwise improve their conditions of life and to severely restrict their opportunities for personal advancement.

559. The method of recruitment of the indigenous inhabitants for work under contract in mines and on European farms which is carried out by an organization largely controlled by mining interests, is no different from a draft. The Africans who are thus recruited are given no choice as regards their employers or the type of work they will have to do, nor have they a say about the conditions of employment. The work which the Africans perform for mining and other companies is basically forced labour and therefore the African population lives as though in slavery.

560. Labour legislation and practices applied in the Territory show that the foreign companies and the Government of South Africa are maintaining a reservoir of unskilled migrant labour which can be drawn upon as the need arises and which can be returned home if not required. This, among other things, deprives the Native reserves of a large part of the manpower which could be used for local development and further explains the fact that the Administration has not developed these areas beyond the level of a subsistence economy.

561. The very low level of African wages, the lack of development of the Native reserves and the evils of the migratory labour system result in misery and untold sufferings on the part of the indigenous population.

562. The South African authorities have extended to South West Africa the Bantu Education system, which imposes separate standards of education based not only on racial, bu also on tribal and linguistic differences. The sums allocate for the education of Africans amount to less than 2 per cen of the Territory's revenues. Conditions are especially bad i the Native Reserves which are outside the Police Zone.

563. The mandated territory constitutes for South Afric an extension of its own economy, an area which offers read access for its own capital and European enterprise, a marke for its manufactured goods and a source of primary product: The Government of South Africa also uses the Territory c South West Africa as a source of foreign exchange earning:

564. Moreover, the threat of an extensive boycott on th supply to South Africa of strategic goods offers one explana tion for the intensive search now being carried on for petroleur in South West Africa. Discovery of petroleum deposits o any magnitude would not only increase the Territory's economi value for the Republic of South Africa but would greatl diminish the effectiveness of any sanctions involving th prohibition of petroleum deliveries to the South Africa Government.

565. The fact that the greater part of the Territory' economic production is in the hands of foreign enterprise has serious implications not only for the Territory's econom but also in the political and social fields. With only minc exceptions, the companies which control the mining an fishing industries are either totally or largely subsidiaries (wealthier corporations whose main interests and activities ar elsewhere. In the ultimate analysis it can be shown that th overwhelming majority of the mining companies belong to complex of foreign capital which operates in many areas (Southern Africa, Northern and Southern Rhodesia, the Cong (Leopoldville) and Angola, and in reality is directed by number of monopolistic combines controlled by financial ir terests in the United Kingdom, the United States of Americ and the Republic of South Africa. As a result of this, a overwhelming proportion of the profits obtained in the Te ritory goes to the above-mentioned countries and also to othe countries which invest their capital in South West Africa.

566. The study of the implications of the activities of th mining industry and of other international companies whic have invested capital in South West Africa indicates tha together with the Government of South Africa carrying or its reactionary policy towards South West Africa, the foreig companies having considerable capital investments in th Republic of South Africa and in South West Africa also bea the responsibility for the sufferings of the people of th Territory.

567. The study provides further confirmation that Sout Africa has abused its Mandate in the Territory. Instead (protecting the interests of the people of South West Afric the South African Government has assumed the right to gra long-term concessions over large areas of the Territory t South African and other foreign companies; it has fostere the exploitation of the indigenous people by enforcing a syste of discriminatory laws and practices whereby it extends i own policies of *apartheid* to South West Africa; it ha sanctioned the rapid depletion of the Territory's natur resources mainly for the direct benefit of South Africa ar other foreign interests rather than for the benefit of th Territory itself; and it has grossly neglected the developme of the indigenous peoples entrusted to its charge and of th Native reserve areas to which the large majority of the are confined. By its laws, policies and administrative practice the Mandatory Power, instead of promoting "to the utmo the material and moral well-being and the social progres of the indigenous inhabitants, has actively impeded the realiz tion of this aim.

568. Foreign companies operating in South West Afric motivated by high profits rather than the development of th Territory and its people, share South Africa's interest i perpetuating the existing system of administration as long a possible. It is precisely from those Member States wit financial interests in the Territory that the Republic of Sout Africa derives its main support in the United Nations ar

ıtside which encourages its continued non-compliance with ıe Charter and the numerous resolutions of the United ſations concerning the question of South West Africa.

569. The above study leads to the conclusion that the :tivities of the international companies in South West Africa ›nstitute one of the main obstacles to the country's developıent towards independence.

570. The study of the activities of foreign companies having ıterests in South West Africa fully confirms the urgency ˙ the need to grant and ensure the independence of the Tertory. Only when independence has been attained will the ːople of South West Africa have the right to dispose of ıd develop the Territory's human and material resources the interests of the whole Territory and all its people.

III. Recommendations

571. The Sub-Committee considers that the Special Comittee should recommend that the General Assembly:

(*a*) Strongly condemn the Government of the Republic of ɔuth Africa for giving concessions and rendering every ˌsistance to the international companies in their exploitation ˙ the natural and human resources of South West Africa, ıd for its own participation in such exploitation;

(*b*) Strongly condemn the activities of the international ımpanies in South West Africa which exploit the natural sources and the African population of the Territory for e sole benefit of these companies and represent one of the ajor obstacles in the way of the country to independence;

(*c*) Draw the attention of the Government of the Republic South Africa to the fact that its support of and active rticipation in the international companies' activities in South 'est Africa which have serious political, economic and social nsequences on the African population of the Territory run unter to the provisions of the Mandate and the United ations resolutions with regard to South West Africa;

(*d*) Call upon the Government of the Republic of South Africa to take appropriate and urgent steps to put an end to the activities of the international companies in South West Africa in order that the African population of the Territory is no longer deprived of the natural wealth of its own country;

(*e*) Once again call upon the Government of South Africa to put an end without delay to the policies of *apartheid* in South West Africa which, among others, create favourable conditions for the activities of the international companies in that Territory;

(*f*) Once again call upon Member States of the United Nations to comply with the provisions of the United Nations resolutions on South West Africa;

(*g*) Call upon the Governments of the United Kingdom, the United States of America and other Powers whose nationals own and operate the international companies in South West Africa to put an end to their support of the Republic of South Africa at the United Nations and outside and to carry out General Assembly resolutions 1761 (XVII) and 1899 (XVIII) in respect of the implementation of measures set out in these resolutions against the Republic of South Africa;

(*h*) Further call upon the Governments of the United Kingdom, the United States of America and other Powers whose nationals own and operate the international companies in South West Africa to exert such influence on those companies as to cause them to renounce their ties with the Government of the Republic of South Africa and not to assist it in any way;

(*i*) Request the application of more decisive political and economic sanctions against the Republic of South Africa;

(*j*) Take all possible measures towards the attainment of independence by South West Africa at the earliest date;

(*k*) Request the Secretary-General to take the necessary measures, through appropriate channels, to ensure that the international companies having interests in South West Africa are informed of the contents of the report on the implications of their activities in that Territory.

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Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 16

Question of Oman: report of the *Ad Hoc* Committee on Oman*

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* Item 65 of the provisional agenda.
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DOCUMENT A/5846**

Report of the *Ad Hoc* Committee on Oman

[*Original text: English*]
[*22 January 1965*]

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Letter of transmittal

8 January 1965

Sir,

I have the honour to transmit to you herewith the report adopted unanimously on 8 January 1965 by the *Ad Hoc* Committee on Oman.

This report is submitted to the General Assembly in accordance with paragraph 3 of General Assembly resolution 1948 (XVIII) of 11 December 1963.

I should like to take this opportunity of expressing to you, on my own behalf and on that of the members of the Committee, our sincere appreciation of the co-operation and assistance given by the Principal Secretary and the other members of the Secretariat.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Abdul Rahman PAZHWAK
Chairman of the Ad Hoc *Committee on Oman*

His Excellency
U Thant
Secretary-General of the United Nations
New York

Introduction

1. The *Ad Hoc* Committee on Oman was established y General Assembly resolution 1948 (XVIII) of 11 ecember 1963, which reads as follows:

"*The General Assembly,*

"*Having discussed* the question of Oman,

"*Having heard* the petitioners,

"*Deeply concerned* with the situation existing in Oman,

"*Taking note* of the report of the Special Representative of the Secretary-General (A/5562) and thanking him for his efforts,

"*Taking into consideration* the fact that in the report it is recognized that in the course of his mission the Special Representative did not have the time to evaluate the territorial, historical and political issues involved in the problem, nor did he consider himself competent to do so,

"1. *Decides* to establish an *Ad Hoc* Committee composed of five Member States appointed by the President of the General Assembly to examine the question of Oman;

"2. *Calls upon* all the parties concerned to co-operate with the *Ad Hoc* Committee by all possible means, including that of facilitating visits to the area;

"3. *Requests* the *Ad Hoc* Committee to report to the General Assembly at its nineteenth session;

"4. *Requests* the Secretary-General to render all necessary assistance to the *Ad Hoc* Committee."

2. In accordance with this resolution, the President the General Assembly nominated Afghanistan, Costa ca, Nepal, Nigeria and Senegal as members of the *l Hoc* Committee on Oman. The Governments of ese Member States appointed the following repre-ntatives to the *Ad Hoc* Committee:

Mr. Abdul Rahman Pazhwak (*Afghanistan*)
Mr. Fernando Volio Jiménez (*Costa Rica*)
Mr. Ram C. Malhotra (*Nepal*)
Mr. Ali Monguno (*Nigeria*)
Mr. Ousmane Socé Diop and
Mr. Abdou Ciss (*Senegal*)

The following representatives also served on the Committee as alternates:

Mr. José Luis Redondo (*Costa Rica*)
Mr. José María Aguirre (*Costa Rica*)
Mr. J. D. O. Sokoya (*Nigeria*)
Mr. Charles Delgado (*Senegal*)

3. At its first meeting on 21 April 1964, the Committee unanimously elected Mr. Abdul Rahman Pazhwak (Afghanistan) as Chairman and Mr. Fernando Volio Jiménez (Costa Rica) as Rapporteur.

4. The Committee was represented on its mission by the following members:

Mr. Abdul Rahman Pazhwak (*Afghanistan*) (Chairman)
Mr. Fernando Volio Jiménez (*Costa Rica*) (Rapporteur)
Mr. Ram C. Malhotra (*Nepal*)
Mr. Ali Monguno (*Nigeria*)
Mr. Abdou Ciss (*Senegal*)[1]

5. The Secretary-General designated the following staff members to assist the Committee: Mr. J. A. Miles, Principal Secretary; Mr. Kyaw U, Political Affairs Officer; Miss M. L. Wright, Secretary. Mr. G. Kaminker, Interpreter, was assigned to the Committee during its mission.

6. In this report, the Committee has endeavoured to give the General Assembly a faithful account of the manner in which it has carried out the mandate entrusted to it. In chapter I, it has given a full account of the work it did at Headquarters and while on mission in the area. To place the question in perspective, it has set out in chapter II a brief review of the history of the question of Oman in the United Nations. Chapter III sets out the information the Committee gathered as a result of the inquiries it made. Chapter IV

[1] Mr. Ousmane Socé Diop also represented Senegal during the Committee's meetings in London.

contains the Committee's evaluation of this information. Finally, in chapter V the Committee has set out its conclusions.

7. Before departing on its mission, the Committee held twenty-five meetings in New York during which it established its procedures, considered its terms of reference, began its research and carried out negotiations for a visit to the area in accordance with its mandate. It also gave Member States an opportunity to express their views on the question.

8. As indicated in chapter I, it was not possible for the Committee to arrange for a visit to Oman. However, the Committee was able to arrange for one of its members to meet the Sultan of Muscat and Oman in London. The Committee also made arrangements to visit Dammam, where the Imam of Oman was in residence. The Committee also decided to visit Sharjah, Kuwait and Cairo, where it had been informed there were many persons who would be able to assist the Committee in carrying out its mandate. For the reasons set out in chapter I, it was not possible to visit Sharjah, but arrangements were made to visit Kuwait and Cairo.

9. The Chairman, as the Committee's representative, met the Sultan in London between 31 August and 3 September 1964. The full Committee had discussions with officials of the United Kingdom Foreign Office in London on 3 September 1964. The Committee then proceeded to Dammam, where it interviewed the Imam of Oman, members of his Higher Council, members of the Revolutionary Council and Omani refugees. The Committee was in Dammam from 5 to 9 September. In Kuwait, where the Committee arrived on 9 September, it interviewed more members of the Revolutionary Council and other persons from Oman. The Committee left Kuwait for Cairo on 13 September. In Cairo, the Committee interviewed a member of the Imam's Higher Council, members of the Revolutionary Council and other persons from Oman. The Committee concluded its work in Cairo on 16 September. The Chairman then returned to London in order to continue his discussions with the Sultan on behalf of the Committee but, for the reasons set out in chapter I, it was not possible to arrange a meeting.

10. The Committee was able to interview all the parties concerned and to put questions to them. It also personally interviewed and questioned 175 persons from Oman and received written communications from many more. As a result, the Committee was able to gather new information on many aspects of the question and to obtain clarifications of the views held by the various parties concerned. It is the Committee's sincere hope that this new information, and the Committee's evaluation of it, will be of assistance to the General Assembly in its consideration of the question.

11. The Committee wishes to express its appreciation to all who assisted it in carrying out its work; to those Member States who provided the Committee with information in answer to its requests; to those Member States whose representatives made statements to the Committee; and to the League of Arab States, whose representatives furnished the Committee with advice and information. The Committee wishes in particular to express its gratitude and appreciation to the Governments of Kuwait, Saudi Arabia, the United Arab Republic and the United Kingdom of Great Britain and Northern Ireland for their co-operation and generous assistance in facilitating the Committee's visit.

12. The Committee also wishes to express its appre ciation to the Directors and staff of the United Nation Information Centres in London and Cairo.

13. The Committee would like to express its appre ciation to Mr. G. K. J. Amachree, Under-Secretary fo Trusteeship and Non-Self-Governing Territories, fo his valuable co-operation and in particular to Mr. J A. Miles, who displayed a high degree of responsi bility and ability in the discharge of his difficult task The Committee also extends its appreciation to Mr Kyaw U and Miss M. L. Wright as well as to othe members of the Secretariat for their efficient services

14. The Committee adopted its report unanimousl on 8 January 1965.

Chapter I. Review of the Committee's work

A. Work of the Committee at Headquarters

1. *Rules of procedure*

15. At the outset of its work, the Committee decide on its rules of procedure (annex I). Among the mos important decisions embodied in these rules was on which provided that, unless the Committee decide otherwise, its meetings would be held in closed session The Committee took this decision because it believe that, in view of the nature of the task with which it ha been entrusted, it would be able to work more effectivel in closed sessions. As a result of its experience, th Committee believes that this was a wise procedure an that it greatly facilitated its work.

2. *Terms of reference*

16. The Committee then directed its attention t clarifying its terms of reference as contained in Gener Assembly resolution 1948 (XVIII). The Committe noted that by this resolution it was called upon t examine the question of Oman and to report to th General Assembly at its nineteenth session. It also note that the decision to establish a Committee was mac after taking into consideration the fact that in the re port of the Secretary-General's Special Representati "it is recognized that in the course of his mission tl Special Representative did not have the time to evalua the territorial, historical and political issues involve in the problem, nor did he consider himself compete to do so" (resolution 1948 (XVIII), fourth preambul paragraph).

17. In order to understand more fully the wishes the General Assembly, the Committee carefully r viewed the discussions that took place in the Four Committee preceding the decision to establish a Com mittee. As a result of this review, the Committee dre up a statement of its terms of reference to guide it its work (annex II). The main points contained in th statement are set out below.

18. The Committee decided that the mandate give to it by the General Assembly covered all aspects of tl question. It therefore would make an exhaustive stu of any problem it deemed to be germane to the issu In particular, and, in keeping with General Assemb resolution 1948 (XVIII), it would study and evalua the territorial, historical and political issues involv in the problem. The Committee viewed its task as o of ascertaining the facts, making an evaluation of the and reporting fully and objectively to the Gener Assembly.

19. The Committee also decided that it would carry out its task by a study of all relevant treaties, agreements and legal judgements, by a study of available historical and legal writings relevant to the question, by direct contact with the parties concerned, by discussions with petitioners, by a visit to the area for the purpose of an on-the-spot investigation, and by such other visits as it deemed necessary. The Committee decided that by "the parties concerned", it meant the Sultan of Muscat and Oman, the Imam of Oman, Member States considered by the Committee to be concerned in the area and the question, and other parties as decided by the Committee. The Committee noted that it had used the titles of the parties concerned in accordance with conventional usage in United Nations documents. It also decided that, in corresponding with the parties concerned, it would address them by the titles they ascribed to themselves, without any prejudice to the position of the Committee in the question. The Committee also decided that, during its visit to the area, it would have complete freedom of decision as to where it would travel, whom it would interview and whom it would allow to accompany it. In particular, the Committee stated that it expected to interview political prisoners, or persons held in confinement, the interviewing of whom the Committee deemed useful.

20. On 11 May 1964, the Chairman issued a statement (annex III) on the work of the Committee. This statement briefly set out the way in which the Committee intended to proceed with its task. It also noted that the Committee would give every opportunity to the parties directly concerned, and to Member States concerned in the area and the question, to place their views before the Committee and to discuss these views in detail with it. It further stated that the Committee was looking forward to receiving co-operation from all the parties concerned, including co-operation in facilitating visits to the area, and that the Committee would announce its plans to visit the area when they were completed.

3. *Requests to the Committee*

21. The Committee received two requests which had originally been addressed to the Secretary-General. The first was a request for a hearing by the Committee and was contained in a letter dated 20 February 1964 from Mr. Faris Glubb, Secretary of the Committee for the Rights of Oman in London. This request was granted, and on 4 August, when the Committee had completed its preliminary plans for its mission, Mr. Glubb was informed that the Committee would hear the representatives of his Committee in London sometime in September.

22. The second request was from Mr. Himyar bin Sulaiman, representative of the State of Oman, and was contained in a letter dated 4 March 1964. In this letter it was suggested that the State of Oman be given the opportunity to delegate an official representative to accompany the Committee on its mission "to render any service or assistance the mission may require in carrying out their duties in Oman". The Committee decided to inform Mr. Himyar bin Sulaiman that the Committee would give every opportunity to the parties directly concerned to place their views before the Committee and to discuss them in detail with it. This decision was conveyed by a letter date 27 May 1964.

4. *Study of treaties and agreements*

23. The Committee located twenty-three treaties, agreements and judgements relating to the Sultanate.[2] It carefully considered the texts of each of them and also inquired into the historical background and circumstances surrounding their signature. As a result of this study, the Committee formulated a number of questions concerning these treaties and agreements to be directed to the parties concerned at the appropriate time. The information gathered by the Committee on this subject, including the questions raised by the Committee and the answers it received, is set out in chapter III, section E.

5. *Study of the history of Oman*

24. In accordance with its terms of reference, the Committee sought information on historical aspects of the question. To this end, it prepared an outline history based on the available material. A list of the more important historical works and articles consulted is contained in annex IV.

25. With regard to the historical materials, the Committee noted that, while there is a comparatively large number of books and articles which refer to the history of Oman, very few of these are contemporary accounts or are based on contemporary accounts. For the period before the nineteenth century, there are three accounts by Omanis in Arabic. The first is a chronicle, *Kashf al-Ghumméh* or "Dispeller of Grief", which was written about 1728. The greater portion of this forms part of Salil ibn Razik's chronicle, the second account, which was written about 1857. This work was translated and edited by G. P. Badger and was published in 1871 under the title *History of the Imams and Seyyids of Oman.* It contains a commentary and an introduction by Badger which carry the story up to the date of publication. This account was available to the Committee. The third account is *Jawhar Al Nidham, Kitab Nidham Al'Alam,* which was written by Nuraddin Abdullah ibn Hamid Al Salimi towards the end of the nineteenth century and which has not been translated. The Committee was not able to obtain a copy of this work until it was on its mission and was unable to have a translation made.

26. Thus, for the period up to 1800, the Committee had to rely entirely on Salil ibn Razik's account. When the Chairman met the Sultan he asked whether the Sultan could recommend any historical works to the Committee. The Sultan replied that there was no official history but that there was an account by Salil ibn Razik. When the Imam was asked his opinion of this account, he stated that it had been especially written for the ruling family of Muscat.

27. For the period after 1800, the Committee was able to draw on a slightly wider variety of sources. In addition to Salil ibn Razik (up to 1857) and Badger (up to 1870), such authors as Sir Reginald Coupland and J. B. Kelly[3] have written accounts which are based on a study of contemporary sources, notably, the official British records at Bombay of correspondence between the Government of India and the British Political Agents and Consuls at Muscat and Zanzibar. For the period after 1900 there are a number of accounts by Englishmen who lived, worked or travelled in the area.

[2] The treaties and agreements considered by the Committee are listed in paragraph 373 below.

[3] The titles of the works referred to in this paragraph are contained in annex IV.

Among these are books and articles by Sir Ronald Wingate, British Political Agent and Consul in Muscat from 1920 to 1921; Bertram Thomas, financial adviser to the Sultan in the 1920's; Captain G. J. Eccles, commander of the Sultan's armed forces in the 1920's; Wilfred Thesiger, who travelled through the interior in the late 1940's; and James Morris, who accompanied the Sultan to Nazwa in 1955.

28. The historical information the Committee obtained from these sources was supplemented by the answers provided by various persons the Committee interviewed. This information is set out in the appropriate sections of the report below.

6. *Negotiations to visit Oman*

29. After considering its terms of reference and the means it would employ in carrying out the tasks assigned to it by the General Assembly, the Committee set about making arrangements to carry out an on-the-spot investigation by means of a visit to Oman. In this connexion, it will be recalled that by paragraph 2 of resolution 1948 (XVIII), the General Assembly called upon all the parties concerned to co-operate with the *Ad Hoc* Committee by all possible means, including that of facilitating visits to the area.

30. Having ascertained that any request for a visit to Oman should be directed to the Sultan of Muscat and Oman, the Committee, through its Chairman, addressed a letter to the Sultan on 18 May 1964.[4] In this letter, the Committee informed the Sultan of the establishment of the *Ad Hoc* Committee on Oman and of its intention to make a thorough and intensive examination of all aspects of the question, so as to enable it to report fully and objectively to the General Assembly. It drew attention to the desirability of the Committee being able to acquaint itself at first hand with the situation in the area and being able to make the observations, investigations and interrogations that would assist it in its work, in accordance with its terms of reference. For these reasons, the Committee believed that a visit to the area was necessary and it requested the co-operation of the Sultan in facilitating such a visit.

31. By a telegram dated 20 June 1964 (annex V, item 2), the Sultan of Muscat and Oman drew attention to his previous messages to the President of the General Assembly reminding delegates that the Sultan held sole responsibility for all matters within the Sultanate of Muscat and Oman, which had been a sovereign and independent state for over 200 years. The Sultan also stated that the resolution of the General Assembly to which reference had been made concerned matters which were within his jurisdiction and was, therefore, an encroachment upon the Sultan's domain, which, he understood, the Charter of the United Nations reserved to the Sultan's sovereign competence. For these reasons, the Sultan regretted that he could not agree to the Committee visiting any part of his territories.

32. On receiving this reply, the Committee expressed its deep regret at the Sultan's decision. A visit to Oman, the Committee believed, would have been of great assistance to it in carrying out the task entrusted to it by the General Assembly. Because of the importance of the matter and in keeping with its desire to give every opportunity to all concerned to place their views before it in order to enable it to report objectively to the General Assembly, the Committee believed that it would be most useful and desirable if it could have the opportunity of seeking information on the matter through some other arrangements. It therefore decided to convey these feelings to the Sultan and to inform him that it would appreciate receiving any suggestions the Sultan might wish to make in this regard. This was done by a letter dated 1 July 1964 (annex V, item 3).

33. In a telegram dated 15 July 1964 (annex V, item 4), the Sultan stated that, without prejudice to his attitude towards the United Nations, he would be willing to receive one member of the Committee, provided that the specific points on which his comments were desired was submitted to him beforehand. He also stated that he would be in London for two months beginning in August and would be willing to receive the member of the Committee during that period.

34. On receipt of this telegram, the Committee expressed its appreciation to the Sultan for his response and for his willingness to give the Committee an opportunity to acquaint itself with his views. However, bearing in mind that the members of the Committee would not be able to have the benefit of a visit to Muscat and Oman, it was the Committee's considered belief that it would be more useful if all its members could profit by acquainting themselves at first hand with the Sultan's views. The Committee therefore decided to request the Sultan to give consideration to a meeting with the Committee as a whole. If, however, such a meeting did not prove possible, the Committee would consider nominating one of its members to meet the Sultan on its behalf. These decisions were conveyed to the Sultan in a letter dated 23 July 1964 (annex V, item 5).

35. By a telegram dated 10 August 1964 (annex V, item 6), the Sultan regretted that, as already indicated in his previous cable, he would be unable to receive more than one member of the Committee.

36. Following the receipt of this reply, the Committee expressed its regret that the Sultan was unable to receive all the members of the Committee. However, in keeping with its desire to fulfil the tasks entrusted to it by the General Assembly as thoroughly and objectively as possible, the Committee decided to appoint its Chairman to meet the Sultan on its behalf and as its representative. These decisions were conveyed to the Sultan by telegram on 12 August 1964 (annex V, item 7).

37. In accordance with the arrangements agreed upon with the Sultan, the Committee prepared a list of the major points relating to the matters it wished to discuss with him. The list was sent to the Sultan by letter dated 20 August 1964 (annex V, item 9). This list was based on a comprehensive list of questions which the Committee drew up for the Chairman to use at his discretion, during his discussions with the Sultan.

7. *Proposed visit to neighbouring countries*

38. In keeping with its announced intention to give every opportunity to all concerned to place their views before the Committee and to discuss them with it, the Committee decided that, regardless of the results of its negotiations to visit Oman, it would also be necessary for it to visit neighbouring countries. It was of primary importance that the Committee should visit the Imam of Oman and discuss the question with him in detail. It was also important that the Committee should interview Omani refugees and other persons and organizations that could be of assistance to it in carrying out its task. Moreover, in view of its decision t

[4] The correspondence between the Chairman and the Sultan of Muscat and Oman is set out in annex V.

grant a hearing to the Committee for the Rights of Oman, it would also be necessary for the Committee to visit London.

39. In this connexion, the Committee received a letter dated 15 June 1964 from the Chargé d'affaires of the Office of the Permanent Observer of the League of Arab States, informing the Committee that representatives of the following institutions, groups and persons wished to be heard by the Committee:

"1. The Imamate of Oman Center and the Omani Community in Cairo, United Arab Republic.

"2. His Eminence, Imam Ghalib bin Ali and the members of the Revolutionary Council in Dammam, Saudi Arabia.

"3. The Omani Community in Dhahran and Dammam, Saudi Arabia.

"4. The Omani Community in Kuwait, Qatar, and Bahrain.

"5. Merchants, intellectual groups, and leaders of public opinion in the Omani Trucial Coast, Sheikhdoms, with emphasis on Sharjah, Dubai, Ras al Khaimah, and Abu Dhabi.

"6. The Secretariat of the League of Arab States."

40. The Committee expressed its deep appreciation o the League of Arab States for this information and 'iscussed it with representatives of the League at its ıeeting on 15 July 1964. At its meeting on 24 August 964, the representatives of the League gave the Comıittee additional information, including details of the omposition of the Revolutionary Council of Oman.

41. The Committee felt that it would be impossible ɔr it to visit all the places where there were persons ʼho wished to interview it. It decided therefore to rrange visits to those places which would be most seful and where it would meet the most important nd representative persons. On the basis of this prinple and the information available to it, the Committee ecided to make arrangements to visit London, Damıam, Kuwait, Sharjah and Cairo. It also decided that ıe first place it would arrange to visit in the area 'ould be Dammam, since this was the residence of ıe Imam.

42. Accordingly, the Committee informed the Gov·nments of the United Kingdom, Saudi Arabia, Kuwait ıd the United Arab Republic of its desire to visit their ›untries and requested their co-operation in facilitating ıch a visit. In reply, the Committee was informed at these Governments would be happy to facilitate visit by the Committee and would do everything ›ssible to assist it in its work.

43. With regard to the Committee's proposed visit Sharjah, the Committee ascertained that its request the Sheikh of Sharjah should be addressed through e Government of the United Kingdom, since that ɔvernment, by treaty, was responsible for Sharjah's reign relations. In reply to its request, the Comittee was informed that the Government of the United ingdom had not been able to contact the Sheikh of ıarjah, who was at that time travelling. However, ɜ question had been discussed previously with the ıeikh. As the authority responsible for the Sheikh's ternal relations, and with his agreement, the Govıment of the United Kingdom stated that it could t accede to the wish of the Committee and provide ·ilities for it to visit Sharjah. The Government of ɜ United Kingdom also advised that the same decision would apply to any of the other States in the area for whose foreign relations the Government of the United Kingdom was responsible. The Committee feels that it is a matter for regret that the Government of the United Kingdom and the Sheikh of Sharjah should have seen fit to adopt this attitude.

8. *Views of Member States*

44. On 28 July 1964, the Chairman addressed a letter to the Permanent Representatives of all Member States, and to the representative of the League of Arab States, informing them that the *Ad Hoc* Committee on Oman had reached the stage in its work at which it believed it would be useful to make itself available to Member States that wished to place their views before it.

45. In response to this letter, the Committee heard statements by the representatives of the United Kingdom, Morocco, Yugoslavia and Bulgaria. The representative of Morocco spoke on behalf of Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Republic and Yemen. The statements by the representatives of the United Kingdom and Morocco are reproduced in annexes VI and VIII, respectively. A memorandum presented by the United Kingdom is reproduced in annex VII and a memorandum presented on behalf of the thirteen Arab States is reproduced in annex IX. A summary of the views expressed to the Committee is contained in chapter III, section C, below.

46. Arising out of the statement by the representative of the United Kingdom, the Committee addressed letters to the Permanent Representatives of France, India, the Netherlands and the United States of America concerning treaties between these countries and the Sultanate. The information received in response to these letters is set out in chapter III, section E, below.

47. In his statement, the representative of the United Kingdom said that if the Committee had any questions it wished to raise, his delegation would be happy to consider them or, if the Committee thought it more convenient, they could be raised with the Foreign Office while the Committee was in London. The Committee decided to accept this latter suggestion, and, to facilitate the discussions, prepared a detailed list of questions which would form the basis of the discussions. These questions were forwarded to the delegation of the United Kingdom by a letter dated 24 August 1964 (annex X).

9. *Departure of the Committee*

48. On 28 August 1964, the Chairman of the Committee issued a statement on behalf of the Committee in which its plans to visit London, Dammam, Kuwait and Cairo were announced. It was stated that the approaches the Committee had made for a visit to Oman had not yet been successful, but that arrangements had been made for the Chairman, as representative of the Committee, to hold discussions with the Sultan of Muscat and Oman, who was in London. For this purpose, the Chairman would depart from New York before the other members of the Committee. The statement also set out the Committee's itinerary and expressed the Committee's hope that the dates of its visits to the various centres would be widely known so that persons with information on the question might appear before it.

B. Work of the Committee on mission

1. *Meetings with the Sultan of Muscat and Oman in London*

49. The Chairman departed for London on 29 August 1964, to be available to the Sultan of Muscat and Oman for the beginning of the discussions. On 31 August, the Chairman paid a courtesy call on the Sultan and it was arranged that the first formal meeting would take place the next day.

50. At the beginning of the meeting on 1 September, the Chairman explained that he was meeting the Sultan on behalf of the United Nations *Ad Hoc* Committee on Oman and that the other members were still in New York. He informed the Sultan that while the United Nations was seized of the problem of Oman and had discussed it in the General Assembly, it had not taken any decision on the substance of the question. The only decision the General Assembly had taken was to establish the *Ad Hoc* Committee and this clearly showed that the intention of the General Assembly was to inform itself in more detail about the question. In particular, the members of the General Assembly wished to be fully acquainted with all points of view on the question before they attempted to come to any decision.

51. The reason for the establishment of the Committee was, therefore, to gather information and present, in an objective way, the various points of view. It was particularly important to present the Sultan's point of view since, although it was known in general terms through his communications, it was not known in any detail. On the other hand, the points of view of Member States interested in the question were known in some detail, since they were members of the Organization and had the opportunity to make their views fully known. It was therefore extremely important that the Committee should be able to receive at first hand the information the Sultan wished to place at its disposal, as well as his views on various aspects of the question. The Chairman was therefore very pleased to have the opportunity to meet with the Sultan.

52. The Chairman then explained that the Committee's task was to report fully and objectively to the General Assembly. In particular, it would ensure that the Sultan's views were fully understood by the Assembly. The Committee was attempting to ascertain facts and evaluate the territorial, historical and political issues involved in the question, and, having done this, it would report fully and objectively to the General Assembly. The Committee had begun its study of the question by examining the points of view put forward by Member States and by examining the available information on the question. Now it wished to hear from the Sultan his own views. To this end, the Committee had already forwarded to the Sultan a general outline of the matters on which it was seeking information and the views of the Sultan. As the Sultan would have noted, this outline covered a wide variety of topics. Some of them might not seem important to the Sultan but they were important to the Committee, and it wished to be able to present the Sultan's views on these matters to the General Assembly. This was particularly important since the Sultan was not represented in the United Nations.

53. The Chairman then stated that the Sultan had no doubt studied the list of topics and that he was at the disposal of the Sultan to hear his views on them either now or whenever it was suitable to the Sultan.

54. The Sultan expressed his appreciation to the Chairman for his courtesy and for the manner in which he had presented the subject. He then drew attention to his position on the question which he had previously conveyed to the United Nations and to the Committee and stated that his agreement to meet the Chairman was without prejudice to that position. As he had previously informed the United Nations, the question was an internal matter, entirely within his jurisdiction and was not a matter for the United Nations, which had no jurisdiction over a country's internal affairs. He had agreed to meet the Chairman, although he could not officially recognize the Committee.

55. With regard to the situation in his country, he regretted to say that trouble had been engineered from outside. So far as he was concerned, there were no parties to the dispute since the people concerned were his subjects. He had already expressed his views on the question to the Special Representative of the Secretary-General, Mr. Herbert de Ribbing, and they could be found in paragraph 132 of his report (A/5562). The position was that there had been a handful of rebels and that otherwise the country was quiet.

56. The Chairman assured the Sultan that his position on the matter was fully understood. However, the details of the Sultan's point of view on the question and the reasons for his position were not so clear to the General Assembly. For this reason, it might be valuable to explain these matters more fully. He assured the Sultan that any detailed clarifications the Sultan cared to make would be fully reported. Indeed, it was to remedy the lack of information that he had first suggested that the Committee should visit Muscat and Oman, because so much more could be done on the spot to clarify the position.

57. The Sultan remarked on the source of the allegations about his country. He said that these allegations had been made by his subjects and a ruler could not be expected to sit in court as the equal of his subjects. It might be different if the allegations had been made by another country. Even so, he did not believe that there was any substance to the case. The Sultans of Muscat and Oman had always ruled Oman. There had been, from time to time, differences between the tribes. But his country was run on the basis of customs and understandings that had grown up over the years and which together made up the country's Constitution. People from outside did not understand this and tried to speak of the affairs of Muscat and Oman in modern terms, which did not apply. The present matter had to do with the internal affairs of his country and if it had been left to be settled according to his country's ways and customs, it would have been settled by his country and there would have been no occasion for the United Nations to be concerned. However, he would be willing to consider any detailed questions the Chairman would like to put to him on the basis of the outline he had already received.

58. The Chairman said that the first question related to the history of Muscat and Oman.

59. The Sultan said that this was a matter on which he would find it difficult to give any information. He was not alive when some of the events mentioned had happened and therefore he did not know about them. The period covered went back for mo

than 200 years and it was not possible for him to give ınswers and to commit himself on these matters. How- ever, the main points were clear. His family had been in power in Muscat and Oman for over 220 years and ıll the people of Oman were his subjects.

60. He also pointed out that there was no official ıistory of Oman. Books had been written by foreigners ut they had not lived in the times they were writing ıbout and many of them made up stories. In his time, oreigners had come to Muscat and Oman to write ıbout the country but what they had written was not quite the truth. The truth of the matter could not be eached by referring to historians, since each historian commented in his own way, according to his inclina- ions. The subject of history reminded him of criminal roceedings in court. The police prosecutor put forward ne version of the facts while the defence lawyers ex- ounded another.

61. The Chairman said that since there was no fficial history and since historians had put forward lifferent points of view about the history of Muscat nd Oman, it was important that the Sultan's point f view should not be overlooked or ignored. The Chairman asked the Sultan whether there were any ıistorical works written by Omanis.

62. The Sultan said that there was one book called *History of the Imams and Seyyids of Oman,* written y Salil ibn Razik, which had been translated into English by Badger. There had been no copy in Arabic, ut recently he had found a copy in London and had ad it microfilmed. There were other books on the istory of his country, but he did not feel it would erve any purpose to refer to them. In any case, so far s he was concerned, he could only speak with certainty bout the events he had lived through.

63. The Chairman asked the Sultan for his opinion f the book to which he had referred.

64. The Sultan replied that this book was supposed) be one of the best sources. However, what was con- ıined in books of history was not always correct. ometimes the writer was not present when the events bout which he was writing took place.

65. The Chairman said that there were many matters n which the Committee wanted information and that therefore had many questions that it would like to ut to the Sultan. If it would be convenient for the ultan, he could arrange to have these questions given) the Sultan in writing. The Sultan could then make is comments after he had had time to consider them. he Chairman would be at the disposal of the Sultan ıd would be willing to hear the Sultan's comments ersonally, or if it suited the Sultan he could present s comments in writing.

66. The Sultan said that he was quite willing to ll the Chairman all the facts. If necessary, he could) so at once, because he did not have to make up any ories. He had nothing to hide. He had allowed a ımber of journalists to come to his country to write out it, but his experiences with journalists had not en happy ones. If they had come and written about hat they saw, if they had set down the facts, he would ıve had no complaint. But they had spent one or two ıys only in the country, had not inquired or spoken the people and had written untrue things. If they d described things exactly and then made their com- ents, this would have been acceptable. He had nothing say against writers making their comments on the sis of facts. Facts were facts and would speak out of themselves. He had nothing to be ashamed of in Muscat and Oman and was not afraid to let the facts speak out. His rule had been called autocratic, but in truth his people were like his children; he ruled them as a father ruled his family. There were troubles from time to time, sometimes there were quarrels, but these were internal affairs and there was no need for inter- ference from outside. When interference came from outside, however, it was necessary for him to appeal to other people to help him.

67. The Chairman recalled his earlier remarks about the Committee's desire to seek out the facts. If there had been journalists who had reported incorrectly, it was important for the Committee to have the oppor- tunity to record the real facts. That was why it had wanted to go to Muscat and Oman, to see, as it were, "the house and the garden". He assured the Sultan that whatever information and views the Sultan gave would be exactly recorded. The Committee would, of course, make its comments, but these would be recorded separately.

68. The Sultan said that he did not expect the General Assembly to continue with this question any longer. He hoped that this year would see the end of the matter as he could not allow himself to be put into a position of defence any longer. He had hoped that Mr. de Ribbing's report would be final, but un- fortunately this had not been the case.

69. The Chairman said that the General Assembly had no wish to prolong the matter. It had asked the Committee to present a comprehensive report on the subject to provide it with information it felt was lack- ing. It was therefore important that the Sultan's views should be fully reported.

70. It was then agreed that the Chairman would submit a list of questions to the Sultan. The Chairman would be at the disposal of the Sultan and would meet again with him at any time the Sultan suggested. The same day, the Chairman forwarded to the Sultan the list of questions drawn up by the Committee (annex V, item 10).

71. The second meeting took place on 3 September 1964. At the beginning of the meeting, the Sultan said that before he turned to the list of questions the Chairman had given to him, he would like to refer to what he had already stated about his position in the matter. He had taken great pains to emphasize that the United Nations had no right to inquire into the matter which related to the internal affairs of his country; nor could he put himself in the position of having any case to answer. But in spite of this he had agreed to meet the Chairman as a gesture of co- operation to help the Chairman to understand the situation in Muscat and Oman. The trouble in his country had been created by certain parties outside who seized on a rebellion by a few self-interested tribal leaders in order to further their own interests and desires. He doubted whether any of those outside parties had the slightest genuine interest in his country or in the welfare of his people. With reference to some of the questions, the Sultan said that it was not customary for him, or indeed for the Head of any State, to discuss his system of government and ad- ministration with foreign Governments or interna- tional organizations. He wished to emphasize this and hoped that the Chairman appreciated it.

72. The Chairman said he fully appreciated how the Sultan looked on this matter. However, he would like

to make it quite clear that the only interest of the United Nations was to find out the facts through the Committee. The General Assembly had taken no decision on the question and had made no judgement. The General Assembly expected the Committee to gather information and facts and it would certainly take no decision until it had done all in its power to allow the parties against whom allegations had been made to express their views. That was why the Committee wanted to hear and report the Sultan's point of view and to conduct an on-the-spot investigation of the situation. Not all the members of the General Assembly had the same view on the question, and after reading the Committee's report they would be able to make their judgements. It was not impossible that some might have a political interest in the question, but members would make up their minds from the facts presented to them by the Committee. The United Nations sought nothing but a peaceful solution of the problem of which it was seized. The establishment of the Committee demonstrated the thoughtfulness of the General Assembly of the United Nations.

73. The Sultan said that he did not expect the United Nations to solve the question or to give any judgement on it. It was not a question for the United Nations to consider. His agreement to meet the Chairman was meant only as a gesture of co-operation. After this, he expected no further negotiations or discussions with the United Nations.

74. The Chairman said that what the United Nations was really seeking was his co-operation, for without co-operation the United Nations could do very little. The General Assembly could not impose any of its decisions even on Member States. So there was no question of decisions being imposed. The General Assembly could only make recommendations in the interest of settling disputes and maintaining friendly relations between countries. Bearing this in mind he hoped that the Sultan would continue to co-operate as he had already been doing.

75. The Sultan wished to repeat that this was not a dispute between him and another Government; it was one between him and his own subjects.

76. The Sultan then made comments on some of the questions included in the list prepared by the Committee. The information contained in the Sultan's replies is contained in the relevant sections of chapter III below.

77. At the end of the meeting, the Sultan noted that there were still a number of questions on which he wished to comment, and that there were some he would like to consider further before making his comments. It was agreed that the Chairman and the Sultan would continue their discussions when the Chairman returned to London later in the month.

78. At the conclusion of the Committee's meetings in Cairo, the Chairman returned to London on 18 September in order to continue his discussions with the Sultan on 19 or 20 September. It was ascertained, however, that the Sultan had not returned to London. On 19 September, the Chairman addressed a letter to the Sultan[5] recalling the arrangements that had been made for the meeting and regretting that it was not possible for the discussions to be continued on this occasion. The Chairman indicated that he would be glad to continue the discussions, if a mutually suitable time could be arranged, when he passed througl London again at the beginning of October. If this dic not prove possible, the Sultan might consider sendin; the Chairman the clarifications he intended to mak concerning the remaining questions. The Chairman als stated that he had intended to raise again the questio of a visit by the Committee to Muscat and Oman. I this connexion he noted that, following their visit t the neighbouring area, the members of the Committe were more convinced than before that such a visi would be very useful indeed and would be in the in terests of all parties concerned.

79. After the Committee had returned to Nev York, the Chairman received a letter dated 22 Septem ber 1964 from the Sultan of Muscat and Oman i which the Sultan stated that it would not be possibl for him to meet the Chairman in London at th beginning of October as he would be leaving then. Th Sultan also stated that he was unable to agree to furthe visits to the Sultanate by members of United Nation committees, nor, as he had already stipulated, was h prepared to enter into correspondence on these matter:

80. In a reply dated 25 September 1964, the Chair man stated his regret that the Sultan maintained hi previous position concerning visits by the members c the United Nations *Ad Hoc* Committee on Oman t the Sultanate. The Chairman also stated that he wa about to leave New York for Cairo, and that, on th completion of his work there, he would be at th disposal of the Sultan to meet him in Europe, in th Middle East or in Muscat and Oman. If such a meetin was not convenient, the Chairman again suggested th the Sultan might let him have his views on the remair ing questions in writing. The Chairman earnestly hope that the Sultan would extend his co-operation so a to enable the Committee to submit a full report base on the information gathered directly from all th parties concerned.

81. As stated by the Chairman in his correspondenc with the Sultan, the Committee regrets that a furthe meeting between the Chairman and the Sultan did n take place and that the Sultan could not find it po: sible to accept the suggestion that he forward his clar fications on the remaining questions to the Committe

2. *Meeting with officials of the Foreign Office of tl United Kingdom*

82. The Committee met with officials of the Foreig Office in London on 3 September 1964. The discu sions that were held were based on the list of questio previously submitted by the Committee (annex X The information obtained by the Committee is co tained in the appropriate sections of chapter III belo

83. At the conclusion of the meeting, it was agre that comments on additional questions raised durir the meeting by members of the Committee would l forwarded to the Committee later. It was also agre that the Committee could raise further questions, if wished to do so, after its visit to the area. Subsequentl the Committee addressed additional questions to tl United Kingdom. The comments of the United Kin dom on all these questions were conveyed to tl Committee after its return to New York.

3. *Proposed meeting with the Committee for t Rights of Oman*

84. It had been the intention of the Committee hear representatives of the Committee for the Rights

[5] The correspondence between the Chairman and the Sultan on this matter is reproduced in annex V, items 11-13.

)man during its visit to London. However, when the :ommittee arrived in London, it was informed by the :hairman of that Committee that it would not be possible for any representative of the Committee for the Rights of Oman to appear before it.

·. *Meetings with the Imam of Oman and members of his Higher Council*

85. On its arrival in Dammam on 5 September 1964, he Chairman paid a courtesy call on the Imam of)man. On 6 September, the Committee met with the mam and two members of his Higher Council, Sheikh 'alib bin Ali and Sheikh Sulaiman bin Himyar. The :ommittee later met with a third member of the mam's Higher Council, Sheikh Saleh bin Isa, in Cairo.

86. At the Committee's first meeting with the Imam, he Chairman explained that the Committee had come ɔ Dammam on behalf of the United Nations. Its task ʼas to gather first-hand information about the situation ı Oman and to ascertain the facts in connexion with ıe question. It would contact all the parties concerned ɔ hear their views on that situation and question them n matters that might be important and of assistance) the Committee in preparing its report to the General ıssembly of the United Nations. It was therefore nportant to have the co-operation of all the parties ɔncerned in answering the questions put to them by ıe Committee. In this way the Committee could rovide the members of the General Assembly with ɔmprehensive information which would assist them ı their consideration of the question. The Chairman ssured the Imam, as he had assured all the other arties, that what the Committee heard would be noted ı full, and would be objectively reported to the ;eneral Assembly. He also assured the Imam that if ıere was some information he was willing to give the 'ommittee, but which he did not wish to be made ublic, this information would be kept confidential in ıe archives of the United Nations.

87. The Imam said he wished to thank the United 'ations for the great help it was giving Oman. He also ished to thank the Chairman and the members of ıe Committee for giving him and his people the opɔrtunity to meet them. At present the people of Oman ere like all other people under colonial rule and they ırned to the United Nations for sympathy. He himself ıd the members of his Higher Council (*Majlis al hora*) would be pleased to answer any questions about ıe situation in Oman.

88. The Imam then made a brief statement (see ıragraphs 208-216 below), after which he and the embers of his Higher Council answered questions ıt to them by the members of the Committee. The ommittee held another meeting with the Imam and s Higher Council on 7 September, during which rther questions were put and answered. The informaɔn contained in the answers to these questions is set ıt in the appropriate sections of chapter III.

89. On 9 September, before the Committee's deırture for Kuwait, the Chairman paid another courtesy ll on the Imam. At this meeting the Imam drew tention to the plight of the refugees and the people ho were still living in Oman and stated that the ·ople of Oman were asking the United Nations to ·lp them. He added that the problem of Oman was problem for all humanity.

90. The Chairman said that it was his wish and hope for a peaceful settlement of the question, in the interests of the people of Oman.

91. Additional questions prepared by the Committee were given to the Imam and his Higher Council. The answers to these questions were later received at Headquarters.

5. *Meetings with members of the Revolutionary Council, refugees from Oman and other persons*

92. During its visits to Dammam, Kuwait and Cairo, the Committee interviewed 175 persons, some of whom represented many others. These included almost all the members of the Revolutionary Council, many refugees and other persons from Oman who wished to give the Committee information and acquaint it with their views. In addition to this oral testimony, the Committee received over 150 communications on behalf of many more Omanis setting out their views on the question. The information provided by these persons is set out in the appropriate sections of chapter III.

93. In Dammam, the Committee held seven meetings and interviewed fifty-two persons. With the exception of four, all had left Oman between 1955 and 1962. Five stated that they had returned, after having left, to participate in the fighting. Most came originally from the Jabal al Akhdar area, others came from towns in the Dhahirah, the Sharqiyah and Dhofar; none came from Muscat or the coastal areas. Most had been engaged in agricultural and pastoral activities in Oman before they had left, eight had been property owners and landlords, five had been students, three had been *walis*, two had been tribal leaders and two had been traders. Almost all had no employment in Dammam; three were labourers, one was a clerk, one was a trader and another was a student. Twenty tribes were represented among the persons interviewed.

94. In Kuwait, the Committee held nine meetings and interviewed ninety-four persons. Most of these persons were between twenty-one and thirty years old, and of the seventy-four who stated the year they had left Oman, fourteen had left before 1955 and only two had left since 1962. As in Dammam, most came originally from the Jabal al Akhdar area. There were also persons from the Dhahirah, the Sharqiyah and the Ja'lan and at least twelve from the coastal areas. In addition, some came from the Trucial Sheikhdoms. Most had been farmers in Oman, others had been traders, students, landowners and labourers. Almost all were in some kind of employment in Kuwait. The majority were employed as labourers, guards and office boys, but some had responsible positions with private firms and with the Government. Over fifty tribes were represented. Among the persons interviewed was the representative of the Imamate in Kuwait.

95. In Cairo, the Committee held five meetings, two of which were devoted exclusively to interviewing Sheikh Saleh bin Isa, a member of the Imam's Higher Council. At the other three meetings, the Committee interviewed twenty-nine persons, most of whom were young students under twenty-one years of age. Four of those interviewed had left Oman before 1955, the remainder had left at various times, including 1962 and 1963. Some of the students returned each year for their vacations. Eleven of those who gave their place of origin came from such coastal towns as Muscat, Sur and Sib, and from Dhofar province; the remainder came from the interior. Among those interviewed was

the representative of the Imamate in Cairo, the member of the Revolutionary Council responsible for the education of Omanis, representatives of Omani student organizations in Cairo and in Eastern Europe, and a representative of an organization of Omanis in East Africa.

96. While on its mission, the Committee continued its practice of holding its meetings in closed session. With the exception of the first part of the Committee's opening meeting in Cairo, which was open to the Press and the public, all of the Committee's meetings were held in closed session.

97. At the first meeting in Cairo, the Chairman explained the functions of the Committee, reviewed the work it had already done, explained its purpose in visiting Cairo, and invited all persons who wished to give the Committee information to do so. The Chairman also made similar statements to the persons interviewed in Dammam and Kuwait.

98. In most cases the Committee interviewed each person individually. In some cases the Committee heard persons in groups of up to six and in other cases, where the group of persons wishing to be heard was too large, it interviewed one or more persons designated by the members of the group to speak for them. Some persons who had special knowledge or who were of special interest to the Committee were re-interviewed. In Kuwait and Cairo it was not possible for the Committee to interview all the persons who wished to appear before it. These persons were asked to inform the Committee in writing of what they had wished to say to it. Many took advantage of this arrangement and all written petitions and statements were taken into consideration equally with the oral statements made to the Committee.

99. In Cairo, at the conclusion of the Committee's work in the area, the Chairman held a press conference at which he made a statement concerning the Committee's work and answered questions put to him by members of the Press.

6. *Publicity of the Committee's visit*

100. The large number of persons the Committee interviewed and from whom it received written petitions indicates that the Committee's visit to the various centres was well publicized. For this, the Committee is grateful to the different Governments concerned, to the League of Arab States and to the United Nations Information Centre in Cairo.

Chapter II. The question of Oman in the United Nations

1. *Security Council, 1957*

101. The question of Oman was first introduced in the United Nations in August 1957 when representatives of eleven Arab States, in a letter dated 13 August 1957,[6] requested, under Article 35 of the Charter, the convening of the Security Council to consider "The armed aggression by the United Kingdom of Great Britain and Northern Ireland against the independence, sovereignty and the territorial integrity of the Imamate of Oman".

102. The Sultan of Muscat and Oman protestec against this proposal, stating in a telegram dated 17 August 1957[7] that the matters referred to in this request lay exclusively within his internal jurisdiction.

103. In pressing for the inclusion of Oman on the agenda of the Security Council, the representative of Iraq, speaking on behalf of the Arab States, said on 20 August 1957[8] that Oman had enjoyed an independent status for a long time. This status had been recognized by the Treaty of Sib in 1920 which represented a treaty between two sovereign States. The recent military intervention of the United Kingdom, in collaboration with the forces of the Sultan, was a violation of Oman's independent status. The Security Council was being asked to investigate the question, as provided by Article 34 of the United Nations Charter as a dispute or situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation was likely to endanger the maintenance of international peace and security. He explained that the Arab States reserved their position on the measures that should be taken and whether they should be taken under Chapter VI or Chapter VII of the Charter.

104. In opposing the inscription of the item on the Security Council's agenda, the representative of the United Kingdom stated that there was no independent sovereign state of Oman, that the district of Oman was part of the dominions of the Sultan of Muscat and Oman, and that the Sultan's sovereignty over the coastal areas of Muscat and the mountainous district of Oman had been recognized in various international treaties. The Sib Agreement of 1920 was not an international treaty between two separate States, but an agreement concluded between the Sultan and a number of tribal leaders after certain troubles in the interior of Oman had been put down. It allowed the tribes a measure of autonomy but in no way recognized Oman as independent. The military action of the United Kingdom had been undertaken at the request of the Sultan to help him restore order in the face of revolt against his authority which had been aided and encouraged from without.

105. At its 784th meeting, the Security Council decided—by a vote of 4 in favour and 5 against, with 1 abstention and 1 member present but not voting—not to place the question of Oman on its agenda. The voting was as follows:

In favour: Iraq, Philippines, Sweden, Union of Soviet Socialist Republics.

Against: Australia, Colombia, Cuba, France, United Kingdom of Great Britain and Northern Ireland.

Abstaining: United States of America.

Present and not voting: China.

2. *General Assembly (fifteenth session)*

106. In September 1960, ten Arab States requested that an item entitled "Question of Oman" be placed on the agenda of the General Assembly's fifteenth session (see A/4521). In an explanatory memorandum attached to their request, they stated that the Imamate of Oman described as the hinterland of "what is erroneously called the Sultanate of Muscat and Oman", had been invaded by British-led forces, and its capital occupied in December 1955, because of the refusal of the Imam

[6] *Official Records of the Security Council, Twelfth Year, Supplement for July, August and September 1957*, documents S/3865 and Add.1.

[7] *Ibid.*, document S/3866.

[8] *Ibid., Twelfth Year*, 783rd and 784th meetings.

of Oman to grant oil concessions to British companies in their territory. British aggression against the independence of Oman had been brought to the attention of the Security Council in 1957 and, since then, British intervention had continued unabated. This aggression, the memorandum concluded, threatened peace and security in the Middle East and constituted a breach of the Charter of the United Nations and the rules of international law.

107. The question was allocated to the Special Political Committee and was considered by that Committee at its 255th to 259th meetings. At the 259th meeting, the representative of Indonesia introduced a draft resolution co-sponsored by Afghanistan, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, United Arab Republic, Yemen and Yugoslavia (A/SPC/L.67). By this draft resolution, the General Assembly, recalling its resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, would recognize the right of the people of Oman to self-determination and independence, call for the withdrawal of foreign forces from Oman, and invite the parties concerned to settle peacefully their differences with a view to restoring normal conditions in Oman. At the same meeting, the Committee decided, because of lack of time, to postpone further consideration of the question of Oman until the sixteenth session.

3. *General Assembly (sixteenth session)*

108. At the sixteenth session of the General Assembly, the Special Political Committee considered .he question of Oman at its 299th to 306th meetings, nclusive. By a roll-call vote of 40 to 26, with 23 ıbstentions, it decided to grant a request for a hearing nade on behalf of an Omani delegation. (A/SPC/59). This delegation consisted of Sheikh Talib bin Ali, Sheikh Sulaiman bin Himyar and Mr. Mohammed Al-Amin Abdullah. At the 300th meeting, Mr. Mohamned Al-Amin Abdullah addressed the Committee and stated that Oman had enjoyed its freedom and inlependence for centuries. He added that this indeendence had been confirmed by the Treaty of Sib in 920. The United Kingdom had intervened in Oman ›ecause the Omani people had refused to surrender heir sovereignty and resources to it. The Omani people vould fight to the end for Omani independence and or the restoration of their rights.

109. The Committee also had before it a telegram rom the Sultan of Muscat and Oman (A/SPC/62) n which he formally protested against the holding of ny debate about Oman and against hearing any delegaion, and stated that the matters involved fell exclusively ınder the internal jurisdiction of the Sultanate of Muscat and Oman and the United Nations had no ight to concern itself with them at all.

110. In the general debate, it was stated by a numer of representatives that Oman was one of the oldest ully independent and sovereign States, and that the Treaty of Sib of 1920 was not an internal agreement, s represented by the United Kingdom, but an interational treaty. It was emphasized that the question f Oman involved a colonial war of aggression, inspired y greed for Arab oil, against the people of Oman who vere struggling to liberate their country from foreign omination.

111. The representative of the United Kingdom tated that the sovereignty of the present dynasty over the whole area known as Muscat and Oman had been recognized in international treaties. He reiterated that the Agreement of Sib was a purely internal arrangement. The rebellion of certain sheikhs in 1954-1955 had been put down in 1959 with the assistance of the United Kingdom, the rebel leaders had fled and the area had since been at peace. No British combat units were stationed in the Sultanate. He further stated that every Government had the right to seek such foreign assistance in asserting its lawful authority, especially when the rebellion was encouraged from abroad.

112. At its 306th meeting, the Special Political Committee, by a roll-call vote of 38 to 21 with 29 abstentions, approved a draft resolution (A/SPC/L.78 and Add.1) identical to that proposed at the fifteenth session (see paragraph 107 above). This draft resolution had been sponsored by Afghanistan, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Mali, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia.

113. At its 1078th plenary meeting, the General Assembly failed to adopt the draft resolution submitted by the Special Political Committee because it did not receive the necessary two-thirds majority. The vote was 33 to 21, with 37 abstentions.

4. *General Assembly (seventeenth session)*

114. At its seventeenth session, at the request of eleven Arab States (A/5149), the General Assembly again considered the question of Oman. The explanatory memorandum accompanying the request stated that a renewed discussion of the problem was necessary in view of the continued policy of repression pursued by the United Kingdom Government and its failure to take steps for ending the conflict on the basis of the recognition of the rights of the people of Oman. It added that the situation was fraught with dangers, and, if allowed to continue, might imperil international peace and security.

115. The question was again allocated to the Special Political Committee and was considered by that Committee at its 351st to 357th meetings. At the 351st meeting, the Committee decided to grant a request for a hearing (A/SPC/73), made on behalf of Sheikh Talib bin Ali, by a roll-call vote of 51 to 9, with 26 abstentions. The Committee heard a statement by Sheikh Talib bin Ali at its 352nd meeting.

116. The Committee had before it a cable from the Sultan of Muscat and Oman (A/5284), in which he recalled that the General Assembly had the previous year declined to adopt a draft resolution concerned with the Sultanate, and adding that he was therefore unable to understand why it was necessary to discuss again a draft resolution which had already been rejected. He trusted that the Assembly would, as before, refuse to permit any further moves to intervene in matters which fell exclusively within the internal jurisdiction of the Sultanate of Muscat and Oman.

117. During the debate,[9] a number of speakers reiterated previous arguments that Oman was a sovereign State, denounced British military intervention on behalf of the Sultan and charged that the United Kingdom was denying the Omani people their right to

[9] For a full summary of the debate in the Special Political Committee, see *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 78, document A/5562, paras. 34-75.

self-determination and independence because of its interest in the oil of that region.

118. The representative of the United Kingdom again stated that the rebellion in Oman had been fomented from abroad, and that the United Kingdom had intervened at the Sultan's request, but that it had subsequently withdrawn all its combat troops from the region. He also stated that Oman had never been an independent State separate from Muscat; its people were of the same race and had the same language and religion, and the principle of self-determination was inapplicable in the case of Oman.

119. Some delegations stated that, as they lacked sufficient information about the situation, they were unable to reach any conclusion about the question of Oman. It was pointed out that all information on the question came from the Arab States and the United Kingdom and their accounts of it were contradictory in every respect. It was suggested that a United Nations commission or commissioner might be appointed to inquire into the question.

120. By a roll-call vote of 41 to 18, with 36 abstentions, the Special Political Committee approved a draft resolution which had been jointly sponsored by Afghanistan, Algeria, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Mali, Mauritania, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia (A/SPC/L.88). This draft resolution was identical to that proposed at the fifteenth and sixteenth sessions (see paragraphs 107 and 112 above).

121. At the 1191st plenary meeting of the General Assembly, the representative of the United Kingdom made a statement on behalf of the Sultan of Muscat and Oman to the effect that the latter, while preserving his position and not recognizing the right of the General Assembly to discuss the internal affairs of his country, was prepared, on the understanding that the General Assembly did not take any formal action at this stage, to invite on a personal basis a representative of the Secretary-General of the United Nations to visit the Sultanate during the coming year to obtain first-hand information on the situation there.

122. At the same meeting, the General Assembly failed to adopt the draft resolution submitted by the Special Political Committee. In a paragraph-by-paragraph vote, none of the paragraphs obtained the required two-thirds majority.

5. *Report of the Special Representative of the Secretary-General on his visit to Oman (A/5562)*

123. Following discussions with the Permanent Representative of the United Kingdom concerning the invitation issued at the 1191st plenary meeting, the Secretary-General appointed Mr. Herbert de Ribbing, Swedish Ambassador to Spain, as his Special Representative. He was instructed (see A/5562, paras. 81 and 82) that his primary task was to be a fact-finding one. He was to visit the area some time in May 1963 and report on such questions as the presence of foreign troops in Oman, any evidence of oppression, instances of sabotage and fighting, the existence of a "rebel movement", and the existence of any "rebel forces" actually in control of a particular area.

124. The Special Representative arrived in Salalah on 23 May. From 25 May to 9 June 1963, the mission was in Muscat for discussions of the programme and in Oman for its fact-finding assignment. The mission met Imam Ghalib bin Ali in Saudi Arabia between 19 and 23 June and held discussions with officials of the Foreign Office in London before returning to New York on 1 July 1963. The report of the Special Representative was transmitted to the Secretary-General on 21 August 1963 and was made available to the General Assembly on 8 October 1963.

6. *General Assembly (eighteenth session)*

125. By a letter dated 9 September 1963, the Permanent Representatives of the thirteen Arab States requested the inclusion of an item entitled "Question of Oman" in the agenda of the eighteenth session (A/5492 and Add.1). The explanatory memorandum accompanying this request recalled that, in 1957, the Security Council had considered British armed aggression against the independence, sovereignty and territorial integrity of the Imamate of Oman and that at the sixteenth and seventeenth sessions of the General Assembly a substantial majority had recognized the right of the people of Oman to self-determination and independence and had called for the withdrawal of foreign forces from Oman. The memorandum pointed out that the people of Oman were still denied their right to freedom and independence, and stated that the United Nations could not remain indifferent to the fate of a people who, for years, had struggled for the attainment of their freedom and independence. In view of the continued policy of repression pursued by the Government of the United Kingdom and its failure to implement the Declaration on the Granting of Independence to Colonial Countries and Peoples, the General Assembly must consider the question again and deal with it as an essentially colonial problem.

126. At its 153rd meeting, the General Committee of the General Assembly recommended, without a vote, the inclusion of the item in its agenda. At its 154th meeting, a discussion took place as to which Committee of the General Assembly should consider the item, and it was recommended, by a vote of 11 to 7, with 3 abstentions, that it should be allocated to the Fourth Committee. The representative of the United Kingdom, after expressing reservations concerning the inclusion of the item in the agenda, objected to its allocation to the Fourth Committee. At its 1210th plenary meeting, the General Assembly approved the recommendation of the General Committee.

127. The Fourth Committee granted requests for hearings to Mr. Faris Glubb, representing the Committee for the Rights of Oman, and to Sheikh Tahir bin Ali, who made statements and answered questions put to them at the 1495th to 1498th meetings and at the 1505th meeting. The Committee had before it the above-mentioned report of the Special Representative of the Secretary-General, a memorandum entitled "The legal and historical aspects of the Oman question" (A/C.4/604/Add.1) submitted by the Chairman of the Committee for the Rights of Oman, and a telegram from the Sultan of Muscat and Oman (A/C.4/619). In his telegram, dated 26 October 1963, the Sultan recalled that, at its previous session, the General Assembly had again rejected a draft resolution expressing judgement on matters exclusively within his jurisdiction. He noted that the subject was again to be debated, and "even more incongruously", in the Committee dealing with trusteeship matters and Non-Self-Governing Territories. He reiterated that he continued to hold sole responsibility for all matters within his territories, which were sovereign and independent, no

subject to any form of trusteeship, nor in any sense non-self-governing. He referred members to the report of the Secretary-General's Special Representative, which he hoped would put an end to the matter.

128. In the general debate in the Fourth Committee, representatives adopted one of three main positions on the question:

(*a*) Some representatives stated that the question of Oman was a colonial one and they were prepared to support measures that would deal with it as a colonial problem;

(*b*) Some representatives stated that the question of Oman was an internal one, and that therefore no action was necessary;

(*c*) Some representatives felt that they could not support either of these two contentions and that before any decisions were made a further elucidation of the problem was necessary.

A brief outline of the main arguments presented in support of these three positions follows.

Outline of the main arguments put forward by those representatives stating that the question was a colonial one

129. It was stated that the question of Oman could not be properly understood except in the light of the colonial régime maintained by the United Kingdom in the southern and eastern parts of the Arabian Peninsula. The presence of oil and strategic considerations explained United Kingdom colonialism in the area which manifested itself in various forms. Some areas were known as colonies, others were controlled under the name of protectorates or pseudo-legal arrangements imposed by the United Kingdom in the nineteenth century. In all cases the people were dominated by foreign rule which exploited their resources and deprived them of their political, economic and human rights.

130. The manifestations of colonialism apparent in Oman were, first, a series of treaties imposing heavy and unreasonable obligations on the Territory. In support of this, the following treaties and agreements were cited:

1798 Treaty between the Sovereign of Muscat and the East India Company.

1800 Treaty between the Sovereign of Muscat and the United Kingdom.

1839 Trade agreement between Muscat and the United Kingdom by which privileges and extra-territorial rights were granted.

1862 Declaration by the United Kingdom and France guaranteeing independence of Muscat and Zanzibar. It was stated that this was designed to prevent France from interfering and thus enable the United Kingdom to separate Muscat from Zanzibar. It was also stated that this Declaration was violated when Zanzibar was made a British Protectorate in 1890 and when, in 1891, the Sultan signed the "Non-Alienation Bond" which was simply a protectorate agreement.

951 Treaty of Friendship, Commerce and Navigation. It was stated that annexes to the Treaty showed that the British Consul-General was the only foreign representative in the Sultanate and he continued to enjoy certain extra-territorial rights and privileges.

958 Agreement with the United Kingdom providing military assistance in return for continued use of military air bases by the United Kingdom.

131. The heavy obligations imposed in these treaties, t was stated, tended to transform the Sultanate into a *de facto* protectorate or quasi-protectorate, if not a *de jure* protectorate. It was also pointed out that the fact that the Sultanate had entered into agreements or treaties of limited scope did not prove that it was an independent state. It was further pointed out that jurists, including Oppenheim, agreed that, while the status of a British protectorate was not clear, the relationship between sovereign and vassal and protector and protectorate did not prevent the vassal and protectorate from concluding agreements of limited scope.

132. A second manifestation of colonialism referred to was "the attempt by the United Kingdom to dismember Oman". Greater Oman had been divided by the British into nine entities, namely, the Imamate of Oman, the Sultanate of Muscat and the seven sheikhdoms known as Trucial Oman. Moreover, in 1854, the Sultan was forced to cede to the British the islands of Kuria Muria.

133. A third manifestation of colonialism pointed out was the repression in the Territory. Indications of repression, it was stated, could be gathered from the Special Representative's report (A/5562), as for example in paragraphs 110, 115, 117, 120, 121, 123, 125, 130 and 131.

134. A fourth manifestation was the successive armed British attacks on the people, the most recent having taken place in 1957.

135. A fifth manifestation was British presence and domination in the Territory. This was attested by the long list of Britons intimately associated with the Territory's affairs from 1800 to the present day. This list included Captain John Malcolm, who concluded the treaty of 1800; Captain Freemantle, who requested the Kuria Muria Islands in 1854; Major Rae, British Consular and Political Agent in Muscat, 1922; Captain Eccles, who commanded the Sultan's forces; Captain Cox, Political Agent in Muscat; Captain Hart of the Royal Navy; Colonel Ross, British Political Resident in the Persian Gulf; Sir Ronald Wingate, British Consul and Political Agent in Muscat, in 1920; Bertram Thomas, the *wazir* of the present Sultan's father; Basil Woods Ballard, Minister for Foreign Affairs at the time of the signing of the Indo-Muscat treaty in 1953; Brigadier Waterfield, present Secretary of Defence; and Major F. C. L. Chauncy, special or personal adviser. Today, this British presence and domination could be discerned in at least three essential fields of government: foreign affairs, military affairs, and economic affairs.

136. The existence of these manifestations of colonialism indicated that the Territory was of the colonial type, a *de facto*, if not *de jure*, protectorate; that in its state of subjugation the Territory had no complete international responsibility for acts relating either to external sovereignty or internal administration; and that the repressive measures and armed attacks inflicted on the people deprived them of their prerogative of exercising the right of self-determination in peace and freedom and the right to independence.

137. Some representatives paid particular attention to the question of the status of Oman. They pointed to the long history of the Imamate as a religious and temporal entity, and to the illegality of the actions leading to the establishment of the Sultanate of Muscat, which had been able to maintain its independence only through British support. They laid particular stress

on the Treaty of Sib as confirmation of the independent status of Oman. This treaty had governed the relations of the two states until it was broken by British armed intervention and Oman was forcibly annexed to the Sultanate of Muscat.

138. Most representatives who supported this point of view drew attention to limitations imposed on the mission of the Special Representative of the Secretary-General which, they believed, reduced its importance. They pointed out that the mission had been carried out on the basis of a personal invitation from the Sultan. As a result, for instance, the Special Representative had stated that he could not include in his report the discussion he had had with the Imam. Also, it had not been possible for a representative of the Imam to accompany the Special Representative. These representatives also drew attention to the following statements in the report of the Special Representative (A/5562) which, they stated, indicated its incompleteness:

"I have tried to approach these questions with the utmost care, but a thorough evaluation of them would require much more time and experience than the mission had at its disposal." (Letter of transmittal.)

"The mission is well aware that in spite of all assistance and co-operation it received, its observation could not be fully comprehensive." (Para. 90.)

"The mission did not have the time, nor did it consider itself to be competent, to evaluate the territorial, historical and political issues involved." (Para. 136.)

"A judgement on the question of which interpretation of the Treaty (Agreement) of Sib is correct falls outside the specific terms of reference of the mission." (Para. 149.)

139. In determining what action should be taken, one representative stated that the fundamental aspect of the question was not whether Oman had the right to be independent of Muscat, but whether the people of Oman should be assisted in throwing off the British colonialist yoke imposed on them by recent armed attacks and, in doing so, liberating their brothers of Muscat. If, as the United Kingdom had maintained, the question of Oman could not be considered independently of the question of Muscat, then both questions could be examined by the United Nations.

140. Representatives who believed that the question was a colonial one stated that it should be referred to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and gave the following reasons:

(*a*) That Committee was called upon by its terms of reference to examine the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples;

(*b*) The Declaration applied not only to Trust Territories and Non-Self-Governing Territories, but to any other Territories which had not yet achieved independence. Moreover, it was pointed out that the Declaration proclaimed the necessity of bringing colonialism, in all its forms and manifestations, to a speedy and unconditional end;

(*c*) It was desirable that the body to which this question was referred should take a comprehensive view of the problem. The Special Committee was especially suitable as it already had the questions of Aden and Zanzibar before it.

Outline of the main arguments put forward by representatives stating that the question was an internal one

141. The representative of the United Kingdom stated that Oman was neither a British colony nor part of a British colony. The familiar legislative and executive features of the British colonial system did not exist in relation to the Sultanate of Muscat and Oman. Parliament had no right to legislate, there was no British Governor to whom instructions might be issued and the Sultan conducted his own foreign policy.

142. The basis of the relationship between the United Kingdom and the Sultanate was outlined in the Treaty of 1951, which superseded all previous treaties of this kind. This was clearly a treaty between two independent countries; it contained no provisions infringing the independence of Muscat and Oman; it had no provisions requiring the Sultan to accept the advice of British advisers; nor did it contain any delegation to the United Kingdom of the conduct of the Sultanate's foreign relations. The fact that a British subject held the post of Secretary of Defence in the Sultan's Government did not prove that Muscat and Oman was a British dependency. It was common practice in many parts of the world for persons to be employed in important offices in countries which were not their countries of origin and no one assumed that they took their orders from their own country rather than from the Government that employed them. The Sultan was under no obligation to accept British advice in regard to his foreign affairs, although, purely on an *ad hoc* basis, he did ask the United Kingdom Government to undertake the conduct of certain affairs or negotiations on his behalf. The independence of Muscat and Oman was also recognized by The Hague judgement of 1905 and in the treaties contracted with other sovereign countries.

143. It had been alleged that if Muscat and Oman was not a colony then a "colonial situation" existed in Muscat and Oman with which the Committee should deal. It was true that the United Kingdom provided economic and military assistance under the 1951 Treaty and a subsequent agreement in 1958; but this in no way diminished the sovereign status of the Sultanate. No one could seriously suggest that the acceptance of such aid established a colonial situation.

144. With regard to the charge of British armed aggression in the area, the situation was that the United Kingdom Government, at the request of the Sultan, had come to the aid of the Sultanate in 1957 and subsequently, when the territorial integrity of the country was threatened with armed rebellion by tribesmen from the interior, supported by aid from outside the country. There was nothing illegal about this action.

145. The representative of the United Kingdom said that it should be made clear that armed rebellion against a legitimate Government did not establish the right to self-determination on the part of the rebels, nor did it bring into play on their behalf the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

146. He reiterated that Oman never had a separate existence and that no international treaties or agreements existed between it and other countries. With regard to the claim that the Agreement of Sib of 1920 proved conclusively the existence of the Imamate of Oman as an independent State, he said that the agreement merely granted autonomy over certain interna

affairs to the tribal leaders of the interior, and neither its substance nor its form bore out the claim that it was an international agreement. If the British Government exercised colonial rule in the Sultanate of Muscat and Oman, the Agreement of Sib, being made between the inhabitants of a colony, could not have any international significance. If, however, it was argued that the agreement was an international treaty between two sovereign States, then equally clearly Muscat and Oman was not a British colony.

147. With regard to the report of the Special Representative of the Secretary-General, the representative of the United Kingdom stated that, contrary to what had been said about the limitations on the mission, it had had complete freedom of movement, visiting all the principal inhabited places, including Nazwa, the centre of the revolt. The report could therefore be considered as thoroughly up-to-date and authoritative.

148. The representative of the United Kingdom said that the report made it plain that the people of the territory did not recognize the existence of the Imamate as a separate State and that the rebel cause enjoyed little or no support today. The report also stated, in paragraph 95, that there had been no fighting recently, and no active warfare had been going on since January 1959. There was therefore no truth in the allegation that extensive warfare was continuing. The truth was that the whole question had been subjected to intense exaggeration. The country was at peace and there had been no fighting for more than four years. Therefore nothing remained of the so-called question of Oman and the Committee should refuse to recommend further discussion of the matter inside the United Nations.

149. Other representatives also said that in their view the question was not a colonial one.

Outline of the main arguments of those representatives desiring further information

150. A number of representatives stated that the report by the Special Representative of the Secretary-General was an honest one that was useful to those delegations which desired impartial information. The report, however, was not complete, as had been pointed out by the author himself. One representative recalled that it had been stated that the defects of the report were due to the lack of precise terms of reference, but he did not believe this to be the case. While the Fourth Committee felt it to be imprecise and vague in some respects, the Special Political Committee would not have regarded it in the same light. He pointed out that the mission had arisen from discussions where the question was posed from a different viewpoint. Previously, the question of Oman had been considered as a question of aggression by one State, Muscat, against another State, Oman, which had been deprived of its independence, and the parties had been urged to solve their differences. Now, however, the problem was posed in different terms. What was sought was the end of colonialism, not only in Oman, but also in Muscat. Whereas previously self-determination and independence had been sought for Oman, now self-determination and unification were desired. This had changed the aspect of the problem and explained why it had been referred to the Fourth Committee and might explain some of the omissions in the de Ribbing report. In view of this change, he wondered whether the invoking of the Treaty of Sib was as important as it had been last year.

151. A number of representatives felt compelled to be cautious in the case of Oman because of their opposition to intervention in the domestic affairs of a State. They also felt that the problem of Oman was still obscure, still confused, whether it was viewed as an international problem, as a domestic problem or as a colonial problem. They had not yet arrived at any definite opinion, nor did they wish to take any hasty decisions. That did not mean that the case of Oman should be left to one side. But they believed that the report of Mr. de Ribbing, as he himself had admitted, had not exhausted the subject.

152. One representative wondered whether British intervention was still continuing and, in this respect, noted that the de Ribbing report indicated a British presence rather than intervention. Another representative said that an attempt had been made to oversimplify the problem; some speakers had said it was a typical colonial problem, while the United Kingdom seemed to consider that there was no such question as the question of Oman. There were many questions that were not clear:

(1) The term "Oman" was sometimes used in its broad sense to include the Trucial States and Muscat and sometimes in a narrower sense.

(2) Did Muscat and Oman constitute two entities or one?

(3) Was it desirable to encourage the separation of Oman from Muscat, even in the name of self-determination, if, in fact, the two areas constituted a single entity?

(4) If the situation was not a case of colonialism, was it a case of neo-colonialism and was it within the province of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples?

One thing that was clear was that the problem constituted a genuine international problem which should continue to receive the attention of the United Nations. However, he was not sure that the Special Committee was the appropriate body to examine the problem as this seemed to prejudge the question. The best solution would be to establish an *ad hoc* committee to consider and elucidate those aspects which were still confusing.

Action taken by the General Assembly

153. At the 1503rd meeting of the Fourth Committee, the representative of Tunisia introduced a draft resolution sponsored by Afghanistan, Algeria, Indonesia, Iraq, Jordan, Kuwait, Lebanon, Libya, Mali, Morocco, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia (A/C.4/L.783 and Corr. 1). By this draft resolution, which recalled resolution 1514 (XV) of 14 December 1960, the General Assembly would: (1) recognize the right of the people of Oman to self-determination and independence; and (2) invite the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to examine the situation in Oman and to submit a report to the General Assembly at its nineteenth session.

154. At the 1504th meeting, the representative of Tunisia introduced on behalf of the co-sponsors a revised text of the joint draft resolution (A/C.4/L.783/Rev. 1), which deleted operative paragraph 1 of the original draft resolution.

155. At the 1506th meeting, the representative of Brazil introduced a draft resolution which was sponsored by Argentina, Brazil, Costa Rica, Ecuador, El

Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Peru, Uruguay and Venezuela. (A/C.4/L.784). This draft resolution proposed the establishment of an *ad hoc* committee to examine the question of Oman.

156. Introducing the draft resolution on behalf of the thirteen Latin American sponsors, the representative of Brazil said that the draft, without prejudging the question in any way, made provision for an exhaustive study of the matter which would enable the General Assembly at its nineteenth session to take a decision in full knowledge of the facts. In a further clarification he said that it was the intention of the sponsors that the proposed *ad hoc* committee should not only be a fact-finding body, but should also undertake a study of the question of Oman. The sponsors had therefore asked the parties concerned to extend all possible facilities, including facilities for visits to the area. "Area" was the most comprehensive term which could be employed in order to leave it to the discretion of the proposed *ad hoc* committee to decide what Member States and non-member States in the Arab world or outside it were legitimately concerned in the problem.

157. At the same meeting, the Committee decided to give priority to the thirteen-Power draft resolution (A/C.4/L.784), which it then approved by a roll-call vote of 95 to 1, with 7 abstentions.

158. The General Assembly, at its 1277th plenary meeting on 11 December 1963, adopted this draft resolution as resolution 1948 (XVIII) by a roll-call vote of 96 to 1, with 4 abstentions.

Chapter III. Information gathered by the Committee

A. Terminology

159. In reporting on the question of Oman, not the least of the problems concerns the use of the term "Oman". As the Secretary-General's Special Representative noted in his report on his visit to Oman (A/5562, para. 1), it is a name that has been used in different ways depending on who is referring to it and on the context in which it is being used. In one sense the term has been used to describe a broad geographical area; used in another sense, it has meant a narrower geographical area; and in yet another sense, it has been used to designate a political unit. Often it has been used in a general sense, with no clear indication as to whether a reference to a geographical or a political entity is intended and sometimes it is apparent that it is meant to cover a mixture of both.

160. The term itself derives from early writers who distinguish Oman as one of the main politico-geographical entities in South Arabia between the sea and the desert. Although it is impossible to ascribe any precise boundaries for Oman used in this general sense, it is apparent that early writers had in mind the area between the sea and the desert from the borders of the Hadhramaut in the south, to the shores of the Persian Gulf[10] in the north. This is in keeping with the description of Oman given to the Secretary-General's Special Representative during his visit there in 1963, and appearing in paragraph 1 of his report:

"It corresponds to the whole area from Zufar [Dhofar] in the south to Qatar in the north, with the sea and the desert as ultimate frontiers".

161. The area delimited in these terms has also been called "Greater Oman". This term was used, for instance, by one representative speaking in the Fourth Committee at the eighteenth session who referred to "Greater Oman" as including nine political units namely the seven Trucial States, Oman and Muscat.

162. When an identifiable political unit developed in the Oman area in the first and second centuries A.D., it became known as the "Province of Oman" or simply "Oman". When later it became independent, the term "Oman" was used to describe this political unit a practice that was continued until some time in the late eighteenth century. The boundaries of the political entity known as Oman during this period are impossible to define with any exactness. They varied from one time to another and, in any case, were probably never marked or known with any degree of precision

163. In the eighteenth century, when Europeans began to take an active interest in the area and came into contact with the port of Muscat, the term "Muscat" began to be used by Europeans to describe the political unit ruled from Muscat. For a time, both "Oman" and "Muscat" were used interchangeably by Europeans. As the nineteenth century progressed, the use of the term "Muscat" became more common. The term "Oman" was used in European literature to describe either the area generally or the area inland from Muscat. However, when describing the people of the whole area, the word "Omani" continued to be used

164. The use of the term "Muscat and Oman" by Europeans, to describe the political entity ruled over by the Sultans, dates at least as far back as 1891 when it was used in a treaty with the United Kingdom Since then, it has been used by the Sultans in the treaties concluded by them.

165. The term "Oman" as the name of a political entity came into common use again in European literature with the election of an Imam in 1913. It has been used since then to describe a political entity, separate from "Muscat" and "Oman", occupying the inland area behind Muscat and covering parts of the mountain and their western slopes to the desert.

166. Throughout this report, the Committee will use the terminology which is most apt and clear and which is applicable to the *de facto* situation at a given time. It does this on the clear understanding that the use of such terminology in no way prejudges any of the questions at issue, including the question of sovereignty

B. Description of Oman

1. *Geography*

167. Physically, Oman consists of three geographical divisions: a mountain range, a coastal plain and a plateau. The mountain range stretches in a crescent from the north-west to the south-east. Though almost continuous, the mountain range is partially broken by a stream-bed, the Wadi Sumail, which runs into the Gulf of Oman. The north-western section of the range is called the Western Hajar, its most prominent feature being Jabal al Akhdar or Green Mountain. The south-eastern section is called the Eastern Hajar. The highest peak of the mountain range is over 9,000 feet.

168. The coastal plain, the Batinah, lies between the mountain range and the Gulf of Oman. This narrow plain, about 150 miles long, begins near the Sheikhdom

[10] The Committee notes that some delegations use the term "Arabian Gulf" rather than "Persian Gulf". The Committee's use of the term "Persian Gulf" throughout this report is based on a standard reference work entitled *Limits of Oceans and Seas*, published by the International Hydrographic Bureau in Monaco, in 1953. The nomenclature used in this source is "Gulf of Iran" (Persian Gulf).

of Fujairah in the north and ends near Muscat where the mountains descend abruptly to the sea.

169. The plateau region lies to the west of the mountain range and stretches to the edge of the desert. This region has an average height of 1,000 feet above sea level. It is barren and rock-strewn and crossed by numerous *wadis* or stream-beds. As it approaches the desert, it gives way to gravel plains which eventually merge with the Rub'al Khali (the Empty Quarter). The north-western section of this region is called the Dhahirah; and the south-eastern, the Sharqiyah.

170. In addition to the areas already mentioned, here is a region south-east of the Sharqiyah which is alled the Ja'lan. South of the Ja'lan, and separated rom it by the desert which at this point reaches to he coast, is Dhofar. Unlike other areas, Dhofar is ertile: rain comes yearly with the south-west monsoon nd it is protected from the dry hot wind which blows from the desert by the Jabal Qara.

171. The total area of Oman has been estimated at 32,000 square miles. Estimates of its population range rom 500,000 to 2 million. The population is concen-rated in the Jabal al Akhdar area, the Batinah nd Dhofar. Muscat, the capital, is also the main port nd has an estimated population of about 6,000.

172. The climate of Oman is generally very hot, with the temperature ranging from 54 degrees F. in the old season to 130 degrees F. in the hot season. From May to October the temperature seldom falls below 100 legrees F. Oman, excluding Dhofar, receives an aver-ge of four inches of rain a year. On account of the outh-west monsoon Dhofar has received as much as wenty-five inches of rain in the rainy season of June o October. Generally, the higher regions of the moun-ain receive more rain than the plains. Except for Dhofar, the higher regions and along the Batinah oast, most of Oman is spare and dry. In these areas, lesert shrubs and desert grass abound. Apart from ain, water for cultivation is obtained from wells which re numerous along the Batinah coast. The numerous *vadis* that flow down the western slope of the mountain ange are also exploited for water by a system of under-round water channels called *"falaj"*.

2. *Economy*

173. The economy of Oman is mainly pastoral and gricultural. The chief products are dates and fish and ereals, the latter being grown for local consumption. The main exports are dates, fish and fish products, mes and other fruit. Animal husbandry is widely, hough not intensively, practised. In recent years two xperimental farms have been established, one at Nazwa nd one at Suhar where research on irrigation and ertilization techniques is being carried out. Oil ex-loration is being carried out by two companies, one British and one American, in the Dhahirah and Dhofar espectively.

174. According to the latest figures the annual rev-nue is about 11 million rupees.[11] The principal sources f revenue are customs duties and payments from etroleum concessions. Payments from petroleum con-essions amount to about £100,000 annually. In addi-on, the United Kingdom Government pays an annual fee of £6,000 for the use of the airfields at Salalah and Masirah.

175. Trade is mainly with the United Kingdom,[12] India, Pakistan and the Gulf States. In the fiscal year ending 31 March 1961, imports amounted to 356 million rupees and exports to 78 million rupees. The main items of imports are rice (8,705,300 Rs.), wheat and wheat-flour (2,196,300 Rs.), sugar (1,441,100 Rs.), cement (718,900 Rs.), coffee (3,474,300 Rs.), vehicles and accessories (940,800 Rs.), and cigarettes and to-bacco (578,500 Rs.). The principal items of exports are dates, fish and fish products, limes and other fruit, firewood, vegetables, hides, goat hair and wool.

176. The only roads of good standard run from Muscat to Matrah. Otherwise most of the country is traversed by motorable tracks. Stream-beds or *wadis* are also used as avenues of transport and inland travel is mostly by pack animals. Muscat is on the main shipping route between Bombay and Basra. In 1962, 208 ocean-going ships entered and cleared Muscat. Other coastal towns are served by small vessels. There is a twice-weekly plane service between Muscat and Bahrain. The airport of Bait al Falaj is five miles outside of Muscat. There are also airports at Masirah and Salalah in Dhofar.

3. *The People*

177. The people are mainly of Arab stock, although, in the coastal areas in particular, the population is of mixed origin owing to the presence of Asian and African elements in the past. A majority of the people is settled in villages but there is a sizable group of nomads.

178. With the exception of those living in Muscat, the people are organized into tribes. There are said to be over 200 distinguishable tribes. One petitioner informed the Committee that the largest tribe was the Bani Riyam, which numbered 50,000. Other large tribes and their number were as follows: the Wahibah (about 20,000), the Siyabiyin (about 20,000), the Janubah (over 10,000), the Bani Hina (about 20,000), the Bani Ruwaha (about 20,000), the Bani Bu Ali (about 20,000), the Hajriyin (about 20,000), the Harth (about 20,000) and the Duru (about 50,000).

179. Historically, the tribes have formed themselves into two main groups, the Hinawi and the Ghafiri. The basis for this grouping is said to be partly related to differences in origin and partly to differences of religion.

180. It is generally agreed that Oman was populated as a result of two principal migrations. The first migra-tion was from Yemen and began some time before the beginning of the Christian era. These migrants settled largely in the south-eastern portions. Their descendants are largely identified with the Hinawi group of tribes. The second migration occurred in the fifth or sixth century A.D. and came from the north-west. These migrants settled on the shores of the Gulf and in the Dhahirah and moved southwards and eastwards into the mountains. Their descendants are largely identified with the Ghafiri group of tribes.

181. With the exception of a small group of people in the Qara mountains in the province of Dhofar, all are Moslems. There are two main Moslem sects, Sunni and Ibadhi. The majority of the Ghafiri tribes are Sunni while the majority of the Hinawi tribes are

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[11] All figures are for the fiscal year ending 31 March 1962 id have been obtained from *The Statesman's Year-book, 1963*,). 1264-1266. The exchange rate is 13.3 rupees to the pound erling.

[12] Additional information on trade with the United Kingdom is included in paragraph 539 below.

Ibadhi. The Committee was informed by a petitioner of some education that Oman was divided equally between Sunnis and Ibadhis and that there was very little difference between the two sects in matters of Islamic law.

C. General views on the question presented to the Committee by Member States and by the Sultan and the Imam

1. *United Kingdom*

182. The view of the United Kingdom on the question and information on it was contained in the statement made to the Committee and in a memorandum. In his statement (annex VI), the representative of the United Kingdom said, at the outset, that any information which his Government gave to the Committee about Muscat and Oman could only properly be related to the matter of the relations of Her Majesty's Government with that country and with its ruler, His Highness Sultan Said bin Taimur. His Government's memorandum (annex VII), therefore, dealt with the British relationship with the Sultanate and only mentioned other relationships and the Sultanate's domestic affairs in so far as these were required to clarify the relations of the United Kingdom with Muscat and Oman. Accordingly, the memorandum would not set out to describe the domestic affairs of Muscat and Oman, which were solely the concern of the Sultan and his Government. He then informed the Committee that the United Kingdom's relationship with the Sultanate had at all times been one between two sovereign Powers. At no time in history had Muscat and Oman been a dependency of the United Kingdom or had the status of a Protectorate, a Protected State or a Colony. In the eighteenth century and throughout the nineteenth century, Britain's interest in the trade route to India and in the suppression of piracy, the slave-trade and gun-running in the Indian Ocean and the Persian Gulf had much to do with the character of the relationship between it and Muscat and Oman. At that time Britain, which had no reason or desire to derogate from the sovereignty of the Sultan, had an interest in ensuring that other Powers equally respected that sovereignty. It was in recognition of this interest that the then Sultan of Muscat and Oman had agreed with the British Government in 1891 not to alienate his territory to any third Power. The position today, as it had been in the past, was that British assistance, whether economic, military or political, had been provided to the Sultanate as a fully independent sovereign State.

183. The representative of the United Kingdom then drew attention to specific matters relating to the status of the Sultanate. These matters and other matters on which information was provided in his Government's memorandum during the Committee's discussions in London are set out in appropriate sections of this chapter.

2. *Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic and Yemen*

184. The Arab States, in their memorandum (annex IX), drew attention to the previous consideration of the question in the United Nations since 1957 and stated that since the views of the Arab delegations regarding the various aspects of the problem had been fully and elaborately expressed on these occasions, they would not restate their views on the merits of the question, but would stress certain points and submit a few suggestions, which had, in their view, great and significant bearing on both the issue at stake and the task entrusted to the *Ad Hoc* Committee. They pointed out that the existence of Oman as an independent and sovereign State under the Imamate system, a democratic form of authority chosen by the people, had been a historical fact for over twelve centuries. This independence and sovereignty had not only been acknowledged by jurists, historians, and writers, but also recognized as well as confirmed, in words and deeds, by officials of the United Kingdom Government in both their interactions with officials of the Imamate and other political entities.

185. Attention was drawn to the Treaty of Sib signed on 25 September 1920, which, it was stated, was an unequivocal recognition by the Sultan of the independence of the Imamate and the existence of Oman as a distinct entity. Moreover, the fact that the Sultan had refused so far to produce the original text of the Treaty confirmed the argument that, under the provisions of the Treaty, the Imamate was recognized as independent and sovereign.

186. In spite of British attempts during the past two hundred years to subjugate Oman to colonial rule, the people of Oman had been able to defend their independence. Nevertheless, certain parts had been detached from Oman, amongst which was what had become the Sultanate of Muscat, and subjugated, under various forms and names, to British colonial rule. Because of the refusal of the Imam to sanction the granting of an oil concession to a British company and because of his opposition to British colonial interests in the strategic area, the United Kingdom had found it opportune in 1955 and 1957 to extend, through military aggression, the Sultan's rule to the Imamate. Since then, British colonial rule had been extended to Oman under the guise of the Sultan's nominal authority, and the people of Oman had been denied their right to freedom and self-determination.

187. The Arab delegations wished to draw the attention of the Committee to the fact that the Sultanate of Muscat had neither complete international responsibility with respect to acts inherent in the exercise of sovereignty in external affairs, nor for corresponding acts relating to domestic administration, especially in the fields of economy and security. All external affairs of the Sultanate had been conducted by the United Kingdom Government, and the latter had at all times been the spokesman of the Sultan of Muscat in the United Nations. Decisions relating to economic and security affairs were either directly or indirectly made by officials of the United Kingdom Government or British advisers. British military bases were established in the territory, and British officers dominated the Sultan's army. In view of the foregoing and in accordance with the provisions of the various treaties concluded between the United Kingdom Government and the Sultanate of Muscat, it was obvious that the territory was of the colonial type.

188. Continuing, the memorandum stated that the present situation in Oman was that of a country deprived of its independence and freedom as a result of an invasion by the armed forces of a colonial Power. Such a situation should no longer be tolerated, particularly since the adoption of the historic Declaration on the Granting of Independence to Colonial Countries and Peoples. The United Nations, which had assumed

a primary responsibility for the total liquidation of the colonial system, should not be indifferent to the fate of the people of Oman, and could not but adopt specific measures to help the Omani people in regaining their freedom and independence. The United Nations should take steps to end British colonial rule, and to transfer all sovereign power to the true representatives of the people in accordance with the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples. To that end, the Arab delegations deemed it necessary that the question be referred to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

189. The memorandum also stated that the continued policy of repression pursued by the United Kingdom Government had forced thousands of Omani citizens and many nationalist leaders to leave their country and to seek refuge in neighbouring countries and territories. The views of the representatives of these Omani communities on the question were of paramount importance, especially if the Committee was not allowed to visit the territory. The Arab delegations, therefore, hoped that the Committee, in pursuance of operative paragraph 2 of General Assembly resolution 1948 (XVIII) of 11 December 1963, would arrange visits to as many areas as possible.

190. Finally, it was pointed out that the people of Oman had on numerous occasions shown their faith in the United Nations as the guarantee for the solution of their problem. It was that same faith which led them to believe that the Committee would embody in its report specific recommendations on the restoration of their inalienable right to independence and sovereignty.

191. In a statement (annex VIII) to the Committee on behalf of the Arab States which presented the joint memorandum, the representative of Morocco said that the status of the Sultanate of Muscat was not the problem that was of direct interest to the Committee. The Sultanate of Muscat was a colonized country which needed emancipation and which should be allowed to make use of its natural resources and to enjoy its sovereignty. But the problem which was of interest at the present time was the Imamate of Oman, and the countries he represented thought that the United Nations had a very important part to play in helping this people to experience peace, tranquillity and freedom.

192. He also stated that the Imamate of Oman was undoubtedly one of the countries on the United Nations list of "colonial countries". It was also the considered opinion of the Arab States that the action by the General Assembly last year in deciding to bring the matter before the Fourth Committee was adequate proof that it was a typically colonial problem and that it did not fall "within the purview of one State—of a so-called independent State—namely, the Sultanate of Muscat and Oman".

3. *Yugoslavia*

193. In his statement to the Committee, the representative of Yugoslavia said that his delegation had expressed its views previously in the United Nations, but because it was a member of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples it felt an obligation to come before the Committee at this time.

194. His delegation had maintained since 1957 that the question of Oman was basically a colonial one. The people of Oman had been deprived of their right to manage their own affairs by foreign intervention, which was contrary to the principles of the United Nations Charter. The people of Oman on many occasions had expressed their desire to be free, through petitioners appearing before the General Assembly or in public statements by their leaders. His delegation had in previous statements called for wider and more thorough consultations with the people of Oman and felt that this was the most appropriate way to obtain pertinent information from colonies and Non-Self-Governing Territories. For these same reasons it supported the idea of sending visiting missions to such territories. The people of Oman must be given the opportunity to speak for themselves. After their wishes had been expressed, he hoped that the Committee could draw corresponding conclusions and recommendations to report to the next session of the General Assembly. His delegation also believed that the question of Oman should be brought before the Special Committee.

195. The history of the people of Oman was one of a people who had lost their independence and who were anxious to regain it. His delegation hoped that the rights of these people would be restored without delay.

4. *Bulgaria*

196. In his statement to the Committee, the representative of Bulgaria said his Government welcomed the opportunity to speak about the question of Oman because it supported the struggle of colonial and oppressed people for self-determination and independence and because of his country's sympathy with the struggles of the Arab peoples for national independence. His delegation had always maintained that the question of Oman was a colonial question and that it should be dealt with by those United Nations bodies concerned with such questions.

197. It was striking that the United Kingdom, a Member of the United Nations and a permanent member of the Security Council, had imposed its colonial rule over a backward country at a time when the colonial system was under attack and becoming difficult to justify to public opinion. This action had been taken to satisfy the selfish interests of certain monopolistic groups. It was only recently, and because of its petroleum resources, that Oman had become important to the United Kingdom. Moreover, the United Kingdom had acted behind the façade of a puppet government, through the so-called Sultan, instead of attempting direct subjugation. It was interesting to note that the expenditures for military and war material far exceeded the entire budget of this so-called Sultan. His Defence Minister was a British subject and his army was made up of hirelings recruited by British authorities and commanded by British officers.

198. The Bulgarian delegation believed that the United Kingdom was trying to confuse the situation even more by using documents and treaties as legal arguments to support fictions. The United Kingdom had tried to deny that it was because of oil or through the interests of the oil monopolies that it had become interested in the area. Many delegations, however, especially those from Arab countries, maintained that the United Kingdom's actions were dictated only by the powerful influence, upon the monopolistic circles of Great Britain, of the eventual possibility of exploiting the rich underground oil deposits in Oman. Under these circumstances, it would be useful for the *Ad Hoc* Committee on Oman to elucidate the interests of the

petroleum companies and establish: (1) the nature of the deposits discovered; (2) what concessions had been requested and granted, and to whom; and (3) what profits had been drawn from the territory of Oman by the various petroleum companies.

199. It was clear, he contended, that the United Kingdom had intervened militarily several times in Oman. The United Kingdom representative had said that these interventions had occurred to help a friend, or on the request of the Sultan who was threatened, or to re-establish the Sultan's authority over the whole country. The United Kingdom representative had also said that, under Article 2, paragraph 7, of the Chapter, the United Nations did not have the right to intervene in the internal affairs of independent countries. The Bulgarian delegation believed that this principle should also apply to Member countries of the United Nations.

200. He felt that it would be a good idea to establish: (1) against what "external enemies" the United Kingdom had assisted the Sultan to fight; and (2) whether the liberty the United Kingdom took in intervening showed that it regarded the Sultanate as its colony.

201. Concerning the treaties and documents used in the discussion of the question, he thought it would be useful for the Committee to undertake a detailed study of all the relevant treaties to ascertain to whose advantage and in what interest they had been concluded and whether there were inequitable clauses in them and if so what they were.

202. In conclusion, the representative of Bulgaria wanted to assure the Committee that, in taking part as it had in this examination of the question of Oman, his delegation had been guided by the desire to contribute to a solution of this problem which was troubling peace in the Middle East and had done so with only the interests of the people of Oman at heart.

5. *The Sultan*

203. In the course of the meetings between the Chairman and the Sultan in London, the Sultan expressed the following views on the question in general.

204. The Sultan stated that he had explained his position on the question in his communications with the United Nations in previous years. His views had also been set out in paragraph 132 of the report of the Secretary-General's Special Representative on his visit to Oman (A/5562). The question was an internal matter, entirely within his jurisdiction as the ruler of a sovereign and independent country. It was not a matter for the United Nations. He pointed out that it was not a dispute between his Government and another but between him and his own subjects, and no ruler could be expected to sit in court as the equal of his subjects. He wondered whether the ruler of any other Middle Eastern country would like to have the United Nations set up as a court between him and his subjects. He did not expect the United Nations to solve the question or give any judgement on it, since it was not a question for the United Nations to consider.

205. The Sultan pointed out that in the course of his country's history there had been, from time to time, differences between the tribes. But his country was run on the basis of customs and understandings that had grown up over the years and which together made up the country's Constitution. People from outside did not understand this and tried to speak of the affairs of Muscat and Oman in modern terms, which did not apply. The present matter had to do with the internal affairs of his country and if it had been left to be settled according to his country's ways and customs, it would have been settled and there would have been no occasion for the United Nations to be concerned.

206. The Sultan also said that the trouble in his country had been created by certain outside parties which had seized on a rebellion by a few self-interested tribal leaders in order to further their own interests and desires. He doubted whether those outside parties had the slightest genuine interest in his country or in the welfare of his people.

207. Other information supplied by the Sultan, as well as his views on various aspects of the question, are set out in appropriate sections of this chapter.

6. *The Imam*

208. At its first meeting with the Imam in Dammam, the Committee heard a statement by the Imam, which he described as a brief picture of the situation in Oman. He said that Oman had been under the rule of the Imamate since the eighth century A.D. Since the first Imam, Julanda bin Mas'ud, Imams had continued to be elected. Oman had a system of democratic rule and the people of Oman would only accept rule by an elected person.

209. He said that in former times the Imamate of Oman had been attacked and invaded by many nations, including the Portuguese whom Nasir bin Murshid had driven away. His work had been completed by his successor, Sultan bin Seif. Oman had then been invaded by Holland, France, Britain and Iran. Throughout all these troubled times the Imamate remained unified and these invaders were defeated. But later Britain came again and started to interfere in the affairs of Oman. Britain first separated off the Trucial States and then again invaded Muscat and set it up as a separate state. This had come about through the British accepting the Omani *wali* at Muscat as the ruler. Muscat was then separated from Oman by force. There remained, therefore, the Trucial sheikhdoms, Muscat separated from the interior, and the Imamate.

210. In 1863 Imam Azzan bin Kais brought Muscat back and ruled the whole of Oman. But again the British came, fought the Imam and the Omanis, separated Muscat again and set up another ruler. From then on Muscat remained separated from Oman.

211. The Imam said that during the reign of Salim bin Rashid al-Kharusi, in 1913, the Omanis made another attempt to recapture Muscat and restore the unity of the country. They reached to within three kilometres of Muscat but British troops from Bombay arrived and defeated the Imam's forces. There was then war between the British and the Sultanate on the one hand and the Imamate of Oman on the other from 1913 to 1920.

212. At that time a treaty was made at Sib. Although the Omanis were compelled to make this treaty under threat of force by the British, they respected it and peace returned to the country. During the period after 1920 there were three Imams, Imam Salim bin Rashid, Imam Mohammed bin Abdullah and Imam Ghalib bin Ali.

213. In 1955 the British returned and, together with the Sultan of Muscat, attacked Oman and established the Sultan as ruler of Muscat and Oman by force. The Omanis did not have the military forces or material in 1955 and were defeated. In spite of this weakness and

because of their strong faith and the conviction that they were in the right, even with their small rifles they were able to recapture their capital and their country which had been taken from them by the British and the Sultan.

214. The Imam stated that the British returned in 1957 with strong forces and captured Oman again. The Omanis put up a very strong fight in the towns, villages, mountains and in the desert. But after two years their ammunition was gone and they retired to the mountains. Since then the Omani people had been carrying on guerrilla warfare against the British and the Sultan according to their strength.

215. The Imam also pointed out that the people of Oman were like all people under colonial rule and turned to the United Nations for support in their struggle.

216. Other information supplied by the Imam, as well as his views on various aspects of the question, are set out in appropriate sections of this chapter.

D. History

1. *From the eighth century* A.D. *to 1741*

217. There appears to be little disagreement about the essential facts of the early history of Oman. The Imamate was founded in the eighth century A.D. when Julanda bin Mas'ud was elected as the first Imam of Oman. The Imam was a spiritual and temporal leader and he was elected to office by the important learned and religious people of Oman. The office was not hereditary and an Imam could be deposed. The limits of the territory over which the Imam ruled were never clearly defined. In practice his authority extended over the area occupied by the people who acknowledged his leadership. The extent of sovereignty was probably defined primarily in terms of the people he ruled rather than in terms of territory. There is no doubt, however, that Muscat and the coastal areas were included in the territory ruled by the Imams.

218. In the years that followed the foundation of the Imamate there were periods when there was no Imam. Some of these periods were short but others were long. For example, between the twelfth and the fifteenth centuries there is no record of any Imams, the country being ruled by *maliks* or kings. At other times the whole country, or parts of it, was occupied by foreign Powers. Despite these difficulties, the Imamate as a political entity and the office of Imam maintained their existence. Speaking of the invasions, the present Imam said, "throughout all these troubled times, the Imamate remained unified and these invaders were defeated".

219. The Portuguese, who had occupied towns along the coast, including Muscat, were expelled in 1652; territories were acquired in the Gulf and along the Persian coast, a lucrative trade with India and Africa was built up and settlements were established along the East African coast. One of the persons interviewed by the Committee gave the following assessment of the strength of Oman in the eighteenth century: "In the middle of the eighteenth century, Oman, as described by an important foreign authority, was the strongest Arab State and dominated Zanzibar, East Africa, the coast of Kenya and the ports of Persia and Baluchistan".

2. *From 1741 to 1913*

220. The controversial period of Oman's history begins with the election of Ahmed bin Said as Imam of Oman in 1741. This Imam was an ancestor of the present Sultan and was the first member of the Al Bu Said family to hold the office of Imam. The legitimacy of his rule was challenged by only one petitioner, but, with that exception, the historical works consulted by the Committee and the people it interviewed, including the Imam, accepted Ahmed bin Said as having been the legitimate ruler of Oman.

221. This Imam died in 1775 and the Imamate was conferred on his son, Said bin Ahmed. The legitimacy of his rule is also generally accepted. However, there is controversy over the course and nature of events during his reign and lifetime. In particular, the controversy concerns the establishment of the Sultanate.

222. It will be recalled that conflicting versions of this period of Oman's history have already been presented to the General Assembly. On the one hand, it has been argued that the establishment of the Sultanate was an illegal act and that the Sultanate remained in existence only through British support. According to this version, Sultan bin Ahmed, a brother of the Imam, seized power in the Omani coastal town of Muscat in 1792. His action was completely illegal and constituted an act of rebellion against the established Omani State. But he was given recognition for strategic reasons by the British Government and, by the Treaty of 1798, was given British protection. Later the British separated the seven Trucial Sheikhdoms from Oman. Having illegally separated Muscat from the Omani Imamate, the new dynasty attempted, often with British help, to dominate the rest of Oman and other areas. But the dynasty never succeeded in dominating Oman; and in 1868 the Omani Imam, Azzan bin Kais, drove out the Sultan of Muscat (to whom he was distantly related) and restored Oman's unity. But the British Government of the time, by unjustifiable interference in Oman's affairs, restored the dynasty and the Imam died in battle. As a result of this interference, the country was plunged into a state of confusion which lasted until 1913, when order was finally restored and the Imamate reconstituted.

223. On the other hand, it has been argued that the establishment of the Sultanate represented a separation of temporal and spiritual powers which, until that time, had both been exercised by the Imam. The Sultanate therefore represented the continuation of temporal authority over the whole of Oman and not the establishment of a new and separate state. There were not two States, but only one, the Sultanate. Moreover, there was no Imam at all in the ninety years prior to 1913, except for a brief three-year period from 1868 to 1871.

224. The Committee therefore sought information on the following matters in relation to this period (1741-1913):

(1) The circumstances leading to the establishment of the Sultanate;

(2) The question of the existence of one or two states in Oman during this period and their international status;

(3) The relationship between the Sultanate and the United Kingdom Government;

(4) The extent and nature of action taken by the United Kingdom in Oman, including the question of whether the United Kingdom intervened during the reign of Imam Azzan bin Kais (1868-1871);

(5) The extent of the effective authority of the Sultans.

The information related to these matters that the Committee was able to gather about this period of Oman's history through its own researches (see paragraphs 24-28) is set out chronologically in summary form below. This is followed by sections setting out the views of the Imam, the Sultan and the United Kingdom Government. The treaties with foreign Powers are dealt with in detail separately in section E below.

Outline of events

225. It is stated in Salil ibn Razik's account that, about the year 1779, the Imam Said bin Ahmed made over to his son Hamed "all the forts of Oman which were under his authority" as a result of which "the administration of affairs was now wholly in the hands of his son Hamed".[13] Thereafter Hamed ruled from Muscat and his father, the Imam, continued to reside in the interior, at Rustaq. In 1792, on the death of his son Hamed, the Imam appointed another of his sons as *Wali* or Governor of Muscat and a nephew as *Wali* at Barka. Shortly afterwards, one of the Imam's brothers, Sultan bin Ahmed, seized Barka, Muscat and a number of other important towns. He was unsuccessfully opposed by the Imam and his other brothers. It is stated that "subsequently the people of Oman and the esh-Sharkiyyah, the Bedu and those of Jaaslan, together with all the other districts, recognized Sultan".[14] Sultan bin Ahmed then conquered Sharbah and Qishm on the Persian coast, and the islands of Hormuz and Bahrain, but he lost Bahrain shortly afterwards.[15]

226. In 1798, Sultan bin Ahmed concluded an agreement with a representative of the English East India Company. This was the first of a series of treaties with the United Kingdom and with foreign Powers entered into by the Sultans (the title by which Sultan bin Ahmed and his successors came to be known).

227. According to Salil ibn Razik, on the death of Sultan bin Ahmed in 1804 a struggle for power took place between the Imam's brothers and nephews, and the Imam himself. At this time, the Wahabis, a group of religious reformers from the Nejd in central Arabia, who had made an incursion into Omani territory between 1800 and 1803, again invaded Oman and became actively involved in the struggle for power. By 1807, Said bin Sultan, a younger son of Sultan bin Ahmed, had overcome his rivals by battle and intrigue. Although it was not for some years that his leadership is said to have been generally accepted throughout Oman, none of the sources available to the Committee states that his power was limited to Muscat or to the coastal areas. There are references in Salil ibn Razik's account to Said appointing *walis* to towns in the interior and of his levying troops from various parts of the interior.

228. During this period the Imam was at Rustaq where he stayed until his death in about 1821. Salil ibn Razik does not record any attempt to depose him as Imam and does not indicate that he exercised any effective power or influence on affairs from 1792, when he appointed two *walis*, until his death in 1821.

229. In 1809, the combined forces of the British and of Said attacked and razed the town of Ras al Khaimah, situated on the southern shores of the Persian Gulf. This town was an important port of the Jawasmi tribe, which is described as having a loose alliance with the Wahabis, and which for some years is said to have been engaged in piracy in the Gulf of Oman and in the Indian Ocean, and in raids on towns on the Batinah coast. In 1808, Said and his uncle had made an unsuccessful attempt to dislodge the Jawasmi from a town on the Batinah coast.

230. In 1810, Said requested and was given naval assistance by the British against an ally of the Wahabis who was in control of the coastal town of Shinas and who is also said to have been engaged in piracy. The combined forces of Said and the British captured Shinas but, when the Wahabis appeared on the scene, the British withdrew their forces and the town was retaken by the Wahabis.

231. The next British intervention took place in 1819, again with Said's assistance, when the vessels and principal strongholds of the Jawasmi along the coast were destroyed or captured. In 1820, the British signed a general treaty of peace with nearly all the Sheikhs along this coast. Thereafter, this portion of the coast, which had previously been regarded as a part of Oman, appears to have ceased to be regarded by Said as part of his dominions.

232. In 1820 and 1821, combined forces of the British and Said fought the Bani Bu Ali tribe in the Ja'lan. This tribe is stated to have accepted Wahabi doctrines and to have been spreading them throughout the Sharqiyah and the Ja'lan. They had also been suspected of plundering a British ship wrecked on the coast. The first move against the Bani Bu Ali in 1820 was repulsed, but the second, in 1821, resulted in the razing of their forts and the capture of their leaders.

233. Throughout Said's reign, he was intermittently threatened with, or actually experienced, invasions by the Wahabis. On four occasions he concluded agreements with the Wahabis whereby he was to pay annual tribute and, in return, was promised immunity from attack. These agreements were made in 1810, 1833, 1845 and 1853. From the contemporary British accounts of these treaties or agreements, several points emerge:

(1) The agreements of 1833 and 1853 included references to boundaries. By the 1833 treaty it was agreed—according to a British account quoted by Badger—" 'that each should hold possession of his own coast, according to the limits then existing—the Imaum's [the Seyyid's] extending to Jaalan and the Wahabee's to Kateef. . .' ".[16] By the 1853 agreement, " 'the boundaries of the dominions of either remained as before' ".[17]

(2) When the Wahabis invaded Oman in 1845, a request by Said for British military assistance was refused. However, following a British Note to the Wahabi Amir and a display of naval force, an agreement was secured.[18] British assistance also seems to have played an important part in the conclusion of the agreement in 1853. The contemporary British account refers to " 'the active intervention of the Resident [in the Persian Gulf] at this period, and the moral support

[13] Salil ibn Razik, *History of the Imams and Seyyids of Oman*, translated and edited by George Percy Badger (New York, Burt Franklin), p. 201. (This work will be cited hereafter by the name of the translator and editor. Page references in Roman numerals refer to Badger's Introduction, while those in Arabic numerals refer to the text of Salil ibn Razik's chronicle.)

[14] Badger, op. cit., pp. 225-226.

[15] *Ibid.*, pp. 226-227.

[16] *Ibid.*, p. lxxxvi.

[17] *Ibid.*, p. xciii.

[18] J. B. Kelly, *Eastern Arabian Frontiers* (London, Faber and Faber, 1964), p. 68.

afforded to the Government of Muscat by the appearance of a war vessel on the Arabian coast' ".[19]

234. According to Salil ibn Razik's account, Said's principal internal difficulties appear to have been with the ruler of Suhar, his cousin Hamud bin Azzan, who, from 1830 to 1850, actively opposed him. The fact that Said spent an increasingly greater amount of his time in Zanzibar than in Muscat is said to have contributed to his difficulties at home. The British also appear to have assisted Said in his difficulties with his cousin. However, there is no record of military assistance. Following an agreement signed between Said and Hamud in 1832, the British appear to have acted in some way as a guarantor that each party to the agreement abided by its terms.

235. In 1844 or 1845, it is recorded that the leaders of the Saad tribe "proposed to set up an Imam of their own" and "offered the dignity to Hamud" (bin Azzan). He at first agreed, but later refused to accept the offer, "whereupon the Benu-Sa'ad dispersed to their several homes".[20] No more information on this event is available.

236. Following Said's death in 1856, a dispute concerning the succession developed between three of his sons, Majid at Zanzibar, Thuwaini at Muscat, and Turki at Suhar. After the three brothers had agreed to accept the arbitration of Lord Canning, the Governor-General of India, he proposed the separation of Zanzibar from the Arabian territories, the former to be ruled by Majid and the latter by Thuwaini. In his letter dated 29 June 1861 accepting the award, Majid stated:

> "I accept and am satisfied with the terms of the decision, and they are binding on me, and it is the desire of the British Government (Javabel Sircar) that each of us, that is, myself and my brother Thowaynee, shall be independent of each other in his own dominions, and Sultan over his own subjects, that is to say, that Zanzibar and the Islands (Pemba and Monfea), and the dominions on the continent of Africa dependent upon it, shall be subject to me, and that Muscat and its dependencies, with the land of Oman, shall be subject to my brother Thowaynee bin Saeed, and that we should dwell in peace and friendly alliance the one with the other, as is customary between brothers."[21]

237. Thuwaini ruled from 1856 to 1866. During his reign he faced opposition from his brother Turki, who, Badger states, had been disappointed by the Canning award, and from his distant cousin Azzan bin Kais, who, in 1868, was to become Imam. In 1866, the Wahabis invaded Oman again, and in the same year Thuwaini was assassinated by his son Salim. According to Badger, Salim then established himself as ruler with the support of the Wahabis, although he too faced opposition from Turki bin Said and Azzan bin Kais. Turki's effective opposition ceased when, in 1868, he was persuaded by the British to retire to India on a pension. However, in the same year, Salim was driven into exile by Azzan bin Kais.

238. Azzan bin Kais who, according to Kelly, had the support of the Ibadhi *mutawwas* and the paramount sheikh or *tamima* of the Harth tribe, Saleh bin Ali, Amir of the Sharqiyah, was then elected Imam. Almost immediately, the new Imam faced a challenge from the Wahabis who sought to influence the Sheikhs of the Trucial Coast to join with them to overthrow the Imam. The Imam, however, with the support of the Naim tribe at Buraimi, attacked the Wahabis and drove them out of Buraimi.[22]

239. In the latter half of 1870, the Imam Azzan bin Kais was faced with a challenge from Turki bin Said who had reached Oman from India by way of the Trucial Sheikhdoms. Badger believes that Turki reached Oman by managing to escape the vigilance of British cruisers. He also claims that Turki received financial support from his brother Majid at Zanzibar.[23] Turki gathered support from some of the northern tribes and met the Imam in battle at Buraimi. The Imam was defeated and Turki pursued him to Muscat, where he slew him. The sources available to the Committee did not indicate that the British were involved in the dispute between the Imam and Turki bin Said. The Imam corresponded with the British Political Agent at Muscat and the portions of this correspondence quoted by Kelly[24] do not indicate bad relations between them.

240. In 1888, Turki bin Said died and was succeeded as Sultan by his son, Faisal bin Turki, who ruled until 1913. Kelly notes that within Oman during this period "the power of the Sultan was narrowly circumscribed".[25] Thomas states that the tribes of the interior were dissatisfied with the manumission of escaped slaves and the curbing of the arms trade by Sultan Faisal; he notes that these policies were being carried out by the Sultan at the insistence of the British Government.[26]

241. In 1895 the interior tribes, led by Saleh bin Ali al-Harthi, attacked and occupied Muscat.[27] Kelly states that the immediate cause was the imposition by the Sultan of heavier customs duties on goods passing through Muscat to and from the interior, but that more significant was the growing agitation for the revival of the Imamate. He adds that religious inspiration was provided by the blind Ibadhi historian, Abdullah bin Humayyid al-Salimi.[28] Thomas states that Sultan Faisal was saved only by the arrival of the Ghafiri tribes, who were paid some 12,000 Maria Theresa dollars for their assistance.[29]

242. Kelly states that Sheikh Saleh bin Ali al-Harthi died in 1896, and was succeeded by his son, Isa bin Saleh, as *Tamima* of the Harth tribe, Amir of the Sharqiyah and leader of the Hinawi group of tribes. The other powerful figure in inner Oman was Himyar bin Nasir al-Nabhani, *Tamima* of the Bani Riyam of the Jabal al Akhdar and leader of the Ghafiri group of tribes. With the support of these two powerful leaders, the movement begun by the blind historian reached its climax in May 1913, when his nephew Salim bin Rashid al-Kharusi was elected Imam.[30]

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[19] Badger, op. cit., p. xcii.

[20] *Ibid.*, p. 361.

[21] *British and Foreign State Papers* (London, William Ridgway, 1870), vol. LVI (1865-1866), p. 1399.

[22] J. B. Kelly, *Eastern Arabian Frontiers*, pp. 85-87.

[23] Badger, op. cit., p. cxvi.

[24] J. B. Kelly, *Eastern Arabian Frontiers*, p. 87.

[25] J. B. Kelly, *Sultanate and Imamate in Oman*, Chatham House Memoranda (Oxford University Press, 1959), p. 6.

[26] Bertram Thomas, "Arab Rule under the Al Bu Sa'id Dynasty of Oman, 1741-1937", *Proceedings of the British Academy*, vol. XXIV (1938), pp. 46-47.

[27] J. B. Kelly, *Sultanate and Imamate in Oman*, p. 7, and Thomas, op. cit., p. 46.

[28] J. B. Kelly, *Sultanate and Imamate in Oman*, p. 7.

[29] Thomas, op. cit., p. 46.

[30] J. B. Kelly, *Sultanate and Imamate in Oman*, p. 7.

Views of the Imam

243. The view of the present Imam about this period of history, as stated by him to the Committee, was that the British had first separated the Trucial Sheikhdoms from Oman and had then invaded Muscat and set it up as an independent state. This had come about through the British accepting the Omani *Wali* or Governor at Muscat as the ruler. The British had separated Muscat from Oman by force. There remained therefore the Trucial Sheikhdoms, Muscat (separated from the interior) and the Imamate. Then, in 1863, Imam Azzan bin Kais had regained Muscat and ruled the whole of Oman. But the British had again fought the Imam and the Omanis, had separated Muscat and set up another ruler. From that time, however, Muscat had remained separate from Oman.

244. Speaking of this period, Sheikh Saleh bin Isa stated to the Committee:

"Muscat remained subject to foreign interference which was hated by the people of Oman. The military troops of Oman could always have captured Muscat if it had not been for British interference and defence of Muscat. Oman was completely sovereign in its affairs and even had domination over Muscat itself in 1895. Despite that fact, Sultan Said bin Taimur believes wrongly that he is the legal ruler of this area."

Views of the petitioners

245. Other Omanis interviewed by the Committee agreed with the Imam's account in general terms. A typical statement was that there had been one state, Oman, of which Muscat had been a part, but that the British had interfered and had separated Muscat and established their influence over it.

246. When questioned as to whether there were two independent states or one during this period, petitioners gave a variety of opinions. Some believed that there were two independent states while others said that there was only one legitimate state, the Imamate, and that the Sultanate was an illegal administration. Others, who came from the coastal areas, said that the Sultanate was the only state.

Views of the Sultan

247. The Sultan was asked by the Committee for his comments on the claim that, in 1792, Sultan bin Ahmed had illegally seized power from the Imam, Said bin Ahmed, and that the rule of Sultan bin Ahmed's successors at Muscat, with the exception of Azzan bin Kais, had been unconstitutional since they had not been elected. Commenting on this and on a number of other historical points that were raised with him, the Sultan said that it was difficult for him to give any information on historical questions since he was not alive when some of the events mentioned had happened and therefore he did not know about them. However, he added, the main points were clear: his family had been in power in Muscat and Oman for over 220 years and all the people of Oman were his subjects. Furthermore, there never had been two states.

Views of the United Kingdom

248. The position of the United Kingdom with regard to the claims made that it had interfered in Omani affairs and had, at the least, played a leading part in establishing the Sultanate and had maintained the Sultanate by armed support, is contained in the memorandum submitted to the Committee entitled "The relationship between the United Kingdom and the Sultanate of Muscat and Oman" (annex VII), and in the statement made to the Committee by the representative of the United Kingdom on 12 August 1964 (annex VI).

249. In his statement to the Committee, the representative of the United Kingdom told the Committee that the United Kingdom's relationship with the Sultanate had at all times been one between two sovereign Powers. He also said that, in the eighteenth century and throughout the nineteenth century, Britain's interest in the trade route to India and in the suppression of piracy, the slave-trade and gun-running in the Indian Ocean and the Persian Gulf had much to do with the character of the relationship between it and Muscat and Oman. In the memorandum it was stated that British relations with Muscat and Oman dated effectively from an Agreement of 1798 which had been concluded in order to protect the sea routes to India from privateers during the Napoleonic Wars. Privateering had been endemic in the southern Persian Gulf at the time and its suppression had continued to be a major British and Muscati interest after the close of the Napoleonic Wars. On several occasions, British naval support had been given to the Imam and later to the Sayid of Muscat and Oman against the seafaring tribes of the Pirate Coast who made a living from plundering shipping. In 1809, and again in 1819, military expeditions had been sent by the Government of India to rout out these pirates based on the coast, and in 1820 and 1821 an expedition had also been made into the interior of Muscat and Oman against a tribe guilty of complicity in piracy. In the years that followed, British interest in suppressing the slave-trade and in regulating its commercial relations with Muscat and Oman had led to the conclusion of a number of treaties.

250. Continuing, the memorandum stated that the next important British contact with Muscat and Oman's affairs had been in 1858, when the Sayid of Muscat and Oman had prepared an expedition against Zanzibar in pursuance of his claim to Zanzibar. The British authorities in India had made active representations for restraint in the interest of stability in the Indian Ocean. The Sayid had agreed to accept the arbitration of the Governor-General of India over his claim to Zanzibar and, in 1861, acknowledged recognition of Lord Canning's award by which Zanzibar was separated from Muscat and Oman.

251. This settlement had been followed by the Anglo-French Declaration of 1862 in which both Governments, "taking into consideration the importance of maintaining the independence of His Highness the Sultan of Muscat and His Highness the Sultan of Zanzibar, have thought it right to engage reciprocally to respect the independence of these Sovereigns". Frequent references to this Agreement in Anglo-French exchanges over the ensuing years showed the determination of both parties that its terms should be scrupulously observed. The significance of the Declaration, the memorandum continued, was not only in its respect for the independence of Muscat and Oman, but also in the manner in which two major Powers recorded that independence as a fact and as something which it was important to preserve.

252. On the question of the relations between the United Kingdom and Muscat and Oman, particularly

towards the end of the nineteenth century, the memorandum (annex VII) stated:

"It has been recognized, however, that in the conditions of the nineteenth century a major Power enjoyed a position to which smaller Powers of unquestioned independence were inclined to defer. An example of this is available from 1890, when the Political Resident in the Persian Gulf conveyed Her Majesty's Government's formal recognition of Sultan Faisal's accession. The Sultan of Muscat and Oman was informed that Her Majesty's Government hoped 'to continue with Your Highness the same relations of friendship that have existed between the two States'. No conditions attached to this. In reply, Sultan Faisal indicated that he intended to maintain the good relations that had existed in his father's time, and to keep his father's and predecessor's engagements. He added, of his own volition, that it was his 'earnest desire to be guided in all important matters of policy by the advice of the British Government, and so to conduct his Government as to secure the continued friendship and approbation of His Excellency the Viceroy and the British Government'. Similarly the Sultan signed an Agreement in 1891, by which he bound himself, his heirs, and his successors, 'never to cede, to sell, to mortgage, or otherwise give for occupation, save to the British Government, the dominions of Muscat and Oman or any of their dependencies'. The essence of this Agreement was that while the Government of India sought no derogation of the Sultanate's independence, the Sultan deferred to Her Majesty's Government in ensuring that no other Power should derogate from that independence to British disadvantage. (As circumstances changed, this particular Agreement lost its force. It was finally terminated by an exchange of letters between the present Sultan and Her Majesty's Government in 1958, after having long been regarded as a dead letter.)"

253. The memorandum also stated that the suppression of arms smuggling in Muscati vessels had been a subject of great concern to the British Government during the first fifteen years of the twentieth century. In 1903, the Sultan had accepted the co-operation of British (and also Italian) ships in searching Muscati vessels suspected of carrying arms and this service was continued until the outbreak of world war in 1914. These precautions were strengthened in 1912 when the Sultan decided, in agreement with the British authorities, to establish in Muscat a bonded warehouse in which all arms and ammunition would be deposited on importation. Exports from it were only to be made on the issue of a "no-objection certificate" by the Sultan personally.

254. In view of the claims that had been made concerning British interference in Muscat and Oman during this period, the Committee addressed a number of questions on this matter to the United Kingdom which were discussed by the Committee with officials of the Foreign Office.

255. In answer to these questions, the representative of the United Kingdom stated that his Government's interest in the area was based on historical reasons which emerged clearly from his Government's memorandum to the Committee. The United Kingdom was concerned with maintaining peace and stability in that area and its historical connexions with the rulers had given it the opportunity to help the rulers to that end.

256. The Committee was also informed that there was no doubt that the Sultans had requested assistance from the United Kingdom Government on a number of occasions. It was pointed out, however, that this assistance had been given on a friendly basis, as between two States. In answer to a question as to whether British intervention had been based on the terms of an agreement, or simply on friendly relations that existed between the two countries, the Committee was informed that assistance had been provided partly on the basis of an agreement, and partly on the basis of requests to it. There had been an agreement which had been entered into in 1895 by which the United Kingdom had promised to come to the assistance of the Sultan in the event of any attacks on the two principal towns of his country, Muscat and Matrah. However, the United Kingdom Government did not feel that it was a significant question whether its help had been given on the basis of an agreement or an appeal. The fact was that the United Kingdom Government had maintained close relations with the Sultans and had responded to requests for assistance on a number of occasions. These responses had been genuine and there had been no ulterior motives. In answer to a question as to whether the promises given had been directed to external threats or whether there had been a promise to maintain the Sultan in power against his people, the Committee was informed that it would be wrong to conclude that the United Kingdom had given a general promise of protection. The United Kingdom's responses to requests for help had not been limited to one kind of threat. The United Kingdom had maintained a friendly relationship with the Sultans and had been ready to give help at different times and for different purposes.

257. Since the Committee had not seen the Agreement of 1895 mentioned in these discussions, it requested a copy of the text. Subsequently, the Committee was informed by the representative of the United Kingdom that, while references to this agreement had been found in correspondence, the text of the Agreement had not been discovered. He did not think that a formal text had ever been communicated to the Sultan although there was no doubt that an undertaking had been given to the Sultan.

258. In answer to a question raised by it, the Committee was informed that the United Kingdom Government, through the Government of India, had granted recognition to the rulers of Muscat and Oman. The United Kingdom representative could not say whether recognition had been granted to all the rulers in the last 200 years, since the records for the first 100 years were not good enough to be certain. However, within the last 100 years recognition had only been withheld from 1868 to 1871, when conflict was taking place and when it was not clear who was the ruler.

259. Since this period of 1868-1871 was the period ascribed to the rule of Azzan bin Kais, the Committee asked whether it was true, as had been claimed, that the United Kingdom Government had been opposed to the Imam Azzan bin Kais and had assisted in bringing about his downfall. The Committee was informed that the reign of Azzan bin Kais had been marked by civil strife between two branches of the family and that the United Kingdom had played no part in that strife. The Committee asked whether that meant that the United Kingdom Government had never thought it necessary to take part in civil strife, and was informed that the United Kingdom Government took part only when requested and that in this particular case it had played no part.

260. With regard to the claim that two separate states had existed, one Oman and the other Muscat, the Committee was informed that the United Kingdom

Government had only had relations with Muscat and Oman and with the rulers of the whole Territory.

261. The Committee also asked for more details concerning the British Political Agent at Muscat. It inquired about his functions, whether he was also Consul, to which department in the United Kingdom he was responsible, and about his relationship with the Resident in the Persian Gulf. In reply, the Committee was informed that the title of this officer was similar to the title that had been used in British India. The title of this officer had varied from time to time: sometimes he was referred to as "Political Agent" and sometimes as "Political Agent and Consul". The duties of this officer had been both consular and diplomatic and he had been responsible to the Government of India, which had been the agent of the United Kingdom Government. The Political Resident in the Persian Gulf had been the superior officer in the chain of command and had been stationed at Bushire until 1946, when the office had been transferred to Bahrain.

262. It was pointed out by the Committee that since Residents in the Indian States of British India had the role of advisers, and since the Resident in the Persian Gulf had the same title and belonged to the same service, could it not be assumed that they had the same functions. In reply, the Committee was told that the name did not imply that the Resident in the Persian Gulf was an adviser to Government of the country in which he was stationed. Further, the appointment of such an officer was no reflection on the sovereignty or status of the country. When it asked if there were similar arrangements with other sovereign countries, the Committee was told that there were probably none, since the combination of circumstances in the Gulf area did not arise elsewhere.

3. *From 1913 to 1920*

263. The debate in the Fourth Committee revealed wide differences about this period of Oman's history. These differences were mainly concerned with the question of whether one or two states existed in Oman, namely the Sultanate and the Imamate, particularly in view of the revival of the office of Imam in 1913. Related to this question was the interpretation of an agreement or treaty which was concluded at Sib in 1920. The Committee therefore addressed its inquiries to those matters.

The election of an Imam in 1913

264. The Committee's own researches indicate that the election of Salim bin Rashid al-Kharusi as Imam in May 1913 was followed almost immediately by an attempt to overthrow the Sultan at Muscat. Kelly states that, in June and July 1913, the Sultan's garrisons were expelled from Nazwa and Izki and that, in August, the fortress of Sumail, commanding the road to the Batinah coast, was taken.[31] In October 1913, the Sultan died and was succeeded by his son Taimur bin Faisal who, Kelly states, tried unsuccessfully to come to terms with the leaders of the revolt. According to Thomas, some time in 1913, the British sent a garrison of Indian troops to Muscat to defend the capital.[32] In January 1915, the Imam's forces, which Thomas numbers at 3,000, attacked Muscat but were repulsed with heavy losses. Sultan Taimur continued to seek a settlement but this was not finally achieved until September 1920, when the agreement or treaty was signed at Sib.

265. Thomas comments on the situation at the end of World War I in the following terms:

> "When the Great War ended there were thus two mutually antipathetic governments in Oman, a coastal one and an interior one: the former under the Al Bu Sa'id Sultan of Muscat, the latter, superficially at least, of theocratic form."[33]

266. When discussing these events with the Chairman, the Sultan denied that the election of an Imam in 1913 implied the existence of another state. He emphasized that there never had been two states.

267. The view expressed to the Committee by the United Kingdom was that the election of an Imam in 1913 was an internal affair of the Sultanate. The United Kingdom had had no relationship with the Imams except years before, when they had been rulers of the country as a whole. Further, the position of the Imam was a domestic matter of the Sultanate and was not a matter for the British Government. When attention was drawn to a claim that the British Consul at Muscat had referred to the Imam in correspondence and that this constituted recognition by the United Kingdom, the Committee was informed that this argument could not be accepted. To refer to a person as Imam had no bearing on whether he was recognized as sovereign of Oman. So far as the United Kingdom was concerned, it considered that the Imam's functions were a matter of domestic concern. In those days the Sultan had agreed that there was an Imam, but it was for the Sultan to decide what his functions were. The position was that the United Kingdom took the Imam for what he claimed to be, provided this was satisfactory to the Sultan as ruler. However this did not mean that the United Kingdom accepted the Imam's claim that he was ruler of Oman. The Committee was also informed that the British Agent at Muscat had had no official relationship with the Imam, although he had no doubt met him from time to time. The United Kingdom memorandum (annex VII) described the events of 1913 and 1914 as follows:

> "When, in 1913, the leaders of the Hinawi and Ghafari factions combined to appoint an Imam in Inner Oman and, in 1914, moved to attack Muscat, the Sultan called for British assistance, as promised in the Declaration of 1895, and the Government of India complied by sending troops."

268. Referring to this period, the Imam stated to the Committee that during the reign of Salim bin Rashid al-Kharusi, in 1913, the Omanis made another attempt to recapture Muscat and restore the unity of the country. They reached to within two miles (three kilometres) of Muscat, but British troops from Bombay arrived and defeated the Imam's forces. There was then war between the British and the Sultanate on the one hand and the Imam on the other from 1913 until 1920, when the Treaty of Sib was signed.

The circumstances leading to the signing of the Treaty (Agreement) of Sib

269. The present Imam and his supporters drew attention to the part played by the British in the events leading to the negotiations at Sib in 1920. They claimed that the British had conducted the preliminary negotia-

[31] *Ibid.*

[32] Thomas, op. cit., p. 47.

[33] *Ibid.*, pp. 49 and 50.

tions with the Imam and that this indicated that the British recognized the Imam and the Imamate and regarded the Imam as one of the parties. They also claimed that the leading part played by the British in the preliminary negotiations showed that the British were one of the parties to the treaty that was subsequently signed. They also claimed that the Omanis were threatened by the British.

270. In support of these claims, Sheikh Saleh handed to the Committee letters from the British Political Agent and Consul at Muscat. The first was dated 9 April 1915 and was addressed to "The Honourable Salim bin Rashid al-Kharusi", who was, in fact, the Imam, although his title is not used in the letter. It reads as follows:

"There have been several days during which relations between the ruler and the interior have been deteriorating. Great Britain regrets this situation very much. The continuation of this dispute is useless and it should be obvious to you and to all. Peace is one of the primary pillars of the Sharia of God. It should have been clear from past experiences that the Government of Great Britain wants justice and peace and sincerely wishes that good relations shall prevail between the two parties. We believe that this uprising was the result of misunderstanding. If the causes of the misunderstanding were removed, it would be easy to resume good relations. I sincerely trust that it will result in a mutually acceptable solution. For this reason I wish to explain to you in this letter the views of the British Government and its hopes. Particularly I wish to advise you that you should not delay informing us fully about your intentions regarding this matter, so that we can understand whether there is a serious problem that requires a solution. I look forward to your reply. We shall receive it and consider it thoroughly and shall take appropriate measures to end the problem. We wish the reply to be given to the bearer of our letter. This is what we wanted to explain. Greetings.

(*Signed*) "Colonel Robert Arthur Edward BAINE
"Political Agent of His Britannic Majesty and Consul in Muscat"

271. The second is dated 10 September 1915 and is addressed to "His Excellency, the Honourable Sheikh Isa bin Saleh, Deputy Imam" and reads as follows:

"I arrived at Sib this morning in accordance with the promise which was agreed upon. Then I received a letter signed by the Imam and from you in which you wanted me to arrive in Sib on the 4 or 5 Thel-Alkada. The fourth day will correspond to the date of my arrival at Sib. I hope that you will not be delayed from arriving on that date to meet me in Sib in the place which I shall have arranged for the parties to meet. I have sent assurances to the Imam and to you and to His Highness the Sultan guaranteeing safety during your coming and returning as you wish to the place which has been arranged by me. I have written to the Imam a separate letter informing him that 4 Thel-Alkada will be agreeable to the two parties.

"In conclusion I send you my greetings.

"Dated 29 Shawwal 1333 H, corresponding to 10 September 1915.

(*Signed*) "Lieutenant-Colonel RAE, R.E.B.C.A.E.
"Consul of Great Britain in Muscat"

272. The third was written in March 1919 and was addressed to "the Honourable Sheikh Isa bin Saleh bin Ali Allsamri al-Harthi" and reads as follows:

"I have not written to you for a long time, and now that the war is over I wish to communicate with you and explain to you all our thoughts regarding these affairs. As you know, and thanks to God, Great Britain and her allies have been victorious over the enemy who has surrendered. We are, today, occupying Germany, Austria, Bulgaria and Turkey. Germany has surrendered its fleet and most of her ships are in our custody in England. The situation in Germany itself is one of confusion and drought. We have also occupied Istanbul from the Turks; and, as you know, Baghdad has been in our hands for quite some time. We are now installing in Baghdad and Basra an Arab Government; we shall put the whole of Iraq under an Arab Government, and will not permit the Turks to rule it any more. Our friend and ally, Al-Sharif Hussain, in the Hijaz, has become very strong and has been named as the King of the Hijaz. According to the conditions of the truce which we have granted the Turks, the city of Al Madina Al-Monawara is now in the hands of the King of Al-Hijaz. In Yemen also, Said Pasha has surrendered and he is now a prisoner in our hands. Undoubtedly, you will soon receive confirmation of this news from other sources, if you have not yet already received it.

"I am writing you now these lines specially in order to advise you of our wish to help form an Arab Government in all Arab lands to rule according to their own traditions. As the Arabs have been freed from the Turkish yoke, there is a high hope that they will progress in their affairs according to the good Arab way. Now that we can turn our attention to Oman, I must try to explain to you our position towards Oman so that you may understand our viewpoint.

"Muscat is one of the harbours at which our ships stop on their way back and forth to and from Abu Shahr and Al-Basra. It is necessary for the purposes of world trade that such harbours be peaceful and safe. If the Government of the land is unstable and hostile, then the ports will be unsafe and there will be no shelter for the ships that come to it, and their merchandise will be in danger if unloaded.

"Oman still has wars, upheavals and conflicts, particularly when an Imam or Sultan dies and another is elected. We have been accustomed to become allies of the ruler of the land but as soon as we do so, another person claims power and attacks him. As you know, these circumstances forced us to announce to all the Heads and Sheikhs of Oman in 1895 A.D. corresponding to 1313 H, that we would help the Sultan and the power with which we were allied in the harbours. For this purpose we have helped the Sultans Turki and Faisal and now we are helping Taimur.

"This is the only reason I wish to meet with you and discuss with you what should be done in order to improve things, because meeting and discussing under these circumstances is the only means to enable two disputants to understand each other's demands and to seek the possibility of resolving their conflicts in a satisfactory way. No one has ever heard that we have caused damage by force and injustice to anyone, but we shall be forced to treat you differently from heretofore if you do not invite us to discuss matters satisfactorily, or if you do not show willingness to deal with us in a friendly way. We do not want to impose a bad government on a nation contrary to its tradition.

"I hear these days that you have plans to attack Sur and I do not know the truth of what has been said. May God forbid the happening of such a thing, because if it were true, it would lead to our fighting against the Omanis.

"I have tried for years to make it impossible for such things to happen. I am writing to you to say do not do this thing, if you have thought about it or started to do it, or if it is in the mind of anyone to do that, because an action such as this will cause you great damage and we do not wish to harm you; indeed, our wish is the opposite of that, and it is for your benefit. If we wished to cause you damage it would have been easy for us to send one of our airplanes and it is sufficient to destroy your cities and damage your forts, and for sure you know that you cannot resist us.

"We have 500,000 trained soldiers who have now terminated their operations in Iraq and we have no need for them there. A few thousand of them would suffice to occupy the whole of Oman had we wished to harm you. Taimur has always acted differently in that he has tried to be on friendly terms

with us and you know that. You also know that the ruler who has control over the coast is able to levy heavy duties upon the merchandise going to and from your country at all times, and you cannot do anything about it. You also know that the control of the seas is in our hands. So if you imagine that you can become our enemy then we shall not permit anything such as rice, wheat or clothing to be sold to you, and will not permit you to sell your dates, knowing that all your trade is with our countries. But if you prefer our friendship and communicate with us in your affairs, we shall help you as we are now helping Taimur. Yes, if you insist on gaining our enmity, then the consequences will be grave and they will befall upon you and not upon us, as I stated to you before. It is impossible to be friends with those who do not wish our friendship. I appeal to you to explain the present situation to your Imam and point out to him that conditions cannot continue this way for ever, and that your meeting and communicating with us will not hurt him but it will benefit him. But by his refusal it will become impossible for us to help you and therefore the result will be harmful to you and to him. I have also written this to Sheikh Himyar bin Nasser bin Sulaiman Al-Nabhani and Sheikh Nasser bin Rashid Al-Kharusi to inform his brother."

273. From other letters produced by Sheikh Saleh, it appears that during 1919 attempts were made to arrange a meeting between the British Consul and Sheikh Isa. The arrangements that were made and the matters for discussion are contained in the following extracts from the correspondence. In each case the letter is signed by Major Haworth, British Political Agent and Consul at Muscat, and is addressed to His Excellency, Sheikh Isa bin Saleh bin Ali al-Harthi:

(1) "Regarding your letter of 2 Jaamadi Al-Thani, I am writing to request you if it is possible for you to meet me as soon as possible because I am not staying here except for meeting with you. Otherwise I shall be going to India, escaping from the heat for a short period. Likewise the Chief of the Gulf will arrive tomorrow so that we may meet together and he will not be able to stay here for too long due to his busy schedule. I shall be very grateful to you if you could come as soon as possible for the meeting and reply to this letter with bearer thereof. I renew my greetings." (From letter dated 6 May 1919)

(2) "Regarding your question about the conditions which you mentioned, it is not difficult to write down the conditions so that you can consult with your people. But it is difficult to decide upon something before we meet. However you will become acquainted with all the facts when we meet. I am not a man who would impose conditions on his enemy for the sake of peace. I am someone who has seen a misunderstanding and, having started to oppose and resist, has wanted to know the causes of that misunderstanding in order to see what should be done to remove them.

"In reality, there is no conflict between our attitude and yours except a minor difference. Under such circumstances we must reach in our negotiations a point of agreement between us. But what could be done and what could not be done, and what could be agreed upon and what could not be agreed upon, may not be settled except after meeting and negotiating in a friendly way and trying to reach a solution.

"We have concrete evidence and firm proof that our wish is justice and keeping our promise. Our word is that we have not used the force which has been at our disposal. Accordingly it is better that we negotiate together first, after which you may present the results of our negotiations to your Consultative Assembly, as you wish.

"But it is more important that you should always treat us in good faith and amity.

"We wish that you would do your utmost to bring to an end this misunderstanding. I wish to renew my greetings." (From letter dated 13 May 1919.)

(3) "I have received your two letters after my return from India. I am very happy about meeting you in Sib, as you wish, at the end of this month. I shall be very happy if you would settle these problems to the satisfaction of both sides. Thanks to God, the war is now over, and our problem is to bring stability and security to Oman. This will be the best thing we can do for God and the whole world. Otherwise the situation in the country will deteriorate day after day so that I am afraid commerce will stop and even food supplies will not be found. I wish to renew my greetings." (From letter dated 20 August 1919.)

(4) "I sent you a letter yesterday and now I have your letter. If you meet your Imam on the way to Sib please greet him for me and inform him that I hope that our meeting will be fruitful for all. I hope that the situation will be improved and peace which is now prevailing all over the world will be found in Oman too. I renew my greetings." (From letter dated 21 August 1919.)

(5) "Your letter of 28 Thel-Haja arrived today. I am very sorry that we did not meet as we had planned at the end of last month because of a delay in my return from India. But, God willing, we shall meet and correct the situation. The day of our meeting will have to be after the Feast on 18 Thel-Haja or 14 September, Sunday. But I will not be able to go to Al-Khawdh because I am not permitted by the Government. It is easy for you to come to Al-Khawdh and I shall stay in Sib. The meeting will be outside Sib. There we shall set up tents, some large ones, for the meeting. As for the Honourable Said Ibn Nasser Al-Kandi, I shall talk to the Sultan Al-Said Taymoor. I renew my greetings." (From letter dated 29 August 1919.)

274. The meeting referred to in (5) above between the Consul and Sheikh Isa apparently took place, as it is referred to in a letter to Sheikh Isa from Mr. Wingate, Major Haworth's successor as Consul at Muscat. This letter also makes reference to permission having been granted to the British Consul by his Government, to act as mediator. The letter, dated 8 January 1920, reads as follows:

"We have received your letter of 6 Safar which you had written to Major Haworth. You may know that Major Haworth has left and that I have taken his place. I learned from him all that happened in the meetings at Sib and, as you know, I have written to Sheikh Said Ibn Nasser Al-Kandi to arrange the question of the orchards and the release of the prisoners, safely. I am sure that this will be accomplished according to your promise in Sib. I am pleased to inform you that our Government has authorized me to work as a mediator, as requested in the meeting of Sib. Now I am waiting to hear from you if you want to return the orchards, for I can prove officially the other problems requested by you. I did not write you before this, expecting to hear from you regarding the orchards. Also I was awaiting a reply from our Government and now, thanks to God, there is no need for delay, and we request your reply as soon as possible and a speedy settlement so that the benefit will be for all. I renew my greetings."

275. The last letter in this file of correspondence written by Mr. Wingate to Sheikh Isa before the negotiations took place at Sib, reads as follows:

"Your letter of 20 Jaamadi Al-Akhar has arrived with a letter from Sheikh Said Ibn Nasser. I was happy to know of your good health. I have understood the content of the letter. I am glad to know that you have gone to Nazwa with the Sheikhs and with Sheikh Said Ibn Nasser. I trust that your efforts will solve this problem. It has been said that where there is a will there is a way and that the pursuance of good is better than the good itself. Since we have not heard from Sheikh Said Ibn Nasser for some time and do not know the cause of the delay, my Government has asked me strongly to provide them with a reply as soon as possible, in order to complete your requests which you had demanded at Sib. We have written to Said Ibn Nasser a letter and sent it by a special messenger asking him to bring us a reply. The reply was to deal with the investigation of the Imam regarding the

return of the orchards. Also we wrote to Sheikh Said Ibn Nasser to show you that letter. I trust that before this letter reaches you you will have dealt with their requests. Meanwhile, the first messenger whom I sent will return with the requested reply. But if these things do not happen as I expect because of the meeting of the Sheikhs, Your Honour could send me a letter with the Imam's confirmation concerning the return of the orchards. That letter could be sent by this messenger so that your demands will be fulfilled. This was what we wanted to explain. I renew my greetings." (From letter of 17 February 1920.)

276. Apart from these letters, the only other source of information on the circumstance leading to the signing of the Treaty (Agreement), and on the actual course of negotiations, is the account by Sir Ronald Wingate.[34] In this account, he states that he carried out the preliminary negotiations with Sheikh Isa, whom he describes as "the Imam's Lieutenant". He states that Sheikh Isa demanded "impossible" conditions, and the expulsion of the Sultan. His account continues:

"But there appeared to be one method by which the Omanis could be brought to see reason. They had to export their dates to live. If the export of their dates could be made almost impossible, or at least very costly, and they could not retaliate, then they might be prepared to meet me and to talk terms for a reasonable settlement."[35]

Wingate stated that he then persuaded the Sultan to impose a duty of 20 per cent on the export of dates and that as a result the Omani leaders agreed to negotiate.

277. Wingate's account of the negotiations at Sib in September 1920 is as follows:

"Finally, what would be called in modern parlance 'the heads of agreement' were agreed. They were briefly that the Imam and the tribal leaders and their tribes would live at peace with the Sultan and not interfere with his administration in Muscat and on the coast, and that the Sultan would not interfere in their internal affairs. The Sultan would also reduce the *zakat*, of export duty, on dates to the customary five per cent which had been in force before. There were some other minor provisions of only local interest.

"So far so good, but on the morning of the third day an unexpected difficulty arose. The sheikhs insisted that the agreement should go between the Sultan on one side and the Imam al Muslimin on the other. This was fatal, and I knew that I could not possibly agree to it on behalf of the Sultan, for this would mean that the Sultan acknowledged another ruler, and a ruler who was already an elected spiritual leader and an admitted temporal representative of the tribes. From such an acknowledgement it was only one step further for the spiritual leadership and temporal representation of the tribes to develop into a claim for the spiritual and temporal leadership of all Oman. Every argument was used; that there were millions of Moslems for whom their Imam was not Imam; that this was a political, not a religious matter, and so on. But the tribal leaders were adamant, and the deadlock seemed complete till Ehtisham whispered to me in English: 'Tell them the story of the Prophet and his negotiations with the people of Mecca!'

"In those days I knew a little history, and I understood his suggestion.

"So I told them the story which, of course, they knew. The Prophet at Hadaibiyah had negotiated an agreement with the people of Mecca and had then attempted to sign the agreement as between the people of Mecca and 'Mohammed, the Prophet of God'. The delegates of Mecca had pointed out very reasonably that if Mohammed was the Prophet of God then there was no object in signing a peace with him in that capacity. How could the Prophet of God be a party to an agreement with mere mortals? The Prophet saw the point and his part in the agreement was as 'Mohammed, the Son of Abdullah'. (This incident is mentioned in Gibbon in his famous chapter on the rise of Islam, where he says that Mohammed '*Waived in the treaty his title of "Apostle of God"*.') The sheikhs, after a solemn confabulation, smiled. The word Imam was omitted from the body of the document, which simply read as conditions arranged between the Sultan's Government and Isa bin Salih as representing the Omani tribes.

"The document was in Arabic and began, traditionally, *In the name of God, the Compassionate, the Merciful.* So there was the Agreement of Sib. It was signed by me on behalf of the Sultan, with his full authority, and granted to the tribal leaders of Oman, all of whom signed individually, the right of self-government, or non-interference by the Sultan in their internal affairs in return for peace, and for the payment of the customary dues at the ports in the territory controlled by the Sultan. The question of sovereignty was never mentioned. Had it been, there would have been no agreement. It recognized the facts of the situation, a situation which was not a new one, but had been a source of controversy and conflict for three quarters of a century. For in Arabia allegiance is tribal, and the tribe has no defined boundaries. Yet the existence of a Coastal Sultanate, a tribal confederation, and a religious leader, who could claim through election the temporal allegiance of the tribes, had, up till then, made impossible a *modus vivendi*, where, by agreement, the coast and the interior each looked after its own affairs, while remaining in friendly contact."[36]

The text of the Treaty (Agreement) of Sib

278. It was apparent to the Committee that it was imporant that it obtain or see the original text of this Treaty (Agreement). The Committee therefore asked the Sultan, the United Kingdom and the Imam whether they could help by furnishing the original text.

279. When the Sultan was asked whether it would be possible to see the text, he said that it was not available and that, even if he wished to let the Chairman see it, he did not have it with him in London or even in Salalah.

280. When the representative of the United Kingdom was asked whether it was a fact that the United Kingdom had no copy, he stated that he would not say that his Government had no copy, but, as it had not been a principal, it was not in a position to release it. This was a matter of domestic jurisdiction concerning the Sultanate.

281. The Imam informed the Committee that an original of the treaty had been kept in the house of a certain Suffin bin Hamed in Oman but that he had been attacked in his house and all the documents, including the treaty, had been taken. The Imam had a copy which he was sure was a true copy and which he would give to the Committee. Subsequently the Committee was given a photostat copy of a letter which contained the text of the treaty (annex XI).

282. Sheikh Saleh bin Isa informed the Committee that to his knowledge there had been three original signed copies; the Sultan had received one, the Imam the second, and his father, Sheikh Isa bin Saleh, the third. The text belonging to his father had been handed on to him, but he had not been able to bring it with him from Oman when he left. He explained that he had kept his father's documents in houses in two towns and that he had been able to collect the documents from one house but had been unable to get the remainder from the other house. However, he had a copy, the

[34] Sir Ronald Wingate, *Not in the Limelight* (Hutchinson of London, 1959), p. 86.

[35] *Ibid.*, p. 87.

[36] *Ibid.*, pp. 89-90.

text of which was incorporated in a memorandum he subsequently handed to the Committee (annex XII).

283. Having been unsuccessful in obtaining an original of the Treaty (Agreement), the Committee was obliged to use the texts available to it. These were: (1) the text appearing as an annex to the report of the Secretary-General's Special Representative on Oman (A/5562), which was identical to the text issued in publications by the Arab Information Center in New York (annex XIII); (2) the text supplied by the Imam; (3) the text supplied by Sheikh Saleh.

284. The text supplied by the Imam contains four conditions applying to both sides, which are described as "the people of Oman" and "the Government of the Sultan". It also includes the following certifications and ratifications by the parties:

"As a deputy of the Imam Muslimeen Mohammed bin Abdullah Al-Khalili, I declare that I have accepted the conditions laid down therein by virtue of an authorization from the Imam Al-Muslimeen. Written by Isa bin Saleh and by Sulaiman bin Himyar in their handwriting.

"I have completed what Sheikh Isa bin Saleh has done on my behalf regarding these provisions. Certified by Imam Al-Muslimeen, Imam Mohammed bin Abdullah in his own handwriting.

"This is the treaty which was signed between the Government of His Highness Sultan Taimur bin Faisal and the Omanis in my presence: Ihtishom Al-Munshi, 12 September 1920 corresponding to 26 Muharram 1339.

"Certified by Mr. WINGATE, I.C.S.
"Political Agent and Consul of Great Britain in Muscat"

285. The text provided by Sheikh Saleh also contains the four conditions applying to both sides and, with a minor exception, the original Arabic wording of these provisions is identical. Sheikh Saleh's text also includes the following certifications and ratifications:

"I have accepted what has been done on my behalf by Sheikh Isa bin Saleh regarding the above-mentioned conditions: Imam Al-Muslimeen, Mohammed bin Abdullah Al-Khalili. I have agreed to the conditions laid down herein by virtue of a mandate from the Imam Al-Muslimeen, Mohammed bin Abdullah Al-Khalili: Isa bin Saleh in his own handwriting."

286. The translated text used by the Committee contained the same four conditions applying to both sides, and although the Committee has some doubts about the accuracy of this translation, the Arabic text from which it was made is probably identical with the texts supplied by the Imam and Sheikh Saleh.

287. The major differences between the text used by the Committee and those supplied by the Imam and Sheikh Saleh are that: (1) it contains no certifications and ratifications; and (2) it includes the following preamble:

"This is the peace agreed upon between the Government of the Sultan, Taimur ibn Faisal, and Sheikh Iso ibn Salih ibn Ali on behalf of the people of Oman whose names are signed hereto, through the mediation of Mr. Wingate, I.C.S., political agent and consul for Great Britain in Muscat, who is empowered by his Government in this respect and to be an intermediary between them. Of the conditions set forth below, four pertain to the Government of the Sultan and four pertain to the people of Oman."

The parties to the Treaty (Agreement) of Sib

288. One of the main points of controversy about the Treaty (Agreement) of Sib concerns the parties to it. Some information on this aspect of the question is contained in the preceding paragraphs in connexion with the text itself. Additional information obtained by the Committee during its interviews is set out below.

289. The position taken by the Imam on the question of the parties to the Treaty (Agreement) was that it had been signed as between two States, the Imam on one side and the British and the Sultan on the other.

290. Sheikh Sulaiman bin Himyar, who had been present at the signing, said that he had signed the Treaty as a representative of the Imam and as a witness and not on his own behalf. The British representative and the Imam's Foreign Minister, Sheikh Isa bin Saleh al-Harthi, had signed the Treaty. It had then been ratified by the Imam and the Sultan. Sheikh Sulaiman could not remember how many witnesses there had been for the Imam and for the Sultan. He remembered the names of two sheikhs who witnessed the Treaty on behalf of the British and the Sultan, namely Ihtesham al-Monshi and Rashid bin Azziz.

291. Sheikh Saleh bin Isa informed the Committee that in a letter sent by Consul Wingate to his father, Sheikh Isa bin Saleh, the Consul had stated that he was mediating between the Sultan and the Imam as the protector of the Sultan and as the representative of the United Kingdom. Mr. Wingate had signed the Treaty as the representative of the Government of Muscat. The British had signed the Treaty for the Sultan. It was a treaty between Oman and the United Kingdom.

292. In the course of the Committee's interviews, the question arose as to whether Sheikh Isa had negotiated and signed the Treaty (Agreement) during a period when there was no Imam. The Committee therefore sought additional clarifications. It was informed by both the Imam and Sheikh Saleh that this was not so. The Imam informed the Committee that the Treaty of Sib had been signed on 25 September 1920 during the rule of Imam Mohammed bin Abdullah al-Khalili, who had been chosen as the successor to the late Imam Salim bin Rashid al-Kharusi. Imam Mohammed had assumed the Imamate after the people of Oman had elected him on 13 Thel-Alheja 1338 H. Sheikh Saleh confirmed this and stated that the negotiations had stopped while the election of the new Imam was going on, but that after the Imam had been elected, the negotiations had been resumed and continued until the Treaty was concluded. His father had then been asked by the Imam to sign the Treaty of Sib on behalf of the Imam, Mohammed bin Abdullah, who had ratified the Treaty in his capacity as Imam of Oman and the legitimate representative of the people of Oman.

293. The representative of the United Kingdom stated that the part played by the British Political Agent was that of using his good offices. He had not acted for the Sultan but as mediator. He had not been a principal, but had acted merely to bring the two parties together. The representative of the United Kingdom noted that, in his book, Sir Ronald Wingate had stated that he had signed for the Sultan (see paragraph 277 above). However, the position was that the different tribal leaders had signed on behalf of the Sultan while, on the other side, the sheikhs of the interior had signed. The representative of the United Kingdom added that Sir Ronald Wingate had signed as a witness and that his memory was at fault in saying otherwise.

Interpretation of the Treaty (Agreement) of Sib

294. The position taken by the Sultan with regard to the Treaty (Agreement) of Sib was that there had been some trouble in 1918 which had been terminated

by an arrangement in 1919 by which a few sheikhs had signed a paper with the Government of the Sultan. This arrangement had not been made binding on the Sultan's successors, therefore it had ended with his father's death and he did not regard it as binding on him. Moreever, all the sheikhs who had signed it were now dead, except one, Sulaiman bin Himyar, who had fled the country and as a result was no longer a sheikh or leader. This "arrangement" was not a treaty: it was simply a temporary arrangement to stop the fighting. It was not possible to have a treaty between a ruler and his subjects; a treaty had to be between two Governments. There had been similar arrangements in Arabia in olden days and also in the days of Turkish rule. The agreement did not confer the status of a Government on the other party. Moreover, his father had not signed it, but had had other people sign it for him. His father had been in India at the time.

295. The Imam denied that in Oman a treaty was valid only for the lifetime of the person making it. Sheikh Saleh also said that this was not so. It was stated by the Imam and the members of his Higher Council that although the Omanis had been forced to sign the Treaty in the face of threats, they had regarded the Treaty of Sib as remaining valid until it had been broken by the British. Sheikh Saleh informed the Committee that when he had been sent by the Imam to Bahrain in 1953 to discuss certain changes in the Treaty, the Resident had said the United Kingdom insisted on the full text of the Treaty. In this connexion he produced a letter dated 21 March 1953 from A. R. Hay, the British Resident at Bahrain, addressed to "His Excellency Imam Mohammed bin Abdullah al-Khalili", which reads as follows:

> "I have received with pleasure your letter dated 11 Jamady Al-Awwal 1372 and I have discussed with Sheikh Saleh bin Isa the peace agreement signed by his father Sheikh Isa bin Saleh and the other related matters. He will undoubtedly inform you about what was said. The British Government is always anxious to see that good relations between His Excellency the Sultan and the Omanis are maintained and it will do everything possible to improve them."

296. Sheikh Saleh also informed the Committee that he had seen the Sultan at Dhofar in 1954, following the attack on Ibri, and had asked him whether he regarded the Treaty of Sib as a valid treaty. The Sultan had told him that this was so, but that he could not send away the British army that had occupied the country.

297. As has been stated earlier, the Imam and his supporters claimed that the Treaty was between the Imam of Oman on the one side, and the British representing the Sultan of Muscat on the other (see paragraph 289). The Imam and his supporters also claimed that since the Imam of Oman was one of the parties, this was proof of British and international recognition of the existence of the Imamate of Oman as a sovereign independent State. Sheikh Saleh, for instance, informed the Committee that by the Treaty of Sib the British Government had recognized the independence of his country on behalf of the Sultan of Muscat. The Treaty was clear in its recognition of the independence of Oman from Muscat. The British who had signed this treaty for the Sultan had acknowledged that all Omanis should have complete freedom and authority in all matters and that the Sultan of Muscat should not harbour criminals and would hand over guilty persons as soon as he was requested to do so. He quoted from an article by Captain Eccles stating the opinion of the author that the Treaty of Sib completely recognized the independence of the Imamate of Oman.[37] Sheikh Saleh pointed out to the Committee that the signing of the Treaty of Sib and all the agreements signed in the ten years following the conclusion of the Treaty of Sib, referred to the Sultan as the Sultan of Muscat and not as the Sultan of Muscat and Oman. Sheikh Saleh referred to the file of correspondence he had handed to the Committee and stated that there were letters in it which proved that the British recognized the independence of the Imamate (see paragraphs 303-313).

298. In putting questions on this aspect of the matter to the persons it interviewed, the Committee was hampered by the absence of an agreed text as a basis for discussion. However, two points were raised and discussed which arose from portions of the text on which there was agreement.

299. The first point concerned the use of the term "the people of Oman" in the Treaty. The Committee drew attention to the fact that when setting out to whom the provisions pertained the term "the people of Oman" was used on one side, while the term "the Government of the Sultan" was used on the other. The Committee asked why a term such as "the Government of the Imam" had not been used. Was it because there had been no Imam at the time? The reply to the latter part of this question has already been covered in paragraph 292 above. With regard to the first part of the question, the Committee was informed by the Imam that the system of government in Oman was based on democratic Islamic principles, according to which sovereignty belonged to the people who ruled themselves, by themselves, and who had the right to choose their Imam and disqualify him from his office, in accordance with legally established rules. Therefore, the reference to the people in the Treaty was to emphasize that the Treaty had been signed in accordance with the wishes of the people and not in the interest of the ruler alone, thus upholding the principle of sovereignty and not the will of an individual. It was also pointed out that Sheikh Isa had conducted the negotiations on behalf of the Imam and that the Treaty had been ratified by the Imam. Sheikh Talib stated that the Sultan had also ratified the Treaty, although he had refused to do so until the Imam had first ratified it.

300. The second point concerned the use of the term "all the sheikhs and tribes" in the first paragraph of the second part of the Treaty, which reads as follows:

> "1. All the tribes and sheikhs shall be at peace with the Sultan. They shall not attack the towns of the coast and shall not interfere in his Government."

The Committee asked why the Omanis had accepted this term instead of "the Imam" or "the people of the Imam". In reply, Sheikh Saleh denied that this provision appeared in the authentic text. He believed the Committee was using a translation that had been supplied by the British, who would not stop short at creating any lie. In reply to the same question, the Imam informed the Committee that this paragraph did

[37] Sheikh Saleh was probably referring to the article by Captain G. J. Eccles in the *Journal of the Central Asian Society*, vol. XIV, part I (1927), "The Sultanate of Muscat and Oman". The relevant passage reads as follows:

"We must remember that the interior has been in open rebellion since 1913, that a treaty has been signed between Muscat and Shaikh 'Isa, which is a virtual acknowledgment of his independence...." (p. 24)

not mean that the Imam had no jurisdiction; the contrary was evidenced by the Treaty as a whole. The Treaty had been concluded between the representative of the Imam and the representative of Britain, who was representing the Sultan of Muscat and had acted as an intermediary between the two parties. The words "the sheikhs and tribes" were synonymous in fact with "the people", as the people were organized into the families which were represented in tribes and it was their sheikhs who chose the Imam as the legal ruler of the country. Accordingly, the term "the sheikhs and tribes" was intended to emphasize the agreement of the people and also that there would be no objection by any of the Omanis.

301. The Committee also asked whether the signing of the Treaty (Agreement) represented recognition of the Sultanate of Muscat as an independent sovereign State by the Imamate. The Imam replied that according to the Islamic religion it was necessary to respect any agreement, whether one liked it or not. However, in this case Muscat had not been recognized as an independent State: the only independent State on the other side was Britain. Muscat was considered as having been separated from Oman by the British Army. It had been accepted as a separate territory, but one that was under the colonial rule of Britain. It was not an independent state. The Imam also recalled that the Omanis had been threatened at the time of the agreement.

302. The Committee also asked the Imam whether the Treaty (Agreement) of Sib had brought peace to the tribes of the interior of Oman. The Imam replied that the Treaty of Sib did not affect the tribes of Oman: they were always at peace.

303. As mentioned in paragraph 297 above, Sheikh Saleh handed to the Committee a file of correspondence from the British political agents and consuls at Muscat to his father, Sheikh Isa bin Saleh al-Harthi. Also included in the file were two letters from the British Resident in the Persian Gulf. He stated that this correspondence proved that the United Kingdom recognized the independence of the Imamate of Oman.

304. This correspondence covers the following four subjects:

(1) Problems apparently concerning the "Agreement of Sib" raised by Sheikh Isa with the consuls.

(2) Problems concerning the Treaty (Agreement) of Sib raised by the consuls with Sheikh Isa mostly at the instance of the Government of the Sultan.

(3) Questions on a variety of matters raised directly by the consuls with Sheikh Isa.

(4) Relations between the British Residents in the Persian Gulf with Sheikh Isa and Imam Mohammed.

305. Problems apparently concerning the Treaty (Agreement) of Sib raised by Sheikh Isa with the British consuls include a question of taxes in certain villages, a question of weights at Matrah, a threat by a ruler of a tribe, a threat by another ruler against Rustaq, a conflict between a decision by the Sultan and the Treaty (Agreement) of Sib, and excessive import duties at Sur contrary to the Treaty (Agreement) of Sib. The action taken by the Consul in response to these complaints was as follows: in the first case he said that the Sultan had made the necessary arrangements. In the second case, he said that he had written to the Government of the Sultan. In the third case, the Consul said that he did not understand what the problem was and asked the Sheikh to inform him as to what he wanted. In the fourth case he stated the following:

> "You had written that Said Ahmed bin Ibrahim bin Ali had certain designs over Rastaq, but you did not show whether he had done anything or what was his intention. If you write to me saying that he has done something contrary to the agreement and against public security and peace, then I shall write to the Government of the Sultan regarding that matter."

In the other two cases, the Consul explained that the matters raised were not contrary to the Agreement of Sib.

306. The problems concerning the Treaty (Agreement) of Sib raised by the consuls with Sheikh Isa, mostly at the instance of the Government of the Sultan, were the appointment by Sheikh Isa of a *wali* to the Bani Bat-tash, the murder of a soldier of the *wali* at Sur, interference with the property of an official of the Government of the Sultan, and disturbances by the Wahibah tribe. Extracts from the letters relating to these matters are set out below.

(1) *The Bani Bat-tash question*

"I read your letter of 30 Thel-Alkada several days ago after my return from India, but I did not understand its content. I remember that last year the Bani Bat-tash claimed to have agreed with the Sultan. Accordingly, the Government of the Sultan had exempted them from *Zakat alzaida* (extra tithe). We recall that one of the provisions of the agreement was that you would not interfere in the affairs of the Government of the Sultan. Yet I have information that you have sent a *wali* to them, but I cannot believe that such a thing could happen because I know that you would not violate the agreement. I am sure that I shall hear from you all good results." (Letter dated 20 September 1921 from Wingate.)

"Your letter of Muharram 25 in reply to our letter was received. I understand its content but I believe that the misunderstanding remains. We remember that he was a *Cadi* for the Bani Bat-tash, as you mentioned, several years ago. But he left after His Highness the Sultan brought them back under his rule. Nowadays the conditions are very much different and it is necessary to make all efforts to maintain the agreement. Till this date, we have been able to delay the Government of Muscat from taking the necessary measures as I was sure that that problem was the result of misunderstanding, and as I was the mediator in that agreement. However, it would be difficult for us to prevent the Government of the Sultan from taking the necessary measures, if you interfere in his affairs." (Letter dated 19 October 1921 from Wingate.)

(2) *The incident at Sur*

"The Government of His Highness the Sultan Said Taimur bin Faisal have informed me about the incident at Sur wherein a man from Oman from the family of Omer related to Alhojarin has murdered a man from the army of the *wali* in Sur. We hereby wish to advise you that this act about which I had been informed is an act of aggression by the Omanis against the Government of Muscat. It is also a violation of the agreement and a source of disturbance resulting in insecurity between the parties. Therefore the Omanis are obliged to capture the man who committed the act for retribution, so that such incidents will not take place in the future. The Government of the Sultan have advised us that they would not proceed to impose punishment before consulting us and receiving our reply, as we do not want any conflicts to arise between the parties." (Letter dated 8 March 1922 from Major Rae.)

(3) *Interference with the property of the official of the Government of the Sultan*

"We have received a letter from the Government of His Highness the Sultan stating that you have interfered with the property which belongs to Said bin Khamis bin Holeen,

who is a clerk in his Government. Your interference with him was in two places: one, Alrasa, and the second, Jalabt Alwakaf, which are located in Al-Khawadh. The first one of them was a grant from the late Sultan Said Faisal, and the second a trust (*waqf*) from his ancestors for the poor. I do not know the reason for your seizing this property because they had been in the hands of Said bin Khamis for a long time. Since Said bin Khamis is an official of the Government of His Highness the Sultan, and since that property has been in his hands for years, the Government of the Sultan has referred the question to me and I request you therefore not to interfere in matters like this because they lead to disputes and breach of the agreement. You are hereby requested to return that property to the hands of its possessor, Said bin Khamis." (Letter dated 12 April 1922 from Major Rae.)

(4) *Disturbances by the Wahibahs*

"I wish to inform you that the Cabinet of His Excellency the Sultan of Muscat and Oman has presented to us a letter which stated that he had received correspondence from the *walis* of the interior regions complaining about the Bedouins of the Wahibah tribe committing disturbances, looting and robbing in those regions. As these groups are related to you, it is your obligation to deter and stop these activities which disturb public security.

"We wish you would inform us about the measures taken in this connexion." (Letter dated 14 April 1930 from Major Murphy.)

307. The questions raised in this correspondence by the Consul directly with Sheikh Isa included an attempt by a purchaser of a property and an inheritance situated in the interior to take possession of them. These sales had involved the British Political Agents in Muscat and in Zanzibar. In one letter (Wingate to Sheikh Isa dated 1921) the Consul states that he hopes Sheikh Isa "will find a way to solve this problem under Sharia law in Oman or in Muscat". The correspondence also indicated that the Consul asked Sheikh Isa to make arrangements for his own travel in Oman and for that of other foreigners.

308. There were two letters from the British Residents in the Persian Gulf. One was addressed to Sheikh Isa, the other to the Imam. The letter to the Imam has already been quoted (see paragraph 295 above). The letter to Sheikh Isa refers to a projected visit by the Resident to Muscat during which he "would be happy to meet with you". The letter continues:

"During this period I trust that peace and friendship will prevail and that you will maintain good relations with the Government of Muscat as it is of mutual benefit." (Letter dated 19 December 1928 from Sir Frederick Johnston.)

309. Since the Committee received this correspondence on the eve of its departure from Cairo, it was not possible to seek any clarifications from Sheikh Saleh concerning it. When the correspondence was given to the Committee, it was informed that these letters contained proof that the United Kingdom recognized the independence and sovereignty of the Imamate of Oman.

310. Only one of these letters, that of 8 March 1922 (see paragraph 306, (2) above), had previously been made public and was available to the Committee at the time it held its discussions with officials of the United Kingdom Foreign Office. It was therefore possible to bring only this letter to the attention of the United Kingdom Government. In raising the question of this letter with the United Kingdom, the Committee noted that its attention had been drawn to the following passage in a letter written on 8 March 1922 by Major Rae, British Consul at Muscat to the Deputy Imam:

"The Government of His Highness, the Sultan Taimur bin Faisal, has notified me about events happening in Sur to the effect that a man from Oman has killed a soldier of the Sultan in Sur. This is to inform your Excellency that this act is aggression on the part of Oman along the borders of the State of Muscat and an abrogation of treaty obligations."

The Committee also noted that the following questions had been asked:

"(1) Why was it the British Consul who approached the Deputy Imam on this matter?

"(2) Does not the wording of the letter clearly indicate the existence of two States bound by treaty obligations?"

It then requested the comments of the United Kingdom.

311. In reply, the Committee was informed that the United Kingdom Government's only previous knowledge of this letter was of an Arabic text produced by the Omani dissidents in 1957. This text appeared to have been on official stationery and might be genuine but, as the United Kingdom Government had no other record of it, it could not be sure. It did not know, furthermore, if the Arabic text was the original, assuming the letter to be genuine. The United Kingdom then submitted "an accurate translation in English" of the letter in question which reads as follows:

"From the Agent and Consul of the Government of Great Britain in Muscat to Sheikh 'Isa bin 'Ali al-Harithi

"After Salutations:

"The Government of His Highness the Sultan, al-Sayyid Taimur bin Faisal, have written to me about the incident at Sur when a man of the people of Oman, of the Al 'Amm belonging to the Hijri'in, murdered one of the Wali's soldiers in Sur. We inform you that this act, as reported to me, is an offence by Omanis within the territories of the Government of Muscat and a breach of the agreement and a renewal of discord and bad faith which will result in a loss of confidence between the two sides. It is therefore necessary that the Omanis arrest the man who did this for punishment so that there will be no similar occurrence in the future. I have the word of the Sultan's Government that they will not take any steps to capture him before they get news and receive the reply from me; for we do not want the least bad faith between the two sides.

"Salutations,
"Your friend,
"(*Signed*) M. E. Rae
"Major,
"Agent and Consul of the Government of Great Britain in Muscat"

312. It was pointed out that the translation quoted by the Committee was tendentious. In particular there was no mention of "aggression . . . along the borders of the State of Muscat", nor of "an abrogation of treaty relations", but simply of "an offence . . . within the territories of the Government of Muscat" and "a breach of the agreement". It was quite an incorrect interpretation to suggest that this letter implied British recognition of an independent State of Oman.

313. It was also pointed out to the Committee that the "agreement" (*'ittifaq*) referred to in the letter was, no doubt, the Agreement of Sib, but since this was a domestic affair of the Sultanate, it would be wrong for the United Kingdom Government to comment on it. From a general knowledge, however, of the manner of the exercise of authority in tribal country, it seemed to the United Kingdom Government perfectly natural

that the central government should hold a local Sheikh accountable for the deed of his follower, within the pattern of partial devolution of central authority. In this connexion, attention was drawn to the fact that the letter was addressed to Sheikh Isa bin Saleh by name. It was stated that the letter ascribed no title to him, and certainly not that of "Deputy Imam", which would in any case be meaningless within the concept of an Imamate. Finally, the United Kingdom Government did not know why the British Consul should have approached Sheikh Isa in this way. He might simply have offered to write the letter as a personal good turn when he heard of the incident. It would have been outside his normal British functions, but the circumstances were unknown to the United Kingdom Government.

314. The Committee's attention was also drawn to opinions about the Treaty (Agreement) of Sib expressed in various publications and by a number of authors. Some of these opinions support the view that the arrangement was a treaty and draw attention to the provision relating to the people of Oman whereby the Government of the Sultan agreed to return persons "fleeing from the justice of the people of Oman" and not to "interfere in their internal affairs". Other opinions support the view that the arrangement was merely an internal agreement between the Sultan and his subjects and point to the absence of any reference to the Imam or to a Government of the Imam.

4. *From 1920 to 1954*

General outline

315. Following the conclusion of the Treaty (Agreement) of Sib, it is generally agreed that the fighting ceased. It is also generally agreed that the Sultanate continued to exist as a political entity, but there is disagreement as to whether it was an independent sovereign State or a colony of the United Kingdom. It is further agreed that there was an Imam in the interior, but there is a dispute as to whether he was the ruler of the interior or whether he was simply a religious leader among a number of tribal leaders. There is therefore no agreement about the existence of the Imamate as a political entity in the interior, nor as to whether it was an independent sovereign State.

316. There is also agreement about the main events between 1920 and 1954 and, in particular, that there was no overt trouble between the Sultan and the Imam.

317. According to information supplied by the United Kingdom, during 1918-1920, the British Government of India made two financial loans to assist the Sultan in a programme of reform, including financial reorganization and the improvement of the administration of justice. It subsequently assisted this reorganization by enabling the Sultan to engage Mr. Bertram Thomas as Financial Adviser.

318. In 1923, the Sultan entered into an undertaking with the United Kingdom not to grant permission for the exploitation of oil in his Territories without consulting the Political Agent at Muscat and without the approval of the Government of India (see paragraphs 398 and 399 below).

319. In 1925 representatives of Ibn Saud are stated to have arrived in the Dhahirah and to have begun collecting *zakat,* a form of tax. This event is noted by Bertram Thomas[38] and by Captain G. J. Eccles, who describes the reaction of Sheikh Isa and the subsequent events as follows:

". . . but last year Shaikh 'Isa, alarmed at threats of Wahhabi invasion, determined to advance into the Dhahirah, and bring by force or persuasion all the tribes of that district, both Ghafiri and Hinawi, up to and including the Biraimi oasis, into his confederacy. All went well at first. Dariz, 'Ibri, and Dhank submitted, but a severe attack of dropsy and a quarrel with one of his most powerful allied tribes caused him to break up the expedition and hurry back to 'Oman. This ignominious retreat so humiliated the Imam under whose banner the tribes had been united that he offered to resign the Imamate, but was persuaded to carry on by the leading Shaikhs."[39]

320. In 1932, Sultan Taimur bin Faisal abdicated and was succeeded by his son Said bin Taimur, the present Sultan.

321. In 1937 the Sultan granted a concession to a British company, Petroleum Concessions Limited, by the terms of which the Sultan, on behalf of himself, his heirs and successors, granted the company and its successors exclusive rights to search for, refine and export oil in all parts of the Sultan's territories, except the province of Dhofar (see paragraphs 400-403 below). According to one source, the company did not begin active exploration west of the mountains until "after 1945, when the appearance of prospecting parties excited unfavourable reactions on the part of the more fanatical tribes".[40] A similar concession to search for oil in Dhofar was granted by the Sultan in 1951 to an American company, Cities Service.

322. The United Kingdom informed the Committee that, in 1934, a Civil Air Agreement was concluded which granted the United Kingdom permission to establish aerodromes in the Sultan's territory. At the outbreak of war in 1939, the Sultan promised the United Kingdom all the assistance in his power and prohibited all trading with Germany and granted naval and air facilities to the United Kingdom. Also in 1939, the Sultan concluded a Treaty of Commerce and Navigation with the United Kingdom (see paragraph 404 below). On the expiry of this treaty in 1951, a new treaty was concluded (see paragraphs 504 and 505 below).

323. In 1946, Sheikh Isa bin Saleh, the leader of the Harth tribe and Amir of the Sharqiyah, died and was succeeded in these capacities by his son, Saleh.

324. In 1949, the Government of Saudi Arabia put forward a claim to sovereignty of an area which included Buraimi. In the face of this claim, the Sultan asserted his rights over the Dhahirah (in which area Buraimi is situated) while the ruler of the Trucial Sheikhdom of Abu Dhabi asserted his rights in Buraimi and other areas affected by the claim. An attempt to settle these claims was made at a series of conferences between Saudi Arabia and the United Kingdom, which was acting on behalf of both the Sultan of Muscat and Oman and the Sheikh of Abu Dhabi. In 1952, Saudi forces are stated to have occupied part of Buraimi. This led to further negotiations as a result of which, in 1954, the parties to the dispute agreed to submit their claims to an international tribunal for arbitration.

325. The occupation of Buraimi by Saudi forces in 1952 and its effect on affairs in Oman was raised by the Committee with the Sultan. He stated that in

[38] Bertram Thomas, *Alarms and Excursions in Arabia* (London, George Allen and Unwin Ltd., 1931), p. 174.

[39] Eccles, op. cit., p. 23.

[40] J. B. Kelly, *Sultanate and Imamate in Oman,* p. 11.

1952 many Sheikhs had come forward to offer help over Buraimi and (Imam) Mohammed was one of them. This had been a threat from outside so everybody had co-operated.

326. The matter was also raised with Sheikh Saleh and he was asked how the Imam reacted to the occupation of the Buraimi oasis. He informed the Committee that the whole affair was a plot by the British to spread the seeds of separation and dissension among the people of the area, whether they were of Muscat, Saudi Arabia or Oman. He was the leader of a large army on behalf of the Imam and he had taken his army to Nazwa to defend the western frontier near Ibri. But then the United States of America had interfered on the side of Saudi Arabia and Britain on the side of Muscat and no fighting had taken place. The reason for the interference by the British was their ambition for oil. Asked whether the United States and British interference had involved troops or whether it was mainly diplomatic intervention, Sheikh Saleh replied that the British had had troops but that the United States had not; it had been mainly a matter of diplomatic intervention. Asked whether the Sultan had requested the Sheikhs for assistance and whether they had made any contribution, Sheikh Saleh said that there were no Sheikhs, there was only the State and the Imam. Asked whether the Imam had received any such request and whether he had complied with it, Sheikh Saleh replied that the Imam had done nothing but defend his own country. As for himself, he had been the leader of the Imam's army.[41]

327. In 1953, the Sultan concluded a Treaty of Friendship, Navigation and Commerce with India.

328. In 1954, Imam Mohammed bin Abdullah al-Khalili died and Ghalib bin Ali al-Hinawi was elected as his successor.

Areas controlled by the Sultan and the Imam, 1920-1954

329. The information in this section is derived from books and articles by English travellers in the area (see annex IV). Captain Eccles, who was the British officer in charge of the Sultan's forces in the 1920's, published an account of his visit to the Interior in 1925. Bertram Thomas, the Sultan's Financial Adviser in the 1920's, also published accounts of his journeys in the coastal areas and in the interior. Finally, Wilfred Thesiger travelled through the interior of Oman in 1949 and published accounts of his journeys. The Committee also received information from the persons it interviewed on its mission.

330. According to these sources, the areas controlled by the Sultan began in the north and included the tip of Cape Musandam known as Ru'us al Jibal. The Sultan's territory continued south along the coast, excluding the two towns of Kalba and Fujairah (which were part of the Trucial Sheikhdoms) to Ras al Hadd, then south to Dhofar and the border with the Protectorate of South Arabia. The present Imam claimed that the Sultan's territories along the coast ended near Sur and that the coast from Sur to the border of Dhofar at Ras Naws was Imamate territory. Thomas' account of his journey through this area in 1928 contains no indication of any control being exercised by the Imam. Eccles, in his article written in 1926, mentions that the Sultan's *Wali* at Sur had little authority and that Sur was under the control of the Sheikh of the Bani Bu Ali who called himself the Amir of the Ja'lan. Eccles states that this Sheikh had been writing to the Government of India, objecting to receiving letters from the Political Agent at Muscat, and insisting on corresponding as an independent sovereign direct with the Government.[42]

331. With regard to the extent inland of the areas effectively administered by the Sultan during this period, Eccles states that "at the present time [1926] the Sultan in reality has authority only in Muscat and a stretch of coast to the north and south, which can be intimidated by British gunboats.[43] Thomas, in his accounts of his journeys, indicates that the Sultan controlled Dhofar province, including the mountain areas, but that in other areas his control did not extend beyond the limits of the coastal plain.

332. With regard to the area controlled by the Imam, the present Imam claimed that all of the areas except the coastal plain areas and Dhofar belonged to the Imamate. This would include the Ja'lan, the Sharqiyah, and the Jabal al Akhdar regions. However, the western borders in the desert were not defined to the Committee. Nor was it made clear just how much of the Dhahirah region was claimed. The Imam stated that, in the period from 1920 to 1955, the Imam's jurisdiction had extended over 75 per cent of the whole country.

333. With regard to the Dhahirah, Eccles indicates that Ibri and towns further north were not controlled by the Imam (see quotation in paragraph 319 above). Eccles also visited some of the towns in the Dhahirah, such as Yanqul, and was accompanied by the Sultan's *Wali* from Suhar. Eccles makes it clear that the Dhahirah was beyond the administrative boundary of Suhar, but he also indicates that the Sheikh at Yanqul was "loyal to Muscat"[44] and that the *Wali* was consulted by the Sheikh at Suhar on a question of punishment. Furthermore, Eccles indicates that the Imam had no influence among the Naim tribe in the vicinity of Buraimi nor among the Kaab tribe who occupied the portion of the Dhahirah north and east of Buraimi.

334. Thomas, who visited this area at almost the same time, makes no mention of the Imam having any influence there. He also refers to a place called Burj as Shukhairi in the Wadi al Jizi which cuts through the mountains, as marking the "frontier of the Muscat State".[45] With regard to the Kaab tribe, whose area lay beyond this "frontier", Thomas refers to having previously secured the precarious attachment of the Kaab people to the State. On this same journey, Thomas received a letter from the Naim Sheikh at Buraimi informing him that " 'these places are within the territory of Ibn Sa'ud' " and asking him not to proceed.[46] Thomas also states he met the authors of this letter a year later after the Saudi *zakat* collectors had gone, and indicates that they did not regard the letter seriously.

335. A more recent observer, Wilfred Thesiger, who was in the area in 1949, states that Ibri marked

[41] Before leaving Cairo, the Committee forwarded additional questions to the Imam on this matter. The Committee was later informed by cable that the answers to these questions "would be delivered by the Omani delegation before debate of issue". The answers to these questions, which were received after the Committee had adopted its report, are contained in annex XV.

[42] Eccles, op. cit., p. 22.

[43] *Ibid.*, p. 23.

[44] *Ibid.*, p. 32.

[45] Thomas, *Alarms and Excursions in Arabia*, p. 171.

[46] *Ibid.*, p. 174.

the northern limit of the area controlled by the Imam. He also states that the Imam's rule was accepted by the main tribes south of Ibri and west of the mountains, including those of the Ja'lan and those of the coast and hinterland, the area between Ras al Hadd and Dhofar. The relevant passage from Thesiger's account is as follows:

"We were now entering territory which is effectively administered by the Imam, Muhammad bin Abdullah, who is recognized as ruler of inner Oman by all the settled tribes, both Ghafari and Hanawi, between Ibri and the Bani Bu Hasan villages in Ja'alan, and by the Badu tribes of Duru', the western Junuba, the Wahiba and Harasis. He has, temporarily at least, composed the feud between the Ghafaris and the Hanawis and his representatives are to be found in every group of villages where they administer justice and collect taxes. The Imam's hold over the Badu is, of course, weak and he does not tax them; ... The Badu do however recognize the Imam as their overlord and the expression 'God lengthen the life of the Imam' is frequently heard amongst them and sincerely meant, since by affording them a tribunal and by composing their differences he has brought to them security and justice. Here a man can walk unarmed and leave his camels unattended without fear that he will be robbed."[47]

336. Almost all the petitioners who expressed views on this subject believed that the Imam had been the supreme authority in the interior. However, one petitioner, who came from the coastal area, explained the division of authority in this way. He said that the Sultan had ruled the areas of the Batinah, Sur and Dhofar and that in the interior, which was made up of mountains, valleys and rivers, each tribal chief was independent of the other. The Imam was a spiritual leader in the interior and had political leadership over a limited area. The Jabal al Akhdar was under the political control of Sheikh Sulaiman bin Himyar but under the Imam spiritually. The eastern area was under the control of the Harth tribe. As far as he could recall, the Imam ruled specially only in Nazwa and Rustaq. He felt that the government of the Imam had been weak and that if it had been strong, it could have controlled all the tribes. When this petitioner was asked whether the Imam had possessed the right to control all the tribes, he replied that each Sheikh was different and the answer depended on the personal relationship between the Sheikh and the Imam.

The Imamate system

337. The Imamate system of government and administration was described to the Committee by the Imam, members of the Higher Council, members of the Revolutionary Council and petitioners. It was stated that this system had been the one followed in Oman for hundreds of years and that it was still the legitimate system today.

338. Under this system the Head of State is the Imam and he is elected. The method of election and the qualifications for office were described by the present Imam as follows:

"In Oman, upon the death of the Imam or his dismissal, the leaders, elders and notables of the people from various levels and tribes meet. Likewise religious leaders meet with them several times for consultations to elect a person from the people. This person may be one of the relatives of the previous Imam or not related to him. But he must be well known for his just and impartial ruling, honesty in his deeds, truthfulness in his words and faithfulness to his people. If these qualifications are found in several persons then priority will be given to the person who enjoys the greatest virtue and upon whom there is a unanimous or majority consent to take the office of the Imam. Those elders, notables and religious leaders meet with him and present him to the people as their Imam. In that way the new Imam ascends to power throughout the country and it becomes obligatory upon the people to obey him."

339. In this connexion, Sheikh Saleh quoted the pledge to which the people asked the new Imam to subscribe on the election of Azzan bin Kais in 1868. It reads as follows:

"We have elected you on the basis of obedience to God, respect to good and the prohibition of evil. We have elected you our Imam and the Imam of all people for their defence and on condition that you take no decision, pass no judgment, and carry out no decision without the approval of the Moslems and according to their advice. We have elected you on the condition that you obey the will of God and that you impose His teaching, collect the taxes, read prayers and provide relief for the oppressed. Let nothing interfere and deter you from the service of God. Let the strong be weak until the rights belonging to God are given by him and let the powerful be meek until the judgment they deserve has been passed. You shall continue in the path of right and shall give your soul to it. We ask you to give us your pledge to this for all Moslems."

Sheikh Saleh added that these principles were based on piety, defence of the right, relief of the oppressed, defence of the country and the will of the people. This, he said was the best system known by mankind; it was real democracy. This system was opposed to that in Muscat because there the ruler took his inspiration and instructions from the British Foreign Office, whereas in Oman, rule was inspired by the people and the Imam was subject to the will and decision of the people.

340. Sheikh Sulaiman bin Himyar said that the system of electing an Imam was not based on Ibadhi doctrines and traditions alone, but on general Islamic traditions. All the people participated and not only Ibadhis. A petitioner from the coast said that after the election of an Imam, the Sultan's agreement had to be obtained. This was denied by people from the interior.

341. The Imam holds office until his death or until he is deposed. He may be dismissed if he fails to live up to the requirements on the basis of which he was elected. In such a case, a committee of those who elected him asks him twice to alter his ways. If, when he is asked a third time, he fails to do so, his dismissal is announced. His Imamate is thereby over, there is no longer any obligation on the people to obey him and he is thereafter considered as one of the people. The present Imam stated that dismissals took place in a peaceful way and did not give rise to violence.

342. As well as being regarded as the Head of State, the Imam is the *ulal amer* or the legitimate repository of all authority and is mentioned in prayers in this capacity. His authority embraces all fields,

[47] Wilfred Thesiger, "Desert Borderlands of Oman", *The Geographical Journal*, vol. CXVI, Nos. 4-6 (October-December 1950), pp. 151-152.

religious, political and judicial, and he exercises it in accordance with Islamic law. The Imam is responsible for the collection of *zakat,* which was described as a system by which rich people contributed money for distribution to the poor. It is also his responsibility to use this money in the interests of the State and for the relief of the poor. The Imam also leads his people in the face of aggression.

343. On the death of an Imam a caretaker (*mohtessor*) carries on the government until a new Imam is chosen. The caretaker is chosen by the *walis* (governors) and the leaders of the tribes. If an Imam is sick or away from his capital he may nominate a person to act for him. However, neither a deputy nor a caretaker has the full authority of the Imam. The authority given to these persons depends on the circumstances.

344. In the exercise of his powers, the Imam is assisted by a Higher Council (*Majlis al Shora*). In the period before 1955 it consisted of fifteen members. The Council is presided over by the Imam; and the members are either Ministers (*wazara*) or advisers. The Council meets whenever necessary, sometimes weekly, sometimes monthly. The Imam can take no action without consulting the Higher Council. This system was termed by Sheikh Saleh as "consultative democracy". All decisions are made on the basis of unanimity.

345. There is also an Assembly (*Majlis al A'm*), which consists of the members of the Higher Council, *walis* and tribal leaders. It meets whenever the Imam feels it necessary and considers matters put before it by the Imam. Important matters are not decided until the tribal leaders consult their people. In this way the people shared power on major questions with their leaders.

346. The Administration of the country is carried out by the Imam through *walis* and tribal leaders. *Walis* are appointed by the Imam with the assistance of the Higher Council. After a *wali* has been chosen the people of his province (*manatiq*) are asked if they accept him. If they do not, another is chosen in his place. The function of a *wali* is to keep the peace in his province. To assist him, a *wali* has a council, police, tax collectors (*garki*), and a clerk who registers complaints and keeps the records. There is also a *cadi* or judge, although sometimes the two offices are combined in the one person. *Walis* report directly to the Imam and may consult with him at any time.

347. A tribal leader reaches his position in accordance with the practices of his tribe. Sheikh Saleh, who referred to himself as an elected Prince, told the Committee that on the death of his father, his tribe, the Harth, and all the tribes loyal to it, had elected him as their spokesman and leader. Another tribal leader said that he had inherited his office. In affairs concerning his people, Sheikh Saleh said that the Imam always worked through him. He himself had no freedom of action but he worked under the authority of the Imam.

348. Justice is administered in accordance with the Sharia by the Imam through *cadi* appointed by him. Cases between persons are heard by the *cadi* but trouble between tribes is settled by the Imam. *Cadi* may impose a death sentence but it cannot be carried out without the approval of the *"ulal amer"*, i.e. the Imam. Some petitioners from the interior believed that the Imam was the highest judicial authority in both Muscat and Oman.

External relations of the Imamate, 1920-1954

349. The Committee was informed that the Imamate's external relations were in the hands of a Minister who was a member of the Higher Council. Sheikh Isa bin Saleh had been Imam Mohammed bin Abdullah's Minister for Foreign Affairs and on his death, in 1946, he had been succeeded in that position by his son, Sheikh Saleh bin Isa, whom the Committee interviewed. One petitioner, a former *wali* of a part of Nazwa, said that the Imamate Minister for Foreign Affairs worked within a fairly narrow field. He had, for instance, been concerned with the Conference held in Mecca during the war between the Saudi King and the Sharif of Mecca in the 1920's, and a delegation had been sent to this conference.

350. Sheikh Saleh said that the relations of the Imamate with foreign countries had been limited because the British had surrounded the country and would allow none. He recalled that, in 1953, he had gone to Cairo to join the League of Arab States, but that Oman's application had been opposed by one of the member States which at that time was supporting British imperialism and was acting under the orders of the British.

351. The Imam said that Oman had wished to join the Arab League and then to join the United Nations. However, before any decision was made his country had been invaded.

352. On the question of passports, the Committee was informed that passports had been issued in the name of Imam Mohammed. Passports were issued at the capital, Nazwa, but *walis* were also empowered to issue them.

353. Since it had been claimed that Imam Mohammed had not issued passports and that this practice had been introduced only after Imam Ghalib's election, the Committee asked whether any passports issued in the name of Imam Mohammed were available. Subsequently three such passports were given to the Committee.

354. These three passports are identical in form. At the top there is a heading "Government of Oman" and underneath is the word "Passport". The traveller's particulars, such as his name, nationality and description, are set out. Each is issued in the name of "His Excellency, the Imam of the Moslems, Mohammed bin Abdullah al-Khalili, Ruler of Oman". The following appears on each:

> "The bearer of this passport is a subject of Imam Mohammed bin Abdullah al-Khalili. He is authorized to go to the above-mentioned countries. I ask all those concerned in the friendly kingdom to allow the bearer freedom of passage and to grant him the necessary facilities."

355. Two of the passports were issued at Nazwa and one at As-Salif (near Ibri). The two issued at Nazwa are numbered 12 and 15 and both were issued on 27/7/1373 (H), some five years before the death of Imam Mohammed. Each was valid for travel to Bahrain, Saudi Arabia, Qatar and Kuwait. Each was used to enter Saudi Arabia only. The passport issued at As-Salif is numbered 202 and was issued on 7/5/1373 (H) and was valid for travel to the same countries as the other two. It was renewed on the authority of Saleh bin Isa, Amir of Sharqiyah, on 11/4/1377 (H). Official stamps indicate that the passport was used to enter and leave Kuwait on

2/7/54 (AD) and 20/11/54 (AD) respectively. It was also used to enter Saudi Arabia.

Relations between the Sultanate and the Imamate, 1920-1954

356. The Sultan, who denied the existence of the Imamate as a political entity, informed the Committee that after he had become Sultan in 1932, he had corresponded with Mohammed bin Abdullah and had done so in exactly the same way he had corresponded with any other Sheikh. At no time had he ever described him as Imam of Oman. Mohammed bin Abdullah had never challenged the Sultan's rule nor had he questioned the Sultan's right to grant oil concessions. Nor could he do so, for the Sultan was the absolute ruler of Oman and this matter had nothing to do with the Sheikhs.

357. The Imam said that in accordance with the Treaty of Sib, which had been signed under a threat of force, the Imamate had accepted the existence of the Sultanate. A member of the Revolutionary Council added that the Omanis had continued to recognize the Sultan as ruler of a separate territory up to the time of the "British attack". Other petitioners said that, although the border was not marked, everyone knew where the Imam's territory ended and where the Sultan's began. They were able to go freely to Muscat and some of them had travelled there many times for trading purposes.

358. Some petitioners indicated that there were no difficulties placed in the way of persons wishing to bring complaints before the *cadis* in either territory. One petitioner, a member of the Revolutionary Council, said that during Imam Mohammed's time people from Muscat came to the Imamate for judgements. If a person in Muscat wanted a judgement according to Islamic law, he came to Oman. If he would be satisfied with a judgement according to civil law (*Kanun*), he could receive judgement in Muscat. If a person in Oman wanted a civil law judgement, he was free to go to Muscat. Asked whether it was possible to get a judgement according to Islamic law in Muscat, the petitioner said that it was claimed that this was so, but in fact it was not possible. The Imam denied that Omanis had asked for and accepted the decisions of the tribunals of the Sultanate and pointed out that they had their own courts and their own law.

359. The part played by the British Political Agent and Consul at Muscat in the relations between the Sultanate and Sheikh Isa is indicated in the correspondence referred to in paragraphs 303-309 above.

Educational and social conditions, 1920-1954

360. Education apparently consisted almost exclusively of the study of the Koran which, naturally, involved learning to read and write. Almost all the petitioners the Committee interviewed from the interior had received this type of education. A member of the Revolutionary Council, who had originally come from the Sultanate and who had received a broad education outside the country, remarked on the large numbers of persons who received the classic Koranic education in the interior. One effect of this was that there were many more learned people who were qualified to be *cadis* in the interior than in the coastal areas. In Muscat, Sur and Dhofar he said that there had been about twenty *cadis*, but inside Oman there were hundreds.

361. There were also Koranic schools in the Sultanate, although apparently not as many as in the interior. In addition, there was an elementary school at Muscat. One of the persons the Committee interviewed informed the Committee of the attempts he had made at Sur to establish a modern school but which, he stated, the Sultan had frustrated. He had started the school in 1942 with money provided by his uncle and the people, who had each contributed equal portions. There had been about 600 students and instruction had not gone beyond the primary level. The younger children had been taught in the daytime, while those between the ages of fifteen and twenty had been taught at night. The curriculum had included arithmetic, geography, Omani history and physical education. He had also given the children military training. The Sultan had visited the school in 1945 and had ordered it to be closed. The Sultan had objected to the military training and the modern system of education, especially the teaching of Oman's history.

362. The petitioners informed the Committee that the population was mostly Arab but that there were also other races. There were, for instance, Africans who were known as *Sud* or Blacks. A person of African origin interviewed by the Committee said that there were no distinctions between races in Oman, and that his people participated in all discussions, and could intermarry. They lived separately of their own choice to be closer together amongst themselves, but they were together with all Omanis in spirit.

363. Since the question of the existence of slavery had been raised in the Fourth Committee, the Committee inquired about this matter. Authors, such as Eccles, Thesiger and Morris, have mentioned the existence of slaves in both the coastal and interior areas. According to the petitioners, slavery had existed in both areas, but it had been forbidden many years ago and all the slaves had been set free.

364. Neither the Imamate nor the Sultanate issued their own currencies. In the Imamate, Maria Theresa dollars or rials were used. These were also used in the Sultanate, along with Indian rupees.

365. With reference to general conditions in the Sultanate before 1955, Sheikh Saleh stated that people were so "furious" about the domination of Muscat by the United Kingdom that many had left for Asian countries. Some had gone to Pakistan and had formed an association of "Free Omanis" in Karachi.

The election of Imam Ghalib in 1954

366. Since a number of questions had been raised concerning the election of Imam Ghalib in 1954, the Committee made inquiries concerning this event.

367. The present Imam himself, members of his Higher Council and many other persons the Committee interviewed, confirmed that Imam Ghalib had been properly elected as Imam. A number of these persons had been present at and participated in the election.

368. The Committee ascertained that, contrary to an assertion that had been made, the Sultan had not been a candidate for election. The Sultan himself termed this assertion as "nonsense", while Sheikh Saleh called it "false".

369. One petitioner stated that, before his election, Imam Ghalib had been a *cadi* at Rustaq and had been well known throughout Oman.

370. Asked whether the fact that Imam Ghalib belonged to a different tribe to that of the previous Imam had caused any difficulties, the Imam and a member of the Revolutionary Council said that no difficulties had arisen. It was pointed out that three nephews of the previous Imam had participated in the election of Imam Ghalib.

371. The Sultan informed the Committee that he had never recognized Ghalib as Imam and had had no relations with him except in his capacity as one of the Sheikhs.

E. Treaties and agreements between the Sultanate and foreign Powers, 1798-1958

372. It will be recalled that at the eighteenth session of the General Assembly, considerable attention was given in the Fourth Committee to the treaties entered into by the Sultans with foreign Powers. On the one hand, it was argued that the treaties concluded between the United Kingdom and the Sultanate imposed heavy and unreasonable obligations on the Sultanate and that this was one of the manifestations of colonialism in Oman. On the other hand it was argued that the treaties between the Sultanate and the United Kingdom and with other countries were international treaties and illustrated the independence of the Sultanate. In this connexion reference was also made to the Award made by The Hague Permanent Court of Arbitration in 1905 on the Muscat Dhows case.[48]

373. The Committee therefore examined the following treaties and agreements concluded between the Sultanate and foreign Powers, as well as the Muscat Dhows Award:

- 1798 Treaty, Offensive and Defensive, between Muscat and the East India Company.
- 1800 Agreement between the Imam of Oman with Captain John Malcolm Bahader.
- 1822 Treaty between Governor Farquhar and the Imam for abolishing slave traffic.
- 1833 Treaty of Amity and Commerce between Muscat and the United States of America.
- 1839 Convention of Commerce and Navigation between Great Britain and Muscat.
- 1839 Additional Articles to the Treaty between Great Britain and Muscat, for the Prevention of Slave Trade.
- 1844 Treaty of Commerce between France and Muscat.
- 1845 Agreement between the United Kingdom and the Sultan for the termination of export of slaves.
- 1854 Deed of the Masqati Sultan Ceding the Kuria Muria Islands to the British Crown.
- 1862 Declaration between Great Britain and France, engaging reciprocally to Respect the Independence of the Sultans of Muscat and Zanzibar.
- 1873 Treaty between Great Britain and Muscat for the Abolition of the Slave Trade.
- 1877 Declaration between the Netherlands and Muscat, for the Development of Commercial Relations between the two Countries.
- 1891 Treaty of Friendship, Commerce and Navigation between Great Britain and Muscat.
- 1891 Agreement regarding the Cession of Territory by the Sultan of Oman, dated 20 March 1891.
- 1902 Undertaking given by the Sultan of Oman to the British Political Agent at Muscat, regarding the Sur Coal-fields.
- 1905 Agreement between the Sultan of Muscat and the Sponge Exploration Syndicate Ltd.
- 1923 Undertaking by the Sultan of Muscat regarding Oil.
- 1937 Agreement between Petroleum Concessions, Ltd. and Sultanate of Muscat and Oman.
- 1939 Treaty of Commerce and Navigation between His Majesty and the Sultan of Muscat and Oman.
- 1951 Treaty of Friendship, Commerce and Navigation between the United Kingdom of Great Britain and Northern Ireland and the Sultanate of Muscat and Oman, and exchange of letters.
- 1953 Treaty of Friendship, Commerce and Navigation between India and the Sultanate of Muscat and Oman.
- 1958 Treaty of Amity, Economic Relations and Consular Rights between the United States of America and the Sultanate of Muscat and Oman and Dependencies.
- 1958 Exchange of letters constituting an agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Sultan of Muscat and Oman concerning the Sultan's armed forces, civil aviation, Royal Air Force facilities and economic development in Muscat and Oman.

374. As a result of its examination of these treaties and agreements, the Committee sought information on a number of points concerning them. This and other information the Committee received is set out below.

1. *Treaties with the United Kingdom*

375. In their memorandum to the Committee (annex IX) the Arab States drew attention to the provisions of the various treaties concluded between the United Kingdom Government and the Sultanate of Muscat as one of the indications that the territory was of the colonial type.[49]

376. The attitude of the Imam and his supporters with regard to these treaties was expressed to the Committee by Sheikh Saleh as follows:

"British domination over Muscat began in 1798 and extends to today. Between 1798 and 1929 there were 21 treaties and agreements which gave concessions to British subjects and gave them priority over all others in commercial and economic affairs and enabled them to establish economic offices and political consulates in Muscat. Britain ties the hands of the Muscat people and the Sultan and prevents them from performing any act inside of the country without British approval. But Britain has the freedom to play with the affairs of the country and its wealth, oil and other minerals. These agreements do not give freedom to Muscat to act because Britain is the ruler and Britain still follows the old methods of imperialism in a time when the signs of slavery are gone forever. Britain did not stop at this shameful situation but went beyond it when it signed an agreement in 1939 with the Sultanate of Muscat. All concessions given to Britain were reconfirmed and Britain obtained stronger domination over Oman. Oman was an aligned state to Britain for one and one half centuries. The interference of Britain in the affairs of Muscat even went to the extent that the parties to a treaty were both British. In the agreement of 11 February 1929, which extended the commercial and economic concessions given to the British, Mr. Thomas was one of two members who acted on behalf of the Sultan of Muscat. So a Britisher was negotiating with another Britisher. Has history known any

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[48] *The Muscat Dhows Case between France and Great Britain, Decided August 8, 1905, The Hague Court Reports* (New York, Oxford University Press, 1916), pp. 93-109.

[49] For the detailed arguments put forward by the Arab States on this point, see paragraphs 129-140 above.

more shameful act than this? But the history of Britain is filled with shameful acts."

377. The position of the United Kingdom Government on its relations with the Sultanate of Muscat and Oman was set out in the statement its representative made to the Committee on 12 August 1964 (annex VI) and in its memorandum (annex VII). More information concerning the treaties between the United Kingdom and the Sultanate was given to the Committee during its meetings in London, at which detailed questions on this subject were answered by United Kingdom officials and discussed with them by the Committee.

378. As has already been noted, the representative of the United Kingdom stated to the Committee that in the eighteenth century and throughout the nineteenth century Britain's interest in the trade route to India, and in the suppression of piracy, the slave-trade and gun-running in the Indian Ocean and the Persian Gulf had much to do with the character of the relationship between it and Muscat and Oman. This relationship was between one sovereign country and another, and the main thread that ran through history was the United Kingdom's interest in maintaining the independence of Muscat and Oman.

379. The Committee was informed that until the end of World War I, and to a great extent until the end of the United Kingdom Government's responsibility for the government of the Indian subcontinent in 1947, British interests in Eastern Arabia had been handled by the Government of India and British diplomatic relations with Governments in the area, including those with the Sultanate of Muscat and Oman, had been conducted by members of the Indian Political Service, who employed styles and titles used by that Service (some of which have persisted to this day). This has been essentially a question of administrative practice in the days before modern communications. References to, for example, "the British authorities", "the Government of India", the "Political Agent" and "the Political Resident" should be read with this in mind.

380. Since the "East India Company" and the "Government of India" had been mentioned in a number of treaties, the Committee asked about the status of such agreements as international treaties. The Committee was informed that, before 1857-1858, the East India Company was the agent in the area for the British Government. In that year the Government of India was transferred to the Crown by an Act of Parliament and all treaties made by the Company were binding on Her Majesty. This had been done to ensure the continuity of the agreements made by the Company. After 1858, the Government of India was the agent for Her Majesty's Government in the area for the conduct of affairs between Governments. That did not imply any derogation from the sovereignty of these countries. When the Committee drew attention to the suggestion that the treaties concluded with Muscat and Oman by the British authorities were similar to those concluded by those same authorities with the Indian States, the Committee was informed that this was not so, and that the treaties were quite different.

381. The Committee asked both the Sultan and the representative of the United Kingdom for their comments on the claim that the treaties concluded between the Sultanate and the United Kingdom since 1798 imposed heavy and unreasonable obligations on the Sultanate and that they therefore indicated a colonial relationship. It drew attention in particular to the treaties concluded in 1798, 1800, 1839, 1891 and 1939, the Non-Alienation Bond of 1891, the agreement concerning the Sur Coal-fields of 1902, the concession to a Sponge Exploration Syndicate in 1905, the undertaking given by the Sultan concerning oil in 1923, and the agreement with Petroleum Concessions Ltd. in 1937.

382. The Sultan informed the Committee that, even if the treaties had been of the nature described in the question, they were now dead and did not apply any longer. He then described how he and his predecessors had concluded treaties. Some treaties were made for a fixed period and at the end of that period they expired, were revised or were renewed. Other treaties were made without any stated limitation in time. These treaties terminated with the death of the Sultan, unless it was stated that they were binding on his heirs and successors. The Non-Alienation Bond of 1891 had been binding on the Sultan's heirs and successors but it was now dead. He also informed the Committee that at the present time there were no treaties of this kind that were binding on his successors. The Oil Agreement of 1923, which had been entered into by his father, contained no clause making it binding on his successors. It had therefore ceased to have effect on his father's death and had not affected his freedom of action on this matter. That was why, in 1954, he had given an American oil company prospecting rights in Dhofar. If the agreement had still been binding, he would have had to go first to the United Kingdom Government. He also pointed out that the treaties he had concluded were not treaties between the Sultans and the United Kingdom Government; they had been made with the British Sovereigns. When the Treaty of 1951 was being negotiated, the United Kingdom had sent plenipotentiaries and after the Treaty had been concluded he and the King of England had exchanged ratifications. This was the normal procedure when treaties were being concluded between two sovereign States.

383. In answer to a similar question, the representative of the United Kingdom stated that: (1) the alleged inequalities in the treaties between the United Kingdom and Muscat and Oman were not considered to be such at the time; (2) they were considered reasonable by the rulers; and (3) although there did not appear to be many corresponding obligations on the British, the help the United Kingdom was able to give was clearly a part of the general *nexus* of relations between the United Kingdom and Muscat and Oman. This help took the form of efforts to preserve freedom of trade and shipping in the area, to protect the seas from piracy and to suppress gun-running. These considerations reduced the appearance of inequality. Moreover, the circumstances of the two countries were different. The United Kingdom was a country of wide interests and influence throughout the world, while Muscat and Oman was a relatively inward-looking country. The question did not arise of their seeking reciprocity. Even to this day, the Sultan did not always seek reciprocity. Reciprocity had not been provided for in the early agreements because it was not necessary. This represented differences in geography and political intentions. The fact that the treaties looked unequal in this respect did not imply that they were. They were all equal as

far as the status of the parties was concerned. It was true that there were some odd features to them; for instance, there was the gift of the Kuria Muria Islands for which the Sultan had refused to accept any payment. This had been a gift to Queen Victoria and the Sultan's motives in making this gift were not known. But certainly there had been nothing unequal about the dealings of the United Kingdom with the Sultan.

384. The Committee asked the representative of the United Kingdom what significance could be attached to the titles used to describe the parties to the treaties, and in this connexion it noted that the following titles had been used in the treaties and agreements indicated:

(1) Imaum of Muscat (Treaty of 1798);

(2) Imaum of the State of Oman (Agreement of 1800);

(3) Sultan of Muscat (Treaty of 1839);

(4) Sultan of Muscat and Oman (Treaty of 1891 and Agreement of 1891);

(5) Sultan of Oman (Undertaking regarding the Sur Coal-fields, 1902);

(6) Sultan of Muscat and Oman and Dependencies (Treaties of 1939 and 1951).

385. In reply, the representative of the United Kingdom said that no particular significance was attached to the titles used in the treaties. He drew attention to the memorandum submitted to the Committee by his Government in which it was stated that the rulers of Muscat and Oman had adopted different titles. In this memorandum it was stated that the the rulers of Muscat and Oman had used the religious title "Imam" until the reign of Said (1807-1856), who preferred to be called "Sayid". The term "Sultan" had come into use in the early 1860's, as was shown by its use in the Anglo-French Declaration of 1862. Asked whether there was any significance to be attached to the different ways of describing the Sultan's territory, the Committee was informed that the Sultan himself in speaking of his country in Arabic called it "Oman". In English the translation of this was "Muscat and Oman". The differences in the treaties reflected the way people spoke about the country at the time; it was simply a matter of usage.

386. In answer to a question as to whether any significance should be attached to the title of "His Highness" which had been given to the Sultan by the British authorities, and apparently accepted by him, the Committee was informed that this again was simply a matter of usage and style. The United Kingdom used this title because the Sultan preferred it. When it asked for the title of the Sultan in Arabic, the Committee was informed that the Sultan used the title "*Samu*".

387. The Committee also drew attention to the fact that most of the treaties and agreements had been concluded by the Sultan himself whereas on the United Kingdom side there had always been a representative, and that this suggested an inequality between the two parties. In reply, the representative of the United Kingdom said that no inequality between the parties was implied. What was important was whether both parties had full power to conclude a treaty. For geographical reasons the United Kingdom had been represented by a person authorized by the Government. This was done at the Sultan's own wish. Also it was purely a matter of convenience and there were no legal implications to it.

388. With regard to the Agreement of 1798, the Committee drew attention to the fact that it had been described as one-sided in that its articles imposed obligations on one party, the "Imaum", without corresponding obligations being imposed on the other party, and that most of these obligations were unreasonable. It was pointed out by the United Kingdom Government in its memorandum that this Agreement had been concluded in order to protect the sea routes to India from privateers during the Napoleonic Wars. The then Imam had been persuaded to promise to exclude French vessels, which had made Muscat a base for privateering attacks on British shipping, from the inner anchorage of Muscat's harbour; and also to deny to the Governments of France and the Netherlands a commercial or other foothold for the duration of the war. The representative of the United Kingdom also informed the Committee that he did not think the Imam at the time considered the obligations unacceptable or unequal. He reiterated that the United Kingdom was at war with France at this time and that this was what had given rise to the treaty.

389. The Committee also pointed out that it had been noted that, under the Agreement of 1800, provision was made for the appointment of a British agent in Muscat, but that there was no reciprocal provision for the appointment of an agent from Muscat in the United Kingdom or one of its territories. In reply, the Committee was informed that the Sultan had not wished to appoint a representative.

390. The Committee drew attention to the Treaty of 1839 with the United Kingdom, which made provision for extraterritorial rights for British subjects and gave the British Consul certain powers, and pointed out that these were not reciprocal provisions. It further noted that articles IX, X and XI of this Treaty imposed obligations on the Sultan in the matter of trade by British subjects in Muscat, although no similar obligations were imposed on the United Kingdom in the matter of trade by Muscat subjects in British territories. In reply, the representative of the United Kingdom said that provisions for extraterritorial rights were by no means unknown in the nineteenth century in other States, particularly in the East. Such agreements had been freely entered into and accepted and nothing in these arrangements reflected on the independence of the Sultanate. The reason for these provisions was that they had been sought by the rulers because their own legal systems in use did not provide adequately for the kind of cases that might arise when foreigners were conducting trade and business in the country. Such arrangements were helpful in avoiding difficulties with foreign companies and residents.

391. The Committee drew attention to the agreement by which the Sultan had ceded the Kuria Muria Islands to the United Kingdom in 1854, and referred to the statements that this agreement had been one-sided since the Sultan had received nothing in return. The Committee also noted that the question had been raised as to whether the Sultan exercised sovereignty over these islands and therefore whether he had had the power to cede them. In reply, the Committee was informed that the United Kingdom had taken the initiative in requesting these islands from the Sultan of Muscat and Oman because it had been prepared to

exploit the deposits of guano which were thought to be on the islands. The Government had informed the Sultan that it was prepared to pay for the islands but the Sultan himself, when he decided to cede the islands, insisted on offering them as a gift to Queen Victoria in a spirit of friendship and generosity. The United Kingdom had never considered these islands as having any military value or significance. So far as sovereignty was concerned, no question had arisen because the gift had been recorded at the time.

392. The Committee also drew the attention of the United Kingdom Government to the fact that it had been noted that in the Declaration of 1862 between France and the United Kingdom, the two parties had agreed to respect the independence of the sovereigns of Muscat and Zanzibar, but nothing was said about respecting their territorial integrity. In commenting on this, the representative of the United Kingdom said that the question of the territorial integrity of the two countries did not arise. The two parties had been interested in the independence of the States and had not been concerned about their extent. In its memorandum, the United Kingdom stated that frequent references to this agreement in Anglo-French exchanges over the ensuing years showed the determination of both parties that its terms should be scrupulously observed. The significance of the Declaration was not only in its respect for the independence of Muscat and Oman, but also in the manner in which the two major Powers recorded that independence as a fact and as something which it was important to preserve.

393. With reference to the Treaty of Friendship, Commerce and Navigation of 1891, the Committee pointed out that it included a number of provisions which imposed obligations on the Sultan alone, and that the reciprocal most-favoured-nation treatment which was provided for in the Treaty of 1839 was made unilateral and applying only to British subjects in Muscat. The Committee also pointed out that attention had been drawn to the requirement that the Sultan was not to impose export duties without the consent of the United Kingdom Government. In reply, the Committee was informed that it was not known why the reciprocal most-favoured-nation clause of the 1839 Treaty had been omitted in the Treaty of 1891. It had been a freely negotiated agreement and it represented what the parties wanted at the time. There had certainly been no desire on the part of the United Kingdom to evade reciprocity. The Sultan's trade at that time was limited and he did not seek reciprocity. The Sultans could have raised this point, but this was not done until 1939, when the Treaty was terminated.

394. During its discussion with representatives of the United Kingdom, the Committee asked whether it could be given examples of treaties between the United Kingdom and other States which were similar to those with Muscat and Oman. Subsequently, the Committee's attention was drawn to the Treaty of Bangkok concluded in 1855 and in particular to articles in it which, it was stated, were exactly parallel with the Muscat and Oman Treaty of 1891. The articles referred to were: article II, which provided extraterritorial privileges for British subjects in Siam (corresponding to article 13 of the 1891 Treaty); article IV, which gave British subjects freedom to trade at all Siamese ports, to reside permanently in Bangkok, and to own land within twenty-four hours' journey of Bangkok (corresponding to article 4); article VI, which allowed the free exercise of the Christian religion (corresponding to article 20); and article VIII, which fixed entry duties at 3 per cent *ad valorem* (corresponding to article 6).

395. The Committee drew attention to the Non-Alienation Bond of 1891, and recalled that it had been stated that this was nothing more than a "protectorate agreement". The Committee also recalled that the representative of the United Kingdom had stated that Britain had had an interest in ensuring that other countries respected the sovereignty of the Sultan and that it was in recognition of this interest that the then Sultan of Muscat and Oman had agreed with the British Government in 1891 not to alienate his territory to any third Power. The Committee pointed out, however, that the view had been expressed that the undertaking given by the Sultan went beyond an agreement not to alienate to a third Power and clearly provided for cession of territory to the British Government. The Committee further pointed out that it had been stated that in so limiting his power in such an important matter, the Sultan had relinquished his sovereignty to the British Government. The Committee asked for the United Kingdom's views on these statements and also wished to know whether this agreement had been terminated. The views of the United Kingdom Government on this question were set out in its memorandum to the Committee (annex VII), as follows:

> "The essence of this Agreement was that while the Government of India sought no derogation of the Sultanate's independence, the Sultan deferred to Her Majesty's Government in ensuring that no other Power should derogate from that independence to British disadvantage. (As circumstances changed, this particular Agreement lost its force. It was finally terminated by an exchange of letters between the present Sultan and Her Majesty's Government in 1958, after having long been regarded as a dead letter.)"

The representative of the United Kingdom said that although the wording of this Agreement provided for cession of territory to the British, this was never considered to be of practical consequence. He reiterated that the Agreement expressed the United Kingdom Government's concern that the Sultan's territorial integrity should be preserved.

396. The Committee drew attention to the Undertaking of 1902 regarding the Sur Coal-fields, and noted that the Sultan agreed not to grant permission to any Government or company to work these fields without first informing the British Government that they might take up the work if they felt so inclined. The Committee pointed out that it had been stated that no ruler claiming to be sovereign would conclude such an agreement. Moreover, the meaning of the sentence, "This is what had to be written", which appeared in the agreement seemed to call for some explanation. The Committee also inquired whether this agreement had been terminated. In reply, the Committee was informed that the parties could make whatever agreements they chose although agreements such as this one were less known now than they used to be. The words "This is what had to be written" had no particular significance. This was the style of wording used at the time to reflect the necessity of recording what had formally been agreed upon.

397. The Committee drew attention to the agreement by the Sultan in 1905 with the British Sponge Exploration Syndicate, whereby the Syndicate received certain privileges although there was no indication that the Sultan received anything in return. The Committee said that it would like to have more information on this aspect of the agreement and would like to know what part, if any, the United Kingdom Government played in a negotiation of the agreement. In reply, the Committee was informed that in 1905 the Sponge Exploration Syndicate Ltd. of London had sought concessions in the Gulf and had obtained them from the Shah of Persia and from the Sultan of Muscat and Oman. This syndicate was apparently a small private venture having a paid-up capital of £1,000. The Sultan had granted this concession on 19 November 1905 for a period of fifteen years. Under the terms of the concession the company was allowed to fish along parts of the Muscat coast up to a depth of ten miles. In return the company was to pay a royalty of 34 rupees per 24 Muscat maunds of dry sponge. There was no record that the Sultan had consulted the Government of India on this matter, the closest representative of the British Government. It seemed to have been purely a commercial matter between the Sultan and the company. The only connexion the British Government had with this matter was in October 1907, when it had expressed the view to the Syndicate and to the Sultan that it could not recognize any rights beyond the limits of territorial waters. In fact, it appeared that sponge fishing in the waters of Muscat was of little significance and that the company had done little to exploit its concession.

398. The Committee drew attention to the undertaking given by the Sultan in 1923 not to grant permission for the exploitation of oil in his territories without consulting the political agent at Muscat and without the approval of the Government of India. The Committee pointed out that it had been stated that no ruler claiming to be sovereign would conclude such an agreement. The Committee asked for the comments of the United Kingdom on this statement and also wished to know whether this agreement had been terminated. The Committee was informed that, in 1923, the then Sultan had offered the British Government what was in effect a first option on any oil discovered in his territories. There had been no formal termination, but it was not regarded as still being in force. This had not been an agreement but was simply an undertaking given by the Sultan. It might be considered to be a one-sided Declaration, but this had been something that the Sultan had offered to do. It was pointed out that this undertaking had not affected the Sultan's actions in the last twenty years, nor did it in any way derogate from the sovereignty of the ruler at that time who had given the option. Similar arrangements had been made by the Ottoman Empire. It was emphasized that the undertaking had been freely offered by the Sultan to a friendly government.

399. The Sultan informed the Committee that this undertaking, which had been made by his father, had not affected his own freedom of action. It will be recalled that he pointed out that this undertaking had not included a provision that it would be binding on his father's successors, and that therefore it had ceased to be of any effect when his father had ceased to be Sultan.

400. Although the agreement made in 1937 between the Sultan and Petroleum Oil Concessions Ltd. was an agreement with a private company and not with the United Kingdom or its Government, it may be convenient to set out here the information concerning it.

401. The agreement was between "Sultan Saiyid Said bin Taimur, Sultan of the Sultanate of Muscat and Oman, South Eastern Arabia, in the exercise of His Highness's powers as Ruler of the Sultanate of Muscat and Oman on his own behalf and on behalf of and in the name of his heirs and successors and Petroleum Concessions Ltd., a company registered in Great Britain under the Companies Act, 1929, its successors and assigns". The agreement applied to all "that Territory within the boundaries of the Sultanate of Muscat and Oman", but excluding Dhofar and Gwadur. It may be noted that no definition of the boundaries of Muscat and Oman was included in the agreement. In return for a stated payment the company was granted the exclusive right to search and drill for natural gas, crude petroleum and related substances for the first five years. During this period the company could either terminate the agreement or take up the concession. On taking up the concession, the company would be granted the exclusive right to "explore, search for, drill for, produce, win, refine, transport, sell, export, and otherwise deal with or dispose of the substances and to do all things necessary for all or any of the above purposes within the Leased Area". In return, certain minimum annual payments or royalties on oil produced were set on the basis of a rate per ton. The company could terminate the agreement, for any reason, at any time after the first three years; the Sultan could terminate the agreement only on the failure of the company to make the agreed payments or to abide by any arbitration award.

402. The remainder of this agreement set out in detail the arrangements under which the company was to operate, and does not seem to be of any particular relevance. Two provisions, however, appear to be important. One of these, article 12, reads as follows:

> "The Company recognizes that certain parts of the Sultan's Territory are not at present safe for its operations. The Sultan undertakes on his part to use his good offices with a view to making it possible for representatives of the Company to enter such parts and will inform the Company as soon as such parts become safe."

The other, part of article 27, reads as follows:

> "Should the Sultan decide to grant permission for a Bank to open a Branch or Agency in Muscat, the Sultan shall consult with the Company as to which Bank shall be given the permission."

403. The Committee had intended to put to the Sultan, through its Chairman, a number of questions about this agreement, but for the reasons indicated earlier, this was not possible (see paragraphs 78-81 above).

404. The Treaty of 1939 with the United Kingdom is described as a treaty of commerce and navigation. It replaced the 1891 Treaty, which was due to expire in the same year. It appears to be similar to the one it replaced. As with the previous treaty, there are some reciprocal provisions, but most are unilateral in the sense that they confer privileges on the United Kingdom or its subjects alone and impose obligations on the Sultan alone. Among the provisions which are reciprocal are the ones providing for the appointment of consuls, for freedom of conscience and religious toleration, for freedom to trade, for equal treatment with other nations

in connexion with internal duties and taxes and prohibitions and restrictions on imports, and for assistance to distressed vessels and aircraft. The unilateral provisions conferring privileges on the United Kingdom or its citizens include most-favoured-nation treatment, the right to own property in the Sultan's territories, and extraterritorial rights in civil and criminal matters. Obligations imposed on the Sultan include that of not establishing a trade monopoly in such a way as to be detrimental to trade by British nationals, of using harbour dues for the improvement of harbours and the construction of lighthouses, and of avoiding delays and obstructions in customs procedures.

405. The Treaty of Friendship, Commerce and Navigation of 1951, the agreement relating to consular jurisdiction contained in an exchange of letters of the same year, and the agreement concerning the Sultan's armed forces, civil aviation, Royal Air Force facilities and economic development in Muscat and Oman, contained in an exchange of letters in 1958, are all still in force and concern the legal basis of the present relationship between Muscat and Oman and the United Kingdom. The information relating to them will therefore be set out in the separate section on that topic (see paragraphs 505 and 506 below).

2. *Treaties with other foreign Powers*

406. The Committee considered four treaties concluded between the Sultanate and foreign Powers other than the United Kingdom. Two of these were concluded with the United States of America, one in 1833, the other in 1958; one was concluded with France in 1844; and one was concluded with the Netherlands in 1877.

407. The Treaty of 1833 with the United States of America is described in the text as a Treaty of Amity and Commerce between the United States of America and His Majesty Seyid Syeed bin Sultan of Muscat and His Dependencies. It was concluded by Edmund Roberts, being duly appointed a Special Agent by the President of the United States of America. It was concluded on 21 September 1833 and ratified in the Senate on 23 June 1834; ratifications were exchanged on 30 September 1835 and it was proclaimed on 24 June 1837. One of its articles is reciprocal and provides for most-favoured-nation treatment with regard to duties and charges on vessels in the ports of the other country. The other articles provide unilateral benefits for the United States and its citizens, including extraterritorial rights for United States citizens and the right of the United States to appoint a consul. A consul was appointed and took up residence in Zanzibar.

408. The Treaty of 1958 with the United States of America is described in the text as a "Treaty of Amity, Economic Relations and Consular Rights between the President of the United States of America and the Sultan of Muscat and Oman and Dependencies". It was concluded by the United States Consul General and the Sultan himself at Salalah, on 20 December 1958. It was ratified by the President on 8 May 1959, ratifications were exchanged on 11 May 1960, it was proclaimed by the President on 8 July 1960 and entered into force on 11 June 1960. All the provisions of the Treaty are reciprocal and there is no provision for extraterritoriality. It is to remain in force for seven years and thereafter until terminated. This Treaty was registered by the United States of America with the United Nations under Article 102 of the Charter.[50] The Sultan informed the Committee that there was no United States consul in Muscat, but that the United States consul in Aden looked after affairs and visited Muscat and Oman from time to time.

409. The treaty with France is described by C. U. Aitchison, in *A Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries,* as a treaty of commerce between "France and Masqat". It was concluded between the "King of the French" and "His Highness Syud Sueed bin Sultan, the Sultan of Maskat" on 17 November 1844. Ratifications were exchanged on 4 February 1846. The provisions of this treaty are almost identical with the Treaty of 1839 between Great Britain and Muscat. It provides for reciprocal most-favoured-nation treatment, reciprocal rights of appointing consuls, and extraterritorial rights for French subjects. It also includes identical provisions to those contained in articles IX, X and XI of the British treaty, which set import duties and laid down rules of trade. A consul was appointed and took up residence at Zanzibar.

410. The treaty with the Netherlands of 1877 is described in the *British and Foreign State Papers* as a Declaration between "the Netherlands and Muscat, for the development of Commercial Relations between the two Countries". It was signed at The Hague on 7 April 1877 and at Muscat on 27 August 1877. It was between the Government of His Majesty the King of the Netherlands and His Highness the Sultan of Muscat and was signed by the Dutch Minister for Foreign Affairs and "Seyid Turki bin Said", who was Sultan at that time. The treaty provided for reciprocal most-favoured-nation treatment in trade between the two countries.

411. The treaty with India is described in the *British and Foreign State Papers* as a Treaty of Friendship, Commerce and Navigation between India and Muscat. It is a treaty between the President of India and "Sultan Said bin Taimur bin Faisal, Sultan of Muscat and Oman and Dependencies". It was signed by plenipotentiaries of the two Governments; for the President of India by the Indian Ambassador to Iran, Tara Chand, and for the Sultan by the Minister for Foreign Affairs, Basil Woods Ballard. It was signed at Muscat on 15 March 1953 and ratifications were exchanged at Muscat on 14 February 1954. All the provisions of the Treaty are reciprocal, including the right to appoint consuls. It is to remain in force for five years and thereafter until terminated. This Treaty was registered by India with the United Nations under Article 102 of the Charter.[51]

412. In his statement to the Committee (annex VI), the representative of the United Kingdom referred to these treaties in the following terms:

> "The United Kingdom is only one of a number of countries to have recognized the independent status of Muscat and Oman, and several have maintained direct relationships with the Sultanate and have had treaties of various kinds with its rulers. The Committee is no doubt fully aware of this, but perhaps I may be permitted to refer to some specific examples.
>
> "The United States of America, for example, concluded a Treaty of Amity and Commerce with Muscat and Oman in 1833 and a Treaty of Friendship and Commerce in 1958.
>
> "In 1844 France concluded a Treaty of Commerce which was ratified in 1846 and which provided, among other things, for the appointment of consuls.
>
> "In 1877 the Netherlands concluded a commercial declaration with the Sultanate.

[50] United Nations, *Treaty Series,* vol. 380 (1960), No. 5457.

[51] *Ibid.,* vol. 190 (1954), No. 2559.

"The Government of India in 1953 concluded a treaty with the Sultan and established a consular post in Muscat.

"While these treaties are of no direct concern to Her Majesty's Government, their existence illustrates that other countries with interests in Muscat and Oman have concluded instruments direct with the Sultan as an independent Power. It is worth noting in this connexion that the treaties referred to which have been concluded since 1945 have been registered with the United Nations under Article 102 of the Charter.

"It may well be, Mr. Chairman, that your Committee, in accordance with its stated aim of producing an objective report, will ask the countries concerned to confirm that their relationships with Muscat and Oman are as I have described them."

413. In accordance with the suggestion in the last paragraph of the above portion of the statement by the representative of the United Kingdom, the Committee addressed letters to the Permanent Representatives of the United States of America, France, the Netherlands and India, asking for their views. In this connexion, it should be noted that the Committee had already been provided by the Permanent Representatives of these countries with authentic copies of the treaties under discussion.

414. In a letter dated 18 September 1964, the Permanent Representative of the United States of America to the United Nations stated as follows:

"The *Ad Hoc* Committee on Oman has been provided with pertinent documentation concerning the relationship of the United States of America and the Sultanate of Muscat and Oman. Since the statement made by the representative of the United Kingdom provides no new element concerning those relationships, my Government desires to make no additional comments."

415. In a letter dated 30 September 1964, the Permanent Representative of India to the United Nations stated as follows:

"India, as one of the 'territories of His Majesty', was a signatory to the Treaty of Commerce and Navigation signed between His Britannic Majesty and the Sultan of Muscat and Oman in 1939. In March 1950, the Government of the United Kingdom informed the Government of India that His Highness the Sultan of Muscat had given a formal notice of termination of the Treaty on the expiry of its twelve years, i.e., 11th February 1951. In view of the constitutional changes in India, the Sultan had also expressed a desire to enter into a new and separate Treaty with India. India, accordingly, entered into a Treaty with the Sultan to replace the old Treaty.

"Among other things, the Treaty establishes consular relations between the two high contracting parties."

416. In its discussions with United Kingdom officials, he Committee drew attention to the statement by the ·epresentative of Syria at the 1499th meeting of the ᵓourth Committee, during the eighteenth session of the ᴈeneral Assembly, in which he had said that the fact hat the Sultanate had entered into treaties of limited cope did not prove that it was an independent state. Ⅎe had pointed out that jurists, including Oppenheim, greed that while the status of a British Protectorate vas not clear, the relationship between sovereign and ·assal, and protector and protectorate did not prevent he vassal or protectorate from concluding agreements ɩf limited scope. The Committee asked for the views ɩf the United Kingdom Government concerning this rgument. In reply, the Committee was informed that in his statement the United Kingdom representative had not used the word "proves" but had used the word "illustrates", and had simply been indicating to the Committee other sources of information. The United Kingdom had no wish to become involved in a legal argument.

417. Sheikh Saleh drew the Committee's attention to the circumstances of the Sultan's accession in 1921 to the Convention on the Trade in Weapons signed between 1919 and 1920. He quoted from a letter dated 17 February 1921 from the Sultan to the British Consul in which the Sultan stated:

"You have asked on behalf of your Government that we accede to the Convention signed on 10 September 1919. I therefore accede to the Convention and approve it and I accept all the conditions mentioned therein concerning the trading in weapons."

Sheikh Saleh stated that by this the Sultan had "put his country under complete British domination."

418. The Committee also sought more information on whether there were any implications attached to the fact that three of these treaties had been registered with the United Nations under Article 102 of the Charter. The reply of the Legal Counsel of the United Nations reads as follows:

"The answer to the question in its general aspect will be found in the prefatory note to the monthly publication entitled *Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat.* In that note the Secretariat formulated its understanding regarding the functions and responsibilities of the Secretariat under Article 102 of the Charter and the Regulations to give effect to that Article adopted by General Assembly resolution 97 (I), with specific reference to the principle followed by the Secretariat insofar as the interpretation of the term "treaty and international agreement" is concerned. The relevant passage of the said note reads as follows:

"'5. Under Article 102 of the Charter and the Regulations, the Secretariat is generally responsible for the operation of the system of registration and publication of treaties. In respect of ex officio registration and filing and recording, where the Secretariat has responsibility for initiating action under the Regulations, it necessarily has authority for dealing with all aspects of the question.

"'6. In other cases, when treaties and international agreements are submitted by a party for the purpose of registration, or filing and recording, they are first examined by the Secretariat in order to ascertain whether they fall within the category of agreements requiring registration or are susceptible of filing and recording, and also to ascertain whether the technical requirements of the Regulations are met. It may be noted that an authoritative body of practice relating to registration has developed in the League of Nations and the United Nations which may serve as a useful guide. In some cases, the Secretariat may find it necessary to consult with the registering party concerning the question of registrability. However, since the terms "treaty" and "international agreement" have not been defined either in the Charter or in the Regulations, the Secretariat, under the Charter and the Regulations, follows the principle that it acts in accordance with the position of the Member State submitting an instrument for registration that so far as that party is concerned the instrument is a treaty or an international agreement within the meaning of Article 102. Registration of an instrument submitted by a Member State, therefore, does not imply a judgement by the Secretariat on the nature of the instrument, the status of a party, or any similar question. It is the understanding of the Secretariat that its action does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status and does not confer on a party a status which it would not otherwise have.'

"As regards specifically the registration of the treaties concluded by Member States with the Sultanate of Muscat and Oman, the following information may be relevant. When the first of these treaties was submitted for registration, the question of its registrability was examined by the Secretariat with particular attention to the status of the Sultanate. On the basis of the available information the conclusion was reached that the Sultanate was a sovereign state under international law, thus possessing treaty-making capacity, and the treaty was accordingly registered. No changes having occurred in its status, the registration of the subsequent treaties was effected in the normal way. It may be noted that no question has ever been raised in regard to the registration of the treaties concerned."

419. The question of the treaties entered into between the Sultanate and countries other than the United Kingdom was raised with Sheikh Saleh, a member of the Imam's Higher Council, and he was asked whether he considered that these treaties had been entered into with other countries by the Sultan or by the United Kingdom. He replied that the Sultan of Muscat and Oman had no individual power to act on his own behalf and that he was just a spokesman for Britain.

420. The representative of the United Kingdom in the Fourth Committee, speaking at the 1499th meeting of that body, had also raised the Arbitration Award of The Hague Tribunal in connexion with the recognition of the Sultanate as an independent state. In view of this, the Committee asked the representative of the United Kingdom why his Government believed that this award supported its view that Muscat and Oman was an independent state. In reply the United Kingdom referred the Committee to three excerpts from the award in which specific references were made to the independence and sovereignty of the Sultan. These excerpts are quoted below in French and English,[52] since the official text was in French.

(a) *"... et considérant qu'en conséquence l'octroi du pavillon Français à des sujets de Sa Hautesse le Sultan de Mascate ne constitue en soi aucune atteinte à l'indépendance du Sultan".*

"... and whereas, therefore, the granting of the French flag to subjects of His Highness the Sultan of Muscat in itself constitutes no attack on the independence of the Sultan".

(b) *"Considérant que le fait de soustraire ces personnes à la souveraineté, spécialement à la juridiction, de Sa Hautesse le Sultan de Mascate serait en contradiction avec la Déclaration du 10 mars 1862, par laquelle la France et la Grande-Bretagne se sont engagées réciproquement à respecter l'indépendance de ce Prince".*

"Whereas the withdrawal of these persons from the sovereignty, especially from the jurisdiction of His Highness the Sultan of Muscat, would be in contradiction with the declaration of March 10, 1862, by which France and Great Britain engaged themselves reciprocally to respect the independence of this Prince".

(c) "3. *les sujets du Sultan de Mascate, qui sont propriétaires ou commandants de boutres ("dhows") autorisés à arborer le pavillon Français ou qui sont membres des équipages de tels boutres ou qui appartiennent à leurs familles ne jouissent en conséquence de ce fait d'aucun droit d'exterritorialité, qui pourrait les exempter de la souveraineté, spécialement de la juridiction, de Sa Hautesse le Sultan de Mascate."*

"3. Subjects of the Sultan of Muscat, who are owners or masters of dhows authorized to fly the French flag or who are members of the crews of such vessels or who belong to their families, do not enjoy in consequence of that fact any right of extraterritoriality, which could exempt them from the sovereignty, especially from the jurisdiction, of His Highness the Sultan of Muscat."

F. Events between 1954 and 1961

421. In the report of the Special Representative of the Secretary-General on his visit to Oman, it was stated that although there were different opinions on which party started the fighting in Oman and what the motives were, there seemed to be agreement on the following sequence of events:

"(i) The death of Imam Mohammed bin Abdullah in 1954 represented the end of the *modus vivendi* which resulted from the signing of the Treaty (Agreement) of Sib.

"(ii) The new Imam, Ghalib bin Ali, established an office of the Imamate in Cairo during 1954, applied for membership in the Arab League and started to issue Imamate passports. He also placed small garrisons in key centres of the interior region, among them Nazwa.

"(iii) Nazwa was occupied in December 1955 by forces of the Sultan. Another force attacked the Imam's brother, Talib, at that time the *Wali* of Ar Rustaq. Ar Rustaq was occupied shortly afterwards.

"(iv) The Imam went to his own village in the interior where he remained for a long time, whereas Talib escaped to Saudi Arabia.

"(v) The real fighting started during the summer of 1957. A revolt broke out in May in the Sharqiyah which did not meet with success. Sheikh Ibrahim bin Isa al Harthy, who started the revolt, went to Muscat and was imprisoned.

"(vi) Talib landed during June 1957 on the Batinah coast and his armed men reached the Jabal al Akhdar area. Soon after this the Imam and Sheikh Suleiman joined the revolt.

"(vii) The Sultan's armed forces could not cope with the revolt in the first instance and lost the important town of Nazwa.

"(viii) Around the middle of July 1957, the Sultan called on the United Kingdom Government for help. One company of Cameroonians, two troops of Ferret scout cars, one regiment of the Sultan's armed forces, and two squadrons of Trucial Oman Scouts supported by Royal Air Force planes, reoccupied Nazwa and a number of other towns in the neighbourhood.

"(ix) The leaders of the revolt withdrew into the higher regions of the Jabal al Akhdar. There followed a guerrilla type of campaign against the Sultan's forces.

"(x) During the latter months of 1958 and the first weeks of 1959, increased use was made of the Royal Air Force. Two squadrons of special air service troops were flown in from Malaya and a squadron of the Life Guards joined the operation. The final assault during January 1959 represented the end of the military campaign." (A/5562, para. 95.)

422. The Committee directed its attention to finding out the views of the persons it interviewed on the reasons for the fighting and about the character of the action taken by the United Kingdom. It also sought additional information on all aspects of the fighting, including the exact sequence of events leading to the outbreak of the fighting and about the nationality of the troops involved.

423. The Committee will first set out the sequence of events as presented to it by the various persons it interviewed. It will then set out their views on particular aspects of this period.

1. *Sequence of events*

424. The Imam asserted that the events of 1955 were the culmination of a series of attempts by the

[52] *L'affaire des boutres de Mascate entre la France et la Grande-Bretagne, réglée le 8 août 1905, Travaux de la Cour permanente d'Arbitrage de la Haye* (New York, Oxford University Press, 1921), pp. 97-113; for the English text, see *The Muscat Dhows Case between France and Great Britain, Decided August 8, 1905, The Hague Court Reports* (New York, Oxford University Press, 1916), pp. 93-109.

British to occupy Oman. The trouble had begun in 1937 when the Sultan had granted oil concessions to a British oil company. At the time, the then Imam had warned the company against entering his territory. Following this, in the same year, the British had occupied Ras al Hadd. They had then occupied the Masirah Island in 1939, Duqm in 1952 and Ibri in 1954.

425. Sheikh Saleh said that during Imam Mohammed's time the Sultan had tempted Omani tribes with money and military equipment in order to spread the seeds of separation and had broken the Treaty of Sib by accepting run-away criminals from Oman. The then Imam warned the Sultan to stop this. In 1953 he had sent Sheikh Saleh to Bahrain to meet with the British Political Resident responsible for the affairs of Muscat in order to arrive at an agreement to amend the Treaty of Sib, to make provision, among other things, for the building of roads and a port. He had been sent to the British Resident because it was the British who had signed the Treaty. The Political Resident had said that Britain insisted on the full text of the Treaty and no agreement was reached.

426. Following the meeting, British aircraft continued to fly over Oman without permission and protests were sent to the British authorities by Sheikh Isa, the Imam's Minister for Foreign Affairs and Commander-in-Chief (and father of Sheikh Saleh).

427. In 1954, according to the present Imam, Imam Mohammed had applied to join the League of Arab States. Sheikh Saleh said that the Imam had wanted to break the isolation imposed on the Imamate for several centuries. He had sent Sheikh Saleh to Cairo with a letter to the League of Arab States, dated 25 January 1954, confirming the independence of Oman, expressing fears of British aggression and requesting assistance in developing his country and promoting progress.

428. In June 1954 Imam Mohammed had died and Ghalib bin Ali was elected to succeed him. Imam Ghalib stated that after his election he had followed the previous Imam's way of dealing with the Sultan, the peace way. He also confirmed his predecessor's decision that the oil concessions were invalid. He had also sent his representatives to Cairo and Saudi Arabia to ask for admission to the Arab League and the United Nations, though his country had been invaded before any decision was taken.

429. Sheikh Saleh stated that the British had begun their military preparations early in 1953. At that time the British petroleum company, which had already begun exploring, had felt it necessary to establish an army to protect its operations. The Sultan had agreed and an army was formed at Bait al Falaj, near Muscat. Another petitioner stated that this army was financed by the oil company. Sheikh Saleh also stated that in July 1953 a British major arrived in Muscat with a letter from Sultan Said bin Taimur to his deputy Shihab bin Faisal, ordering him to co-operate with the British officer in forming the army for the protection of the company. British military missions had arrived to train the army, which included British and other personnel, and British ships had begun bringing ammunition. In 1954 the army went to a small port called Ras Duqm and from there advanced, without warning, to Ibri, and occupied it.

430. The events leading to the occupation of Ibri are not clear. The Imam said that Ibri had been in the charge of a *wali* appointed by him and that there had been a misunderstanding; he had sent people to make peace. One petitioner referred to a misunderstanding between two tribes which the Imam's *Wali* at Ibri could not settle. He said that the Imam had sent a representative to settle this dispute and that, after he had left, the city was attacked. Another person said that the sheikhs at Ibri had refused to obey the Imam and had gone to Muscat; the Imam had come to Ibri to see them, and then the British had come with these sheikhs and attacked the city.

431. Sheikh Saleh said that after the attack on Ibri, people from all over Oman gathered to repel the invasion. The Higher Council in Oman had sent him to the Sultan at Dhofar to discuss the situation. He had stayed there nineteen days but no agreement was reached. It was on this occasion that the Sultan had agreed that the Treaty of Sib was still in effect and had told him that he could do nothing to make the British leave.

432. Some time in 1954 or early in 1955 it appears that the oil company to which the Sultan had granted a concession in 1937 brought in equipment and began preparations for drilling at Fahud.

433. The next step, according to Sheikh Saleh and other petitioners, was the occupation by the British of the Buraimi oasis in 1955. One petitioner said that Buraimi was used as a military base to attack the interior of Oman. Another said that this act completed the isolation of Oman and prevented it from receiving assistance. British sources maintain that the action at Buraimi was taken as a result of developments during the arbitration proceedings concerning the sovereignty of the area (see paragraph 324 above) and was carried out by the forces of the rulers of Abu Dhabi and Muscat and Oman supported by the Trucial Oman Levies.

434. The accounts of the events that followed are somewhat contradictory. According to the account given by Sheikh Saleh, in 1955 the British sent their forces to Nazwa, the Omani capital, which was occupied after a battle. He himself was at that time in the eastern regions organizing the tribes to fight. His account continues:

> "But the British aircraft were stronger than the Omanis. They brought destruction and severe damage to the people and to such Omani towns and villages as Tanuf, Rastaq, Birkat, Bahlah, Izki and Zakait. Hundreds of men, women and children died during that barbaric attack."

All these places are situated near one another on the southern side of the Jabal al Akhdar, with the exception of Rustaq, which is further north and on the other side of the mountains.

435. According to the newspaper accounts and to James Morris, a British journalist who was an eyewitness to part of the operation, the action was carried out by the Sultan's forces, led by British and Pakistani officers. One force advanced southward from Ibri, another, which the Sultan himself accompanied, advanced from Dhofar, while a third force advanced from the Batinah coast into the mountains towards Rustaq. These accounts indicate that Nazwa was taken without a fight on 15 December 1955 and that the Imam, who had been there, escaped to the mountains. Rustaq, where the Imam's brother, Sheikh Talib, led the resistance, was taken on 22 December 1955. Sheikh Talib then escaped from the country.

436. It was stated to the Committee that, following the fall of Nazwa, the Imam had signed a document of resignation which he had given to Sheikh Mohammed

Salim al Rokaishi, *Cadi* and *Wali* of Izki. It was also stated that when the people saw that they no longer had an Imam, they would not fight and the British troops were able to take Nazwa without fighting. The Imam and others denied this. One petitioner stated that an Imam could not resign his office; he could only be removed by the people.

437. Sheikh Sulaiman bin Himyar was questioned concerning the account given by James Morris of the Sheikh's meeting with the Sultan at Nazwa following its fall in 1955.[53] Sheikh Sulaiman said that it was not true that he had come voluntarily to see the Sultan, nor had he made any promise of allegiance. He had been forced to come by an armed patrol and he had pretended to the Sultan that he was not his enemy. But in fact he was and always would be.

438. Following the capture of Nazwa, according to the account given to the Committee by Sheikh Talib on behalf of the Imam, the Imam and other leaders took refuge in the rugged mountains. The Imam consulted the leaders of the people there and all agreed that they should make preparations to recover Oman and repel the invasion at any price.

439. According to the extract from the Special Representative's report, as quoted in paragraph 421 above, minor revolt broke out in the Sharqiyah in May 1957. In June, its leader, Sheikh Ibrahim bin Isa, who had been invited by the Sultan to Muscat along with Sheikh Sulaiman bin Himyar, was imprisoned. In the same month, Sheikh Talib landed on the Batinah coast with a small force and moved inland. At the same time, Sheikh Sulaiman bin Himyar left Muscat and returned to the Jabal al Akhdar.

440. The events that followed, up to the recapture of Nazwa by the Imam, were described on his behalf in some detail. According to this account the Imam held a meeting early in July 1957 in the Jabal Alkoor with a large number of people from various parts of Oman. The British learned of this meeting and sent military reconnaissance planes to the region three days later. A week later, British troops under the command of Colonel Waterfield moved towards the village of Ghamer, about eighteen kilometres from the Imam's headquarters, where they fought the villagers, reinforced by Omani nationalists from nearby, for seven days. To relieve the pressure on Ghamer, the Imam and Omani leaders decided that Omani troops should cut the British supply road to Ghamer from Nazwa by capturing Bahlah. With the assistance of the people, Omani troops captured Bahlah except for the fort which remained in British hands. Unable to receive new supplies, the British troops attacking Ghamer were forced to retreat to Nazwa along the road controlled by Omani forces. The Omani troops were joined by villagers from Bahlah, Tanuf and Nazwa and, after a battle lasting seventy-two hours, Omani troops reoccupied Nazwa. Of the British troops, only Colonel Waterfield and thirty-six officers and men were left, the rest having been captured, killed or wounded. When the Omani people heard of the recapture of Nazwa by the Imam's troops, they revolted and recaptured all of Oman.

441. The accounts of these events in the British Press at the time do not vary in any important particulars, except that, according to their account, the troops involved were the Sultan's troops (led by some British officers) and not British troops.

442. On 16 July 1957 the Sultan wrote to the Consul General of the United Kingdom in Muscat drawing attention to the situation which had developed at Nazwa and stating that he felt the time had come to request the maximum military and air support which the United Kingdom Government could give. He stressed that it was vital that support be given quickly. The United Kingdom Government agreed to this request and authorized military assistance for the Sultan.

443. The account given to the Committee on the Imam's behalf stated that within approximately eight days of the Omani success, British aeroplanes dropped leaflets on the villages threatening the people with punishment if they did not expel the Imam and his troops and support the Sultan. The account also stated that Britain knew that the troops of the Imam were the Omani people themselves.

444. The Imam's account stated that the air attacks began on 27 Thel-Alhejja 1377 (H) (24 July 1957) with an attack on Izki (twenty miles east of Nazwa). Following this, Bahlah was attacked on 25 July, Tanuf (seven miles north-east of Nazwa) on 26 July, Ghamer on 27 July, Nazwa on 28 July, Birkat on 29 July, and Firq on 30 July. Nazwa was attacked daily from 31 July to 4 August and attacks continued on other Omani towns. On 5 August British troops began moving across the desert approaching Nazwa from the west. On 6 August there was fighting at Firq, six kilometres from Nazwa. There was another battle at Emti, seventy kilometres east of Nazwa. During these battles "the British troops used the most modern destructive weapons in the air as well as on the land". When the "limited supplies of the besieged Omani troops were exhausted there was no alternative for those troops but to retire to the mountains", where they scattered and carried on guerrilla warfare.

445. This account of the sequence of events does not vary in any important detail from the accounts given in the newspapers at the time. These reports, however, add that the advance to Nazwa was made through Izz and Firq and that Nazwa was reoccupied on 11 August after resistance had ceased. The British troops (the Camerons) were evacuated on 17-18 August, although the Trucial Oman Scouts remained in the area. It was also reported that, at the Sultan's request, British engineers blew up the forts at Tanuf (14 August) and Ibri (17 August) and that the Royal Air Force destroyed the forts at Sayq and Ghamer (15 August) after warning leaflets had been dropped. The newspapers quoted a British spokesman in Bahrain as stating that on the Sultan's side the casualties had been one dead and four wounded (there had been no British casualties) and that thirty rebels had been killed.

446. On 14 August a statement was issued in Muscat on the Sultan's authority which stated that the uprising which had been started by Sheikh Talib had come to an end and that conditions in Nazwa, Bahlah, Tanuf, Birkat al Mawz and Izki had returned to normal.

447. In January 1958, the Sultan concluded an agreement with the United Kingdom Government concerning the Sultan's armed forces, civil aviation, Royal Air Force facilities and economic development in Muscat and Oman (see paragraph 507 below).

448. Guerrilla warfare continued in the mountains throughout 1958. The Imam's account states that the British made more than 150 attacks on the mountain

[53] James Morris, *Sultan in Oman* (London, Faber and Faber, 1957), pp. 104-107.

area. In the meantime, the Imam's representative in Cairo appealed to the International Red Cross to take humanitarian action on behalf of the victims of the events. In a letter dated 11 December 1958, the Vice-President of the International Committee of the Red Cross informed the Imam's representative that despite repeated requests it had so far proved impossible to carry out the mission as the Sultan of Muscat and Oman had not granted the necessary entry visa. A copy of this letter was handed to the Committee in Cairo. Sheikh Saleh said that this proved the barbarism of Britain.

449. According to newspaper reports, there was an attempt in 1958 to negotiate a settlement between the leaders in the interior and the Sultan, but no agreement was reached.

450. In January 1959, British paratroops landed on the Jabal al Akhdar and established a military post there. Organized resistance ceased and the Imam, Sheikh Talib and Sheikh Sulaiman escaped to neighbouring countries.

451. One petitioner informed the Committee that the Imam had led the Omani people in the mountains in their fight against the British until 1959. With enough food and equipment they could have remained there longer. However, the British knew that the Imam was there and sent "twenty-five raids a day", as a result of which everything was destroyed. The Imam had felt it was wrong for the people to be subjected to these attacks because of him; therefore he had decided to leave the country and organize the fight from abroad.

452. In 1960-1961, negotiations took place in Lebanon between representatives of the Imam and the United Kingdom acting on behalf of the Sultan. The negotiations were unsuccessful (see paragraphs 479-481 below).

2. *Causes*

453. The Sultan stated that the events that had taken place since 1954 had been the result of trouble caused by outside interests. These interests had seized on a rebellion by a few self-interested tribal leaders in order to further their own interests and desires.

454. The Imam stated that the British had attacked Oman and broken the Treaty of Sib because of their desire for the petroleum and the wealth of Oman. Another reason was that Oman was in a strategic position facing India, the Indian Ocean and the Arabian Sea. They had not attacked earlier because their interest had developed after they had been expelled from India, East Africa and Iraq. It was necessary for them to have a place from which they could protect their interests and that was why they had attacked Oman.

455. Many petitioners agreed that it was the British who had caused the trouble by attacking Oman contrary to the Treaty of Sib. They said that one of the main reasons for the attack was the desire of the British for Oman's oil. Almost all the petitioners felt that the Sultan had not played a primary role in the attack but had merely been used as a tool by the British. One group of students pointed out that the expenses of the military operations had been paid for by the British oil company. It had done this because it believed that unless the Government was supported by the British, they could not safely invest their money in Oman.

456. One petitioner felt that it was the Sultan's desire for oil that had caused the trouble. When the Imam opposed him the Sultan had called for assistance on the British who, because they had their own ambitions in Oman, had willingly helped.

457. Some of the petitioners, who came from the coastal area, felt that the trouble had been caused by the political ambitions of the Imam. These petitioners denied the existence of the Imamate as a separate State and felt that Imam Ghalib, after his election in 1954, had tried to get outside assistance to establish an independent government separate from Muscat.

458. Sheikh Saleh said that the British aggression against Oman beginning in 1955 was the culmination of a long series of attempts by the British to dominate Oman. The Sultanate of Muscat had been controlled by the British, but the people of Oman had been able to defend themselves against colonialism. Oman had been threatened by the British in 1919, as could be seen from the letter from the British Consul (see paragraph 272 above), and these threats were translated into horrible action in 1954-1955, when the British attacked. Britain had wanted the wealth of Oman's soil and had achieved this colonial dream through colonial aggression against a noble people who had been their own masters. Their ambitions were achieved when the Sultan announced that Oman had become part of his territory, which was already dominated by Britain, and when the British themselves proudly announced that oil had been found in the area of Fahud.

459. Sheikh Saleh also drew attention to the British desire to control the production of petroleum in the area and in Oman in particular. He quoted from a British newspaper a statement that Britain had agreed to help the Sultan "first to protect the exploration operations of the oil company, and secondly on account of its long friendship with the Sultan". This, he said, was a clear admission that the foreign armed invasion of Oman took place in order to protect the exploration operations.

460. Sheikh Saleh added that the Imam's action in seeking membership of the Arab League might have been interpreted by the British as a threat to their ambition to occupy Oman and take its wealth. One of the factors which had caused the trouble in 1955 and which had led the British to launch their attack, was that Imam Ghalib had tried to open the door to the outer world and bring education and enlightenment to the people. Imperialism was against learning and enlightenment because these things encouraged people to demand their freedom. Britain had surrounded Oman and prevented contact with the outside world. The British had attacked Oman when they realized that its ruler wanted development and prosperity. The British did not want Oman to be one of the civilized States. In answer to a question concerning the plans of economic and social development that the Imam had intended to put into effect in Oman just before the trouble occurred, the Committee was given a written reply which is reproduced in annex XIV.

461. Other petitioners said that the British had attacked Oman because they needed military bases there.

462. The Imam denied that he had done anything to provoke the British attack. He had continued the policies of the previous Imam and had continued to deal with the Sultan in the "peace way" in accordance with the Treaty of Sib. The previous Imam had already challenged the right of the Sultan to grant oil concessions in Oman and had warned the company not to carry out operations in Oman. The previous Imam had also issued passports in the name of the Imamate. Moreover, the first application by the Imamate to join

the Arab League had been made during Imam Mohammed's reign.

3. *External assistance received by the Imam*

463. The Sultan stated that he had been able to handle the trouble up to 1955, but at that time it had become apparent that the rebels were being aided from outside. This aid had been furnished in quantity and quality by the countries that were now making allegations. When it had become apparent that more men were needed than could be provided from the resources of his country, he had asked the United Kingdom to come to his aid. If the rebels had not been given assistance from outside, he would not have asked for any help.

464. The United Kingdom memorandum also referred to the rebellion "enjoying assistance and the supply of arms from outside the country".

465. The Imam said that it was not true that he had received any foreign assistance before the attack by the British in 1955. This was a story spread by the British to justify their attack on Oman. He had at first received help from all the Omani people, even those far from the fighting. Then when the people's resources had been exhausted and he had been forced to leave, the Arab States had given him and his people assistance and had taken them in as refugees. After the attack of 1955 he and his people had been in need of any help they could get and he had requested assistance from all peace-loving people. This help was requested in order to repel the British invader. As an independent country, Oman had the right to request help to protect itself. The British had helped the Sultan, yet after having attacked Oman they complained when the Imam had asked for help.

466. Some petitioners said that the Imam had received financial and military assistance from the Arab States. A member of the revolutionary council said that they had first received help from the Arab States in 1957, when financial assistance had been given. Military assistance had been given in 1958 in the form of weapons and ammunition, but not personnel. Since then, assistance had been given by providing training facilities for members of the Liberation Army. When asked whether they thought such assistance constituted interference, the petitioners replied that this was not so, since all the Arab people were one.

4. *Action taken by the United Kingdom*

467. The Imam, supported by members of his Higher Council and other petitioners, reiterated the charge previously made in the United Nations that the actions taken by the United Kingdom during this period constituted aggression against the independent and sovereign State of the Imamate of Oman.

468. The United Kingdom had previously stated its position on this charge in the United Nations. It reiterated to the Committee that its action had been taken at the request of the ruler of a friendly country in order to deal with a rebellion which was receiving assistance from abroad. In its memorandum to the Committee (annex VII), the United Kingdom described its participation in the events between 1957 and 1959 in this way:

"In 1957, a rebellion occurred in the interior of Muscat and Oman, led by the ex-Imam Ghalib and enjoying assistance and the supply of arms from outside the country. It became serious in 1958, and the Sultan called for British assistance. This, in view of Britain's long-standing friendship with his country, was provided, chiefly in the form of a limited number of specialist airborne troops of a kind the Sultan did not dispose of himself. These were soon withdrawn when, early in 1959, the rebellion was put down and the rebel leaders fled."

469. It also stated to the Committee that, in answer to the charges that had been made that the military assistance it had given the Sultan in 1957 had constituted a breach of international law, the United Kingdom maintained the position it had previously stated to the United Nations. As summarized in the report of the Secretary-General's Special Representative, the United Kingdom position was as follows:

"With regard to Lord Shawcross' condemnation of the right of a foreign Power to intervene in the internal affairs of another State, even if it took place at the request of a Government in suppressing an armed insurrection, which condemnation had been referred to by certain representatives of the Arab Members, it ought to be said that this thesis was not universally accepted as such. The putting down of a rebellion by a lawful authority was no violation of human rights. To deny a lawful Government recourse to such assistance as it needed for this purpose would be to deprive it of the means of ruling. The legitimacy of the United Kingdom assistance to the Sultan was the right of a Government to seek foreign assistance in asserting the lawful authority against rebellion, specially when the rebellion was encouraged and armed by a third State. In Oppenheim's *International Law,* furthermore, it was said that intervention was unlawful only when it involved some dictatorial interference with the external independence or the sovereignty of the State concerned. There had been no such interference in the present case. The action of the United Kingdom in introducing troops into the Sultanate had been taken at the express request of the Sultan, in order to assist him in suppressing a rebellion fomented from outside the Sultanate. It was therefore action taken in complete accord and co-operation between two sovereign States. It was not contrary to the Charter of the United Nations or to the general rules of international law. Indeed, far from being a threat or use of force against territorial integrity or political independence, contrary to Article 2, paragraph 4, of the United Nations Charter, the introduction of United Kingdom troops was a step taken for the purpose of helping the lawful authorities of the Sultanate to preserve its political independence and territorial integrity." (A/5562, para. 64.)

470. In its discussions with the representative of the United Kingdom, the Committee was given more details about this period. It was informed that the United Kingdom had provided specialist groups to fight in the rugged Jabal al Akhdar region, a task for which the Sultan did not have the troops. When asked by what means the United Kingdom had ascertained whether the people were in favour of the Sultan, the representative of the United Kingdom stated that this had had to be judged on very general grounds. While his Government maintained a Consul General in the country, it had no informers. His Government's main concern was to do what it could to help the Sultan's Government when its assistance was requested.

471. The position taken by the United Kingdom was attacked at some length by Sheikh Saleh. Sheikh

Saleh stated that following its aggression against Oman, the United Kingdom had first denied the independence of Oman, thereby denying that Oman had the international status to oppose such aggression. Secondly, it had insisted that the Sultan of Muscat was the legal ruler of Muscat and of Oman and that its conquest of Oman was nothing more than military assistance to the Sultan on the basis of a request and the long-standing friendship between the two countries. Thirdly, the United Kingdom had insisted that it was not a party to the conflict, which was an internal conflict between the Sultan and the Omanis. However, the independence and sovereignty of Oman had been acknowledged by international law, by the facts, by treaties, by official correspondence between Britain and the Omanis, and especially by the Treaty of Sib of 1920. By attacking the independent and sovereign State of Oman, British troops had committed a flagrant crime. They had made an imperialistic attempt to destroy the independence of Oman which, under the United Nations Charter, was an act of aggression.

472. Sheikh Saleh also said that even if, for the sake of argument, it were to be admitted that there were some kind of relationship between Muscat and Oman, this would not mean that the United Kingdom would have the right to interfere in Omani affairs, in violation of the United Nations Charter, and impose its own solutions. First, the Charter said it is the Security Council and not the United Kingdom which has the power to take any action for maintaining peace and order and defending people against aggression. The United Kingdom had no right to take this from the United Nations and to make itself a guardian of peace and security. Secondly, by doing this the United Kingdom had destroyed the principles of the United Nations. Whether Oman was independent or not, the United Kingdom had nothing to do with it. Third, even if it was agreed that the Sultan of Muscat was the legal ruler of Oman, the United Kingdom did not have the right to support him against his people. Power cannot be used except for a just cause and help cannot be extended to a ruler to use against his people. Fourth, the United Nations Charter stated that no Power had the authority to take armed action except in the case of self-defence, and even then it should be done only collectively and under the authority of the United Nations.

473. Sheikh Saleh then cited Hyde, a British legal authority, as stating that the principles of international law did not allow a foreign State to interfere in the internal affairs of another State to put down a popular revolution, even if it was in implementation of a treaty which allowed such interference. Hyde had also said that such interference could not be legally made on the basis of a treaty since to carry out such an action against the people of a foreign country was a violation of rights, and an act which killed the revolution and denied the right of people to revolt against their government. These were simple facts which were well known in the modern world today and formed the basis of international law.

474. Sheikh Saleh also drew attention to the announcement by the British following their aggression against Oman, that the Treaty of Sib had been abrogated. He stated that the Treaty was not one that could be abrogated by war. By maintaining this position, the United Kingdom was acting contrary to the London Protocol which was signed on 17 January 1871 after Russia had broken the neutrality provisions contained in the Treaty of Paris of 1856. This Protocol had stated that the great Powers considered that one of the basic principles of international law was that they could not remove their obligations under a treaty or amend its provisions, except by mutual consent of the contracting parties. This text had been included in the resolution of the Council of the League of Nations adopted on 17 April 1935, as well as in the London Agreement of 19 March 1939, concluded after the abrogation by Germany of the Locarno Treaty. Furthermore, by instructing the Sultan to annex Oman to his country, the British had flagrantly violated a number of international pacts and agreements. Among these were the Bogotá Pact of 30 April 1948, which stated that victory did not create new rights (article 5) and that territorial acquisitions or special advantages obtained either by force or by other means of coercion should not be recognized (article 17). This principle had also been adopted by the League of Nations when it had refused to recognize the occupation of Ethiopia by Italy. There was also the Atlantic Pact of 1941, which stated that the United States and the United Kingdom did not recognize any territorial changes which were not in accordance with the freely expressed wishes of the peoples concerned.

5. *Extent of the fighting*

475. The Committee questioned petitioners on the extent of the fighting and about the participation in the conflict by the Omani people. One petitioner informed the Committee that the fighting took place not only in the vicinity of the Jabal al Akhdar but all over Oman, including Muscat and Dhofar. Another petitioner said that the majority of the people were with the Imam, but some did not fight for him because they were afraid of the British. Another petitioner said that some of the sheikhs and tribes had supported the Imam and some had not. He also said that Sheikh Sulaiman bin Himyar, the leader of the Bani Riyam tribe, had supported the Imam, but that the Harth tribe had been divided.

6. *Loss of life, damage and destruction*

476. The Imam and many of the petitioners drew attention to the enormous damage and destruction of life and property caused by the fighting. They said that many "hundreds" of men, women and children had been killed indiscriminately. Many who were not killed died of hunger or disease. There were no hospitals or doctors and the British prevented the Red Cross from giving any assistance. The petitioners spoke of the destruction of houses, wells, palm groves and underground water courses (*falaj*). They pointed out that by destroying the water supplies, the British had brought famine to the land since the people could no longer grow crops. Whole villages such as Tanuf, Ghamer and Al Ain had been destroyed. One petitioner who came from Tanuf said that the village had been completely destroyed and the inhabitants had been forced to take refuge in other villages.

7. *Nationality of the troops involved*

477. Neither the Imam nor any of the petitioners made any distinction between the troops involved in the operations of 1955 and those of 1957 and 1959. In their view they were fighting "the British" all the time. When asked about the Sultan's army, one petitioner said that the Sultan had no army, there were only the British. When questioned concerning the troops they

were fighting against, the petitioners, who in most cases had taken part in the fighting, always mentioned British troops. Some said that there were British officers and mention was made of Baluchis, Iranians, Omanis from Muscat and troops from Aden and Kenya.

478. The statement given to the Committee on behalf of the Imam emphasized that, from the beginning of the war up to the present, no single person participated on the Omani side who was not related to the people of Oman.

8. *The negotiations in Lebanon, 1960-1961*

479. The Imam and Sheikh Talib stated that there had been three meetings in Lebanon in 1960-1961 between representatives of the Imam and the British. The British Resident at Bahrain had represented the British and the Sultan. The negotiations had not been successful. The British had made no proposals and had simply wanted to gain time and show the world their willingness to negotiate. The British had asked the Imam's representatives to make proposals and this had been done. At the first meeting they had made the following proposals:

(*a*) That the situation in Oman before 1955 should be restored. This they believed was the best way for the people of Oman and Muscat to get close to each other again;

(*b*) That the British should release all prisoners;

(*c*) That the British should pay compensation for all that they had destroyed.

The British had said that they would discuss these proposals but when the next meeting took place, all the British talked about was whether the meetings should be held in secret or in open sessions. After the main discussion had started, the British said that the Imam should first withdraw the case from the United Nations. This was refused because the United Nations had been formed to solve disputes of this kind. The Imam's representatives had said that the case with the United Nations would end when the problem was solved; the case would withdraw itself from the United Nations. The other British proposal was that the fighting should be stopped. The Imam's representatives had said that this could not be done unless the British showed in good faith that they wanted peace and would accept a certain solution. At the same time the British were reminded of the first proposals made by the Imam's representatives. They again said that they would study them.

480. At the following meeting the British had suggested that it would be better if all the leaders went back with the refugees and lived under the British and the Sultan. The reply of the Imam's representatives to this was that this case was not a matter for individuals, it was a national cause. The people of Oman felt that their freedom and dignity had been taken from them, and it was vital that they should be restored. A solution such as the one proposed by the British would do nothing to restore dignity and freedom and the people would not accept it. The Omani representatives had repeated that it was best to go back to the situation in 1955. In this way the people of Oman could be given some small measure of content. This was the least that should be done. The British representatives, however, had insisted on their last proposition; that is that Sheikh Sulaiman, Sheikh Talib and Imam Ghalib should return. This was refused. The British were told that the Omani representatives had come there on behalf of the Imam and the people of Oman, that their aim was peace and they wanted to please the people of Oman. This had ended the negotiations with the British. The door was always open for a first proposal but the Omani leaders could not go back as the British had proposed.

481. When the United Kingdom was asked to comment on these negotiations and on the part played by the United Kingdom in them, the Committee was referred to a statement made in the British Parliament on 15 March 1961 by the Lord Privy Seal, which reads as follows:

"The former rebel leaders, who fled from the Sultanate of Muscat and Oman at the beginning of 1959, later took the initiative in seeking terms for their return. After consulting the Sultan, Her Majesty's Government agreed that British representatives might take part in informal and exploratory contacts with some of these leaders. The Sultan for his part was willing to grant an amnesty to rebel leaders and their followers and permit them to return in safety subject to satisfactory guarantees of keeping the peace.

"The statements made by the rebel leaders to a British representative at a meeting in January 1961 afforded some hope that a settlement satisfactory both to the Sultan and to the rebel leaders could be achieved, although patient negotiations might still be necessary. At a further meeting in February, however, the rebel leaders completely reversed their previous attitude and demanded the recognition of sovereign status for a part of the Sultan's territory, Oman. This went even beyond the interpretation previously placed by the rebel leaders upon the 1920 Agreement of Sib, which they had in effect repudiated by their earlier actions but to which they now appealed. Still more did it go beyond the interpretation placed on that Agreement by Mohammed bin Abdullah al Khalili and the other Shaikhs who signed it.

"The situation at the present time is that there is quiet in Oman and general security in the country. The Sultan is rightly determined that these peaceful conditions shall not be disturbed from outside. But he has only last week confirmed that his offer of an amnesty has not been withdrawn and applies to the rank and file—a number of whom have already returned—as well as to the principal rebel leaders.

"Her Majesty's Government continue to wish sincerely for a settlement under which the rebel leaders could return to Oman under terms satisfactory both to the Sultan and to themselves, and their good offices will always be available if there should seem to be prospects of success."[54]

G. Present situation in Muscat and Oman

1. *System of government*

482. The Sultan informed the Committee through its Chairman that Muscat and Oman did not have a written Constitution. His country was run on the basis of customs and understandings that had grown up over the years and which together made up the country's Constitution. The administration of the country was carried out through sheikhs and *walis*. A sheikh was a head of a tribe and in ruling his tribe he was responsible to the Sultan. There were also *walis* who worked through five or six sheikhs under them. Some of the sheikhs exercised wide powers on their own, while others had a group of four or five people to help them. Sheikhs had direct access to him and although he encouraged them to discuss problems with the *walis*, they still came to him direct. If a sheikh misbehaved the Sultan could remove him and appoint another. If a sheikh fled the country he automatically lost his posi-

[54] See *Parliamentary Debates (Hansard), House of Commons, Official Report,* Fifth Series, vol. 636, Session 1960-61, comprising period from 6-17 March 1961 (London, Her Majesty's Stationery Office), *Written Answers to Questions,* cols. 123 and 124.

tion. The tribal system still functioned throughout his country, except in the towns of Muscat and Matrah. Other countries had parliaments and political parties, in place of the tribal system. In Muscat and Oman the sheikhs expressed the opinions of the tribes and the younger generation had no say in anything.

2. Security situation

483. The Imam and many of the petitioners informed the Committee that the struggle against the British and the Sultan was still being continued inside the country by means of guerrilla warfare. The Imam said that although the British and the Sultan were in full military control, the people were still continuing their struggle. A number of the persons the Committee interviewed had returned to Oman to carry on the fight. One such person told the Committee that they kept up the fight against the British by such actions as blowing up vehicles. Another said that the guerrilla warfare was going on in all parts of Oman but especially in the Jabal al Akhdar region and around Nazwa.

484. When the Sultan was asked about the activities of the Imam's supporters, he stated that the position as outlined in paragraphs 96 to 102 of the report of the Secretary-General's Special Representative (A/5562) was generally correct. He also said that Ghalib bin Ali, whom he did not recognize as Imam, was no longer in the country and there was no area that was under his control. This had been made clear in the Special Representative's report. The whole country enjoyed peace, and law and order was the rule except for a few troubles created from outside.

485. The attention of the Sultan was drawn to claims made on behalf of the Imam's supporters that resistance was being continued by the Bani Bu Ali in the Ja'lan area, that members of the Omani Liberation Army had recently blown up an arms depot at a British military post at Rustaq, that a military barracks at Muscat had been set on fire, that resistance had increased around Nazwa and that British planes had recently bombed this area. The Sultan said that these claims were false. The sheikhs of the Bani Bu Ali had had trouble with their own people, but this had nothing to do with the Government. Further, the claims about Nazwa were quite untrue. An agricultural show had been held there recently and it had been attended by more than 2,000 people.

486. When the Sultan was asked whether he could name the principal sheikhs co-operating with him and those who were not, he replied that there was no question of whether a sheikh co-operated with him or not, as they were all his subjects. The orders of the Sultan and his Government were being carried out by the sheikhs, who numbered over 200. Asked whether there was at present any fighting between the tribes, the Sultan said that there was none. The Omani people were a peace-loving people, it was only certain self-interested sheikhs who caused trouble. The people were agriculturalists, fishermen and traders, and wished to go about their lives peacefully.

487. Many petitioners referred to actions taken by British troops against Omanis. Some petitioners had experienced these actions, others had been informed of them by relatives and friends, while others had heard of them through other sources. They described how the people were harassed, accused of supporting the freedom fighters, how their houses were searched, their property destroyed, and how they were imprisoned and kept under constant surveillance. The following extracts from written statements by two petitioners to the Committee give some idea of the feelings of petitioners on these matters:

(*a*) "Several months ago Britain began burning the houses of the people in Al-Baloosh and other places in order to upset the people and smear the good name of the revolution. However, the people were aware of this British trick and soon they discovered those crimes were committed against the people by Britain. Britain had premeditatedly decided to divide and rule and create a religious complex, but she was unsuccessful in that endeavour. Those British endeavours led only to the strengthening of the confidence of the people in themselves and led them to be more cohesive against those British beastly acts. As for the families which were the victims of the fire, they have resorted to the mountains and have considered the graveyards as their residence instead of accepting British promises of honey and milk. The victims of that fire were ordered to leave—and indeed that made them refugees. There are some 6,000 families in Matrah and Muscat who reside on the mountains, exposing themselves to heat and harsh weather".

(*b*) "As the whole world knows, the Omani freedom fighters are directing their attacks on British military camps and planting bombs in the way of British military troops. British troops attempt to suppress the freedom fighters with all their facilities; but all their efforts to capture the freedom fighters have so far failed. The authorities have applied methods of collective suppression and thereby detained the people in any village in which a bomb exploded, or one of the freedom fighters attacked a British military camp. These people are thrown into prisons without any trial and several villages have been fined heavily—up to 1,000 French francs or equivalent to £300, approximately. In this way, many citizens have been imprisoned and their families have been without a bread-winner.

"British troops investigate and search continuously all villages and towns around which the freedom fighters centre their attacks on British military camps. This appears to be a daily search. We wish to mention particularly the following towns in which search and imprisonment have become ordinary matters. These are the towns: Nazwa and its surroundings, all the villages of Jabal al Akhdar, Azaka, Al-Baraka, Firq and Kama. Even though most of these villages and towns have been destroyed completely and three fourths of their men have been imprisoned, and even though there have been only the elderly, and women and children residing in the houses, the occupying troops accuse these helpless and unarmed people as supporters of the freedom fighters and, therefore, mistreat them.

"Whereas three fourths or more of the soldiers of the Sultan are foreign mercenaries, and whereas the people have refrained from joining the army of the Sultan, these mercenaries have no mercy on the people of the country, which is not theirs. These soldiers mistreat and torture the people severely. And whereas there is no one to supervise their behaviour against the citizens, they would commit the worst suppression against the people, particularly the women who cannot leave their houses except in the company of a group of men, fearful that the soldiers may attack them. If the people of a town or village which is surrounded wish to protest to the authorities about this treatment which they receive from the soldiers, they would be exposing themselves to prison and mistreatment on the pretext that they are causing disturbance."

488. The latter petitioner claimed that the oil operations in the area of Fahud had been interrupted by guerrilla activity and only resumed after hostages had been taken. His account is as follows:

"Britain claims that conditions in Oman have returned to normal and that the citizens are continuing their normal occupations, and that the extraction of oil has begun in Oman. We, the citizens, know very well what is the actual situation in our country, and we should like to expose it to

your respectful Committee and to explain the truth about these stories about the extraction of oil in Oman. We say an oil company in Oman began doing some work in the mountain of Al-Fahud and Al-Duqum. However, the freedom fighters, with the assistance of all the citizens, were able to prevent all such works, and destroyed all the equipment of that company, which had entered the country with the assistance of British forces. Finally, when the authorities gave up the hope and knew that they could not protect that company from the attacks of the citizens, the authorities resorted to their method of taking hostages from each tribe in the region. The hostages were distributed with their families in the region of oil operation and these hostages were forced to move with the company and its caravans so that places of operation would not be attacked by the freedom fighters, fearing that the hostages may get hurt. In this way the occupying authorities were able to secure a relative degree of stability in Al-Fahud and Al-Duqum and Al-Rasil."

489. The Sultan's attention was drawn to a claim that, during May 1964, 10,000 homes in various parts of Oman had been destroyed by fires which had been started by the British and that the people of Oman had been unjustly charged with responsibility for the fires and many people had been thrown into prison. The Sultan said that this was untrue. There had been some accidental fires amongst houses made of date fronds and a strong wind had driven the fire through them. This had happened before and had also happened in places outside Muscat and Oman.

3. *Nature of the Sultan's rule*

490. The Sultan said that his rule had been called autocratic but, in truth, his people were like his children and he ruled them as a father ruled his family.

491. The Imam and all the petitioners said that the Sultan's rule was harsh, cruel and unjust and that it was the British who were really ruling through the Sultan. The following statement was presented to the Committee by a group of Omani students:

"The Government in Muscat is an absolutist, arbitrary and despotic rule. There is no law in the country to regulate the common affairs of citizens and their duties. Political activity is forbidden and there are no clubs, not even sports clubs, as they are forbidden to be established.

"Every small or big event in the country has to be related to the Sultan, who in turn asks the views of the British Resident. Britain always tries to evade responsibility of what has happened and is happening to Oman and puts that responsibility on the shoulders of the Sultan of Muscat. However, the truth is that if there were no Britain, there would not be a Sultan in Muscat."

492. Many specific complaints were made about the Sultan's rule. Some petitioners said that there was no justice and, although the Sharia law was supposed to prevail, it was, in fact, subordinated to the Sultan's will. Others accused the Sultan of monopolizing trade; of allowing foreigners (particularly Iranians) to come into the country and gain control of economic life; of giving preference to these foreigners in employment; and of neglecting to provide for the educational and health needs of the people. The following extracts from petitions illustrate the complaints that were made to the Committee:

(*a*) "The Sultan, the traitor-stooge, does not serve his people as much as he serves his master, Britain. The Sultan commits many crimes and the most wicked and inhumane acts against his poor and wretched people. In Oman, there are no schools and no hospitals, nor even the simplest facilities of life. Thousands of the people of Oman have been expelled; they cannot work in their country. Building of houses is forbidden, except for foreigners. The people are permitted to build houses of palm tree leaves only. In Muscat, the stooge monopolizes commerce, in co-operation with one of the opportunists by the name of (name withheld). This man is a merchant and he represents Said bin Taimur and divides the profits, controlling different kinds of monopolies, and thereby playing by the fortunes of the people. That brings deterioration of the economic life by smuggling currency to the outside, and smuggling goods to be sold in the black market. Disease kills hundreds of the people and there are no remedies nor preventive medicine or other means for the control of disease. There is poverty, disease, ignorance, misery and tragedy, as if God had written that misery and pain shall be the share of this people; for the people are crying to the skies and find no salvation for their needs and demands. If it were possible for the Fact-Finding Committee to go to Oman, what would it find? It would find nothing but miserable life and the most wretched conditions. It is a bitter life indeed."

(*b*) "The people there are still living in an unknown world, the world of the primitive man, isolated away from modern life. There the people are forbidden even to build houses made of cement. They have only the right to build houses out of palm tree leaves and straw. And he who has a house or a piece of property from time immemorial and has no property documents will have to leave that property and go around searching for a piece of land or a house in which to live. That land and house would be considered the property of the Sultan. Likewise, ignorance and disease are all over Oman. There are no schools in the whole of Oman except one elementary school in Muscat, which can house only thirty students. Hospitals do not exist and disease kills the people by hundreds. Life is very severe and harsh. Travelling to find a source of living is forbidden; students are forbidden to leave the country except with special permission from the Sultan.

"The Sultan does not represent his people nor does he serve the interest of the nation as he serves his master, Britain. He is a devoted servant of Britain and he has expressed his pride in serving her degenerating purpose. In this regard he is not concerned with the poor and wretched people who live under the most severe conditions and terrible circumstances. He monopolizes the trade and thereby exposes the country to famine, disease and poverty. He has no objective, except to collect money and deposit it in Swiss and English banks. Likewise, he has permitted foreigners to utilize the potentialities of the land and the food supplies of the people. His rule has been corrupt and tyrannical. He has been a despot who has been backed by ugly and naked British power which had found him an instrument for their wicked ends and in order to commit the gravest crimes against humanity."

(*c*) "The conditions in Oman are far from the minimum requirements of modern life. A deadly isolation is imposed on the country, keeping it away from the outside world; it exists in a sad atmosphere, dominated by arbitrary rules and tyrannical behaviour which has exhausted the people and forced it to poverty, hunger, ignorance and disease, without any human consciousness and feeling of human responsibility.

"The people of Oman have suffered greatly and have been behind as a result of the reactionary policies of the rulers who hide behind the walls of their palaces, leaving the country to a handful of criminals and local stooges to implement their will in an arrogant way against the people. This handful of stooges would do their utmost to satisfy their desire for revenge. They have suppressed freedom, have fought against the people, imposed a reign of terror against the populace, employing all kinds of suppression and tyranny which had led many of the people to leave the country and live in the neighbouring countries, seeking their livelihood."

493. The most detailed picture of economic, social and educational conditions in the Sultanate was given by a group of Omani students in Cairo. It was as follows:

"The Sultans of Muscat followed a policy of suppression, with British assistance and direction, so that they would be able to impose their policy on Oman. The present Sultan, Said bin Taimur, has surpassed his predecessors in this policy,

as this policy is reflected in the cultural, social and economic conditions prevailing in the country.

"Education in Oman

"By that we mean education in what is politically called the Sultanate of Muscat and the Imamate of Oman in the interior.

"There are no modern schools in the whole of the Sultanate and the Sultans did not give attention to education. When the Government of the Sultan was in need of officials, it used to contract with Indians to work in the Government offices. When the present Sultan Said bin Taimur came to power, he found that contracts with foreign employees for small government jobs would cost the Treasury heavily. Therefore, he found it was more reasonable to open up schools to graduate small civil servants and appoint them with low salary to fill the vacuum so that there would be no need for foreign employees. Thus the Sultan Said bin Taimur opened the first grammar school in 1940 in Muscat.

"From that time to the present, namely, after twenty-four years, there had been no other school in the capital Muscat or in the whole Sultanate except for one new grammar school which was opened in Matrah two years ago.

"We can summarize what we have thus far said as follows:

"1. There are no high schools in the whole of the Sultanate to provide for the Omani students to continue their studies.

"2. There is no grammar school or high school to teach the girls.

"3. There is only one grammar school in Muscat and one grammar school in Matrah.

"4. There are no schools whatever in all the big cities of Sur, Hammin, Sammar, Al-Sabah, Barka, Al-Meda and Khabura.

"The Government of the Sultanate has not sent any mission for studying abroad, and young people who study in the universities and high schools in Cairo have left the Sultanate and have been accepted in the universities and high schools of Cairo at the expense of the United Arab Republic Government, while the Sultanate does not help to support their education at all; on the contrary, it tries to put obstacles in front of them.

"Thus it appears clearly that education in the Sultanate is a grave national tragedy where the people live in darkness, ignorance and are deprived of education.

"Education in the Imamate of Oman

"By Imamate of Oman we mean the interior region of Oman which was under the rule of the Imam of Oman until 1955. Education in the Imamate of Oman was in no better shape than in the Sultanate. There were no modern schools in the whole of the Imamate. Students received their elementary education in traditional schools which were open to teach the principles of religion, the Koran; and that was the result of the intellectual, educational and political isolation in which the Imamate had lived in its last days. That in turn was the result of the Imamate's fear of Britain and of the authorities and of whatever was foreign. That fear had accentuated the isolation of interior Oman from the outside world and made the people live in ignorance and total isolation.

"Economic conditions in Oman

"Oman is considered one of the richest regions of the Arabian Peninsula. Most of it is fertile and much of it constitutes plains. Its valleys are no less important than the plains of Syria or the mountains of Lebanon and Iraq. Oman is an agricultural land and its soil is very rich, and it has plenty of water sources. Its agriculture is diverse and its mineral resources are rich, even though unexplored as yet. In addition it has an excellent geographic location and an important centre of trade.

"1. *Agriculture.* Even though Oman has rich soil and many water sources and small rivers, yet it is to our regret that agriculture in Oman is primitive and backward. Indeed, the agricultural products of the country are not sufficient for local consumption and that is because of the following reasons:

"(i) The use of primitive methods in agriculture and lack of implementing modern agricultural methods;

"(ii) There is a lack of an agricultural awareness, as well as a lack of experts and technicians;

"(iii) There is no modern agricultural equipment in Oman;

"(iv) There is no ministry or department, even if it were a small one, to be responsible for agriculture for the whole of Oman.

"All these factors have led to the under-development of agriculture for which the Government of Oman is responsible fully, as it does not assume its obligations towards this important sector of the life of the country; and, indeed, if the Government had given a little attention to it, it would have been able to export its products to the countries of the Arab Gulf and it would have been able to help develop the economy of the country and increase the national wealth and the *per capita* income. It would have made agriculture of no less importance than petroleum in raising the standard of living of the people.

"However, to our regret, reactionary forces and imperialism do not wish for the people to improve and progress. They are happy that the people are poor, so that they would remain always under their control.

"2. *Commerce.* There is no doubt that the general economic conditions have an important influence on the condition of commerce. The general economic condition in Oman is at a state of stagnation and the economic situation is poor. The governing authorities are busy enjoying their private interests and, naturally, that would reflect on the economic conditions and commerce. Commerce is in a state of stagnation and commercial transactions are few. Imports are increasing and the exports are decreasing and that is due to the agricultural situation which was mentioned earlier.

"The commerce in Oman is handled by the Indians and their leader is (name withheld). He is considered one of the richest of the wealthy people in Oman and all the commerce is in his hand. If we remember that most of the commercial transactions are with India, and the one who conducts those transactions is an Indian, we can deduce that he plays an important role in affecting the prices and their rise by decreasing the supply of the goods, as he is the one who has the monopoly over the importation of basic goods.

"In addition to that, there are some Omani merchants. However, they have a little bit of influence compared with (name withheld), as the State supports the latter and gives him official privileges. Likewise we should not forget that India—and that is the State with which most of these transactions are connected—helps its own nationals.

"The most important goods imported into Oman: rice, sugar, flour, clothing, tea, wheat, corn, cement, cars. Which means that Oman imports all the consumer goods, whether they are essential or luxuries.

"Most important exports: dry dates, fish, dates, lemons, peaches. As we mentioned earlier, the exports have decreased as a result of the poor agricultural policy and the lack of attention to the agricultural sector.

"Health conditions in Oman

"Health conditions are very poor in all parts of Oman and that is due to poor nutrition and poverty, on the one hand, and due to the lack of sanitation and health protection on the other. The infectious diseases in Oman which threaten most of the people include the eye diseases such as trachoma, TB and lung diseases and fever.

"There are no hospitals or clinics in all of Oman except the hospital which exists in Muscat and another one in Matrah, the latter belonging to an American Mission. If we know that there are no means of communication and contact is very hard, it will become clear that the people will suffer many difficulties in the process of reaching the hospital in Matrah or Muscat.

"Social conditions of Oman

"There is no doubt that the educational and economic conditions affect the social conditions of Oman. The poor economic condition in which the people of Oman live has led to hunger and disease. The people as a whole live in poverty; they cannot find their daily bread, and diseases attack them, and they do not even have the price of the medicine. Health protection does not exist while ignorance prevails; and there are no schools at all.

"Thus the people of Oman live, and the diseases kill them. The Sultan in the meantime is unaware of what happens to the people; and the British authorities play in our land, ignoring the actual conditions, saying that it was none of their responsibility even if they considered the occupation of the land, the killing of the people, the destruction of their houses and burning them part of their affairs."

494. Many petitioners laid great emphasis on the question of political prisoners and the conditions in which they were being held. A number of petitioners said that their relatives had been imprisoned. Anyone who opposed the Sultan or the British was imprisoned. If a person who had fought with the Imam returned to Oman, he would be imprisoned too. One petitioner said that there were 150 sheikhs in prison at the present time. The Committee's attention was also drawn to the primitive conditions in the Sultan's prisons. It was stated that prisoners had little to eat and were tortured. The following extracts from written petitions to the Committee are typical of the statements made.

(*a*) *"The condition of the prisoners*: We beg the honourable Committee to call the attention of world public opinion and the attention of the International Red Crescent and Red Cross to direct their efforts to these poor prisoners and to do something as soon as possible to save their lives from certain death in those terrifying prisons in Muscat. Every Omani calls these prisons 'houses of death'. We do not expect the honourable members would be astonished if they were told that the prisoners in these prisons of Muscat die suffocated due to lack of air. You may say that this could not be true, or is an exaggeration and that such a thing could not take place, such prisons could not exist in the world now that we are in the second half of the twentieth century of civilization and enlightenment. We, the Omanis, say that there is nowhere in the world with a government similar to that one in Muscat. The government there would issue sentences which prevailed in the Middle Ages. If the members of the Committee wish to verify the truth of what we have said here, you have only to ask any citizen of Oman. Ask him about the prison called 'Kout Al-Jalali'. Then you will notice the fear and resentment which appear on his face and then it will be evident to you that 'Kout Al-Jalali'—this place in which all these prisoners had been confined—is not a prison as we understand it, that it is a well of death, in which whoever is thrown should be considered as one of the dead.

(*b*) "We have seen with our own eyes the torture of innocent prisoners. Furthermore, regarding the prisoners and their lives, each prisoner was put in a dark place, so dark that he could not distinguish between night and day. These were built during the Middle Ages as storages for food when they used to fight but now they have become places to store human beings, imprisoned sons of Oman.

"The life of the prisoners. Each prisoner receives every day half a pound of dates, one cup of water and a small loaf of bread.

"The prisoners are subjected to inquisition, threatened that they would be shot if they did not confess or reply to all the questions.

"Many of the heads of the tribes were killed by poison secretly so that the tribe would not revolt and take revenge if it knew that its head was killed and assassinated. Britain resorted to barbaric acts which make human beings ashamed. It has poisoned the prisoners so that it would not appear to their family that they had been killed. Some of them are thrown into the sea alive, so that no one would know their whereabouts and the only thing people would know is the appearance of their names, written in the vital statistics.

"Any man from the Omanis who said anything about the revolution would be imprisoned."

495. The Sultan said that there were no political prisoners in Muscat and Oman in the sense the term was used in other countries. All prisoners were held on specific charges which ranged from murder to arms smuggling. It was true that Sheikh Ibrahim bin Isa al-Harthi was a prisoner, but he was not a political prisoner. He had led an armed band and had defied the Sultan. The charge against him was of armed rebellion and opposing the Sultan's Government. When asked whether there were others in prison on the same charges, the Sultan replied in the negative. Some people, he said, had fled and Sheikh Sulaiman bin Himyar had voluntarily exiled himself.

496. Many petitioners complained of the difficulties the Sultan placed in the way of persons wishing to travel out of and into the country. Some said it was difficult to get permission to travel to other countries, even to get hospital treatment or for educational purposes. Furthermore, persons wishing to travel were obliged to take a Sultanate passport even though they were Omanis. It was also difficult to enter the country. There were numerous inspection posts where persons were questioned and searched. Anyone suspected of having had dealings with the Imam was given special attention and kept under surveillance the whole time he was in the country.

497. Many of the persons interviewed said that they had travelled secretly back to Oman. On the other hand, the Committee interviewed a number of persons in Cairo and Kuwait who had experienced little difficulty in travelling legally to and from the Sultanate. For instance, a group of senior students interviewed by the Committee in Cairo said that they returned to the Sultanate for their vacations each year.

498. One aspect of the difficulties of entering Muscat was raised by the Imam. He stated that no observers or reporters were able to enter the country and tell the truth about it. This gave the British great advantage, because the world did not know what was going on there. He noted also that the British had not allowed the Committee itself to go there. On this point, the Sultan said that he had allowed a number of journalists to come to his country to write about it, but his experiences with journalists had not been happy ones. If they had set down the facts, he would have had no complaint, but they had spent only one or two days in the country. had not spoken to the people and had written untrue things. He did not mind writers making their comments provided they were based on facts. He had nothing to hide or to be ashamed of in Muscat and Oman and was not afraid to let the facts speak out.

4. *The situation in Dhofar*

499. The Committee interviewed two persons from Dhofar province. One stated that before the arrival of the British and the Sultan sometime after the First World War, Dhofar had been independent of both the Imamate and the Sultanate and had governed itself according to the ways of Islam. The other believed that Dhofar had been and was a part of Oman; the people of Dhofar were all brothers together with the Imam and the people of Oman; they had one land, one religion and one enemy, the British. They were united in their struggle and in their aims.

500. The Committee was informed that the British had caused trouble between the two main tribes, the Kathiri and the Mahra, by taking land from the Mahra and giving it to the Kathiri. Moreover there were gradations between the tribes and also within the tribes. Some tribesmen lived in the towns, some in the mountains and some in the desert. Those in the towns lived on the labours of others and were privileged in relation to the tribes in the mountains, who had no right to settle in the towns and build houses there. The Sultan supported the stronger against the weaker and fomented troubles between them. Instead of trying to bring the people together, the Sultan used his power to keep them apart.

501. The people of Dhofar, the Committee was told, were treated by the Sultan as slaves. He was cruel and imposed many arbitrary restrictions on the people. They could not travel outside; they were not permitted to build houses; food could only be bought in one walled market where the quantity that could be bought was fixed; and they were not allowed to import or export goods. Further, there was no work in Dhofar, no schools, no hospitals, no economic life, no equality and no right to participate in politics. For instance, in 1957 when the oil company came, people from outside the country were given the jobs, although local people had wished to work. However, the young people of Dhofar had held secret meetings about these matters and although they had had no education, some of them had travelled and they all knew their rights.

502. Both petitioners said that the struggle against the Sultan had already begun in Salalah. They had bombs and were fighting for their freedom. They had bombed a holiday resort and blown up a bridge. The guerrilla fighters were in the mountains and although they were short of weapons and food, the fight would be continued with help from the Imam's Revolutionary Council. They opposed the Sultan because he co-operated with the British.

H. Present relationship with the United Kingdom

1. *Treaties and agreements*

503. The written agreements in connexion with the relationship between the Sultanate and the United Kingdom are: the Treaty of Friendship, Commerce and Navigation concluded on 20 December 1951;[55] the agreement contained in an exchange of letters dated 20 December 1951 concerning consular jurisdiction;[56] and the agreement contained in an exchange of letters dated 25 July 1958 concerning the Sultan's armed forces, civil aviation, Royal Air Force facilities and economic development in Muscat and Oman.[57]

504. The Treaty of 1951 was concluded between "His Majesty The King of Great Britain, Ireland and the British dominions beyond the Seas, and Sultan Said bin Taimur bin Faisal, Sultan of Muscat and Oman and Dependencies". It was signed by the British Resident in the Persian Gulf and by the Sultan himself. Ratifications were exchanged on 19 May 1952.

505. The Treaty, which was to remain in force for fifteen years, provided for reciprocal trading privileges on the basis of those enjoyed by nationals of the most favoured nation. This privilege had not been reciprocal in the Treaty of 1939. Other reciprocal privileges included that of appointing consuls. Provisions which were not reciprocal included one that gave British nationals most-favoured-nation treatment in regard to the purchase of property in Muscat and Oman. There were also a number of provisions by which the Sultan accepted unilateral obligations. For instance, the Sultan agreed not to impose prohibitions or restrictions on goods imported from the United Kingdom which did not apply to goods imported from foreign countries, and he agreed to avoid delays and obstructions in customs procedures.

506. The agreement concerning consular jurisdiction is contained in an exchange of letters dated 20 December 1951, between the British Political Resident in the Persian Gulf and the Sultan. It provided for the vesting in the United Kingdom Government of extraterritorial jurisdiction over certain British subjects for a period of ten years from 1 January 1952. By the agreement, the British Consul was to exercise jurisdiction over certain non-Moslem United Kingdom citizens and British protected persons in connexion mainly with criminal charges made against them and civil suits in which they were defendants. The Consul's jurisdiction over nationals of countries of the British Commonwealth was more limited.

507. The agreement concerning the Sultan's armed forces, civil aviation, Royal Air Force facilities and economic development in Muscat and Oman is contained in the exchange of letters dated 25 July 1958 between the United Kingdom Secretary of State for Foreign Affairs and the Sultan of Muscat and Oman. The terms of the understanding which was agreed upon following discussions between the two parties are set out in full below:

> "In pursuance of the common interest of Your Highness and Her Majesty's Government in furthering the progress of the Sultanate of Muscat and Oman, Her Majesty's Government in the United Kingdom have agreed to extend assistance towards the strengthening of Your Highness's Army. Her Majesty's Government will also, at Your Highness's request, make available Regular officers on secondment from the British Army, who will, while serving in the Sultanate, form an integral part of Your Highness's Armed Forces. The terms and conditions of service of these seconded British officers have been agreed with Your Highness. Her Majesty's Government will also provide training facilities for members of Your Highness's Armed Forces and will make advice available on training and other matters as may be required by Your Highness.
>
> "Her Majesty's Government will also assist Your Highness in the establishment of an Air Force as an integral part of Your Highness's Armed Forces, and they will make available personnel to this Air Force.
>
> "Your Highness has approved the conclusion of an agreement for the extension of the present arrangements regarding civil aviation and the use by the Royal Air Force of the airfields at Salalah and Masirah.
>
> "We also discussed the economic and development problems of the Sultanate and Her Majesty's Government agreed to assist Your Highness in carrying out a civil development programme which will include the improvement of roads, medical and educational facilities and an agricultural research programme."

2. *United Kingdom interests in the area*

508. It will be recalled that it was stated in the Fourth Committee by the Arab States (see paragraphs 129-140 above) that the presence of oil and strategic considerations explained United Kingdom colonialism in the southern and eastern parts of the Arabian

[55] United Nations, *Treaty Series*, vol. 149 (1952), No. 1956.
[56] *Ibid.*
[57] *Ibid.*, vol. 312 (1958), No. 4524.

peninsula, which manifested itself in various forms. Some areas were known as colonies, others were controlled under the name of protectorates or under pseudolegal arrangements imposed in the nineteenth century. In all cases the people were dominated by foreign rule which exploited their resources and deprived them of their political, economic and human rights.

509. In answer to a question concerning the basis of the United Kingdom's interest in the area and in Muscat and Oman in particular, the representative of the United Kingdom informed the Committee that, as was made clear in its memorandum (annex VII), the United Kingdom was concerned with maintaining peace and stability in that area and that its historical connexion with the rulers had given it the opportunity to help the rulers to that end. So far as oil was concerned, although there was some hope of commercial exploitation in the future, there had been none so far and the potentialities were not known. In any case, oil was only one feature among many. In general, the United Kingdom had an interest in maintaining peace in the world. In this particular area it had the opportunity to help in the maintenance of peace because of its long connexion with the area. There was no colonial relationship between the two countries. In answer to a question as to how the United Kingdom felt it could help maintain peace and stability in the area, the representative of the United Kingdom said that, as was stated in his Government's memorandum, the United Kingdom's interest in the area had been connected to a large extent to its stake in the sub-continent of India and the Indian Ocean. It had been anxious to contribute to freedom of movement and trade and, as a naval Power, it had been able to assist the Sultans to preserve peace and stability by putting down piracy and keeping peace on the seas. The United Kingdom also had had a strong interest in suppressing the slave-trade and had concluded a number of agreements with the Sultans on this question. The Sultans had also asked for other kinds of help, to which his Government had responded. It had provided economic and financial assistance and had helped in building up the Sultan's own armed forces. This assistance had always been given as between two independent countries. Broadly speaking, the United Kingdom had been ready to give help when required. The Secretary-General's Special Representative had described the nature of the aid given and had pointed out that, while the United Kingdom had assisted with money and personnel, the control of policy had remained in the Sultan's hand. This was a perfectly normal relationship between two States. When asked what factors justified the presence of the United Kingdom in the area, the representative of the United Kingdom replied that the United Kingdom's long-standing relationship was a justification. Moreover, the peace had been disturbed from outside the country.

3. *General*

510. In statements in the Fourth Committee attention was drawn to a number of "manifestations of colonialism", namely, a series of treaties imposing heavy and unreasonable obligations on the territory, the attempt by the United Kingdom to dismember Oman, repression in the territory, and British presence and domination in the territory.

511. In their memorandum to the Committee (annex IX) the Arab States stated that the Sultanate of Muscat had neither complete international responsibility with respect to acts inherent in the exercise of sovereignty in external affairs, nor for corresponding acts relating to domestic administration, especially in the fields of economy and security. All external affairs of the Sultanate had been conducted by the United Kingdom Government, and the latter had at all times been the spokesman of the Sultan of Muscat in the United Nations. Decisions relating to economic and security affairs were either directly or indirectly made by officials of the United Kingdom Government or British advisers. British military bases were established in the territory, and British officers dominated the Sultan's army. In view of the foregoing and in accordance with the provisions of the various treaties concluded between the United Kingdom Government and the Sultanate of Muscat, it was obvious that the territory was of the colonial type.

512. The representative of the United Kingdom also gave the Committee information concerning the treaties between the United Kingdom and Muscat and Oman and the role and functions of the British Political Agent and Consuls at Muscat and those of the British Resident in the Persian Gulf (see paragraphs 377-405 above).

513. The representative of the United Kingdom also stated that there was nothing in the relationship between his country and Muscat and Oman that would prevent the Sultan from establishing relations with another country or from asking for help from another country. This decision was one for the Sultan alone and his Government had no right to interfere. The Sultan was free to take any kind of action he wished. In answer to a question, he informed the Committee that the Sultan consulted the Government of the United Kingdom but not as a matter of routine. If he did so, it was because he felt it a good thing to do.

514. The Sultan stated that the relations between his country and the United Kingdom were friendly. The Treaty of 1951, which was between the Sultan and the British sovereign, had been negotiated with plenipotentiaries sent by the United Kingdom and ratifications had been exchanged between the King and the Sultan. This was the normal procedure when treaties were being concluded between two sovereign States.

515. The Sultan also stated that his arrangements with the United Kingdom were based on reciprocity; consuls had been exchanged and the United Kingdom received nothing more from him than he received from them. There was nothing in his arrangements with the United Kingdom that deprived him of anything. The arrangements were not one-sided.

516. Most of the persons interviewed by the Committee maintained strongly that their country was a colony of the United Kingdom and that a colonial situation existed. One petitioner defined a colony as a country under the control of a foreign Power and gave Aden as an example. He said that the British method of ruling in Aden was approximately the same as in Muscat and Oman, where the Sultan did not take any action without first consulting the British. He might take action himself on some simple matters but on important matters, such as foreign relations, he consulted the British. Another petitioner, who maintained that Muscat and Oman was a colony, was asked whether the presence of foreign troops necessarily implied that a country was a colony. He said that this was not so, but that in this case the foreign troops were there against the wishes of the people and because of a personal agreement between the Sultan and the British.

517. Another petitioner defined colonialism as the direct and indirect interference of one country in another country. The United Kingdom exercised direct influence in Oman through its army and indirect influence in other ways.

4. *British troops and military bases*

518. The representative of the United Kingdom stated that the United Kingdom had no military bases in Muscat and Oman. The United Kingdom had certain staging facilities at two airfields, one at Salalah in Dhofar, and the other at Masirah Island.

519. When the Sultan was asked about the agreement with the United Kingdom concerning the armed forces, he said that the agreement was quite satisfactory. It did not interfere with his control over his armed forces. He added that when he made an agreement he never ceded anything; he always looked to the interests of his country first. The British officers were an integral part of his army. Moreover, there were also Pakistani officers serving in his army on the same basis as the British officers.

520. The Sultan pointed out that the airfields at Salalah and Masirah were staging airfields and not military bases, as was the case in Aden. Masirah was used exclusively for staging, while Salalah was an international airport for civil airlines. There was an agreement by which the United Kingdom acted as his agent and managed the airfield on his behalf. Although the Sultanate was not a member of the International Civil Aviation Organization, it respected their rules and regulations. The British managed the airfield on the basis of these rules, but permission for scheduled and non-scheduled flights could be granted only by the Sultan. The only exceptions to this were flights by the Royal Air Force, which were governed by a separate agreement.

521. Many of the petitioners, who spoke of the recent situation in Muscat and Oman, spoke of the presence of British troops. It will be noted in the quotations given above in section G, that many of the complaints about conditions in the Sultanate were related to the actions by British troops.

522. One petitioner said that, in Dhofar, there were three military bases. One was for British troops exclusively, while another was for the Sultan's soldiers who were being trained by the British.

523. The Imam informed the Committee that the United Kingdom was in full military control of the whole of Oman. The United Kingdom had bases and military posts inside Oman and surrounding it at the following places:

(1) Duqm, near Masirah Island—base;

(2) Masirah Island—large base, airport and shipping port, which according to recent information was an atomic base;

(3) Bait al Falaj, at Muscat—base;

(4) Saahal Maleh—base;

(5) Odhaiba near Saahal Maleh;

(6) Ras al Hadd—base;

(7) Sib—military post;

(8) Suwayq—military post;

(9) Suhar, at a place called Kashmir—military post;

(10) Aswat—on the border between the Sultanate and the Trucial Sheikhdoms;

(11) Manamah in the Trucial Sheikhdoms;

(12) Hutmut Malahah;

(13) Sharjah—well-known base;

(14) Ras al Khaimah;

(15) Kalba—military airport;

(16) Dubai—military airport;

(17) Salalah, in Dhofar—military airport;

(18) Bidbid—base;

(19) Izki—military post, east of Jabal al Akhdar (Green Mountain);

(20) Nazwa—base and military airport;

(21) Jabal al Akhdar—military airport;

(22) Ibri—base and military airport;

(23) Jabal Fahud, near the petroleum fields—military airport and post;

(24) Adam—military post at Roefia;

(25) Rustaq—large military post and military airport;

(26) Al Awabi—military post.

The Imam also stated that soldiers patrolled the area in trucks. There were also a few destroyers watching the coast and one was always stationed at Muscat in the mouth of the harbour.

524. Many of the persons interviewed spoke of the strength of the British forces there. One said that they had planes, tanks, armoured vehicles, large bombs and mines. Another petitioner said that the tribes were constantly watched by the British forces and that whenever they moved they were attacked.

5. *British presence and control*

525. The Imam and the petitioners indicated that the principal way the British made their presence felt in Muscat and Oman was through the presence of British armed forces. Many petitioners spoke of the British being in control of affairs and directing the Sultan and his policies. Two British nationals were named as holding high positions with the Sultan, one was in command of the armed forces, the other was a principal adviser. The Committee was not informed of any other British nationals employed as officials. Some petitioners said that the Sultan was forced to govern by the British and that the army and the administration were under the control of the British. One petitioner from Rustaq, who had left there in 1960, said that the British had appointed a *wali* there but that it was a sham appointment. The British army officers there were the real rulers. What the British did was to tell the Sultan who should be appointed. The British always did the choosing and the Sultan always agreed.

526. Another petitioner, from Dhofar, said that everything the Sultan did was inspired by the British. This was the feeling that all people had. The Sultan spent most of his time at Dhofar, near the Aden base. The British Consul came to Dhofar to visit him and after the Consul returned to Muscat orders were issued. One consul had become the Sultan's principal adviser after his term as consul had expired.

6. *External relations of the Sultanate*

527. The Sultan stated that the external relations of his country were conducted by the External Affairs Department in Muscat, but important matters such as the present one were handled by the Sultan himself. Asked whether there was any written agreement with the United Kingdom Government concerning its handling of the foreign relations of the Sultanate, the Sultan

said there was none. From time to time when questions arose in places where the Sultan had no consular authority, the United Kingdom was asked to represent him. Because the United Kingdom was a friend of long standing, its Government was willing to help.

528. With regard to the Sultanate's consular representation, the Sultan stated that there was one consul in London. In other places the United Kingdom Government was empowered to issue visas to foreigners wishing to visit Muscat and Oman. Visas were issued according to instructions laid down by the Sultan. In London, however, the Consul carried out these functions, also on the basis of the Sultan's instructions. The Consul had been appointed in April 1963 and since September or October 1963, the United Kingdom had ceased to issue visas in London on behalf of the Sultan.

529. Asked whether any negotiations were being conducted to establish diplomatic relations and embassies, the Sultan said that, so far, the Sultanate had consular relations only with the United Kingdom and India. There was a provision in the treaty with the United States for the establishment of consuls, but there were very few United States subjects in Muscat and Oman and the United States had not opened a consulate. However, the United States Consul in Aden looked after affairs and visited Muscat and Oman from time to time. There was an Indian Consul at Muscat. He had been appointed under the 1953 Treaty with India, which had been ratified by the President. He had negotiated this treaty directly with the Indian Ambassador from Teheran, as a plenipotentiary, and after the treaty had been signed, ratifications had been exchanged. The treaty with the United States had been negotiated by the Consul General from Dhahran and he had exchanged ratifications with the President. When asked what part the United Kingdom had played in the cession of Gwadar to Pakistan, the Sultan said that the United Kingdom did not handle the Sultanate's affairs. The United Kingdom, in this case, had handled matters on behalf of Pakistan and that was why the Sultanate had dealt through the United Kingdom. The Sultan added that Muscat and Oman had had dealings with the specialized agencies of the United Nations. He received communications from some of them on such matters as statistics, and replies had been sent. Three years ago the Sultanate had requested assistance from the World Health Organization (WHO) and had sent representatives to Geneva. But WHO had not seen fit to give his country anything as the Arab States had opposed it, and his representative had been insulted.

530. The representative of the United Kingdom, replying to the question whether the Sultan consulted the United Kingdom in the field of external relations, stated that the Sultan had asked the United Kingdom to handle certain questions for him, but that in each case the decision to consult the United Kingdom Government had been taken by the Sultan himself.

7. *Extraterritorial rights*

531. On its memorandum to the Committee (annex VII), the United Kingdom stated that the extraterritorial jurisdiction allowed over British subjects and protected persons in the 1891 and 1939 commercial treaties had been greatly reduced by successive changes, both in and since the Treaty of 1951. The field of cases still heard by British courts was, in essentials, the following:

(i) Proceedings against non-Muslim servants of the British Crown (with certain exceptions relating to acts not on duty);

(ii) Proceedings between non-Muslim United Kingdom or (with certain exceptions) Commonwealth citizens or corporate bodies.

The memorandum also stated that the agreement providing for this limited degree of extraterritorial jurisdiction was due to expire on 31 December 1966.

532. The Sultan said that following the exchange of letters in 1951 on this subject, there had been another exchange of letters in 1961 and, as a result, the United Kingdom now exercised very little authority over its subjects. Consular jurisdiction now extended only to members of its armed forces. He had not considered the question of the renewal of the agreement and would consider the situation in 1966. The British had no extraterritorial rights in his country and were dealt with on the same basis as Indians, Pakistanis and others. He recalled that in his treaties with other countries there were clauses guaranteeing "most-favoured-nation" treatment.

8. *Financial and technical assistance to the Sultanate*

533. The representative of the United Kingdom informed the Committee that the financial and technical assistance given by the United Kingdom to the Sultanate had been outlined in paragraph 153 of the report of the Secretary-General's Special Representative (A/5562). He did not think there had been any change since then. Asked whether the Sultan had accepted any obligations in order to get assistance from the United Kingdom or whether the assistance had been given as from a friendly country with no strings attached, the representative of the United Kingdom replied that the aid had been given to a friendly country, as was set out in the exchange of letters of 1958.

534. Asked about the assistance given to the Sultanate by the United Kingdom and whether it was sufficient, the Sultan said that he could not say whether the assistance being given by the United Kingdom was sufficient or just, but doubtless the United Kingdom could provide the answer. However, whatever the United Kingdom gave was generous and was given of their own free will. Moreover, whatever military and financial aid the United Kingdom had given, it had never asked for anything in return. Sometimes Muscat and Oman had been able to assist the United Kingdom as, for instance, when war had broken out, the Sultan had been pleased to co-operate with the United Kingdom and let it use his airfield. There had never been any idea of giving something in order to get something in return, either verbally or in writing.

535. In answer to the question whether the Sultanate had ever considered seeking financial and technical assistance from a country other than the United Kingdom, the Sultan replied that he had never sought financial assistance as there was enough for the financial needs of the country. With regard to technical assistance, Muscat and Oman could seek it from any country, if it wished to do so and was not restricted in any way. However, he had not requested technical assistance from any other country, because it had not been needed.

9. *Postal services and currency*

536. The representative of the United Kingdom was asked whether the United Kingdom was in charge of the postal services in Muscat and Oman, including the

printing and selling of stamps. In reply, the Committee was informed that the United Kingdom General Post Office ran the postal services at the request of the Government of Muscat and Oman. The General Post Office paid the cost and in return received the revenue from postage. These roughly balanced. In effect, the General Post Office was the Sultan's appointed agent for running the postal services. These facilities were not limited to members of the British armed services; they were for the whole country. The people employed by the post office in Muscat and Oman were Arabs and Indians. There were no British personnel. With regard to the stamps used, the Committee was informed that British over-printed stamps were used by the postal service in Muscat at the request of the Government of Muscat and Oman. It was also informed that, if at any time the Sultan wished to substitute the use of other stamps, this would at once happen.

537. One petitioner, from Dhofar, said that there were no postal facilities there, except at the British military base where the Royal Air Force had a post office. Mail from outside the country was addressed to that office. The letters were then sent to the *Wali's* office where people went to collect them.

538. In answer to a question concerning the currency used in Muscat and Oman, the Committee was informed that the "external" Indian rupee was used.

10. *Trade relations*

539. The representative of the United Kingdom also supplied the following information concerning trade between the United Kingdom and Muscat and Oman. The latest available figures were for 1962-1963. Imports by the United Kingdom in 1962 were valued at £2,068, while the corresponding figure for 1963 was £2,235. The largest single item was bitumen and asphalt. Exports by the United Kingdom Government to Muscat and Oman in 1962 were valued at £1,012,000 and for 1963, £1,240,000. This made up over one-third of the total imports by the Sultanate in these years. The main items were motor vehicles and spare parts, pumping equipment and other machinery, chemicals, cigarettes and tobacco and other general manufactured goods. A good part of these imports were financed by the oil companies for their exploration and other operations. The imbalance in the trade between the two countries could be accounted for by the fact that the Sultanate's exports were mostly commodities which were not readily marketable in the United Kingdom and which were exported elsewhere, to such countries as Pakistan, the Gulf States and Aden.

I. Situation of Omanis outside the country

1. *Refugees*

540. A number of petitioners stated that there were thousands of Omani refugees living outside the country. According to one petitioner, a member of the Revolutionary Council, there were about 10,000 living in different parts of the eastern province of Saudi Arabia, about 5,000 in Kuwait, about 200 in the United Arab Republic and about 300 in Iraq. Somewhat higher estimates were given by other petitioners.

541. The petitioners gave the Committee a variety of reasons for leaving. The majority said they had left because they supported the Imam and if they had not left the British would have killed or imprisoned them. Among other reasons were the following: seizure of property, search for work, need for education, trade and business, imperialist presence, destruction by the British, lack of schools and hospitals, and British oppression. A common reason was that "there was no life or peace there".

542. Most of the persons interviewed said that they were refugees of one kind or another. Most said they could not go back to Oman for fear of being arrested. Others said there was no work there or means of making a living. Others did not want to go back and live under the oppressive rule of the British and the Sultan. One petitioner said that he would not go back because he was used to expressing his views freely and he would not be able to do that under the Sultan's rule. Almost all said that they wished to go back to make their lives in their own country and to be reunited with their families and relatives.

543. The Omanis in Dammam were all refugees and said that they received help from the Imam and the Saudi Arabian Government. Some said they received money each month, others referred only to having received a place where they could live. Almost none of the Omanis in Dammam were employed. In Kuwait, almost all the persons interviewed had employment of one kind or another.

544. The attention of the Committee was drawn to the condition of the refugees. In Dammam the Committee visited two areas and observed, at first hand, the difficult conditions under which they were living. In Kuwait, the Committee was informed that many important persons from Oman had been forced to accept menial work in order to live.

2. *The Imamate*

545. The Imam himself, the members of his councils and most of the petitioners regarded the Imamate as still in existence, though in exile. They denied that the Imam ceased to hold office because he had been expelled from his own country and said that, in accordance with tradition, the Imam would continue in office until he died or was deposed by constitutional methods.

546. The Imam has a Higher Council which includes Sheikh Talib bin Ali, the Imam's brother; Sheikh Sulaiman bin Himyar, the leader of the Bani Riyam tribe and of the Jabal al Akhdar region; Sheikh Saleh bin Isa, the leader of the Harth tribe and Amir of the Sharqiyah; and Sheikh Mohammed bin Abdullah al-Salimi. The Committee interviewed each of these leaders, with the exception of the last named, who was ill when the Committee was in Dammam.

547. The Committee was also informed that there was a Revolutionary Council and was given the names of its members. Almost all of its members were interviewed in Dammam, Kuwait or in Cairo. The Council had recently been reorganized and a number of committees had been established, namely, a Military Committee, a Financial Committee, and a Cultural Committee. A secretariat had been formed and representatives had been appointed to the Arab League. In addition to the Office of the State of the Imamate of Oman in Cairo which had already been established, new offices had been opened in Beirut, Algiers and Kuwait and representatives had been appointed.

548. The Imam informed the Committee that he had made a number of official visits to Arab countries and that the Imamate had sent representatives to the United Nations. The Committee was also informed that

the Imamate had been represented at the Third Afro-Asian Peoples Solidarity Conference in February 1963 at Moshi in Tanganyika. The delegation's official title at that Conference had been the "Omani Liberation Front".

549. The Imam informed the Committee that the aims of the Revolutionary Council were to direct the struggle of the people to regain their independence, and to educate and train them, both inside and outside the country.

550. The representative of the Imamate in Cairo informed the Committee that the function of the Imamate Office was to provide information about Oman. This was done by means of pamphlets and brochures in which they questioned the right of the imperialists to occupy the country and showed how the imperialists were working against the people of Oman.

551. The Committee was informed that the Imam was receiving assistance in various ways from friendly Arab countries. Some financial assistance was being given, shelter for the refugees was being provided, scholarships were being made available and assistance in military training was being given.

552. Most of the Omanis interviewed by the Committee expressed strong feelings of loyalty to the Imam, they regarded him as the legitimate ruler and were prepared to follow him to the death. When it was pointed out to them that by supporting the Imam they had brought great suffering on themselves which they might have avoided by supporting the Sultan, they all replied that they had supported the Imam because his cause was just. Many persons also said that the Imam was their *ulal amer,* or the person who, according to their religious beliefs, was the legitimate repository of temporal authority.

553. Other persons, however, said that they did not support the Imam. One group, whose members were from the interior, said that he was not the legitimate Imam, as he had resigned at Nazwa in 1955. Moreover, he had deserted his people by leaving Oman instead of fighting to the death as required by the laws of his office. They also felt that he was under the influence of his brother and was oppressing his people by taxing them. This group supported the idea of the Imamate and believed that another person should be elected Imam. They did not believe that Ghalib bin Ali would be elected if another election were held.

554. Other persons, most of whom came from the coastal areas, supported neither Imam Ghalib nor the Imamate because they believed that the Imamate system of government was not suited to modern conditions. The following extract from a written petition illustrates their views:

"Our viewpoint towards the Imamate differs from the viewpoint of an ignorant citizen in Oman. Whereas the educated look on the Imamate as they look on reaction, regression and tyranny, the ignorant citizen, because of his narrow horizon, looks on that institution with reverence. He believes that the Imamate is the link between him and life and that it is his duty to obey the Imam—complete obedience without thinking—and that is due to his ignorance and simplicity. He finds himself very proud if he is working to satisfy the Imam and believes that the Imam will grant him blessings.

"If we look at the simplicity of this citizen and his blind following of the old thoughts and old beliefs we shall find that he has become, unwittingly, an instrument in the hands of the Imam and his close associates, who are using him, in the name of religion, to serve their own interests. By using the people and wasting their potentialities for their own greed and for no good reason, they are similar to the Sultan. They have done much in their capacity as representatives of the religious life of the country to induce the Sultan to issue silly and arbitrary orders, such as prohibiting smoking (while the Sultan collects heavy taxes on the import of cigarettes), prohibiting clapping during festive and happy occasions, and prohibiting the playing of music and drums under the pretext that such playing would violate religious teachings. Those orders have by now become chains, limiting the freedom of the person in Oman."

However, all those who did not support the Imam or the Imamate were opposed to the rule of the British and the Sultan.

3. *Organizations*

555. In Dammam, there were no organizations or associations to which Omanis belonged. The Omanis there lived in close contact with the Imam and other leaders of the Imamate. In Kuwait, where an Office of the State of the Imamate of Oman had just been opened, there were also no Omani organizations.

556. In Cairo, the Committee was informed of a number of student organizations. There were two in Cairo, one called "The Omani Students Association", the other "The Omani Students Union". Representatives of the former stated that there were over a hundred Omani students in the United Arab Republic, of whom sixty were members of the association. The members of their association were mainly university students or students at the higher secondary levels. The remaining forty were too young to belong to the association, and most attended a school conducted by the Imamate Office. Some of these students had formed a union of their own but it was not recognized by the Government. The Government of the United Arab Republic assisted Omani students by granting scholarships, and the arrangements about these scholarships were handled through the association. Members of the association helped the younger students in various ways; some had taught at the Imamate school and they had assisted by arranging scholarships. Their association included members of the Imamate school.

557. The representatives of this association interviewed by the Committee were all from the coastal area. When asked why there were no representatives from the interior, they explained that they were all members of the Executive Committee, which was made up of students at the university level, and that there were none at that level from the interior. However, there were many students from the interior in their organization, which represented all Omani students.

558. The Committee was also informed of Omani student organizations in other countries. The Committee interviewed the President of the Omani Students Organization in Bulgaria who was also the Secretary-General of the Organization of Omani Students in the socialist countries. He said that the latter organization had twenty-eight members, and that all of them had received scholarships.

559. The Committee was informed that there were organizations of Omanis in other countries. In Pakistan there was a group called the "Free Omanis"; there was also an organization of Omanis in Africa. The Committee met a representative of this latter organization in Cairo. He informed the Committee that his organization had a membership of 60,000 covering Rwanda, Burundi, Tanganyika, Uganda and Zanzibar. The organization had been established about fifty years ago and its headquarters was in Zanzibar. It had sent

money to assist the fighters in Oman after the events of 1955. He had come to Cairo, as a member of the Council of this organization, to get acquainted with the Omani organization there.

4. *Passports*

560. The Committee was informed that Omanis who travelled used a variety of passports; the Sultan's, the Imam's and passports issued by the Trucial States. The "choice" of a passport, the Committee was told, was not made on the basis of a political preference but purely on the grounds of convenience. One person explained the matter in this way:

> "We use the Trucial States passports for anywhere we like in Arab countries, or in Europe. We use Muscat passports for Qatar, Bahrain, Pakistan, India and East Africa, provided we have visas. We use the Imam's passport without a visa for Saudi Arabia and Kuwait, and for all countries in the Eastern Bloc. To go to the Western Bloc countries you need a Trucial States passport."

J. Wishes of the people

561. When the Imam was asked whether he would be willing to consider a compromise solution, which would mean the restoration of the situation that existed before 1955, he stated that what was most important was that the British should leave Oman. When this had been done the people would have the opportunity to decide for themselves what they wanted. If the people wished to replace him, he would be the first to accept their decision.

562. The Imam also stated that once the British left the country and there was no British interference, he was sure that the people of Oman would reach a peaceful settlement. Sheikh Talib stated in the presence of the Imam that "the door of understanding would always be open".

563. The Imam stated further that after the British had been expelled he planned to rebuild his country. He would build hospitals and schools, produce petroleum and improve his country which was now in ruins. He also stated that the aim of the Revolutionary Council was to expel the colonialists and to achieve equality, justice and security for the people of Oman, as well as to raise their standards of living. When the people of Oman had regained their freedom, the Revolutionary Council would hand over power to the people of Oman, who could then form another government.

564. The persons the Committee interviewed were unanimous in expressing opposition to the rule of the Sultan and the British and the desire to end their rule in Oman. They were also unanimous in stating that a prerequisite for any solution was that the British and their troops must go.

565. In answering questions put to them by the Committee concerning the future system of government, most persons said that this was a matter for the people to decide and that they would accept the will of the people. One influential member of the Revolutionary Council said that they were not fighting to restore a certain Imam, they were fighting for the freedom and independence of their country; the system of government would be decided by the people themselves. Others, when asked for their views about the system of government, were unwilling to answer at first, saying that their individual views were not important since it would be the will of the whole people that would decide these matters.

566. Most persons interviewed made it clear that they would prefer to see Oman united as one country. Some had in mind the unification of the territories previously controlled by the Sultan and the Imam, while others wished to see the Trucial Sheikhdoms also included as part of the future Oman. One person said that there was no Muscat, only Oman. Another said that people from Oman and from Muscat were all Omanis, and added that while Omanis spoke about a part of Oman being controlled by the Imam and another controlled by the Sultan, they did not agree to this separation. Oman had been one country before its division and it should be one country again. Another person said that he could not agree to separation as this would always be the cause of fighting. Other persons said that Oman had been one country in the past, but had been divided by the imperialists and should be one country again. Omanis were one people and one nation; if the people had freedom to choose, they would decide on unification. One person said that unification would be difficult because of "the difference between fire and water".

567. A number of persons had no desire to see the form of the State changed. They wished it to remain an Imamate. Other persons who were at present supporting the Imam, particularly those who had travelled or had received more education, wished to see a republican form of government introduced. Some members of the Revolutionary Council said that they favoured a Republic and one said that this was what the Revolutionary Council had in mind for the future. He stated that the Revolutionary Council believed that the Imamate was an old system that was outdated. Neither the present Imam nor the Imamate of 800 A.D. could be accepted in the twentieth century. The Revolutionary Council believed that the modern world required a republican régime and that was what it would endorse. He added that it was necessary to be in harmony with the rest of the world. As has been noted in the previous section, there were persons who opposed the present Imam. These persons, naturally, did not wish to see the Imamate re-established.

568. Most people wished the future ruler to be elected. The ruler could be either an Imam or a President. When asked whether they would accept the Sultan as the ruler, most people said they would not, as Sultans were not elected. Others said they would accept whatever the people wanted, an Imam or a Sultan. Another said that there should be a just Imam chosen by the people and that the duty of a just head of State was to prohibit all that was not good and right and to rule the country according to the rules of religion. He added that Sultans were always under the influence of other countries, and that he would accept anybody, provided he was a just man and was chosen by the Moslem population. Another said he would accept anyone as ruler, provided that he was chosen by the people, was not forced on the people, and was not under the influence of the colonialists. The Imam's view, which he said was based on information from the Sultanate, was that the people would have no place for the Sultan after the British had been expelled. One member of the Revolutionary Council said that the British had used the Sultan against the people of Oman, but despite this the Omanis had no hatred of the Sultan and if the British left he was welcome to coexist with them and live in peace. If he would rule the country

according to democratic ways, the Omanis were ready to accept him. Almost all the petitioners believed that the future system of government should be based on Islamic principles. They also believed that the Islamic system of law should continue with, perhaps, modifications of the kind which had been introduced in other Islamic countries.

569. Since the will of the people had been frequently mentioned, the Committee questioned those it interviewed about the system they had in mind for ascertaining the people's wishes. Some said they would be satisfied with the old system traditionally used in electing an Imam, under which the wishes of the people were expressed through the religious and tribal leaders as representatives of the people. A majority, however, wished to see a new system whereby everyone would have a vote. One person wanted the system of elections used in other Arab countries, another wanted a democratic system such as that used in the United States of America. Another said that, according to Islam, each person had a responsibility to God and to himself to carry out his duty to his country and was not supposed to depend on a sheikh or an emir to do this for him.

570. Some persons said that the ignorant and uneducated should not have the right to vote. This view was opposed by many others who stated that, even though people were illiterate, they were quite capable of understanding political matters.

571. A group of persons who described themselves as "young Omanis" believed that there should be a period of trusteeship for Oman exercised by Asian and African States under the supervision of the United Nations. The period of trusteeship should be for five years, during which reforms would be introduced, development programmes would be started, and young educated Omanis would be encouraged to participate in the affairs of the country and assume responsibility for administration. At the end of the five-year period there should be a plebiscite to determine the future of Oman. This proposal was opposed by many other persons, in writing and in person. A typical reply was that "Omanis are capable of ruling themselves and their country and therefore there is no reason for trusteeship".

572. Most of the persons interviewed looked forward to economic, social and educational progress in their country. They said that little had been done in these directions in the past in either the areas controlled by the Imam or those controlled by the Sultan, and nothing had been done by the British.

573. There were also many indications that the people interviewed looked to the United Nations for assistance both in settling the present problem and enabling them to return to their country and in providing assistance to their country when it was re-established. The trust placed in the United Nations and in this Committee, as representative of the United Nations, is illustrated by the following statement by Sheikh Saleh bin Isa:

> "The people of Oman look to this Committee to restore their usurped rights and usurped independence and until this Committee gives its decision, the people of Oman will keep their swords sheathed, so that your work may be carried out in peace."

574. Many demands and requests were made to the Committee. The principal ones were introduced to the Committee by Sheikh Saleh in the following way:

> "The people of Oman are very insistent on basing their actions on the need for peace and security, but this should not be at the expense of right and justice and loss of independence. We affirm to you that we respect the Charter of the United Nations. The Charter of the United Nations stands on our side, upholds our cause and stands with us against the usurpers and aggressors who give the people of Oman a bad life. Therefore we are quite confident that the United Nations cannot leave the people of Oman as victims of aggression and humiliation and backwardness which was imposed on this democratic people by the rockets and aggressive troops of Britain. The innocent people of Oman ask only for their rights. They demand the basic rights stipulated by the United Nations Charter: the rights of freedom, independence and self-determination. This cannot be done effectively unless (1) British troops are evacuated, (2) the people of Oman are granted the right to self-determination, (3) prisoners are set free, and (4) compensation is paid to Omani people to restore the country and bring back the march of civilization."

575. Typical of other demands made to the Committee are the following extracts from written petitions addressed to it:

> (*a*) "Gentlemen, we request you and the United Nations to put an end to what has been going on between us and Britain so that the opportunity may come to the people of Oman to rule their country by themselves and to elect a person they trust for the benefit of the people and the benefit of the country. We declare before you that we wish this matter to be presented to the United Nations. We demand our independence and freedom in our land and we shall resist Britain and British troops staying in our beloved country."
>
> (*b*) "I have the honour to present to Your Excellencies my requests, namely, the withdrawal of British troops and bases from Oman; second, recognition by the United Nations of the independence of Oman as an indivisible unit; third, condemnation of Britain for its aggression on the peaceful people of Oman in 1957 as a result of which hundreds of persons lost their lives, a loss which could not be compensated."
>
> (*c*) "We request the United Nations:
>
> "1. To stop the inhumane acts which British troops undertake in our country and to bring about the withdrawal of British troops from the land of Oman immediately.
>
> "2. To permit Omani political leaders to represent the people of Oman in international organizations.
>
> "3. To speed the return of the national government to the free land of Oman so that it may fulfil the obligations which are on its shoulders."
>
> (*d*) "What we request of the United Nations is to remove British imperialism from our land of Oman and give Oman its full freedom."
>
> (*e*) "First, we do not support the present government in Oman and its treatment of the Omani people. Second, we support Al-Imam as a legal Imam of Oman. Third, we demand freedom and expulsion of imperialism from our Arab homeland. Let the United Nations know that if she could not expel imperialists from Oman that the people of Oman are ready to struggle for their cause till the last drop of their blood—and God will witness that."
>
> (*f*) "We therefore demand the United Nations to take the following steps:
>
> "1. To ensure the withdrawal of British forces from all parts of Oman.
>
> "2. To ensure the right of self-determination for the people of Oman, and to elect the Government which suit their desire under the auspices of the United Nations."
>
> (*g*) "The Omani Students Association in Cairo, in its capacity as a student organization representing in its membership the vanguard of the Omani people who demand and are aware of the actual conditions of Oman, present you with the following political demands:

"1. The withdrawal of British troops immediately under the supervision of the United Nations.

"2. The assurance of the unity of Oman stretching from Abu Dhabi in the north to north of Dhofar in the south.

"3. The protection of the freedom of speech and the right to engage in political and intellectual activities in Oman, and the release of the political prisoners.

"4. The people of Oman should be given the right to choose the system of government they wish."

(*h*) "I wish to present to you the following recommendations in your capacity as representatives of the United Nations:

"1. The withdrawal of all British troops immediately from all parts of Oman.

"2. The right of self-determination should be left to the people so that they would choose a system of government that they wished, according to the basic principles of the United Nations.

"3. The prevention of Persian immigration to Oman.

"4. We demand that the international Press should go to Oman to fulfil their obligations on behalf of the free people of Oman who are suffering from the beastly British acts. Britain has occupied our beloved land and has destroyed its towns and burnt its farms, killing many and imprisoning others.

"5. We demand that the Red Crescent and the International Red Cross should go to Oman to carry out their humane duties."

576. The Committee asked many of the persons it interviewed whether, as a compromise, they would be willing to accept a restoration of the situation that existed before 1955. Most persons replied that they might be willing to accept this, provided the British left. Some, however, qualified this by saying that they could not accept a return to the economic, social and educational conditions that existed at that time.

Chapter IV. Evaluation

A. Relationship between the United Kingdom and the Sultanate

577. It has been claimed that the United Kingdom played a decisive role in the establishment of the Sultanate at the turn of the eighteenth century. On this point, the Committee has not yet come across indications of direct intervention by the United Kingdom on behalf of the ruler at Muscat at that time. It may be noted, however, that at this time two treaties or agreements were made by the ruler at Muscat, Sultan bin Ahmed, with the English East India Company. It may be recalled here that in accordance with the statement made by the United Kingdom all treaties and agreements made by the East India Company and later by the Government of India may be regarded as having been made by the United Kingdom. While it is true that these two treaties provided the British with guarantees that Sultan bin Ahmed would deny assistance to the French, they did not provide for British support for Sultan bin Ahmed against either internal or external enemies nor, apparently, was any such support given. Further, while the ruler may have added to his prestige by concluding a treaty with a foreign Power, it is difficult to believe that this affected his standing in the country in any decisive way.

578. During the reign of the succeeding Sultan, Said bin Sultan (1807-1856), the relationship with the United Kingdom became closer. Treaties were concluded which regulated commercial and consular relations and which made provision for the suppression of the slave-trade. There were also a number of instances of military and diplomatic intervention by the United Kingdom.

579. The Committee notes that the treaties with the United Kingdom, namely those of 1839 relating to commerce and navigation and those of 1822 and 1845 relating to the suppression of the slave-trade, appear to be unfair and unequal in the sense that they impose many obligations on Muscat and very few on the United Kingdom. It also notes that the Treaty of 1839 provides for extraterritorial rights for British subjects in Muscat territories.

580. It should also be noted that Said bin Sultan concluded treaties regulating commercial and consular relations, with the United States of America, in 1833, and with France, in 1844. The Committee found nothing in the texts of these treaties, or in the circumstances surrounding their signature and ratification, that would indicate that they were not treaties between sovereign States. Moreover, it should also be noted that the provisions in the United Kingdom treaty which might be regarded as unequal or unfair, including those which confer extraterritorial rights, also appear in the treaties with the United States and France. Therefore, the Committeee believes that whatever inferences may be drawn from the Treaty of 1839 about the relationship of Muscat with the United Kingdom would apply with equal force to Muscat's relationship with both the United States and France.

581. Although there was no treaty or agreement between the Sultanate and the United Kingdom providing for an alliance, there seems to be no doubt that, at the least, a loose alliance developed during Said bin Sultan's reign. The nature of this relationship may be seen from a study of the actions taken by the United Kingdom to assist the Sultan.

582. According to the information gathered by the Committee, the United Kingdom intervened in the Sultanate with naval and military forces on five occasions and on each occasion the operations were carried out in conjunction with the ruler's forces. The interventions took place in 1809 at Ras al Khaimah, in 1810 at Shinas, in 1819 at various points along what is now known as the Trucial Coast, and in 1820 and in 1821 in the Ja'lan.

583. It seems that the actions of 1809 and 1819 might have been connected with the suppression of piracy and apparently were not intended to support the ruler of Muscat against an internal threat. By this time (1809-1819) the tribes of the Trucial Coast appear to have effectively thrown off whatever control had been exercised over them in earlier days by the rulers of Oman. It may also be noted that Said's position as ruler was seriously challenged during the first few years, but the Committee has not come across indications that Said received any military or other assistance from the United Kingdom to help him meet these challenges.

584. The actions in the Ja'lan in 1820 and 1821 appear to be of a somewhat different character. The United Kingdom stated that these actions, which took place in the interior of Oman, were taken against a tribe guilty of complicity in piracy. However, this tribe's connexion with piracy seems somewhat tenuous and the necessity for an expedition into the interior is difficult to accept. The facts appear to be that the Bani Bu Ali tribe had been undermining the ruler's influence in the Ja'lan and the Sharqiyah regions and that some members of the tribe were accused of being involved

in plundering a British ship which had been wrecked on the coast. It seems likely to the Committee that the ruler used the incident as a means of obtaining the support of the British against a troublesome tribe.

585. Apart from these instances of military action by the United Kingdom there were also occasions when the United Kingdom intervened by using its diplomatic influence, accompanied sometimes by a show of force. According to the information available to the Committee, the United Kingdom intervened on at least two occasions in the face of external threats from the Wahabis in 1848 and 1853. The United Kingdom also appears to have intervened in the struggle between the ruler, Said bin Sultan, and his cousin, Hamud bin Azzan, by playing some part in arranging a truce agreement between them and in seeing that both parties adhered to it. However, this intervention did not prevent the struggle continuing. During the rule of Said bin Sultan the ruler of Muscat, who was also the ruler of Zanzibar, apparently enjoyed considerable prestige abroad and concluded treaties with foreign countries and received foreign consuls. It is true, however, that he had a closer relationship with the United Kingdom than with any other country. The closeness of the relationship between the Sultanate and the United Kingdom was illustrated when, following the death of Said bin Sultan, a dispute developed between three of his sons and they accepted British arbitration in 1861 as a solution. As a result of this arbitration, the Zanzibar territories were separated from the Muscat territories and, in the following year, France and the United Kingdom agreed reciprocally to respect the independence of the two sovereign rulers. The Committee notes that this agreement says nothing about the territorial integrity of the two countries and refers only to the "independence of the Sovereigns". However, the agreement does seem to indicate that France as well as the United Kingdom recognized that both sovereigns were independent rulers. The Committee also notes however that the agreement did not prevent Zanzibar from becoming a British protectorate some years later.

586. The action by the British in 1868 in persuading Turki bin Sultan to cease his opposition to his nephew, the Sultan, and retire to India on a pension, was undoubtedly a case of intervention in support of the ruling Sultan. However, the United Kingdom does not seem to have done very much to support this same Sultan against Azzan bin Kais, who later in 1868 drove the Sultan into exile and was elected as Imam.

587. It has been claimed that the United Kingdom actively intervened against the Imam Azzan bin Kais and was responsible for the re-establishment of a Sultan as a ruler. In this connexion, it may be noted that the United Kingdom did not recognize Azzan bin Kais as ruler and that he was the only ruler at Muscat in the last 100 years from whom it withheld recognition. The Committee notes the explanation by the United Kingdom that recognition had not been granted because conflict was taking place and it was not clear who was the ruler.

588. In the period following the death of Imam Azzan bin Kais, the relationship of the United Kingdom with the Sultans continued to be close and the dependence of the Sultans on British support became more marked. It was during this period, in the 1880's and 1890's, that the interest of European Powers in colonial expansion became more marked, and led to acquisitions in Asia, Africa and also in Southern Arabia. This development appears to have affected the United Kingdom's relations with Muscat and Oman, and seems apparent in the two agreements concluded between the Sultan and the United Kingdom in 1891.

589. The first was the Treaty of Commerce of 1891 which replaced the Treaty of 1839. The terms of the new treaty were less advantageous to Muscat than those of the old one. In particular, the reciprocal arrangements for "most-favoured-nation" treatment now became unilateral and applied only to the United Kingdom. Further, the Sultan's authority to impose import and export duties was more narrowly limited.

590. More significant, however, was the Non-Alienation Bond of 1891, by which the Sultan bound "himself, his heirs and successors never to cede, to sell, to mortgage or otherwise give for occupation, save to the British Government, the dominions of Muscat and Oman or any of their dependencies". In this connexion, the United Kingdom's memorandum to the Committee (annex VII) is of great importance. In it, the United Kingdom stated that it had been recognized that, in the conditions of the nineteenth century, a major Power enjoyed a position to which smaller Powers of unquestioned independence were inclined to defer. It pointed out that after Sultan Faisal had been formally accorded British recognition as a ruler in 1890, he wrote saying that it was his "earnest desire to be guided in all important matters of policy by the advice of the British Government". Similarly he had signed the Bond or Agreement, the essence of which was that while the "Government of India sought no derogation of the Sultanate's independence, the Sultan deferred to Her Majesty's Government in ensuring that no other Power should derogate from that independence to British disadvantage".

591. The Committee's first comment is that this Bond seems to limit in a very substantial way the sovereignty of a ruler, and the question arises whether, by entering into an agreement of this kind, he lost his sovereignty. The Committee draws attention to the fact that the terms of this Bond appear as one of the articles of many of the treaties between the United Kingdom and the rulers in Southern Arabia in the vicinity of Aden, by which they became protectorates of the United Kingdom. Such a clause appears, for instance, in the treaties concerning Afifi of 1889 (article III), Barkimi of 1889 (article III), and Haushabi of 1895 (article III). It may also be relevant to note that these protectorate treaties contained two other articles, one extending the United Kingdom's protection over the territory, the other binding the rulers not to have dealings with any foreign Power, except with the knowledge and sanction of the British Government.

592. A provision limiting the ruler's power to cede portions of his territory therefore seems to have been part of a normal protectorate agreement in the area. Because of this connexion, the Committee cannot wholly accept the United Kingdom's interpretation. The Committee feels that something more was involved than the Sultan merely deferring to Her Majesty's Government in ensuring that no other Power should derogate from that independence to British disadvantage.

593. At the same time, while the Committee believes that the Bond of 1891 contained one of the essential elements normally present in a protectorate agreement, it also believes that it fell short of actually becoming one because of the absence of the other equally im-

portant provisions set out in paragraph 591 above. The Committee also notes that even though this Bond had been regarded as a dead letter for a long time before it was terminated in 1958, it was not until that late date that anything was done to end it.

594. The Committee notes that the relationship between the Sultans and the United Kingdom became even closer in 1895, when the United Kingdom promised to come to the assistance of the Sultan in the event of any attacks on "the two principal towns of his country, Muscat and Matrah". The Committee would like to have been able to study the terms of this agreement more closely so as to have a better idea of its implications, but this was not possible. In this connexion, it will be recalled that in response to the Committee's request for the text of this agreement, the United Kingdom informed the Committee that it had not been able to locate the text. However, it seems to the Committee that the agreement covered attacks from both internal and external sources. The Committee can see no possible objection to agreements for protection against external attack, although, in general terms, it has serious doubts about the acceptability, even in the nineteenth century, of agreements to support rulers against internal attacks. The Committee feels that such agreements tend to impede normal internal developments.

595. So far as this particular agreement is concerned, the Committee notes that it was made in 1895 and that it was in this year that Muscat was occupied by Sheikh Saleh bin Ali, Amir of Sharqiyah, who had led a number of the interior tribes in an attack on the city. Although the Sultan was saved by Ghafiri tribes and not by the British on this occasion, it is not improbable that it was as a result of this attack that the Sultan sought British protection in the future against attacks from people he regarded as his own subjects. It may also reasonably be inferred that when the British authorities gave the Sultan this undertaking they were aware that their support was being sought in order to protect the ruler from attacks by his own subjects.

596. The pattern of relationships which was established by the treaties and agreements of the 1890's persisted until well into the twentieth century. The agreement granting the United Kingdom prior rights concerning the Sur Coal-fields of 1902 and that of 1923 granting similar rights in connexion with petroleum fitted into this pattern and had the effect of further limiting the Sultan's field of sovereignty. Nevertheless, the Award of The Hague Tribunal in the Muscat Dhows case in 1905 would seem to indicate that, at least in 1905, an international tribunal considered the Sultanate to be a sovereign independent State.

597. The situation of the Sultan in the period after 1913 following the election of an Imam was apparently extremely precarious and the Committee is inclined to agree with the testimonies of most observers that but for British assistance, the Sultanate would have been overcome. This assistance took the form of military support in 1915 when the Sultan's capital was defended by troops sent by the United Kingdom, and diplomatic support between 1915 and 1920 when the British Consuls at Muscat used their influence on behalf of the Sultan.

598. As indicated earlier in the report (paragraphs 270-275 above), the correspondence handed to the Committee by Sheikh Saleh bin Isa shows that the United Kingdom began as early as 1915 to arrange a settlement of differences between the Sultan and those whom he regarded as his rebellious subjects and who were led by the Imam. There seems to be no room for doubt that the letter of March 1919 (see paragraph 272 above) is openly threatening. However, the question here is what light these arrangements shed on the question of the relationship between the Sultanate and the United Kingdom. In answer to this, the Committee believes that they show once again the almost total reliance of the Sultanate on British support. They also show that the United Kingdom was willing to play a leading part to use its influence and forces if necessary to support the Sultan. This raises a further question as to why the United Kingdom was willing to do this. On this matter, the United Kingdom has stated that its interests in the area, which had been connected with the suppression of piracy, the slave-trade and gun-running, had also been related to the maintenance of peace and stability in the area. The Committee is inclined to believe, however, that the United Kingdom interpreted the "maintenance of peace and stability" somewhat narrowly and tended to limit it to meaning support for the Sultans, irrespective of the measure of popular support they commanded. The Committee need hardly add that this does not necessarily contribute to peace and stability, and can lead to the very opposite result. The Committee also finds it hard to avoid the conclusion that the United Kingdom's policy was directed in large measure by its desire to maintain in power a ruler over whom it had some influence.

599. It has been stated that the position of the United Kingdom in relation to the Treaty (Agreement) of Sib went beyond that of mediator and that it was in fact one of the parties. It will be recalled that the Committee was told that this was a treaty between the Imamate on one side and the British and the Sultan on the other, and further that the only parties with international standing were the Imamate and the United Kingdom, the implication being that the Sultanate was merely a United Kingdom territory with no international standing. The question of the status of this Treaty (Agreement) and its value as illustrating the international status of the Imamate is discussed below (see paragraphs 632-645). Here the Committee will consider the Treaty (Agreement) in connexion with the question of the relationship between the Sultanate and the United Kingdom. Relevant to this question is the text of the Treaty (Agreement) itself and the part played by the British Consul in the arrangements for the negotiations and in their actual conduct.

600. From the correspondence made available to the Committee, it is evident that the British Consul was instrumental in making arrangements for the negotiations. Apparently, the British Consul arranged a meeting between himself and Omani representatives which took place at Sib in September 1919, and at which some kind of preliminary agreement was reached. The part played by the British Consul in arranging this meeting and, probably, in the discussions that took place, was a direct one. This may be inferred from the correspondence that preceded it. For instance, in the letter of 13 May 1919 to Sheikh Isa, the British Consul wrote: "*We* must reach in our negotiations a point of agreement between *us*" (emphasis added). In the same letter he wrote: "*Our* word is that we have not used the force which has been at our disposal. Accord-

ingly, it is better that *we* negotiate together, after which you may present the results of *our* negotiations to your Consultative Assembly, as you wish" (emphasis added).

601. Some light is shed on what happened at this meeting in 1919 by the letter dated 8 January 1920 from the British Consul to Sheikh Isa. In this letter, the Consul stated: "I am pleased to inform you that our Government has authorised me to work as a mediator, as requested in the meeting of Sib". It may seem, therefore, that at this preliminary meeting it was agreed by the Omanis that the British Consul should act as mediator in bringing about some kind of settlement with the Sultan. This apparently led to another meeting at Sib in September 1920, at which the Treaty (Agreement) was concluded.

602. However, the role of the British Consul in the actual conduct of the negotiations seems to have gone beyond that of a mediator. It seems to be clearly shown in Mr. Wingate's own account that the negotiations were carried on between him and the Omanis, and it is quite understandable that the Omanis would believe that he was the principal on the other side or at least the representative of that principal. This raises the question of whether he was representing the United Kingdom or the Sultan. On this point, the Consul's official accreditation setting out his capacity to participate in the negotiations is crucial. The United Kingdom has stated that the Consul acted as a mediator and the letter quoted above from the Consul shows that he had been authorized to act in that capacity.

603. The Committee was hampered in its consideration of this question by the absence of the actual text and even of agreement about the text. Nevertheless, there were a number of points on which there was agreement and, on the basis of which, the Committee could attempt to come to some conclusions. In none of the texts supplied to the Committee is the United Kingdom named as a principal party. In all copies, the body of the agreement states that there are four provisions relating to the people of Oman and four relating to the Government of the Sultan. None makes any mention of conditions pertaining to the United Kingdom. In the text quoted in Mr. de Ribbing's report, which is also used in publications of the Arab Information Center in New York, it is stated that:

> "This is the peace agreed upon between the Government of the Sultan, Taimur ibn Faisal, and Sheikh Iso ibn Salih ibn Ali on behalf of the people of Oman whose names are signed hereto, through the mediation of Mr. Wingate, I.C.S., political agent and consul for Great Britain in Muscat, who is empowered by his Government in this respect and to be an intermediary between them."

In the letter supplied by the Imam (annex XI), which contains a text of the Treaty, the author says that the "treaty was signed between the Imam and the British and Sayid bin Taimur through Sheikh Isa and the Englishman, Mr. Wingate". However, when quoting the text itself, the author of the letter shows Mr. Wingate certifying that "This is the treaty which was signed between the Government of His Highness Sultan Taimur bin Faisal and the Omanis in my presence". Further, when Sheikh Saleh set out his text of the Treaty (annex XII), he prefaced it in this way:

> "This is the Treaty of Sib which was signed on behalf of Imam Mohammed bin Abdullah Al-Khalili by my father, Isa bin Saleh Al-Harithi, deputy to the Imam of Oman and on behalf of Sultan Taimur bin Faisal, by Mr. Wingate, I.C.S., Political Agent and Consul of Great Britain in Muscat."

The Committee notes that only once in all these versions is there any indication that the United Kingdom was one of the parties, and that this one reference occurs in the body of a letter describing the Treaty (Agreement) and does not purport to be a part of the text itself.

604. The question of whether Mr. Wingate signed as representing the Sultan (as the Imam's supporters and Wingate himself claim) or as a witness (as the United Kingdom claims), does not seem to be of decisive importance to the question of British participation as a principal. At most, it would indicate again the Sultan's great reliance on British assistance. Therefore, basing itself on the material it has at its disposal, the Committee is not quite convinced that the United Kingdom was a principal in a formal sense to this Treaty (Agreement). However, bearing in mind the leading part played by the British Consul in arranging and conducting the negotiations, it is easy to understand that the Omanis believed they were making an agreement with the United Kingdom.

605. The leading part played by the British Consul in the negotiations at Sib seems to have continued after the Treaty (Agreement) came into operation. The correspondence between the British Consuls and Sheikh Isa, handed to the Committee by Sheikh Saleh, indicates that during the period from 1921 up to at least 1932, both the Sultan and Sheikh Isa addressed their complaints concerning violations of the Treaty (Agreement) to the British Consul and expected him to take action. Since Sheikh Isa registered his complaints about the Sultan with the British Consul and since he received notifications of his own infringements from the British Consul, it may be argued that the United Kingdom was a principal to the Treaty (Agreement). However, it should be noted that the action taken by the British Consul on Sheikh Isa's charges was either to provide an explanation or to refer the matter to the Sultan. Similarly, the complaints sent to Sheikh Isa had been initiated by the Sultan and were being passed on by the Consul. These facts suggest the role of an intermediary rather than that of a principal. How long after 1932 the British Consul continued his role is not known, since no correspondence written after that year was available to the Committee.

606. It may be useful at this point to survey the position of the Sultan in 1923. He was recognized as a sovereign ruler by the United Kingdom and, by the terms of past treaties, by the United States of America, France and the Netherlands. Yet he could not cede any of his territories except to the United Kingdom; he could not grant permission to foreigners to work his coal-fields without giving the United Kingdom a first option; he could not himself exploit any oil found in his territories, nor could he permit its exploitation without informing the British Consul and without the approval of the United Kingdom Government;[58] he had no jurisdiction over most foreigners in his territories; and he received little in the way of trade privileges for his nationals in return for the privileges he had engaged

[58] In this connexion, it may be noted that in 1951 the Sultan granted a concession to an American oil company, without consulting the United Kingdom Government (see paragraph 610 below).

to grant to foreigners in his country. Moreover, he had recently been obliged to rely on British assistance to secure for him a humiliating agreement with sheikhs whom he considered to be his subjects and under terms which forbade him to interfere in the internal affairs of a large part of what he considered to be his own territories. Further, his complaints against these sheikhs were now handled through the British Consul. Finally, although ultimate control still remained in his hands, his army was commanded by a British officer and his chief minister and financial adviser was also British. He may still have been an independent sovereign, but his freedom to exercise this sovereignty had been limited in many ways.

607. In the period following the conclusion of the oil agreement of 1923, no agreements were made between the United Kingdom and the Sultanate which might be considered as inconsistent with the independence of the Sultanate. The financial assistance leading to the employment of a British financial adviser in 1918-1920 and the Civil Air Agreement of 1934 appear to be normally acceptable arrangements between two sovereign States. Further, the Sultan's actions in 1939 in prohibiting trading with Germany and in granting naval and air facilities to the United Kingdom can give rise to no unfavourable interpretation. It was during this period, in 1937, that the Sultan granted an oil concession, covering all his territories with the exception of Dhofar, to a predominantly British oil company. The Committee notes, however, that this was an agreement with a private British company and not with the British Government. Moreover, no one has suggested that the granting of such a concession normally affects a ruler's sovereignty.

608. The Treaty of Commerce and Navigation signed in 1939, to replace the Treaty of 1891, was not very different from the one it replaced. The Committee notes that "most-favoured-nation" treatment was still not reciprocal and that British subjects still enjoyed extraterritorial rights. It also notes that there were a number of provisions which imposed obligations on the Sultan alone and others by which the Sultan's freedom of action was limited. For instance, he was not to establish a trade monopoly in such a way as to be detrimental to trade by British nationals, and he was directed as to how he was to use harbour dues. In all, the Treaty of 1939 does not appear to have altered or modified the existing relationship with the United Kingdom.

609. Important changes, however, were made by the Treaty of 1951 which replaced that of 1939. The Committee notes that more provisions became reciprocal, including the granting of "most-favoured-nation" treatment, and that a number of the restrictions on the Sultan's freedom of action were removed. Moreover, the provisions relating to extraterritorial rights were removed from the Treaty. However, they were not abolished, but were the subject of an agreement contained in letters exchanged at the time of the signing of the new treaty.

610. Also in 1951, the Sultan granted an oil concession in Dhofar to an American company. The Committee notes that both the Sultan and the United Kingdom have stated that there was no prior consultation with the United Kingdom as called for by the agreement of 1923 and that the agreement was regarded as a dead letter.

611. The Committee's consideration of the events of 1955 and 1957 is set out separately in section C below. Here the Committee would note that these events and their interpretation have an important bearing on the question of the nature of the relationship between the Sultanate and the United Kingdom, and that, therefore, its evaluation of this matter would have to be read in conjunction with its evaluation of these events. It would also note that during this period no new treaties or agreements were made which would affect the legal basis of the relationship.

612. The relationship between the Sultanate and the United Kingdom after the events of 1955 and 1957 may be considered, first, as it is set out in various agreements and, secondly, as it may be clarified by the actual practices followed.

613. The basic written agreements governing the relationship are: the Treaty of Friendship, Commerce and Navigation of 1951, the exchange of letters of 1951 concerning consular jurisdiction, the agreement concerning the Sultan's armed forces, civil aviation, Royal Air Force facilities and economic development. Also relevant are the treaties of 1953 and 1958 with India and the United States of America respectively.

614. The Treaty of 1951 with the United Kingdom has been considered in paragraph 609 above and it has been noted that by this treaty relations between the two countries became more reciprocal. The agreement contained in the exchange of letters in 1951 provided for the continuation of extraterritorial rights for British nationals. The Committee notes, however, that this agreement limited the extent of these rights as compared with those provided for in the Treaty of 1939. It also notes that since 1951 these privileges have been further curtailed.

615. By the agreement concerning the Sultan's armed forces, the United Kingdom agreed, at the Sultan's request, to make available regular officers who would become an integral part of the Sultan's army, to provide training facilities, to assist the Sultan in establishing an air force and to provide personnel for it. The Committee notes that both the Sultan and the United Kingdom have emphasized that the Sultan retains complete control over these forces.

616. The agreement concerning civil aviation provides for the continuation of existing arrangements under which the United Kingdom operates airfields and also provides for the use of the airfields at Salalah and Masirah by the Royal Air Force. The Committee notes the statement by the Sultan that he retains control over the use to which these airfields may be put.

617. The Committee also notes the information that the Sultanate has no currency of its own and uses the external Indian rupee, that it has no postal facilities of its own and has an agreement by which the United Kingdom General Post Office provides postal services on an agency basis. It also notes that the Sultanate has no stamps of its own and uses over-printed United Kingdom stamps.

618. With regard to the Sultanate's external relations it appears that the Sultanate has a Department of External Affairs which handles foreign relations, although the more important matters are handled by the Sultan himself. There is no agreement with the United Kingdom by which it handles the Sultanate's foreign relations, and the Sultan has emphasized that the United Kingdom does not handle them. The Committee notes the Sultan's statement that when questions have arisen in places where the Sultanate has no consular authority, he has asked the United Kingdom to represent him.

The Sultanate has a consul in London and the United Kingdom and India maintain consuls at Muscat. Foreign relations with the United States of America are conducted through the United States Consul General at Aden. The Sultanate also issues its own passports and visas. The Committee notes the Sultan's statement that the Sultanate made an attempt to join the World Health Organization but that its membership was blocked. The Committee also notes that the Sultanate has concluded treaties with two foreign Powers other than the United Kingdom, and that the form of these treaties and the circumstances surrounding their conclusion raise no doubts concerning the sovereign status of the Sultanate.

619. Judged individually, each of these arrangements seems to be quite compatible with the sovereign status of the Sultanate. However, when considered collectively, some doubts are raised. These doubts are strengthened when it is also considered that the Sultan employs a senior British adviser, that his army is officered mainly by British subjects, that his case is represented at the United Nations by the United Kingdom, that he was represented by the United Kingdom in the negotiations with Saudi Arabia between 1952 and 1955 and in those with representatives of the Imam in 1961, and that it is a British company which is beginning to exploit the oil resources in the interior.

620. The cumulative effect of this reliance on United Kingdom personnel cannot be ignored and, among other things, explains the unanimity of the petitioners that it is the British who control Oman and against whom they are fighting.

621. Bearing in mind all the foregoing considerations, the Committee believes that the Sultanate may not be considered a colony or protectorate in a formal sense. The Committee notes that none of the agreements between the Sultanate and the United Kingdom gives the United Kingdom any legal authority over the Sultan or any powers of administration in the Sultanate. However, the Committee believes that the relationship of the United Kingdom with the Sultan, which enables it to exercise great influence on the policies of the Sultanate, may be considered a very special and rather exclusive relationship.

B. Status of the Imamate before 1955

622. The Committee agrees that the Imamate as a political entity dates from the eighth century A.D. and that from that time up to the turn of the eighteenth century it was an independent State and the only political entity in Oman. The crucial period begins with the death of Imam Ahmed bin Said in 1775 and concerns the subsequent establishment of the Sultanate.

623. On the basis of the information it has collected, and taking into account the views expressed to it from all sides, it appears to the Committee that, at some time at about the beginning of the nineteenth century, the Imamate lapsed as a political entity.

624. In this connexion, the Committee notes that after 1792 the Imam apparently performed no political acts, such as the appointment of *walis*, and that although he was involved in the struggle with his brother, the ruler at Muscat, he does not appear to have led the fight as the Imam and called upon the tribes to support him against a usurper as he might have been expected to do as the legitimate Imam.

625. On his death in 1821, no attempt seems to have been made to elect another Imam, nor has the Committee discovered any indication that a "caretaker" was appointed or that any of the organs of the Imamate (such as the Higher Council and the Assembly) continued in existence or actually functioned after that date. The Committee finds it difficult to accept that a State can continue its existence without a head, organs of government, or an administration.

626. Moreover, another political entity, the Sultanate, did exist at this time and apparently exercised authority over most of the areas which had previously formed the Imamate. It is true that in the years that followed there were a number of attempts to unseat the rulers at Muscat. But these appear to have been mainly family quarrels, complicated by the participation of the two rival tribal groupings, the Ghafiri and the Hinawi. They do not readily lend themselves to the interpretation that they were attempts to re-establish the Imamate.

627. The Committee does not feel, however, that there was any formal separation of temporal and spiritual authority at this time. It has been pointed out that such a separation would have been totally at variance with the traditional concept of the Imam's functions. Further, the facts point rather to a long-drawn-out struggle for temporal power, mainly involving members of the Imam's family, from which the astutest and strongest contender emerged as a leader. It may be objected that such a seizure of power was also illegal in terms of Omani constitutional law and traditions according to which leadership had to be elective. While this would seem to be true, it would also seem to be equally true that there were precedents in Omani history for such a seizure of power by purely temporal rulers who ignored the traditional elective requirements. For example, Oman was apparently ruled by the *maliks* or kings, who were not elected, for more than 200 years between the twelfth and fifteenth centuries A.D.

628. For all these reasons, it seems to the Committee that the Imamate lapsed and was replaced by another political entity, the Sultanate, which exercised control in varying degrees over all of the territories of the old Imamate, with the exception of the Trucial Sheikhdoms.

629. The election as Imam, in 1863, of Azzan bin Kais, who ruled the whole of Oman, again with the exception of the Trucial Sheikhdoms, testifies to the strength and durability of the institution. It shows that although the old State had lapsed, the concept of an Imam still had the strength to reassert itself. However, with the death of the Imam in 1871 both the office and the Imamate again seem to have lapsed. Again, there is no evidence of any continuation of the essential organs of government of the Imamate after the death of the Imam.

630. The election of another Imam in 1913 is further testimony to the strength of the institution. Apparently this action was connected with a religious revival that preceded it and which seems to have generated widespread support. The military strength of the Imam, which may also indicate the measure of his popular support, was also made quite clear when, in 1915, the Imam's forces threatened the town of Muscat itself, which was only saved by a garrison of troops supplied by the United Kingdom.

631. The Committee considers that this act of intervention by the United Kingdom was of the profoundest significance and had far-reaching consequences. Had the United Kingdom not provided the Sultan with military support, it seems probable that the Sul-

tanate would have collapsed and the Imamate would have been re-established over the whole of Oman with the exception of the Trucial Sheikhdoms. This again raises the question of the acceptability of foreign intervention to support a ruler against his own subjects. The Committee is also reminded of the past history of Oman, during which, on many occasions, the Imamate lapsed only to be revived later by the people. The Committee finds it difficult to avoid the feeling that the revival in 1915 may have been of this character and that it was thwarted only through the intervention of the United Kingdom. By this action, the United Kingdom may have prevented popular feeling from expressing its wishes about its ruler and its form of government in the only way open to it. The Committee therefore feels that this action by the United Kingdom raises very serious questions concerning the practices that should govern relations between States.

632. The next matter to be considered in connexion with the status of the Imamate before 1955 is perhaps the most controversial and significant of all, the Treaty (Agreement) of Sib. As it has stated before, the Committee found great difficulty in considering this Treaty because it was not able to see an authentic text and because of the absence of agreement about the text. Its comments on the Treaty (Agreement) are therefore made with some hesitancy.

633. It has been stated that the part played by the British Consul at Muscat in arranging the negotiations at Sib indicates that the United Kingdom regarded the Imamate as a separate State. In this connexion, the letters produced by Sheikh Saleh are relevant. These letters are from the British Consul at Muscat and extracts from them have been reproduced in paragraphs 270 to 275 above. It will be noted that there are frequent references to the Imam in these letters, that one of them, that of 9 April 1915, is addressed to the Imam by name but not by title, and that another, that of 10 September 1915, is addressed to Sheikh Isa as "Deputy Imam". Moreover, there seems to be no doubt that the Imam is regarded as occupying a position of authority and is one of the parties concerned. However, there are no references to the Imamate or to a State, but only to "the two parties". Further, the British Consul's actions in bringing the two sides together do not necessarily imply any judgement by him about the international status of either of them.

634. Many persons have stated to the Committee that the Treaty of Sib recognizes the existence of the Imamate of Oman as a sovereign independent State and, to support this statement, have pointed out that it took the form of a treaty between two States, one of which was the Imamate of Oman; that it was signed by representatives of the Imam on his behalf; and that it was ratified by the Imam. Emphasis has also been placed on one of the articles by which the Sultan agreed not to interfere in the internal affairs of Oman, thereby recognizing its independent existence.

635. In considering the first point, an authentic text would have been extremely helpful. In particular, the Committee would like to have seen the wording of the preamble and of the statements accompanying the signatures and ratifications. The differences in the texts used by the Committee and supplied to it on these matters are as follows. The text used by the Committee (the text set out in the de Ribbing report) contains a preamble which states that: "This is the peace agreed upon between the Government of the Sultan, Taimur ibn Faisal, and Sheikh Iso ibn Salih ibn Ali on behalf of the people of Oman". This text contains no signatures or ratifications. The text supplied by the Imam, which it will be recalled is contained in a copy of a letter written the day after the signing, contains no preamble, but the author of the letter refers to it as a treaty between "the Imam and the British and Sayid bin Taimur". It contains a signed statement by Sheikh Isa and Sheikh Sulaiman that the conditions of the Treaty have been accepted by virtue of an authorization from the Imam. It also contains a ratification signed by the Imam stating that he approves of what has been done on his behalf by his representative. Finally, it contains a statement signed by Wingate to the effect that the Treaty was signed by the Government of His Highness and the Omanis in his presence. Sheikh Saleh's text includes a signed statement by his father Sheikh Isa in similar terms to those contained in the Imam's text and a similarly worded ratification by the Imam. Because of the important differences in the various texts on this point, the Committee cannot draw any conclusion.

636. However, further light is shed on this question by an examination of the parts of the text that are agreed upon. For instance, there is agreement that, when setting out the four provisions applying to each of the parties, the term used for one party is "the Government of the Sultan" and the term used for the other is "the people of Oman". The fact that the term "the people of Oman" was used instead of some term making reference to a Government as the other party, seems to be significant. Another part of the text which is agreed upon is the sentence "All the sheikhs and tribes shall be at peace with the Government of the Sultan". Again, the Committee feels that the absence of a reference to the existence of a Government on the Omanis' side is significant.

637. On this point, the version given by Sir Ronald Wingate is relevant. He states that the sheikhs had insisted that the agreement should be between the Sultan on one side and the Imam on the other, but that he had resisted this for the following reason:

> "... this would mean that the Sultan acknowledged another ruler, and a ruler who was already an elected spiritual leader and an admitted temporal representative of the tribes. From such an acknowledgement it was only one step farther for the spiritual leadership and temporal representation of the tribes to develop into a claim for the spiritual and temporal leadership of all Oman."[59]

Wingate then describes how he persuaded the sheikhs to his point of view and states that:

> "The word Imam was omitted from the body of the document, which simply read as conditions arranged between the Sultan's Government and Isa bin Salih as representing the Omani tribes."[60]

Wingate also states that the question of sovereignty was never mentioned, and that had it been, there would have been no agreement.

638. These passages would seem to confirm that there is no reference in the text to the Imam and also that this omission was deliberate. It may also explain the existence of the references to the Imam outside the "body of the document", namely in the statements accompanying the signatures and ratifications.

[59] Sir Ronald Wingate, *Not in the Limelight* (Hutchinson of London, 1959), p. 89.
[60] *Ibid.*, p. 90.

639. These passages also indicate quite clearly, however, that the sheikhs of Oman looked upon the agreement as one between the Sultan and their Imam, whom Wingate describes as "an admitted temporal representative of the tribes". In such a situation, with one party signing the Treaty (Agreement) and believing it in fact, though not in form, to be between their leader, the Imam, and the Sultan, and the other party agreeing to sign it only on the understanding that the Imam was not a party, it is no wonder that the question of its interpretation has become so clouded with confusion.

640. The second main point raised in support of the view that the Treaty (Agreement) recognizes the independence of the Imamate, concerns the following provision which, it may be noted, appears in all texts:

"The Government of the Sultan shall not provide refuge to any offender fleeing from the justice of the Omanis. It shall return him to them if they request it to do so. It shall not interfere in their internal affairs."

641. This raises the question of whether a sovereign Power can make a treaty or an agreement with a group of its subjects by which it agrees not to interfere in their internal affairs, and yet still be regarded as having sovereignty over them. The Committee notes that the words "internal affairs" are not defined anywhere in the text. It also notes, in this connexion, that although it was often asserted that the independence of the Imamate was recognized by this article, no arguments to support this claim were brought forward.

642. The Committee's attention was also drawn to the operation of the Treaty (Agreement) in the years following its conclusion, and it was claimed that the relations between the Sultanate and the Imamate under the Treaty provided further proof that the Imamate had been recognized as an independent State. In this connexion, Sheikh Saleh introduced a file of correspondence from the British Consul at Muscat to Sheikh Isa which, he stated, proved the independence of the Imamate. Many of the letters in this file, written during the period from 1920 to 1932, made some reference to the Treaty. While this correspondence provides much interesting information about the practical arrangements under the Treaty (Agreement), it does not seem to provide conclusive proof either that the Treaty (Agreement) recognized the independence of the Imamate or that, in fact, the Imamate was independent. As stated earlier, it shows the important role the British Consul played between the two parties or at least between the Sultanate and Sheikh Isa. Had the letters been addressed to the Imam as the head of the Imamate of Oman and had there been reference to his Government, the case would have been stronger, but in fact they were addressed to Sheikh Isa. The British Consul did not address Sheikh Isa as the Foreign Minister of the Imamate, the title which has been claimed for him, nor is there any reference in the correspondence to an Imamate or to Sheikh Isa as an official of that State. As the letters are, they do not seem necessarily to indicate either the existence of two States or two parts of one State. They would seem to be consistent with both the "international treaty" interpretation and the "internal agreement" interpretation. In this connexion, account should be taken of what has been stated in paragraph 637 above concerning the absence of any reference to the Imam in the text.

643. However, the correspondence does shed light on what were regarded as "internal affairs" and on the matters which were outside the control of the Sultan. The Sultan, for instance, had no power to appoint *walis* in Oman; he could not prevent the seizure of property; and he could not control tribes committing disturbances. This wide range of matters which the Sultan apparently believed were excluded from his jurisdiction under the Treaty (Agreement) of Sib leads the Committee to wonder whether there were any matters at all which were not included within the term "internal affairs". The broad interpretation of this phrase apparently accepted by the Sultan adds great weight to the claim that the Treaty (Agreement) recognized the independence of the interior or of the Imamate.

644. The Committee feels that, regardless of what view is held about the interpretation of the Treaty (Agreement), it had three important practical effects about which there can be little disagreement. First, it put an end to the fighting. Secondly, it created a new relationship between the Sultan and the people of the interior. Thirdly, whatever the character of this relationship, it was such that the two parties did not raise the question of jurisdiction for more than thirty years.

645. Whatever interpretation is placed on this Treaty or Agreement, there is no doubt in the Committee's mind that, in practice, the Sultan exercised no authority in the interior in the period after the conclusion of the Treaty. Indeed, as has been noted earlier, it would appear that this had been the situation in varying degrees for many years before 1920. British observers in the period from 1920 to 1950 show clearly not only that the Sultans exercised no authority in the interior, but that the major part of it was under the authority of the Imam, thereby implying that there was an Imamate, which to all intents and purposes was autonomous.

646. The Imamate seems to have had the normal attributes of a State. It had a Head of State (the Imam), a higher council, an assembly, and its own system of administration which was exercised through tribal leaders and *walis* appointed by the Imam. Taxes were collected in the name of the Imam and were used for the purposes of the Imamate. The Imamate had known boundaries, although they were not very clearly defined, which encompassed the Jabal al Akhdar, part of the Dhahirah, the Sharqiyah and the Ja'lan. Justice was administered throughout this area by the Imam's *cadis* and was entirely separate from the system of justice in the Sultanate. Moreover, at least in the closing years of Imam Mohammed's rule, the Imamate issued its own passports, which were accepted in at least two places, Saudi Arabia and Kuwait. As well as issuing passports, the Imamate also applied to join the Arab League, once during Imam Mohammed's rule and again after Imam Ghalib's election in 1954.

647. The question of sovereignty over natural resources in the interior, including oil, is also of importance. It has been stated that when the Sultan granted the oil concession in 1937, the Imam protested. It has also been stated that the Imam warned the oil company not to begin search operations in Oman. Apparently therefore, Imam Mohammed believed that control over natural resources lay with the Imamate and he took steps to protect that right. It may also be assumed that this belief was based on the same grounds that gave him the right to administer the Imamate.

648. Sheikh Saleh has claimed that the United Kingdom recognized the independence of the Imamate and has drawn attention not only to its participation in the Treaty of Sib, and to the role played subsequently by the British Consul as shown in the correspondence with Sheikh Isa, but also to a letter from the British Resident in the Persian Gulf dated 21 March 1953 and addressed to the Imam (see paragraph 295 above). It will be recalled that Sheikh Saleh stated that this letter had been written to the Imam after he (Sheikh Saleh) had gone to Bahrain to discuss with the Resident a revision of the Treaty of Sib. Sheikh Saleh claimed that, since this letter was addressed to the Imam, it proved that the United Kingdom recognized the existence of the Imamate. The Committee does not feel, however, that the letter furnishes conclusive proof. The Committee notes that the letter was addressed to "His Excellency Imam Mohammed bin Abdullah al-Khalili" but, while this is significant, there is no reference to the Imam being the Head of a State. The use of "Imam" by the British Resident does not necessarily imply that he accepted a particular view about the Imam's functions. Further, the letter itself contains no reference to a State: it refers to the "peace agreement" signed by Sheikh Isa and to the British Government's desire to see that "good relations between His Excellency the Sultan and the Omanis are maintained".

649. To sum up, the Committee believes that although the Imamate lapsed early in the nineteenth century, the attachment of the people to the institution of Imam, which should be regarded as embodying both spiritual and temporal authority, was such that it was revived, once in 1868 and again in 1913. The Committee also feels that if it had not been for British assistance to the Sultan in 1915, about which it has certain reservations, the Imamate might have established itself over the whole country with the exception of the Trucial Sheikhdoms. The Committee also believes that it is not possible to give a definitive interpretation of the Treaty (Agreement) of Sib in connexion with the status of the Imamate. It believes, however, that at the least, it represented a recognition by the Sultan of the autonomy of the interior. Subsequent developments in the interior indicate very clearly the existence of an autonomous political entity that towards the end of the period certainly, and perhaps earlier, took steps to assert its competence in such important matters as the control of foreign relations and of the natural resources of the interior.

C. Nature of the events of 1955 and 1957, and the question of the use of armed force by the United Kingdom

650. Various reasons have been put forward for the action that took place in 1955 as a result of which the Sultan's forces occupied the Imam's capital, Nazwa, and the Imam was forced to flee to the mountains. On the one hand, it is claimed that the Sultan's action was provoked by the newly elected Imam, Ghalib bin Ali. On the other hand, it is claimed that the Sultan's action was inspired and directed by the United Kingdom, and was designed to destroy the independence of the Imamate and seize control of its oil resources. It is also claimed that the British wanted Oman for strategic reasons and that the British wished to prevent the new Imam from putting into effect a broad programme of economic and social development.

651. The first claim, in general, is that Imam Ghalib initiated a policy of asserting the independence of the Imamate contrary to the policy followed by the previous Imam. In particular, it is claimed that he began issuing passports, that he applied for membership of the Arab League, that he refused to accept the right of the Sultan to grant oil concessions covering his territories, that he denounced the 1937 oil concessions, and that he opposed the entry of the oil company into the interior. It is also claimed that by taking these actions, the Imam was challenging the Sultan's exclusive and absolute rights as ruler of the whole country to conduct its foreign relations and to control its natural resources and by doing so was committing an act of treason.

652. With reference to these claims, the Committee would first point out that it was given passports issued in the name of Imam Mohammed in 1953, and that it has no reason to doubt their genuineness. The Committee also draws attention to the statements by the Imam and Sheikh Saleh that the application to join the Arab League was initiated by Imam Mohammed. In this connexion, Sheikh Saleh gave the date of the first letter of application as 25 January 1954, which would have been in Imam Mohammed's time. The Committee further draws attention to the statements by the Imam and Sheikh Saleh that Imam Mohammed had challenged the Sultan's right to grant oil concessions in the interior and that he had warned the oil companies not to enter his territories. Judging from Thesiger's account of his journeys in Oman in the late 1940's, the Committee can well believe that no persons, and especially representatives of oil companies, could travel through Oman at that time without the permission of the Imam.

653. The Committee does not feel that Imam Ghalib initiated these policies although he may have intensified the efforts to assert the independence of the Imamate. The Committee is prepared to believe, moreover, that the mere continuation of these efforts, let alone their intensification, was at least likely to cause the Sultan concern.

654. With regard to the claim that the Sultan and the British deliberately planned to destroy the independence of the Imamate and seize its oil resources, the Committee would first note the following events. Around 1953 (or even earlier), the oil company began to show interest in exploring the interior: in 1953, the Sultan's forces occupied Duqm, although previously the Sultan had not apparently exercised any degree of authority there; at about the same time, the Sultan seems to have strengthened his armed forces, perhaps with assistance from the oil company; in 1954, the Sultan took control of Ibri, which had hitherto been under the control of a *wali* appointed by the Imam; sometime before 1955, the oil company brought in equipment and began preparations for drilling at Fahud.

655. It would appear therefore that, beginning in about 1953, the Sultan began to take steps to assert his authority in parts of Oman where it had not been exercised previously and that this action coincided with the oil company starting active operations in the interior, west of the mountains. The Committee believes that this was no mere coincidence and that the Sultan's actions were connected with the interest of the oil company in that area. It will be recalled in this connexion, that in the agreement with the oil company, concluded in 1937, it was recognized that certain parts of the Sultan's territory were not safe for its operations and that the Sultan undertook to "use his good offices with a view

to making it possible for representatives of the Company" to enter those parts (see paragraph 402 above).

656. The Committee can only surmise the part played by the United Kingdom in these events. The legal situation would seem to be that the United Kingdom had no legal authority to direct the Sultan's policies or the use of his armed forces and that all these matters were within the Sultan's control. However, taking into account the very close relationship that had existed between the Sultan and the United Kingdom for many years, and the fact that a predominantly British oil company was involved, the Committee is inclined to believe that the United Kingdom was associated in some way in the formulation of policy on this matter.

657. In considering the background of the events of 1955, the Committee cannot fail to note that a greater interest is shown by all concerned in the question of sovereignty. Up to that time, the Sultanate had not tried to interfere in the interior, and both the Imam and the Sultan had apparently been content to exist side by side. It would seem that one of the reasons the question of sovereignty was raised was because of the possibility of oil being found in the area and of the consequent necessity for all parties concerned to establish their legal rights.

658. The Committee does not feel that it is necessary to comment in any detail on the outline of events in 1955 at Nazwa and Rustaq which is set out in paragraphs 434 and 435 above. However, there are three points connected with these events that require attention. The first concerns the troops involved on the Sultan's side and whether they were his or British troops. The second concerns the effect of the action at Nazwa on the Treaty (Agreement) of Sib. The third concerns the allegation that Imam Ghalib resigned at this time.

659. On the first point, it will be recalled that the persons the Committee interviewed who had taken part in the fighting said that they were fighting the British and that British soldiers were involved. It is not clear, however, that any British army units were involved in 1955. It seems that the forces taking part were the Sultan's, which however were led by a British commander and were largely officered by British nationals.

660. On the second point, the Imam and his supporters have stated that the Sultan and the British had broken the Treaty of Sib by attacking the Imamate. The Sultan, however, has maintained that the agreement lapsed when his father ceased to be Sultan since there was no clause in it making it binding on the Sultan's heirs and successors. This view was not accepted by the Imam and his supporters, who have insisted that the Treaty was still in effect in 1955. They have also drawn attention to the visit by Sheikh Saleh in 1953 to the British Resident in the Persian Gulf for the purpose of securing amendments to the Treaty. This, they have stated, was evidence that they still regarded the Treaty as being in effect. However, the letter produced from the British Resident in connexion with this visit (see paragraph 295 above) is inconclusive on the question of whether the British regarded it as still being in effect. Sheikh Saleh's statement that in 1954 the British Resident had ignored a question put to him concerning the Treaty, is also inconclusive.

661. The third point, the allegation that Imam Ghalib resigned, was endorsed by only one group of petitioners and was strongly denied by others. The Committee sees some force in the statement made by one of the Imam's supporters that such an action on the part of an Imam was impossible since an Imam cannot resign but can only be deposed. The Committee therefore is inclined to dismiss this allegation, particularly as it cannot see what the Imam could possibly have hoped to gain by such an unprecedented action.

662. The events of 1957 call for more detailed comment. The main outline of events seems to be clear. In July 1957, the Imam's forces defeated the Sultan's forces and reoccupied the Imamate capital, Nazwa. The Sultan appealed successfully to the United Kingdom for armed assistance in the form of units. British forces then quickly defeated the Imam's forces and the main towns were taken. The Imam held out in Jabal al Akhdar until January 1959, when British paratroops took the stronghold. The Imam and other leaders then escaped from the country.

663. It is relevant to note here that in August 1957, eleven Arab States requested, under Article 35 of the Charter of the United Nations, the convening of the Security Council to consider: "The armed aggression by the United Kingdom of Great Britain and Northern Ireland against the independence, sovereignty and the territorial integrity of the Imamate of Oman." After hearing a number of statements, the Security Council decided, by a vote of 5 to 4, with 1 abstention, and 1 member present but not voting, not to place the question of Oman on its agenda (see paragraphs 101-105 above).

664. Essentially, the events of 1957 appear to be a continuation of those of 1955, and therefore the Committee's comments on the background of those events apply equally to these. The principal differences were that in 1957 the United Kingdom became an active participant and that fighting took place on a significant scale.

665. In support of the charge of aggression against the United Kingdom it has been stated that the Imamate of Oman was a sovereign independent State. The United Kingdom has denied this and has stated that Oman was part of the dominions of the Sultan of Muscat and Oman and that the military action of the United Kingdom was undertaken at the request of the Sultan to help him restore order in the face of a revolt against his authority, which had been aided and encouraged from abroad.

666. In explaining why he asked for assistance, the Sultan also emphasized that the Imam was receiving assistance, military and financial, from external sources. On the other hand, the Imam denied that he received help before 1955. He stated that, after the attack of 1955, he and his people had requested help from all peace-loving peoples in order to protect themselves and to repel the British invaders, and that as an independent country, such a request was within their rights. While other petitioners referred to assistance given in 1958 and later by friendly Arab States, only one could recall that any assistance had been given before then. This petitioner, a member of the Revolutionary Council, stated that financial assistance had been received in 1957.

667. However, the Committee notes that no one has claimed that the Imam received assistance in the form of troops. Nor is there any indication that military aircraft, tanks, artillery or weapons of that nature were supplied. In fact, the Committee was frequently told that the Omanis had nothing but their rifles and knives. The Committee does not feel that it has been

demonstrated conclusively that any assistance was given to the Imam from outside the country in the period 1955 to 1957. Moreover, it also feels that if any assistance was given later, it was not in sufficient quantity or of such a nature as to affect the character of the Imam's struggle and convert it into a foreign-controlled action being carried out essentially in the interest of a foreign Power.

668. The Committee also notes the statements by the United Kingdom that "the putting down of a rebellion by a lawful authority is no violation of human rights" and that "to deny a lawful Government recourse to such assistance as it needed for this purpose would be to deprive it of the means of ruling". The Committee is not convinced by this argument. In view of what has been stated in paragraphs 594 and 694 above, the Committee believes that there is still a question whether the United Kingdom's action was justified in the case of Oman.

669. In this particular case there are added factors which would seem to cast doubts, at least, on the acceptability of such intervention. Whatever the nature of the Sultan's rule, it does appear to be an autocracy and there are none of the generally accepted means in the Sultanate whereby the people can make known their wishes. There are, for instance, no representative institutions or political parties. Being aware of this, as the United Kingdom must have been, and having no means of its own of knowing public opinion or the wishes of the people on this matter, there was an added obligation on the United Kingdom to consider with great care the effects of its intervention. The Committee has seen no indication that the United Kingdom Government considered this aspect of the matter. In the statements on the matter made on its behalf, the emphasis seems to have been placed on the necessity of maintaining a government in power rather than on ensuring that basic human rights were not infringed.

670. There is also the question of the degree of popular support commanded by the Imam at the time. There seems to be little doubt that in the central part of Oman, in the area of the Jabal al Akhdar and including towns such as Nazwa, Tanuf, Birkat al Mawz, Bahlah and Rustaq, the population was solidly behind the Imam. The Committee was informed that the fighting covered the whole country and even extended to Muscat and Dhofar. On the other hand, the Committee was told that the Harth tribe was divided, some members supporting the Imam and others the Sultan. The Committee notes that by all accounts the main body of the population in the interior is concentrated in the Jabal al Akhdar region. Taking this into account, the Committee feels that the Imam commanded a large measure of popular support and that this was strongest in central Oman. This being so, the action taken by the United Kingdom is even more questionable.

671. It should also be noted that, whatever the legalities of the situation, this action was taken against a people who believed that they were part of an independent State and that they had an agreement with their neighbour that this independence would be respected.

672. The Committee also notes the following circumstances: the interest of the United Kingdom in the possibility of oil being found in the interior; the United Kingdom's friendship with the ruler; the absence of any normally accepted means by which the population could express its views about the ruler or the system of government; the existence of an autonomous political entity in the interior which had its own system of government and which believed it had guarantees of its independence; the apparently wide popular support given to the ruler of the interior in the face of the attempt by the Sultan to assert his authority there; and the possibility that the Imam was receiving outside support. Taking these circumstances into account, the Committee feels that the action taken by the United Kingdom was extreme and difficult to justify. It feels that some kind of negotiations along the lines of those in 1920 might have been more appropriate, particularly in the early stages before the initial action was taken in 1955. The Committee also feels that, had it not been for the possibility of oil being discovered in the interior, the action taken by the United Kingdom might well have been less drastic and much damage, destruction, human suffering and loss of human life might have been avoided.

D. Present situation in Muscat and Oman

673. Undoubtedly, the Committee's comments on this aspect of the question would have been more comprehensive had it been able to visit Muscat and Oman. Its observations therefore are based on the limited amount of information given by the Sultan, the Imam and the persons the Committee interviewed. These persons, it should be noted, included not only people from the interior but also some from the coastal areas and Dhofar.

674. The Sultan's description of the system of government leaves little doubt that it is an autocracy, although he would regard it as a benevolent one. There are no elected representative institutions in the Sultanate. The tribal system operates over most of the country, and it plays no part in choosing the ruler or in formulating policy. In this connexion, the Committee notes the statement by the Sultan that the younger generation had no say in anything, since the sheikhs expressed the opinions of the tribes.

675. The petitioners said the Sultan's rule was arbitrary and harsh, that there was no political freedom or freedom of expression and that those who opposed the Sultan were imprisoned for their opinions. They also said that there were a large number of political prisoners. The Sultan's statement, in denial of this charge, that there were no political prisoners in Muscat and Oman in the sense the term was used in other countries, and that all prisoners were held on specific charges such as murder, arms smuggling and armed rebellion, did not seem convincing to the Committee.

676. The Committee notes the statements by the representatives of the Revolutionary Council and the petitioners that the fight against the British and the Sultan was being carried on in Oman by means of guerrilla warfare, that this fighting had the support of the people of Oman, and that it would continue until the British were expelled. It also notes the Sultan's statement that the whole country enjoyed peace and that law and order was the rule except for a few troubles created from outside. While it is not possible for the Committee to determine the extent of the fighting or the support it receives from the people, without visiting Oman, the Committee feels that it is important to draw attention to the firm determination of the Omanis outside the country to continue the fight. They, apparently, are receiving political support,

financial assistance, and assistance in military training from friendly Governments and have not only the determination but also the means to continue the struggle. It would seem, therefore, that unless a solution is found there will be continuing trouble accompanied by destruction and loss of life.

677. The Committee also feels that it has been clearly shown that there is room for a great deal of economic, social and educational development in Muscat and Oman.

678. The Committee notes the recent reports that oil has been discovered in commercial quantities. The Committee feels that the discovery of oil may affect the situation to a great extent.

679. The Imam and the petitioners also made a variety of other claims and charges concerning the present situation in the country. These have all been noted in paragraphs 482 to 502 above. Also set out in those paragraphs are the rebuttals made by the Sultan. With regard to these claims, the Committee believes that it would have been able to establish the facts if it had been able to investigate them on the spot. However, the fact that the system of rule there is autocratic in form leads the Committee to believe that there is substance to many of these claims.

E. Wishes of the people

680. During its visit, the Committee interviewed over 175 persons (some of whom spoke on behalf of groups) from many different parts of the country; from central Oman, the Dhahirah, the Sharqiyah, the Ja'lan, from Muscat and the coastal areas, and from Dhofar. They also represented a variety of occupations. There were tribal chiefs, *walis*, retainers and messengers, but most were ordinary citizens who had been engaged in agricultural or pastoral occupations. Many of them were political refugees and had been forced to leave their country because of fear of arrest. Most of these had also left because of loyalty to the Imam, others to find work or to get a better education. Some could return to their country if they wished, but most could not. Some had been in Oman within the last few years, but the majority had left at different times between 1957 and 1960.

681. Almost all the persons interviewed in Dammam reflected fairly accurately the views of the Imam and his Higher Council. All of these were refugees who were living in Dammam or in other parts of Saudi Arabia and who had close ties with the Imam. Almost none had any employment, but said they received financial support from the Saudi Arabian Government through the Imam. Relatively few of them had been to any other country. In Kuwait the petitioners were noticeably different. Most had come to Kuwait to find work or to further their education, but nearly all regarded themselves as refugees. Almost all were employed. Moreover, their opinions and their approach to the problem were much more varied and, in general, they possessed a broader background of knowledge and experience. The majority supported the Imam but some did not. In Cairo, there was again a difference. Apart from the high officials of the Imamate, most of the persons the Committee interviewed were young students who were at university level or hoped to reach that level. As distinct from Omanis interviewed in other centres, the petitioners in Cairo were organized into groups and associations which would seem to reflect a greater degree of political awareness. But in all the variety of opinions and views expressed there was one unmistakable common thread: opposition to the British and the desire to end their presence in Muscat and Oman.

682. The Committee was also impressed by the devotion to the cause shown by the petitioners who supported the Imam. Many said that they had suffered great losses, had suffered privations and had been forced to live away from their country and relatives as refugees. Yet when they were asked why they had supported the Imam, instead of the Sultan, and when it was pointed out that by supporting the Sultan they might have avoided all their troubles and be living peacefully in their homes, the reply was unanimous: they had supported the Imam because his cause was just.

683. As can be seen from the information set out in paragraphs 552 to 554 and 561 to 576 above, the Committee was presented with a variety of opinions on the political future of the country. Some regarded their country as encompassing Oman, the Sultanate and the Trucial Sheikdoms and wanted all these parts reunited. But most felt that they would be satisfied to have the Imamate re-established in the interior of Oman.

684. The Committee notes that there was also a variety of opinions on the system of government that should be established. While some petitioners were content with the traditional Imamate system, there were many who felt that a form of government more in keeping with conditions of the modern world was desirable. In particular, these persons wished to see a modern elective system introduced. The Committee also notes that almost all the petitioners, even those who wished to see a more modern form of government believed that the system should be based on Islamic principles. They also wished the Islamic system of law to continue, with, perhaps, modifications of the kind which had been introduced in other Islamic countries.

685. The Committee notes, further, that opinions varied about the Head of State. Many wished the Imam to continue as Head of the State, others wanted a president. There was little support for a Sultan.

686. A few petitioners suggested that a form of United Nations trusteeship should be established for a period to enable the country to equip itself for independence. This suggestion was opposed by a great majority of petitioners.

687. The Committee was impressed by the keen desire of all to see their country transformed through programmes of economic, social and educational development, to enable it to take its proper place among the nations of the world.

688. The Committee notes the views of the Imam on the question of the future system of government. He stated that he was willing to accept the will of the people, move with the times and to step aside if the people wished to replace him. The Committee also notes the programme of development that was, and still is, envisaged by the Imam (see annex XIV). The Committee further notes that some members of the Revolutionary Council showed that they too, far from wishing to maintain all the old arrangements or even to resist attempts to change them, were looking forward to a more modern system.

689. The petitioners agreed generally on the following four points as the basis of any solution: (*a*) the withdrawal of British troops; (*b*) the right to self

ietermination; (*c*) the release of political prisoners; (*d*) the payment of compensation to the people of Oman.

690. The Committee notes that it is the unanimous view of all the persons it interviewed from Muscat and Oman that, as a prerequisite of any solution, the British presence, in any form, must come to an end.

691. With regard to the possibility of a negotiated settlement to the question, the Committee notes the statement made by Sheikh Talib, in the presence of he Imam, that the door of understanding would always be open. Although the Sultan did not express any views directly on the possibility of a negotiated settlement, he Committee hopes that he will not exclude such a possibility. It also feels that many of the persons interviewed thought that, as a compromise solution, they might be willing to accept a return to the political situation before 1955. The Committee therefore hopes hat it will be possible for all parties concerned to enter nto negotiations.

692. The Committee believes that, at least among he Omanis who have left their country for one reason or another, there is a strong attachment to the principles of representative democracy and that all, including the present Imam, are anxious to see a democratic system n their country.

Chapter V. Conclusions

693. The Committee believes that the question of Oman is a serious international problem, requiring the special attention of the General Assembly.

694. The Committee believes that the problem derives from imperialistic policies and foreign intervention in Muscat and Oman.

695. The Committee believes that the problem is giving rise to unrest and suffering which may become more serious, and that a settlement is essential in the nterest of peace, the only condition in which social and economic progress can be achieved. The Committee believes, therefore, that all parties concerned should enter into negotiations to settle the question without prejudice to the positions taken by either side and should refrain from any action that might impede a peaceful settlement.

696. The Committee believes that the United Nations should assist in bringing about a solution to the problem by taking an active part in facilitating the negotiations between all the parties concerned by the establishment of a Good Offices Committee. Any initiative that the General Assembly may take in this matter should be designed to achieve the fulfilment of the egitimate aspirations of the people of Muscat and Oman.

697. The Committee believes that the General Assembly should call upon the Imam and the Sultan to make every effort to settle the question through the facilities of the Good Offices Committee.

698. The Committee believes that the General Assembly should also call upon the Government of the United Kingdom to facilitate a negotiated settlement and to use its close and friendly relationship with the Sultan to encourage such a settlement.

699. The Committee believes that the General Assembly should also call upon the Arab States to make every effort to encourage a negotiated settlement.

Annexes

ANNEX I

Rules of procedure

Officers

1. The Committee shall elect at its first meeting a Chairman and Rapporteur from among its members.

2. If the Chairman is absent from a meeting, the Rapporteur shall preside.

3. The Secretary-General of the United Nations shall designate a Principal Secretary and shall provide the staff required by the Committee.

4. The Principal Secretary shall keep the members of the Committee informed of any questions which should be brought before it for consideration.

5. The Principal Secretary or his representative may make oral as well as written statements to the Committee.

6. The Principal Secretary shall be responsible for all the necessary arrangements for meetings of the Committee.

Quorum, power of the Chairman, voting

7. A majority of the members of the Committee shall constitute a quorum.

8. The Chairman shall declare the opening and closing of each meeting of the Committee, shall direct the discussion, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The Chairman, subject to these rules, shall control the proceedings of the Committee and the maintenance of order at its meetings.

9. Each member of the Committee shall have one vote.

10. Decisions of the Committee shall be taken by a majority of the members present and voting. For the purpose of these rules, the phrase "members present and voting" means members casting an affirmative or negative vote. Members who abstain from voting are considered as not voting.

11. Members of the Committee shall have the right to register an explanation of their votes in the final report of the Committee.

12. Unless the Committee decides otherwise, the meetings of the Committee will be closed.

Public statements

13. Official statements and press releases should be approved by the Committee.

14. Whenever a new phase of the Committee's work is about to be entered upon, the Chairman may, after consultation with the members of the Committee, issue a statement.

15. Press statements about the Mission will be made by the Chairman on behalf of the Committee. Individual members of the Committee may answer questions from reporters, but in their capacity as individual members, not on behalf of the Committee.

16. No reservations on any point should be made public by any member of the Committee before the final adoption of the report.

ANNEX II

Terms of reference

Official status of the Committee

1. The *Ad Hoc* Committee on Oman is an official Committee of the United Nations, duly constituted by General Assembly resolution 1948 (XVIII) of 11 December 1963.

Range of activities

2. The Committee is directed by the General Assembly "to examine the question of Oman". Its range of study covers all aspects of the question. The Committee is to make an exhaustive study of any problem it deems to be germane to the issue. In particular, it is to study and evaluate the territorial, historical and political issues involved in the problem.

3. The Committee has three main functions:

(*a*) To ascertain the facts;

(*b*) To make an evaluation of the facts; and

(*c*) To report to the General Assembly.

Methods of work

4. In ascertaining and evaluating the facts, the Committee will use all means at its disposal and, in accordance with the resolution, expects the co-operation of all the parties concerned for assistance by all possible means, including that of facilitating visits to the area.

5. The principal means by which the Committee will ascertain and evaluate the facts of the question will be:

(*a*) By a study of all relevant treaties, agreements and legal judgements relative to the question that the Committee may locate or that may be made available;

(*b*) By a study of available historical and legal writings relevant to the question; and

(*c*) By direct contact with the parties concerned either in New York or *in situ*, or, if this is not possible, by a study of statements and written submissions made on their behalf. By the parties concerned, the Committee means:

The Sultan of Muscat and Oman;

The Imam of Oman;

Member States considered by the Committee to be concerned in the area and the question; and

Other parties as decided by the Committee;

(*d*) By discussions in the Committee with petitioners, who may be either individuals or representatives of organizations having a legitimate interest in the question, and who the Committee decides could be of assistance to it in its work.

6. In these terms of reference the Committee has used the titles of the parties concerned in accordance with conventional usage in United Nations documents. In corresponding with the parties concerned, the Committee will address them by the titles they ascribe to themselves, without any prejudice to the position of the Committee in the question.

7. Information furnished to the Committee will be used in its report to the General Assembly, as it sees fit. The Committee may decide not to disclose certain sources of information only for the purpose of protection of individuals.

8. In order to perform this work, the Committee may visit the area and carry out an on-the-spot investigation. During its visit to the area, the Committee will have complete freedom of decision as to where it will travel, whom it will interview, and whom it will allow to accompany it. In particular, it expects to interview political prisoners or persons held in confinement whose interview the Committee deems to be useful.

9. The Committee will also make such other visits as it deems necessary for the proper fulfilment of its mandate, for the purpose of:

(*a*) Discussing the question with the Governments of Member States with interests in the question; and

(*b*) Hearing petitioners or interviewing persons whom it believes to have information which would be of assistance to it.

10. The Committee will draw up its own rules of procedure.

Report of the Committee

11. The Committee will report fully and objectively to the General Assembly.

12. The report will contain a full account of the activities of the Committee and the measures taken by it in fulfilling its mandate.

13. The report will contain the facts ascertained by the Committee and its evaluation of them. The Committee hopes that this will provide an exhaustive study of the question of Oman which will enable the General Assembly, at its nineteenth session, to take a decision on the question of Oman in full knowledge of the facts.

ANNEX III

Press statement issued by the Chairman of the Committee on 11 May 1964

Since its first meeting on 21 April 1964, the *Ad Hoc* Committee on Oman has held five closed meetings. In the course of these meetings the Committee has considered the scope of its work and has begun an examination of the documentation that is already available to it.

The *Ad Hoc* Committee on Oman is an official committee of the United Nations, duly constituted by General Assembly resolution 1948 (XVIII) of 11 December 1963, and has been given specific tasks including that of reporting to the next session of the General Assembly.

The Committee has agreed that the mandate given to it by the General Assembly covers all aspects of the question of Oman. The Committee therefore intends to make an exhaustive study of any problem it deems to be germane to the issue. In particular, and in keeping with resolution 1948 (XVIII) it will study and evaluate the territorial, historical and political issues involved in the problem.

The Committee views its task as one of ascertaining the facts, making an evaluation of them and reporting fully and objectively to the nineteenth session of the General Assembly.

The Committee will give every opportunity to the parties directly concerned, and to Member States concerned in the area and the question, to place their views before the Committee and to discuss these views in detail with it.

In operative paragraph 2 of its resolution, the General Assembly called upon all the parties concerned to co-operate with the *Ad Hoc* Committee by all possible means, including that of facilitating visits to the area. The Committee is looking forward with confidence to receiving this co-operation from the parties concerned, to enable it to carry out the tasks given to it by the General Assembly in the most effective and judicious manner. The Committee will announce its plans to visit the area when such plans are completed.

ANNEX IV

List of more important historical works and articles consulted

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ANNEX V

Correspondence between the Chairman of the Committee and the Sultan of Muscat and Oman

1. Letter dated 18 May 1964 from the Chairman to the Sultan of Muscat and Oman

I have the honour to refer to the consideration of the question of Oman by the General Assembly of the United Nations at its eighteenth session and to resolution 1948 (XVIII) adopted by the Assembly on 11 December 1963. It will be recalled that by this resolution the Assembly decided to establish an *Ad Hoc* Committee on Oman and, subsequently, the President of the General Assembly nominated Afghanistan, Costa Rica, Nepal, Nigeria and Senegal as members. At its first meeting the Committee did me the honour of electing me as its Chairman.

The *Ad Hoc* Committee on Oman was established by the General Assembly to examine the question of Oman and was requested to report to the Assembly at its nineteenth session. In pursuance of the mandate given to it by the General Assembly, the *Ad Hoc* Committee has begun its work and has considered the means it will employ in carrying out its tasks.

In keeping with the General Assembly resolution, the Committee intends to make a thorough and intensive examination of all aspects of the question, so as to enable it to report fully and objectively to the General Assembly. It is the earnest hope of the Committee that the information and the proposals it is able to place before the General Assembly will enable a just and equitable solution to be found for this problem.

I am sure you will agree with the Committee that it should be able to acquaint itself, at first hand, with the situation in the area. For it is only through such a visit that the Committee would be able to make the observations, investigations and interrogations that would assist it in its work, in accordance with its terms of reference, a copy of which is attached.

For these reasons, the Committee believes that a visit to the area is necessary and has asked me to request your co-operation in facilitating such a visit. In making this request, the Committee would draw your attention to operative paragraph 2 of the resolution, in which the General Assembly calls upon all the parties concerned to co-operate with the *Ad Hoc* Committee by all possible means, including that of facilitating visits to the area. The Committee would add that your co-operation in this matter would not only be of immeasurable assistance to the Committee but would constitute a gesture of goodwill toward the United Nations.

The Committee therefore hopes that you will understand the spirit in which this request is being made and that, after you have given it your earnest consideration, you will find it possible to facilitate a visit of the Committee.

(*Signed*) Abdul Rahman Pazhwak
Chairman of the
Ad Hoc *Committee on Oman*

2. Telegram dated 20 June 1964 from the Sultan of Muscat and Oman to the Chairman

Your Excellency we thank you for your letter of 18 May which was received on 8 June. As you know on a number of occasions we have sent messages to His Excellency the President of the General Assembly reminding the distinguished delegates of the United Nations that we hold sole responsibility for all matters within the Sultanate of Muscat and Oman, which has been a sovereign and independent State for over 200 years. We have also reminded the distinguished delegates that we have not yet thought it necessary to join the United Nations. The resolution of the General Assembly to which you refer concerns matters which are within our jurisdiction and is therefore an encroachment upon our domain which, we understand, the Charter of the United Nations itself reserves to our sovereign competence. For these reasons we regret that we cannot agree that your Committee should visit any part of our territories.

(*Signed*) Said bin Taimur
Sultan of Muscat and Oman

3. Letter dated 1 July 1964 from the Chairman to the Sultan of Muscat and Oman

I have the honour to refer to your telegram dated 20 June 1964, in reply to my letter of 18 May 1964 concerning a visit to Muscat and Oman by the United Nations *Ad Hoc* Committee on Oman, in which you state that you cannot agree with the request of the Committee.

The Committee expresses its deep regret that you cannot agree with its request. Such a visit, the Committee believes, would have been of great assistance to it in carrying out the task entrusted to it by the General Assembly.

However, in pursuance of its mandate and in keeping with its desire to give every opportunity to all concerned to place their views before it in order to enable it to report objectively to the General Assembly, the Committee believes that it would be most useful and desirable if it could have the opportunity of seeking information on the matter through some other arrangements.

Since the Committee is anxious to make the final arrangements concerning its programme of work as soon as possible, it would greatly appreciate receiving any suggestions you may wish to make, at your earliest convenience.

(*Signed*) Abdul Rahman Pazhwak
Chairman of the
Ad Hoc *Committee on Oman*

4. Telegram dated 15 July 1964 from the Sultan of Muscat and Oman to the Chairman

With reference to your letter dated 1 July 1964, we wish to say that without prejudice to our attitude towards the United Nations as explained in our previous telegram we would be willing to receive one member of your Committee provided that the specific points on which our comments are desired are submitted beforehand. We intend to visit London for approximately two months from the beginning of August and would be ready to receive the member of your Committee during that period. Our address in London is C/- Capt. Charles Kendall, Consul of Muscat and Oman, C/- Charles Kendall and Partners Ltd., 7 Albert Court, Kensington Gardens S.W.7.

(*Signed*) Said bin Taimur
Sultan of Muscat and Oman

5. Letter dated 23 July 1964 from the Chairman to the Sultan of Muscat and Oman

I have the honour to acknowledge receipt of your telegram dated 15 July 1964 stating that, without prejudice to your attitude towards the United Nations as explained in your

previous telegram, you would be willing to receive one member of the Committee provided that the specific points on which your comments are desired are submitted to you beforehand, and also stating that you would be in London for two months beginning in August and would be willing to receive the member of the Committee during that period.

On behalf of the *Ad Hoc* Committee on Oman, I should like to express to you the Committee's sincere appreciation for your response to my letter to you of 1 July 1964, and for your willingness to give the Committee the opportunity of acquainting itself with your views.

At the same time, bearing in mind that the members of the Committee will not be able to have the benefit of a visit to Muscat and Oman in order to more adequately gather on the spot information in fulfilment of the tasks assigned to the Committee by the General Assembly, as requested in my letter to you of 18 May 1964, it is the Committee's considered belief that it would be more useful if all of its members could profit by acquainting themselves at first hand with your views. The Committee would therefore earnestly request your giving consideration to a meeting with the Committee as a whole.

The *Ad Hoc* Committee on Oman, being ever desirous of fulfilling as thoroughly and objectively as possible the tasks assigned to it by the General Assembly in resolution 1948 (XVIII) would, in the event that a meeting with the Committee as a whole does not prove to be possible, consider nominating one of its members to meet you on its behalf.

(*Signed*) Abdul Rahman PAZHWAK
Chairman of the
Ad Hoc *Committee on Oman*

6. TELEGRAM DATED 10 AUGUST 1964 FROM THE SULTAN OF MUSCAT AND OMAN TO THE CHAIRMAN

With reference to Your Excellency's letter of 23 July, as already indicated in my previous telegram I regret that I would be unable to receive more than one member of your Committee and provided that I receive in advance the details of the matters upon which you require our comment.

(*Signed*) Said bin TAIMUR
Sultan of Muscat and Oman

7. TELEGRAM DATED 12 AUGUST 1964 FROM THE CHAIRMAN TO THE SULTAN OF MUSCAT AND OMAN

With reference to your telegram of 10 August expressing your regret that you would be unable to receive more than one member of the *Ad Hoc* Committee on Oman, the Committee had hoped that you might find it possible to meet with all of its members for the reasons indicated in my letter to you of 23 July 1964, and expresses its regret that you are unable to do so. However, after considering your suggestion and in keeping with its desire to fulfil the tasks entrusted to it by the General Assembly as thoroughly and objectively as possible, the Committee has decided to appoint its Chairman to meet you on its behalf as its representative. The Chairman of the Committee plans to be in London from 28 August and I trust that this date will be convenient to you. The Committee will send to you, as soon as possible, the major points relating to the matters which it wishes to discuss with you. The Committee would appreciate receiving confirmation of the date on which the meetings could begin, at your earliest convenience.

(*Signed*) Abdul Rahman PAZHWAK
Chairman of the
Ad Hoc *Committee on Oman*

8. TELEGRAM DATED 17 AUGUST 1964 FROM THE SULTAN OF MUSCAT AND OMAN TO THE CHAIRMAN

Your telegram giving date of your proposed arrival London. Shall have to confirm date on which meeting can begin after receipt and study of papers you will be sending.

(*Signed*) Said bin TAIMUR
Sultan of Muscat and Oman

9. LETTER DATED 20 AUGUST 1964 FROM THE CHAIRMAN TO THE SULTAN OF MUSCAT AND OMAN

I have the honour to acknowledge receipt of your telegram of 17 August stating that you would have to confirm date on which our meeting could begin after receipt and study of the papers that would be sent.

I am attaching a list of the major points relating to the matters which the Committee wishes its representative to discuss with you and trust that it will now be possible for you to confirm the date for the beginning of our meetings.

I should appreciate receiving your reply at your earliest convenience to enable me to complete the necessary travel arrangements in good time.

(*Signed*) Abdul Rahman PAZHWAK
Chairman of the
Ad Hoc *Committee on Oman*

Major points relating to the matters to be discussed

The matters the Committee wishes its representative to raise for discussion fall into five main categories.

(1) History

(2) Economy

(3) Relationship with the United Kingdom

(4) Situation since 1954

(5) Other matters

The major points relating to these matters are as follows:

(1) *History*

- (*a*) Establishment of the Al Bu Said dynasty
- (*b*) Control of the interior exercised by the Sultans
- (*c*) Treaties with the United Kingdom and other countries
- (*d*) Relations between the Sultan and the Imam, 1913-1954

(2) *Economy*

- (*a*) Public finance
- (*b*) Economic and technical assistance
- (*c*) Oil concessions and prospecting agreements

(3) *Relationship with the United Kingdom*

- (*a*) Treaty of 1951
- (*b*) Exchange of letters of 1951 regarding consular jurisdiction
- (*c*) Exchange of letters of 1958 regarding economic assistance and the armed forces
- (*d*) Basis on which the United Kingdom handles the foreign relations of the Sultanate

(4) *Situation since 1954*

- (*a*) Relations between the Sultan and the Imam
- (*b*) Basis of the intervention by United Kingdom armed forces
- (*c*) Negotiations with the Imam in Lebanon, 1960-1961
- (*d*) Means of resolving the dispute

(5) *Other matters*

For the purpose of gathering first-hand information, the Committee would also wish its representative to discuss the general system of administration in Muscat and Oman.

10. LETTER DATED 1 SEPTEMBER 1964 FROM THE CHAIRMAN TO THE SULTAN OF MUSCAT AND OMAN

Following our meeting this morning, and in accordance with our agreement, I have the honour to submit the list of specific

questions based on the general outline forwarded to Your Highness by my letter of 20 August 1964.

I shall be pleased to discuss these questions with you, at your convenience, at any time before 4 September, on which day I shall have to depart from London.

(*Signed*) Abdul Rahman PAZHWAK
Chairman of the
Ad Hoc *Committee on Oman*

(1) *History*

1. It has been claimed that according to Omani constitutional law, which is based on Ibadhi doctrines, leadership is embodied in an Imam who must be elected to office and who can be deposed by the same process. It has also been claimed that, in 1792, Seyyid Sultan bin Ahmed illegally seized power from the Imam Said bin Ahmed, and that the rule of his successors at Muscat, with the exception of Azzan bin Kais (1868-1871), has been unconstitutional, since they have not been elected. What are the Sultan's views of this interpretation?

2. Can the Sultan give any reasons why his predecessors did not seek election to the Imamate?

3. It has been claimed that the Sultanate has exercised little control over the interior and that it owed its continued existence to support from the British, without which it would have been overthrown by the people. What is the Sultan's view of this interpretation?

4. It has been claimed that the treaties concluded by the Sultanate with the United Kingdom since 1798 imposed unfair conditions on the Sultanate and that they therefore indicate a colonial relationship. The treaties cited are those concluded in 1798 1800, 1839, 1891, the Non-Alienation Bond of 1891, the Deed of Cession of the Kuria Muria Islands in 1854, the agreement concerning the Sur Coal-fields of 1902, the concession to a Sponge Exploration Syndicate in 1905, the undertaking given by the Sultan concerning oil in 1923, and the agreement with Petroleum Concessions Ltd. in 1937. Would the Sultan care to comment on this claim? A separate series of questions relating to the treaties is attached.[a]

5. Following the election of an Imam in 1913, it has been claimed that, from that date to 1954, the Imams controlled inner Oman and exercised administration through *walis*. How were these Imams regarded by the Sultanate? What areas were controlled by the Imam and by the Sultan respectively?

6. What is the Sultan's view of the claim that from 1913 to 1954 there were two States in the area, namely the Sultanate of Muscat and the Imamate of Oman?

7. In paragraphs 144 and 145 of the report of the Secretary-General's Special Representative (A/5562), the Sultan was quoted as having said that the Agreement or Treaty of Sib was a dead issue and that he did not recognize the treaty. Would the Sultan care to explain the basis of his position on this point?

8. What was the nature of the relationship between the Sultan and Imam Mohammed bin Adbullah? Did the Sultan ever come into official contact with the Imam Mohammed?

9. Did the Imam Mohammed ever challenge the rule of the Sultan? Did he question the right of the Sultan to make oil concessions?

10. What co-operation, if any, did the Sultan get from the Imam Mohammed bin Abdullah at the time of the Buraimi crisis of 1952?

(2) *Economy*

1. What are the sources of the public revenue of the Sultanate? Is there any other public revenue aside from customs and excise taxes?

2. Is *zakat*, or tribute, paid? Does the payment of *zakat* imply a recognition of overlordship?

3. Is a budget of revenue and expenditure prepared annually? Is it made available to the public? Is the Sultanate self-supporting? Does it receive grants from another country to balance its budget?

4. What assistance is being given by the United Kingdom? Does the Sultan regard this as sufficient? Does he regard the arrangement under which this assistance is given as a just one? Has the Sultan considered seeking economic and technical assistance from countries other than the United Kingdom?

5. Has the Sultan considered requesting assistance through the United Nations and its specialized agencies? Has the Sultan considered becoming a member of any of the specialized agencies? Does the Sultan receive any communications from the specialized agencies?

6. What is the Sultan's understanding on the question of mineral rights in Muscat and Oman? In whom are these rights legally vested? Are they vested in the people, the Sultan, his Government or tribal leaders? Are these matters set out in any legal or constitutional instrument?

7. There have been repeated rumours, reported in the Press, about the discovery of oil in Oman. Can the Sultan shed any light on this issue?

8. Is the agreement with Petroleum Concessions Ltd., of 1937, still in force? In view of the fact that this agreement provides for the payment of a royalty on each ton of oil produced and that more recent agreements in the Persian Gulf area provide for payments on a fifty-fifty basis, is the Sultan satisfied with these terms? Is a new agreement being considered?

9. What are the terms of the Sultan's agreement with the American oil company which is operating in Dhofar?

(3) *Relationship with the United Kingdom*

1. Has the Sultan anything to add to his previous statements concerning the claim that has been made that a colonial relationship exists between the Sultanate and the United Kingdom? Does he wish to bring forward any additional material to support his position?

2. The Government of the United Kingdom has stated that its relationship with the Sultanate is governed by the Treaty of 1951, by the exchange of letters at that time regarding consular jurisdiction and by the exchange of letters in 1958 concerning the armed forces. Does the Sultan regard the 1951 Treaty as satisfactory to him? Since the Treaty is due to expire in 1966, is the Sultan considering renewing the Treaty and if so, is he considering any changes?

3. Does the Sultan regard the Non-Alienation Bond of 1891 as still operative?

4. The Committee notes the continued existence of extraterritorial rights in Muscat and Oman for certain British and Commonwealth nationals and subjects. Could the Sultan state precisely to whom these extraterritorial rights apply? Does the Sultan regard this as consistent with his position and authority? Does he regard this as a satisfactory arrangement? The Committee notes that this agreement will expire in 1966. Does the Sultan wish to expedite the expiration of this agreement? Does the Sultan intend to renew such an arrangement on its expiration?

5. Does the Sultan regard the agreement with the United Kingdom concerning assistance to his armed forces as satisfactory? Does this agreement in any way affect the Sultan's control of his armed forces? What are the terms and conditions of service of the seconded officers, particularly as it affects the Sultan's control of them?

6. It is noted that this agreement provides for the continued use by the Royal Air Force of the airfields at Salalah and Masirah. To what use have these airfields been put and does the Sultan have any control over their use? For instance, if the Sultan was opposed to operations being conducted by forces using these airfields, is there anything in the agreement that would allow the Sultan to cancel the agreement or withdraw the airfields from use?

7. Who conducts the external affairs of Muscat and Oman? How are these functions performed?

[a] Not reproduced in this annex. The questions are the same as those contained in annex X, section II.

8. Is there any written agreement with the Government of the United Kingdom concerning its handling of the foreign relations of the Sultanate?

9. Does the United Kingdom handle all the Sultanate's relations with foreign Powers and international bodies? Are the Sultanate's relations with the Trucial States conducted by the United Kingdom?

10. What part, if any, did the United Kingdom play in the transfer of Gwadar to Pakistan? Was this agreement embodied in a document and has it been made public?

11. With what other countries does the Sultanate have diplomatic and consular relations?

12. Did the Sultanate ever consider joining the League of Nations, the United Nations or any United Nations specialized agencies?

(4) *The situation since 1954*

1. Has the Sultan at any time recognized the election of Ghalib bin Ali to the Imamate?

2. What were the relations between the Sultan and the Imam before fighting began and since?

3. What is the Sultan's understanding of the events that have taken place since 1954?

4. What is the Sultan's view of the charge that, in calling on British armed assistance, he was confirming his colonial relationship with the United Kingdom and acting in the interests of the United Kingdom, rather than in those of his people?

5. In 1960/1961 several meetings took place in Lebanon between representatives of the United Kingdom Government and the Imamate. Was the United Kingdom representative acting on behalf of the Sultan? Who initiated these meetings and why were they held? What did the Sultan hope to obtain out of these meetings? What are the Sultan's views on the conditions put forward by the Imamate as a basis of negotiation?

6. With regard to the activities of the Imam's supporters up to 1963, would the Sultan confirm the statements made by the Secretary-General's Special Representative in paragraphs 96-102 of his report?

7. Is it true as has been claimed that the Imam still dispenses justice in areas partially under his control?

8. How many political prisoners are there in Muscat and Oman? Is there any information about the whereabouts of Sheikh Ibrahim bin Isa al-Harthi?

9. Claims have been made that activity by the Imam's supporters in Oman has continued since Mr. de Ribbing's report. In particular:

(*a*) That resistance is being continued by the Bani Bu Ali in the Ja'lan area;

(*b*) That in or around May 1964 members of the Omani Liberation Army blew up an arms depot at a well-fortified British military post at Rustaq;

(*c*) That at about the same time the Sultan's headquarters at Muscat and the nearby military barracks were set afire and that as a result the British authorities in Muscat had declared a state of emergency in Muscat and Matrah;

(*d*) That in or around June 1964 British aircraft bombed Nazwa, especially the northern part of the town where resistance is said to have increased, and a nearby town where three persons had been killed and six wounded;

(*e*) That during May 1964, no less than 10,000 homes in various parts of Oman were destroyed by fires which had been started by the British occupation authorities. The people of Oman had been unjustly charged with responsibility for these fires and many people had been thrown into prison.

10. Could the Sultan list the principal Sheikhs who are co-operating with him and those who are not?

11. Is there at present any fighting between the tribes?

12. What is the opinion of the present generation in Muscat and Oman about the restoration of the Office of Imam with religious and secular powers? What is the opinion of the people in general on the same matter?

13. What are the Sultan's views on how the present disput can be resolved?

14. Does the Sultan feel that the discovery of oil wil affect the dispute in any way?

15. What are the Sultan's views on the possibility of consultation of the people conducted under the supervision o the United Nations as a means of ascertaining their wishes an resolving any doubts on this aspect of the question?

(5) *Other matters*

1. What are the boundaries of the Sultanate of Muscat an Oman? Are they marked or are there other ways that the can be identified?

2. Does the Sultanate have a written Constitution? If no what is the legal basis of government? To what extent ar the constitutional arrangements related to Ibadhi doctrines Do the constitutional arrangements provide for an Imam If so, what are his functions? Is there at present a spiritua leader?

3. What are the powers and functions of the Sultan? Is th office hereditary? If not, how does the succession take place

4. Does the Sultan have a council to advise him in th exercise of his powers? If so, what are the powers of thi council, who are the members of it, and how are they ap pointed? Is there a legislative body? If so, what are its powers what is its membership, and how are members appointed?

5. In paragraphs 122 to 125 of the report of the Secretary General's Special Representative, some information on th system of government and administration is given. It is state there that "political power has been, and to a great exten still is, in the hands of tribal chiefs, territorial notables an religious leaders, but some of that political power is in th process of being transferred from this traditional ruling grou to the central government". What steps are being taken t transfer political power to the central government? In carryin out this process, are there any safeguards against arbitrar rule by the central government or any guarantees of the libert of the people?

6. How are the wishes of the people made known? Has th central government any means of knowing that it is governin in accordance with the wishes of the people and that it administration is supported by the people at large?

7. Does the existence of many different tribes affect gov ernment and administration?

8. The Committee understands that although almost all th inhabitants are Moslems, they belong to different sects. D these differences affect government and administration in an way?

9. What Government Departments are there? Who head them and how is policy translated into practice at the loca level?

10. What are the powers and functions of the *walis*? B whom are they appointed and to whom are they responsible?

11. What is the relationship between the Sheikhs and triba and religious leaders? In cases where the central governmen works through them, what are their powers and functions? D these conflict in any way with their traditional powers an functions?

12. In cases where Sheikhs and tribal and religious leader are not part of the administration, what are their powers an functions? How are they appointed? Do their powers an functions conflict with those of officials of the centra government?

13. What machinery exists for the maintenance of la and order?

14. What are the distinctive functions of the "gendarmerie" referred to in the information on the armed forces supplied t the Secretary-General's Special Representative (A/5562, anne VIII). Is it a police force? If so, is it in any way separat from the military forces proper in matters of control? Ho many contract officers and local officers respectively are i the *gendarmerie*? Apart from the officers, are all the othe members of the *gendarmerie* of local origin?

15. How does the Sultan ensure that the control of his armed forces remains in his hands when most of its officers and all of its senior officers are foreigners? Do the contracts under which these officers are employed contain any clauses about allegiance to the Sultan?

16. Since the Sultanate has no treaty relations with Pakistan, what procedures are followed in recruiting Pakistani officers?

17. What ranks and positions do the British and Pakistani officers hold? What progress has been made in training officers of local origin? Is the rank of Lieutenant still the highest rank held by a local officer?

18. Recently it has been claimed that "mercenaries who served in Katanga" are now serving in Oman. Is this correct?

19. Is there a national currency in Muscat and Oman, a national flag or a national anthem?

20. What is the position of foreigners (other than British) in Muscat and Oman?

21. Would the Sultan care to comment on other charges that have been made about his administration. These charges include (*a*) the continued existence of slavery and (*b*) inhuman conditions in prisons.

11. Letter dated 19 September 1964 from the Chairman to the Sultan of Muscat and Oman

I have the honour to inform you that I arrived in London on 18 September in accordance with our agreement at our meeting on 1 September 1964, in order to be available to continue our discussions on your return from your tour on 19 or 20 September. I have been informed, however, that Your Highness is still in Scotland. Your Highness will recall that I was looking forward to the continuation of those discussions. I regret that it was not possible for us to continue our discussions on this occasion.

I shall be travelling through London again at the beginning of October and if a mutually suitable time can be arranged I should be glad to continue our discussions then. If this does not prove to be possible, I should be most grateful if Your Highness would find it possible to send me the clarifications you intended to make concerning the remaining questions I raised with you in my letter of 1 September. I am also attaching a short list of additional points on which the Committee would wish to have Your Highness's comments.

I had intended to raise again with Your Highness the question of your reconsidering your position concerning a visit by the Committee to Muscat and Oman. Following their visit to the neighbouring area, the members of the Committee are more convinced than before that such a visit would be very useful indeed and would be in the interests of all parties concerned.

It is my hope that the Committee's sincerity and good intentions in this matter will not have failed to impress themselves on Your Highness and that they will be recalled by Your Highness in your consideration of the matters I have discussed with you on the Committee's behalf.

(*Signed*) Abdul Rahman Pazhwak
Chairman of the
Ad Hoc *Committee on Oman*

Additional points

1. Can the Sultan make available the text of a written request to him, from the Imam, for information concerning a number of matters connected with the intentions of the Saudi authorities after their occupation of Buraimi in 1952?

2. Can the Sultan make available the Imam's written answer to his request for military assistance at that time?

3. The United Kingdom delegation has stated in the General Assembly on behalf of the Sultan that the Duru area was outside the territory covered by the Treaty of Sib.

(*a*) What was the basis of this statement and how can it be proved correct?

(*b*) Does the Duru area include the town of Ibri?

12. Letter dated 22 September 1964 from the Sultan of Muscat and Oman to the Chairman

We are in receipt of Your Excellency's letter of 19 September, which was handed to us on our return from Scotland at 8.30 p.m. on 20 September.

As you say in your letter to which we refer, we had agreed to continue our discussions on our return from tour on 19 or 20 September. Having duly returned on the 20th, we were surprised to find that you had already left for New York, but understood from our official who met Mr. Miles that you were called to New York unexpectedly.

You mention in your letter that you will be passing through London at the beginning of October, but as we leave then it seems that we cannot meet again.

As we have already said, we are unable to agree to further visits to our Sultanate of members of the United Nations Committees, nor, as we also stipulated, are we prepared to enter into correspondence in these matters.

It is unfortunate that you were unable to spare more time in London either on your earlier visit when we met or on your return, or, had we received the details of what you wished to discuss and which we repeatedly asked for in advance, we would have been able, perhaps, to complete our discussions even in the brief time which you appear to have had at your disposal.

(*Signed*) Said bin Taimur
Sultan of Muscat and Oman

13. Letter dated 25 September 1964 from the Chairman to the Sultan of Muscat and Oman

I received your letter of 22 September this morning. I wish to thank you for the acknowledgment of my communication of 19 September 1964.

Your letter arrived just before my trip to London of which I informed you in my above-mentioned letter. I had hoped that it might be possible to meet you, but since Your Highness will be leaving, it seems that we cannot meet again in London.

I understand that Your Highness does not agree to further visits by members of the United Nations *Ad Hoc* Committee on Oman, to the Sultanate. I regret that Your Highness maintains his previous position on this matter, in spite of my earnest request after the visit of the Committee to the neighbouring territories as stated in my last communication. However, I am encouraged that you consider missing the opportunity I was seeking to meet you as unfortunate as I do. I still find myself in a position to be at your disposal not only in London, but anywhere else. I shall now be going directly to Cairo to attend the Conference of Heads of State or Government of Non-Aligned Countries, in my capacity as representative of Afghanistan. After the Conference terminates, I shall be at your disposal to meet you in Europe, in the Middle East, or in Muscat and Oman, in the same manner as we met in London. In case this is not convenient for Your Highness, I shall be grateful if you could let me have in writing your views on the questions which, in accordance with your wishes, I had submitted in advance. I would recall that Your Highness was kind enough to discuss some of these questions with me at our meetings in London and that you have agreed that some of the points could be discussed after you had had time to consider them. I had made this request also in my last letter submitted to your officials by Mr. Miles, the Principal Secretary of the Committee.

It is my earnest hope that Your Highness would find it possible to extend to me your co-operation which I seek, with a view to enabling the Committee to submit a full report on the situation, based on the information the Committee needs and wishes to directly gather from all the parties concerned.

(*Signed*) Abdul Rahman Pazhwak
Chairman of the
Ad Hoc *Committee on Oman*

ANNEX VI

Statement made to the Committee on 12 August 1964 by the representative of the United Kingdom

I greatly appreciate this opportunity to meet with you, Mr. Chairman, and the members of your Committee today and, also, if I may say so, I very much appreciate the words that you have just spoken. It is our wish to co-operate in every way we can with the Committee and we are very glad now to be able to do so.

I propose only to make a brief statement, since I have been authorized by my Government to hand to you a comprehensive memorandum describing the relationship between the United Kingdom and the Sultanate of Muscat and Oman.

I think that perhaps I should make it clear at once that any information which we give to this Committee about Muscat and Oman can only properly be related to the matter of Her Majesty's Government's relations with that country and with its ruler, His Highness Sultan Said bin Taimur.

Our memorandum, therefore, deals with the British relationship with the Sultanate and only mentions other relationships and the Sultanate's domestic affairs in so far as these are required to clarify the relations of the United Kingdom with Muscat and Oman. Accordingly, the memorandum does not set out to describe the domestic affairs of Muscat and Oman, which are solely the concern of the Sultan and his Government.

The United Kingdom's relationship with the Sultanate has at all times been one between two sovereign Powers. At no time in history has Muscat and Oman been a dependency of the United Kingdom or had the status of a protectorate, a protected State or a colony.

In the eighteenth century and throughout the nineteenth century, Britain's interest in the trade route to India and in the suppression of piracy, the slave-trade and gun-running in the Indian Ocean and the Persian Gulf had much to do with the character of the relationship between it and Muscat and Oman.

At that time, Britain, which had no reason or desire to derogate from the sovereignty of the Sultan, had an interest in ensuring that other Powers equally respected that sovereignty. It was in recognition of this interest that the then Sultan of Muscat and Oman agreed with the British Government in 1891 not to alienate his territory to any third Power.

The position today, as it has been in the past, is that British assistance, whether economic, military or political, has been provided to the Sultanate as a fully independent sovereign State.

The United Kingdom is only one of a number of countries to have recognized the independent status of Muscat and Oman, and several have maintained direct relationships with the Sultanate and have had treaties of various kinds with its rulers. The Committee is no doubt fully aware of this, but perhaps I may be permitted to refer to some specific examples.

The United States of America, for example, concluded a Treaty of Amity and Commerce with Muscat and Oman in 1833 and a Treaty of Friendship and Commerce in 1958.

In 1844 France concluded a Treaty of Commerce which was ratified in 1846 and which provided, among other things, for the appointment of consuls.

In 1877 the Netherlands concluded a commercial declaration with the Sultanate.

The Government of India in 1953 concluded a treaty with the Sultan and established a consular post in Muscat.

While these treaties are of no direct concern to Her Majesty's Government, their existence illustrates that other countries with interests in Muscat and Oman have concluded instruments direct with the Sultan as an independent Power. It is worth noting in this connexion that the treaties referred to which have been concluded since 1945 have been registered with the United Nations under Article 102 of the Charter.

It may well be, Mr. Chairman, that your Committee, in accordance with its stated aim of producing an objective report, will ask the countries concerned to confirm that their relatior ships with Muscat and Oman are as I have described them.

Now, as for the United Kingdom's present relations wit the Sultanate, they are governed by the Treaty of Friendshi Commerce and Navigation of 20 December 1951, a copy (which is attached to the memorandum I shall be handing t you, and it will be seen that this is a treaty of the kin which is normal between sovereign States. Its only unusu feature is the provision in the exchange of letters attached t it for a limited degree of extraterritorial jurisdiction. Th jurisdiction, which dates from the last century and which due to expire on 31 December 1966, has, with the agreeme of the Sultan, been greatly reduced by successive change both in and since the Treaty of 1951, and, as the memorandu makes clear, the cases still heard by the British courts i Muscat and Oman now in essentials relate only to proceeding against non-Muslim servants of the British Crown an proceedings between non-Muslim United Kingdom or Commor wealth citizens.

I should also like to draw your attention to an exchange (letters between the United Kingdom and the Sultanate (1958 which provided the Sultan with assistance in the reo ganization and equipping of his armed forces and financi and technical aid for the economic development of his countr

I have noted, Mr. Chairman, from your letter of 7 Augus which I have unfortunately only just received, that your Con mittee is proposing to visit London next month. I will arrang for an official reply to this letter as soon as possible, b I would like, if I may, Mr. Chairman, to take this opportunit of assuring you that your Committee will be most welcon in London and that I am at your disposal to facilitate matte for you in any way that I can.

If, Mr. Chairman, after your Committee has studied th memorandum, there are any questions that you would wis to raise arising out of it, I shall, of course, be only to glad to consider them. However, you may think perhaps th any such questions might be more conveniently raised i London directly with the Foreign Office there when your Con mittee is there, and this also I should be very happy to arrang —whichever procedure may be most convenient to you an to your Committee.

Again I must repeat my thanks for this opportunity. I ha here, Mr. Chairman, the memorandum and its annexes t which I have referred in this statement, which I would t very glad to hand to you.

ANNEX VII

Memorandum submitted to the Committee by the United Kingdom

THE RELATIONSHIP BETWEEN THE UNITED KINGDOM AND TH SULTANATE OF MUSCAT AND OMAN

1. Until the end of World War I, and to a great exte until the end of His Majesty's Government's responsibility f the government of the Indian sub-continent in 1947, Briti interests in Eastern Arabia were handled by the Government (India, and British diplomatic relations with Governments i the area, including those with the Sultanate of Muscat an Oman, were conducted by members of the Indian Politic Service, who employed styles and titles used by that Servi (some of which persist to this day). This was essentially question of administrative practice in the days before mode communications. References to, for example, "the Britis authorities", "the Government of India", the "Political Agent and "the Political Resident" should be read with this in min

A. *1798-1900*

2. Apart from occasional trading contacts in the midd of the eighteenth century, British relations with Muscat an Oman date effectively from an Agreement of 1798 betwee the Imam[b] and the East India Company, representing t

[b] The rulers of Muscat and Oman used the religious tit "Imam" until the reign of Said (1807-1856), who preferred t be called "Sayid" Said. The term "Sultan" came into use in t early 1860's, as was shown by its use in the Anglo-Frenc Declaration of 1862.

ritish Government. This was concluded in order to protect ıe sea routes to India from privateers during the Napoleonic Vars. The then Imam was persuaded to promise to exclude 'rench vessels, which had made Muscat a base for privateering ttacks on British shipping, from the inner anchorage of Iuscat's harbour; and also to deny to the French and the Ietherlands Governments a commercial or other foothold for ıe duration of the war.

3. Privateering was endemic in the southern Persian Gulf t the time and its suppression continued to be a major British nd Muscati interest after the close of the Napoleonic Wars.)n several occasions British naval support was given to the nam and later to the Sayid of Muscat and Oman against ıe seafaring tribes of the Pirate Coast, who made a living om plundering shipping. In 1809, and again in 1819, military xpeditions were mounted by the Government of India to root ut these pirates based on the coast, and in 1820 and 1821 n expedition was also made into the interior of Muscat and)man against a tribe guilty of complicity in piracy.

4. Besides the suppression of piracy, the British Government evoted considerable efforts during the nineteenth century to ringing to an end the slave-trade. A treaty was signed in 322 by which the Sayid agreed to help in suppressing the ave-trade with Christian nations, and the scope of this)-operation was gradually extended in similar agreements, articularly the Treaty of 1873, under which the Sultan (as e was by then called) agreed to the complete abolition of the ave-trade.

5. British commercial relations with Muscat and Oman ere first regularized by a Treaty of Commerce signed in 339, on the lines of that previously concluded between Muscat nd Oman and the United States Government in 1833. Under , both countries received what would now be called reciprocal ost-favoured-nation treatment for their goods; it was supemented by a Customs Agreement in 1846, by which the ans-shipment dues on cargo were fixed at 5 per cent. Two her events in the ensuing years were the establishment of British Assistant Political Agency at Gwadar (then a ependency of Muscat and Oman) in 1863 and an Agreement establish telegraph facilities in 1864.

6. The next important British contact with Muscat and man's affairs came in 1858, when the Sayid of Muscat and man prepared an expedition against Zanzibar in pursuance his claim to Zanzibar. The British authorities in India made tive representations for restraint in the interest of stability the Indian Ocean. The Sayid agreed to accept the arbitraon of the Governor-General of India over his claim to anzibar, and in 1861 acknowledged recognition of Lord anning's award, by which Zanzibar was separated from Iuscat and Oman.

7. This settlement was followed by the Anglo-French eclaration of 1862 in which both Governments, "taking into onsideration the importance of maintaining the independence His Highness the Sultan of Muscat and of His Highness ıe Sultan of Zanzibar, have thought it right to engage ciprocally to respect the independence of these Sovereigns". requent references to this agreement in Anglo-French exıanges over the ensuing years show the determination of oth parties that its terms should be scrupulously observed. he significance of the Declaration was not only in its respect r the independence of Muscat and Oman, but also in the anner in which the two major Powers recorded that indeendence as a fact and as something which it was important preserve.

8. It has been recognized, however, that in the conditions the nineteenth century a major Power enjoyed a position which smaller Powers of unquestioned independence were clined to defer. An example of this is available from 1890, hen the Political Resident in the Persian Gulf conveyed Ier Majesty's Government's formal recognition of Sultan aisal's accession. The Sultan of Muscat and Oman was inormed that Her Majesty's Government hoped "to continue ith Your Highness the same relations of friendship that ave existed between the two States". No conditions attached to this. In reply, Sultan Faisal indicated that he intended to maintain the good relations that had existed in his father's time, and to keep his father's and predecessor's engagements. He added, of his own volition, that it was his "earnest desire to be guided in all important matters of policy by the advice of the British Government, and so to conduct his Government as to secure the continued friendship and approbation of His Excellency the Viceroy and the British Government". Similarly the Sultan signed an Agreement in 1891, by which he bound himself, his heirs, and his successors, "never to cede, to sell, to mortgage, or otherwise give for occupation, save to the British Government, the dominions of Muscat and Oman or any of their dependencies". The essence of this Agreement was that while the Government of India sought no derogation of the Sultanate's independence, the Sultan deferred to Her Majesty's Government in ensuring that no other Power should derogate from that independence to British disadvantage. (As circumstances changed, this particular Agreement lost its force. It was finally terminated by an exchange of letters between the present Sultan and Her Majesty's Government in 1958, after having long been regarded as a dead letter.) The Agreement of 1891 was linked with the signature of a Commercial Treaty of the same year, little different in substance from that of 1839. In 1895, the British Government agreed to come to the assistance of the Sultan in the event of any attacks on the two principal towns of his country, Muscat and Matrah.

B. *1900-1932*

9. The suppression of arms smuggling in Muscati vessels was a subject of great concern to the British Government during the first fifteen years of this century. In 1903 the Sultan accepted the co-operation of British (and also Italian) ships in searching Muscati vessels suspected of carrying arms, and this service was continued until the outbreak of world war in 1914. These precautions were strengthened in 1912, when the Sultan decided in agreement with the British authorities to establish in Muscat a bonded warehouse in which all arms and ammunition would be deposited on importation. Exports from it were only to be made on the issue of a "no-objection certificate" by the Sultan personally.

10. When, in 1913, the leaders of the Hinawi and Ghafari factions combined to appoint an Imam in Inner Oman and, in 1914, moved to attack Muscat, the Sultan called for British assistance, as promised in the Declaration of 1895, and the Government of India complied by sending troops. In the following year the British Political Agent in Muscat helped by way of mediation to bring the Sultan and the rebels together to reach a negotiated settlement. This was eventually achieved in the Agreement of Sib of 1920, some copies of which the Political Agent signed as a witness (he was not a party to the Agreement).

11. During 1918-1920, the Government of India made two financial loans to assist the Sultan in a programme of reform, including financial reorganization and the improvement of the administration of justice, and subsequently assisted reorganization by enabling the Sultan to engage Mr. Bertram Thomas as Financial Adviser.

12. In 1923 the then Sultan offered the British Government what was in effect a first option on any oil discovered in his territories. The form of this was an undertaking not to grant permission for the exploitation of oil without prior consultation with His Majesty's Government. The present Sultan and Her Majesty's Government have long regarded this undertaking as no longer binding, and after World War II, when a United States company sought and was granted a concession to seek oil in Dhofar province, no consultation with His Majesty's Government took place.

C. *1932-1964*

13. The present Sultan succeeded his father in 1932. During his reign, Britain's friendly relations with his country have been maintained and their pattern has taken more modern forms. In 1934 a Civil Air Agreement gave His Majesty's Government permission to establish aerodromes in the Sultan's

territory. A Commercial Treaty in 1939 again provided for reciprocal most-favoured-nation treatment of the merchandise of both countries. At the outbreak of war in 1939, the Sultan promised His Majesty's Government all the assistance in his power. He prohibited all trading with Germany, and granted the Royal Navy and Royal Air Force such facilities as they should need.

14. Britain's present relationship with Muscat and Oman is governed by the Treaty of Friendship and Commerce of 1951, which superseded the Treaty of 1939 and of which a copy is annexed.[c] It will be seen that this is a treaty of the kind normal between sovereign States. The only unusual feature is a provision, in a simultaneous Exchange of Letters, for a limited degree of extraterritorial jurisdiction discussed in paragraph 18 below.

15. Britain has also concluded agreements with the Sultan under which she has provided his Government with assistance in the reorganization and equipment of his Armed Forces and financial and technical assistance in the economic development of the Sultanate. A copy of the relevant Exchange of Letters of 1958 is also annexed. In addition Britain has, by agreement with the Sultan, been allowed to maintain and use airfield facilities at Salalah and Masirah. In view of frequent allegations that Britain's relationship with the Sultanate is "colonialist", it should be recalled that Ambassador de Ribbing's report to the Secretary-General in 1963 quoted evidence on the limited number of expatriate members of the Sultan's Armed Forces, and also evidence that the provision of British assistance did not affect the Sultan's sole control of his armed forces or of affairs generally.

16. In 1957, a rebellion occurred in the interior of Muscat and Oman, led by the ex-Imam Ghalib and enjoying assistance and the supply of arms from outside the country. It became serious in 1958, and the Sultan called for British assistance. This, in view of Britain's long-standing friendship with his country, was provided, chiefly in the form of a limited number of specialist airborne troops of a kind the Sultan did not dispose of himself. These were soon withdrawn when, early in 1959, the rebellion was put down and the rebel leaders fled.

17. Since then, conditions in the Sultanate have been peaceful and orderly, and the main feature of the British relationship with the Sultanate has been the routine operation of the military and civil assistance programmes mentioned above. Where civil development is concerned, the emphasis has been on the establishment of agricultural research stations and of a medical service. The latter is based on nine health centres each under a doctor, and fourteen medical dispensaries each staffed by a medical assistant. Measures have been taken to combat malaria, and the first maternity hospital has recently been set up. Besides these, a start has been made on improving the educational system, and extending the network of roads. The British Government's contribution to this programme was the subject of favourable comment by Mr. de Ribbing, representative of the Secretary-General, in his report of 1963.

Jurisdiction

18. The Commercial Treaties of 1891 and 1939 allowed extraterritorial jurisdiction over British subjects and protected persons in Muscat and Oman to be vested in Her Majesty's Political Agent and Consul in Muscat. The extent of this jurisdiction has been greatly reduced by successive changes, both in and since the Treaty of 1951. The field of cases still heard by British courts is, in essentials, the following:

(i) Proceedings against non-Muslim servants of the British Crown (with certain exceptions relating to acts not on duty);

(ii) Proceedings between non-Muslim United Kingdom or (with certain exceptions) Commonwealth citizens or corporate bodies.

The agreement providing for this limited degree of extraterritorial jurisdiction is due to expire on 31 December 1966.

[c] Not reproduced.

Her Majesty's Government's representation in Muscat

19. Britain has had an official representative in Muscat since 1861, when the first resident Political Agent went there. In 1867, he became Political Agent and Consul, and in 1951 the style Political Agent was dropped. Subsequently and to the present time the resident British Representative in Muscat has had the rank of Consul-General.

British representation of the Sultanate's interests

20. Members of the *Ad Hoc* Committee will be aware that the Sultanate's domestic affairs have been the subject of increasingly unbridled attacks at international gatherings since 1958. As Her Majesty's Government have often been joined with the Sultan's Government as an object of these attacks the British representatives have often played a prominent part in contesting them. Since Her Majesty's Government can only act internationally for the Sultan when he requests them to do so and since he has not asked them to represent his interests to the *Ad Hoc* Committee, Her Majesty's Government are not competent to discuss in the Committee Sultanate affairs other than relations between the United Kingdom and Muscat and Oman.

ANNEX VIII

Statement made to the Committee on 14 August 1964 by the representative of Morocco on behalf of Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Republic and Yemen

[*Original text: French*]

First of all, Mr. Chairman, I should like to express to you the gratitude of my delegation, and of the delegations on whose behalf I appear before you today, for kindly granting us this hearing at which to lay before the members of the *Ad Hoc* Committee on Oman the views of the delegations of members of the Arab League to the United Nations.

I should inform you at the outset that these delegations have prepared for the Committee over which you preside a memorandum bearing the signatures of all the Arab delegations to the United Nations.

If I may, I shall begin by handing you this document and then proceed to state various considerations connected with it; we regard this document as especially useful for an understanding of this problem—in our judgement, a typically colonial problem.

The Imamate of Oman has been in existence as a national entity for many centuries: more than twelve centuries, to be specific. Its national existence is invested with all the attributes of sovereignty. The Imam is both a sovereign pontiff and a temporal leader, in accordance with the very notion of Islam. Oman is a country which, like all other countries, has passed through the vicissitudes of history. It is a country which has sometimes extended its frontiers; at other times its frontiers have contracted; but the Imamate of Oman has always existed as such in a part of the Arabian Peninsula situated between the peninsular desert and the Sultanate of Muscat.

It was not until the late nineteenth century that the British, seeking to control certain imperial routes needed for their colonial expansion towards India and other parts of Asia began taking an interest in this part of the world. They established, on the coast of the Arabian Peninsula, a control which was exercised in both the military and the political sphere; but that never affected the existence of the Imamate of Oman as an independent country.

This situation lasted until 1957, when the Imam of Oman, for reasons of national interest, did not accept agreements for the concession of parts of his territory to certain oil companies.

At that point—and the world remembers the Security Council meeting which took place in 1957—the British Army, using all the resources at its disposal in the area, launched a military action for no other purpose than to occupy that area. A pretext had, of course, to be found, and it was that the Imamate of Oman was legally subordinate to the Sultanate

of Muscat. Now we wish to make it clear that the Sultanate of Muscat and the Imamate of Oman are two separate and distinct national entities; each of them has always been independent of the other, and the Treaty of Sib, concluded in 1920 under the patronage of the United Kingdom representatives in the area, not merely embodied that separateness but also reaffirmed it.

The Imamate of Oman is an extremely peaceful country. By culture and by tradition, its inhabitants are calm people who want to live in peace. Unfortunately, the subsoil of this area has been found to contain sizable deposits of petroleum; again, the strategic position of the area in relation to the Middle East as a whole has prompted British colonialism to establish military, economic and political control over this part of the Arabian Peninsula.

The arguments put forward against the Oman nationalists, who have been forced to resort to armed conflict and, in thousands, to leave their native land; the fact that the main leaders have found it necessary to travel all over the world in order to make their people's voice heard: all these considerations explain why the problem of Oman is now of concern to world opinion and to the United Nations, and why it must be solved in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples. The fact that the United Nations General Assembly decided last year to refer this matter to its Fourth Committee constitutes, in our opinion, ample proof that it is a typically colonial problem and not a question within the sovereign jurisdiction of a so-called independent State: namely, the Sultanate of Muscat and Oman.

I should point out, furthermore, that the Sultanate of Muscat exercises no sovereignty either in international affairs or in matters of defence and security. The police and the army are made up of foreigners, for the men are either of British nationality or else persons of somewhat obscure provenance who are generally described as "mercenaries".

It has even been reported that the mercenaries who served in Katanga are also in the ranks of the mercenary army which is now nominally under the orders of the Sultan of Muscat but which is in fact under the orders of the United Kingdom representative.

This is not the place for us to deal with the situation of the Sultanate of Muscat, because that is not the problem of direct concern to this Committee: but when we do come to speak of the Sultanate of Muscat we shall be discussing a colonized country which needs to be emancipated, which needs to control its own wealth, its own national resources and its own sovereignty. However, the problem that concerns us now is the problem of Oman, and we think the United Nations has an extremely important part to play in helping the people of Oman to attain peace, tranquility and freedom. We consider that the United Nations has on its list of colonial countries a number of areas in various parts of the world. The area of the Imamate of Oman is certainly one of those countries, and we think its independence and sovereignty should be settled in accordance with the principle of self-determination.

We consider that the colonial problem which creates obstacles to the emancipation of the people of Oman is a question of concern to the entire Middle East and to the whole of Africa; for, as you will understand, it is this concern that has prompted the delegations for which I have the honour of speaking here to convey and explain to you their anxieties and their desire to see the Committee play its full part in securing for that country all the guarantees necessary for its self-determination.

ANNEX IX

Letter and memorandum dated 12 August 1964 from the representatives of Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Republic and Yemen

The representatives of Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, the Syrian Arab Republic, Tunisia, the United Arab Republic and the Yemen Arab Republic have the honour to refer to their previous communication addressed to Your Excellency as Chairman of the *Ad Hoc* Committee on Oman and to enclose herewith a memorandum embodying their views on the question of Oman.

The representatives of the following Member States:

(*Signed*)	(*Signed*)
Raouf BOUDJAKDJI *Algeria*	Saleh SUGAIR *Saudi Arabia*
Salim SALEEM *Iraq*	Osman HAMID *Sudan*
Fawaz SHARAF *Jordan*	Rafik ASHA *Syrian Arab Republic*
Soubhi KHANACHET *Kuwait*	Mohamed EL MEMMI *Tunisia*
Souheil CHAMMAS *Lebanon*	Mohamed EL-KONY *United Arab Republic*
Saad M. ANGUDI *Libya*	Yahya H. GEGHMAN *Yemen Arab Republic*
Dey Ould SIDI BABA *Morocco*	

MEMORANDUM ON THE QUESTION OF OMAN

Submitted by the Arab delegations to the Ad Hoc *Committee on Oman*

1. The question of Oman has been before the United Nations since 1957. It was first considered by the Security Council in August 1957, and subsequently at the fifteenth, sixteenth, seventeenth and eighteenth sessions of the General Assembly. In all these instances, the views of the Arab delegations regarding the various aspects of the problem have been fully and elaborately expressed. Accordingly, the Arab delegations deem it unnecessary to restate their views on the merits of the question. They wish however to stress certain points and submit a few suggestions, which have, in their view, great and significant bearing on both the issue at stake and the task entrusted to the *Ad Hoc* Committee.

2. The existence of Oman as an independent and sovereign State under the Imamate system, a democratic form of authority chosen by the people, was an historical fact for over twelve centuries. This independence and sovereignty had not only been acknowledged by jurists, historians and writers, but also recognized as well as confirmed, in words and deeds, by officials of the United Kingdom Government in both their interactions with officials of the Imamate and other political entities.

3. With regard to the claims of the Sultan of Muscat and the United Kingdom Government that Oman was never an independent and sovereign entity, attention is drawn to the Treaty of Sib signed on 25 September 1920. Bearing in mind the identification of its participants, i.e., the Sultan, on one hand, the Imam on the other, and the Political Agent and Consul General of the United Kingdom in Muscat as a mediator, as well as its prescriptions regulating activities and interactions that exclusively fall within the purview of international treaties concluded between sovereign and independent States, it is the firm belief of the Arab delegations that these claims are unfounded. The Treaty was an unequivocal recognition by the Sultan of the independence of the Imamate and the existence of Oman as a distinct entity. Moreover, the fact that the Sultan has refused so far to produce the original text of the Treaty, confirms the argument that, under the provisions of the Treaty, the Imamate was recognized as independent and sovereign.

4. In spite of British attempts during the past two hundred years to subjugate Oman to colonial rule, the people of Oman were able to defend their independence. Nevertheless, certain parts were detached from Oman, amongst which what became the Sultanate of Muscat, and subjugated, under various forms and names, to British colonial rule. Because of the refusal of the Imam to sanction the granting of an oil concession to a British company and because of his opposition to British colonial interests in the strategic area, the United Kingdom found it opportune in 1955 and 1957 to extend, through military aggression, the Sultan's rule to the Imamate. Since then,

British colonial rule has been extended to Oman under the guise of the Sultan's nominal authority, and the people of Oman have been denied their right to freedom and self-determination.

5. The Arab delegations wish to draw the attention of the Committee to the fact that the Sultanate of Muscat has neither complete international responsibility with respect to acts inherent in the exercise of sovereignty in external affairs, nor for corresponding acts relating to domestic administration, especially in the fields of economy and security. All external affairs of the Sultanate have been conducted by the United Kingdom Government, and the latter has at all times been the spokesman of the Sultan of Muscat in the United Nations. Decisions relating to economic and security affairs are either directly or indirectly made by officials of the United Kingdom Government or British advisers. British military bases are established in the territory, and British officers dominate the Sultan's army. In view of the foregoing and in accordance with the provisions of the various treaties concluded between the United Kingdom Government and the Sultanate of Muscat, it is obvious that the territory is of the colonial type.

6. The present situation in Oman is that of a country deprived of its independence and freedom as a result of an invasion by the armed forces of a colonial Power. Such a situation should no longer be tolerated, particularly since the adoption of the historic Declaration on the Granting of Independence to Colonial Countries and Peoples. The United Nations, which has assumed a primary responsibility for the total liquidation of the colonial system, should not be indifferent to the fate of the people of Oman, and cannot but adopt specific measures to help the Omani people in regaining their freedom and independence. The United Nations should take steps to end British colonial rule, and to transfer all sovereign power to the true representatives of the people in accordance with the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples. To that end, the Arab delegations deem it necessary that the question be referred to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

7. The continued policy of repression pursued by the United Kingdom Government has forced thousands of Omani citizens and many nationalist leaders to leave their country and to seek refuge in neighbouring countries and territories. The views of the representatives of these Omani communities on the question are of paramount importance, especially if the Committee is not allowed to visit the territory. It is hoped that the Committee, in pursuance of operative paragraph 2 of General Assembly resolution 1948 (XVIII) of 11 December 1963, will arrange visits to as many areas as possible.

8. The people of Oman have on numerous occasions shown their faith in the United Nations as the guarantee for the solution of their problem. It is that same faith which leads them to believe that the Committee will embody in its report specific recommendations on the restoration of their inalienable right to independence and sovereignty.

ANNEX X

Letter dated 24 August 1964 from the Chairman of the Committee to the Permanent Representative of the United Kingdom

The Committee has asked me to express to you and your Government its appreciation of your co-operation in welcoming the Committee's visit and in offering to facilitate it in any way you can.

The Committee has also decided to take advantage of your offer and discuss with officials of the Foreign Office in London a number of points arising from your memorandum. To facilitate the discussions, I am attaching a list of questions and points on which the Committee is seeking clarification. I trust that this procedure will be suitable and will contribute to the usefulness of the discussions in London.

(*Signed*) Abdul Rahman PAZHWAK
Chairman of the
Ad Hoc *Committee on Oman*

POINTS FOR CLARIFICATION

The United Kingdom Government has stated that its relationship with Muscat and Oman is a relationship between two independent countries. This has been challenged by a number of Member States who have said that the relationship is a colonial one. To support this view these States have presented a number of arguments. The Committee would like to hear the views of the United Kingdom on these arguments and related matters. It therefore addresses the following questions.

I. *General*

It has been claimed that the United Kingdom exercises colonial rule in the Arabian Peninsula and in Muscat and Oman in particular, and that the reasons for this are the presence of oil and strategic considerations. What is the United Kingdom's view of this contention? If it is not correct, what is the basis for the United Kingdom's interest in the area and in Muscat and Oman in particular?

II. *Treaties and agreements between the United Kingdom and Muscat and Oman*

1. It has been claimed that British colonialism in Oman is exemplified by a series of treaties with the United Kingdom imposing heavy and unreasonable obligations. In support, the treaties of 1798, 1800, 1839 and 1951 have been quoted. Attention has also been drawn to the Deed of Cession of the Kuria Muria Islands of 1854, to the Declaration of 1862 between France and the United Kingdom and to the Non-Alienation Bond of 1891. The Committee is aware that the United Kingdom has stated that its relationship with Muscat and Oman is governed by the Treaty of 1951 and the exchanges of letters in 1951 and 1958. However, since the Committee is examining the historical problems connected with the question of Oman in accordance with the mandate given to it by the General Assembly, it would appreciate comment and information on the treaties which have been concluded in the past between the United Kingdom and Muscat and Oman. The Committee would therefore like to know the United Kingdom's view of the interpretation of these treaties which have been referred to above.

2. What significance can be attached to the titles of the parties to the treaties? In this connexion it is noted that the following titles have been used in the Treaties and Agreements indicated:

(i) Imaum of Muscat (Treaty of 1798);

(ii) Imaum of the State of Oman (Agreement of 1800);

(iii) Sultan of Muscat (Treaty of 1839);

(iv) Sultan of Muscat and Oman (Treaty of 1891 and Agreement of 1891);

(v) Sultan of Oman (Undertaking regarding the Sur Coal-fields, 1902);

(vi) Sultan of Muscat and Oman and Dependencies (Treaties of 1939 and 1951).

3. Is there any significance to be attached to the title of "His Highness" which was given to the Sultan by the British authorities and apparently accepted by him?

4. Most of the treaties and agreements have been concluded by the Sultan himself whereas on the United Kingdom side there has always been a representative. This suggests an inequality between the two parties.

5. In some cases the treaties or agreements with the Sultan have been made by agents on behalf of the East India Company. What is the status of such agreements as international treaties?

6. The Treaty of 1798 has been described as one-sided in that its articles impose obligations on one party, the "Imaum", without corresponding obligations being imposed on the other party, and in that most of these obligations are unreasonable.

7. It has been noted that under the Agreement of 1800 provision is made for the appointment of a British agent in Muscat and that there is no reciprocal provision for the appointment of an agent for Muscat in the United Kingdom or one of its territories.

8. It has been noted that the Treaty of 1839 makes provision for extraterritorial rights for British subjects and gives the British Consul certain powers and that these are not reciprocal provisions. Further, articles IX, X and XI of this Treaty impose obligations on the Sultan in the matter of trade by British subjects in Muscat, although no similar obligations are imposed on the United Kingdom in the matter of trade by Muscat subjects in British territories.

9. It has been noted that the agreement by which the Sultan ceded the Kuria Muria Islands to the United Kingdom in 1854 is one-sided since the Sultan received nothing in return. The question has also been raised as to whether the Sultan exercised sovereignty over these islands and therefore whether he had the power to cede them.

10. It has been noted that in the Declaration of 1862 between France and the United Kingdom the two parties agreed to respect the independence of the two sovereigns of Muscat and Zanzibar, but that nothing is said about respecting their territorial integrity.

11. It has been noted that the Treaty of Friendship, Commerce and Navigation of 1891 includes a number of provisions which impose obligations on the Sultan alone, and that the reciprocal most-favoured-nation treatment which was provided for in the Treaty of 1839 is now made unilateral, applying only to British subjects in Muscat. Attention has also been drawn to the requirement that the Sultan was not to impose export duties without the consent of the United Kingdom Government.

12. It has been stated that the Non-Alienation Bond of 1891 was nothing more than a "protectorate" agreement. The representative of the United Kingdom has stated that Britain had an interest in ensuring that other Powers respected the sovereignty of the Sultan and that it was in recognition of this interest that the then Sultan of Muscat and Oman agreed with the British Government in 1891 not to alienate his territory to any third Power. The view has been expressed, however, that the undertaking given by the Sultan goes beyond an agreement not to alienate to a third Power and clearly provides for cession of a territory to the British Government. Further it has been stated that in so limiting his power in such an important matter, the Sultan has relinquished his sovereignty to the British Government. The Committee would also like to know whether this agreement has been terminated.

13. It has been noted that in the Undertaking of 1902 regarding the Sur Coal-fields, the Sultan agrees not to grant permission to any Government or company to work these fields without first informing the British Government so that they might take up the work if they feel so inclined. It has been stated that no ruler claiming to be sovereign would conclude such an agreement. Moreover the meaning of the sentence "This is what had to be written", which appears in the agreement, seems to call for some explanation. The Committee would also wish to know whether this agreement has been terminated.

14. Attention has been drawn to the agreement by the Sultan in 1905 with a British Sponge Exploration Syndicate whereby the syndicate received certain privileges although there is no indication that the Sultan received anything in return. The Committee would like to have more information on this aspect of the agreement and would like to know what part, if any, the United Kingdom Government played in the negotiation of the agreement.

15. Attention has been drawn to the undertaking given the Sultan in 1923 not to grant permission for the exploitation of oil in his territories without consulting the Political Agent at Muscat and without the approval of the "High Government of India". It has been stated that no ruler claiming to be sovereign would conclude such an agreement. The Committee would like to have some explanation of the use of the term "The High Government of India" and its effect on the international status of the agreement. The Committee would also wish to know whether this agreement has been terminated.

16. It has been pointed out that the United Kingdom's relations with Muscat and Oman were for many years handled by the British authorities in India and it has been suggested that the United Kingdom's treaties with Muscat and Oman are similar to those with the rulers of the Indian States. What is the United Kingdom's view of this suggestion?

III. *Treaties with countries other than the United Kingdom*

The United Kingdom has claimed that the fact that other countries concluded treaties with Muscat and Oman illustrates that other countries regard Muscat and Oman as an independent country. In his statement to the Fourth Committee (1499th meeting) at the eighteenth session of the General Assembly, the representative of Syria said that the fact that the Sultanate had entered into agreements or treaties of limited scope did not prove that it was an independent State. He pointed out that jurists, including Oppenheim, agreed that while the status of a British Protectorate was not clear, the relationship between sovereign and vassal and protector and protectorate did not prevent the vassal or protectorate from concluding agreements of limited scope (A/C.4/627). What is the United Kingdom's view of this argument?

IV. *Other historical matters*

1. According to several writers, the Sultan of Muscat and Oman would have been overthrown on many occasions had it not been for the military support of the British Government in India. In particular, reference has been made to military assistance given by the British to Said bin Sultan throughout his reign, to Sultan Faisal in 1895, and to Sultan Taimur in 1915. What are the comments of the United Kingdom on these claims? On what basis were those interventions made?

2. It has been claimed that the United Kingdom was opposed to the Imam Azzan bin Kais (1868-1871) and assisted in bringing about his downfall. Is this correct?

3. In a statement to the *Ad Hoc* Committee on Oman, the United Kingdom representative mentioned a Declaration of 1895 by which the United Kingdom promised the Sultan military assistance if Muscat and Oman were attacked. The Committee has not seen a copy of this Declaration nor is it aware of its contents, and would appreciate further information.

4. There are frequent references in the literature on the subject of a British Political Agent at Muscat. What were the Agent's functions? Was he also the Consul? To which Department in the United Kingdom was he responsible? What was the relationship between the Political Agent at Muscat and the Resident in the Persian Gulf?

5. What part was played by the British Political Agent in negotiating the Treaty or Agreement of Sib? Was he acting under instructions from the United Kingdom Government?

6. Has it been the practice of the United Kingdom authorities to extend "recognition" to rulers of Muscat and Oman? Has recognition been granted to all rulers within the last 200 years? Has it ever been withheld?

7. How did the United Kingdom Government regard the election of an Imam in 1913? Did he request or receive recognition from the United Kingdom Government?

8. Did the British Political Agent at Muscat maintain any official or unofficial relations with the Imam and his successors?

V. *Recent treaties and agreements*

Questions on:

(*a*) Treaty of 1951;

(*b*) Exchange of letters in 1951 concerning consular jurisdiction;

(*c*) Exchange of letters in 1958 concerning the Armed Forces.

VI. *The present dispute, 1954-1964*

Questions on United Kingdom involvement in the dispute.

ANNEX XI

Copy of a letter handed to the Committee by the Imam containing the conditions of the Treaty (Agreement) of Sib

[*Original text: Arabic*]

In the name of God the Compassionate the Merciful.

From Abdullah bin Helal to brother Sheikh Khalid bin Helal, God's peace and blessings upon him.

I wish to advise you that a treaty was signed between the Imam and the British and Sayid bin Taimur through Sheikh Isa and the Englishman, Mr. Wingate, according to which the war between the two parties will immediately cease. But even though this treaty provides for stopping the war, it has separated Muscat from Oman and that was caused by the British. The treaty included four provisions relating to the people of Oman. These provisions are as follows:

First. Not more than 5 per cent shall be taken from any import from Oman to Muscat, Matrah, Sur and all the coastal towns, no matter what those imports are.

Second. All Omanis shall enjoy security and freedom in all the towns of the coast.

Third. All restrictions upon everyone entering or leaving Muscat, Matrah and all the coastal towns shall be removed.

Fourth. The Government of the Sultan shall not provide refuge to any offender fleeing from the justice of the Omanis. It shall return him to them if they request it to do so. It shall not interfere in their internal affairs.

The four conditions pertaining to the Government of the Sultan are:

First. All the sheikhs and tribes shall be at peace with the Government of the Sultan. They shall not attack the coastal towns and shall not interfere in his Government.

Second. All travellers to Oman on lawful business and for commerce shall be free. There shall be no restrictions on commerce, and they shall enjoy security.

Third. Any offender or wrongdoer fleeing to them shall be expelled and shall not be given refuge.

Fourth. The claims of merchants and others against Omanis shall be heard and settled on the basis of justice according to the law of Islam.

Written and signed in the town of Sib, 11 Muharram 1339 H corresponding to 25 September 1920.

As a deputy of the Imam Muslimeen Mohammed bin Abdullah Al-Khalili, I declare that I have accepted the conditions laid down therein by virtue of an authorization from the Imam Al-Muslimeen. Written by Isa bin Saleh and by Sulaiman bin Himyar in their handwriting.

I have completed what Sheikh Isa bin Saleh has done on my behalf regarding these provisions. Certified by Imam Al-Muslimeen, Imam Mohammed bin Abdullah in his own handwriting.

This is the treaty which was signed between the Government of His Highness Sultan Taimur bin Faisal and the Omanis in my presence: Ihtishom Al-Munshi, 12 September 1920 corresponding to 26 Muharram 1339.

Certified by Mr. WINGATE
I.C.S.
Political Agent and Consul of Great Britain in Muscat

These, my brother, are the provisions of the treaty. I have summarized them for you as they are to be applied. We pray to God to prevent bloodshed and to return Taimur's senses so that he abandons his conflict with the Imam, and gives up his dependence on the British and prevents their interference in Muscat because they are actually his enemies and the enemy of the Imam, nay, of all the people of Oman. They are concerned only with their interests and do nothing but to achieve those interests.

Please send me four camels in order to enable us to return to you, for there is no need for us to stay in Al-Khaudh, since peace has been declared.

Peace upon you and all the brothers and children.

Salem bin Saif, the writer of this letter for the Sheikh, send his greetings and wishes to inform you that after the establish ment of peace and when the British open the high seas an remove the blockade, he shall go to Zanzibar for a visit an shall return, God willing, next year.

Written on 12 Muharram 1339 H (corresponding to 2 September 1920).

(*Signed*) Your brothe
Abdullah bin HELA

ANNEX XII

Extract from a memorandum to the Committee by Sheik Saleh bin Isa containing the provisions of the Treat (Agreement) of Sib

This is the Treaty of Sib which was signed on behalf c Imam Mohammed bin Abdullah Al-Khalili by my fathe Isa bin Saleh Al-Harithi, deputy to the Imam of Oman an on behalf of Sultan Taimur bin Faisal, by Mr. Wingate I.C.S., Political Agent and Consul of Great Britain in Musca The Treaty included the following provisions in their exac wording:

First. No more than 5 per cent shall be taken from an import from Oman to Muscat, Matrah, Sur and all the coasta towns, no matter what those imports are.

Second. All Omanis shall enjoy security and freedom in a the towns of the coast.

Third. All restrictions upon everyone entering or leavin Muscat, Matrah and all the coastal towns shall be removed.

Fourth. The Government of the Sultan shall not provid refuge to any offender fleeing from the justice of the Omani It shall return him to them if they request it to do so. I shall not interfere in their internal affairs.

These are the four provisions for the Imamate in recognitio of its independence.

There were also four provisions for the Sultanate:

First. All the sheikhs and tribes shall be at peace with th Government of the Sultan. They shall not attack the coasta towns and shall not interfere in his Government.

Second. All travellers to Oman on lawful business and fo commerce shall be free. There shall be no restrictions o commerce, and they shall enjoy security.

Third. Any offender or wrongdoer fleeing to them shall b expelled and shall not be given refuge.

Fourth. The claims of merchants and others against Omani shall be heard and settled on the basis of justice according t the law of Islam.

Written and signed on 11 Muharram 1339 H correspondin to 25 September 1920.

I have accepted what has been done on my behalf b Sheikh Isa bin Saleh regarding the above-mentioned condi tions: Imam Al-Muslimeen, Mohammed bin Abdullah Al Khalili. I have agreed to the conditions laid down herein b virtue of a mandate from the Imam Al-Muslimeen, Mohamme bin Abdullah Al-Khalili: Isa bin Saleh in his own handwriting

ANNEX XIII

Unofficial text of the Treaty (Agreement) of Sib, a published in *The New York Times* of 13 August 195 and in pamphlets issued by the Arab Informatio Center, New York

In the name of God, the Compassionate, the Merciful.

This is the peace agreed upon between the Governmen of the Sultan, Taimur ibn Faisal, and Sheikh Iso ibn Sali ibn Ali on behalf of the people of Oman whose names ar signed hereto, through the mediation of Mr. Wingate, I.C.S. political agent and consul for Great Britain in Muscat, who i empowered by his Government in this respect and to be a intermediary between them. Of the conditions set forth below four pertain to the Government of the Sultan and four pertai to the people of Oman.

Those pertaining to the people of Oman are:

1. Not more than 5 per cent shall be taken from anyone, no natter what his race, coming from Oman to Muscat or Matrah ır Sur or the rest of the towns of the coast.

2. All the people of Oman shall enjoy security and freedom n all the towns of the coast.

3. All restrictions upon everyone entering and leaving Muscat and Matrah and all the towns shall be removed.

4. The Government of the Sultan shall not grant asylum o any criminal fleeing from the justice of the people of Oman. It shall return him to them if they request it to do o. It shall not interfere in their internal affairs.

The four conditions pertaining to the Government of the Sultan are:

1. All the tribes and sheikhs shall be of peace with the Sultan. They shall not attack the towns of the coast and shall ıot interfere in his Government.

2. All those going to Oman on lawful business and for ommercial affairs shall be free. There shall be no restrictions ın commerce, and they shall enjoy security.

3. They shall expel and grant no asylum to any wrongdoer ır criminal fleeing to them.

4. The claims of merchants and others against the people ıf Oman shall be heard and decided on the basis of justice ıccording to the law of Islam.

Written on 11 Muharram 1339, corresponding to 25 Septem- ıer 1920.

ANNEX XIV

General plan for social, economic, scientific and cultural development which Imam Ghalib bin Ali, the Imam of Oman, had intended to implement

[*Original text: Arabic*]

The general plan for social, economic, scientific and cultural mprovements which was intended to be implemented by Imam Ghalib bin Ali, the Imam of Oman, who was elected by the ıeople in a free election without any condition whatever in he year 1954, is based on the most modern and up-to-date ıolitical theory and not on prejudice, ignorance, and the ıereditary system, but on a system which would spread social ustice in practice. This would result in giving all the people ıf Oman equal opportunity to work for the good of their ıation and in treating all of them equally and protecting them ıs one family in accordance with the Sharia of Islam, the ıssence of which is summarized in this statement: "People ıre equal as the teeth of a comb". They are all equal before he law and assume equal responsibility to co-operate for the ıstablishment of a healthy society in the full meaning of that erm.

Oman had lived under such a true social system from time mmemorial until the British aggression of 1955. Its life had ıeen one of prosperity, security, self-sufficiency and social ustice and many of the most advanced countries have not ret reached these high goals. What had been lacking in Oman was an abundance of funds, as it is a relatively poor country, for the establishment of hospitals, schools, centres of culture, science, industry and agriculture. However, the Imam was ılanning to do all these and more, whenever opportunities came to him and whenever the facilities were available for he fulfilment of these essential plans. For that purpose, he lecided from the time he ascended to the Imamate to contact ıis brothers in the Arab world asking them for assistance in ırder to establish economic, agricultural, industrial and cultural ırojects. Accordingly he sent representatives to Cairo and some other Arab countries to achieve these goals a few nonths before the last British aggression took place.

He had also intended to send missions to study science and o employ international experts to raise the standards of the country at all levels. I am sure that one of the reasons for British aggression against the Omani people was British fear hat these social and economic goals would be achieved and ıltimately lead to great progress in Oman in the fields of economics, culture, science and agriculture. British fears that these developments would take place led Britain to attack the freedom and independence of the people of Oman. This is particularly true because Britain knew that Oman was rich in mineral resources, including petroleum, which one day would become the nucleus of a great movement for the progress of Oman and its people, who have a deep-rooted culture and civilization and who have had experience in social justice, peace and prosperity. Indeed, the Imam had been planning to lead Oman and his people towards progress and great achievements at all levels affecting the life of the people, so that they would reach the level of the advanced societies. He had been planning to take the best from present civilization and discard its evils. He had been aiming at balancing spiritual and material life in order to bring the best to the people of Oman, who have enjoyed a great civilization in the past.

I should like to say before concluding this statement that the people of Oman do not look at the problem of Oman as an issue between the Imam and the Sultan; rather the real problem is the problem of aggressive colonialism which wants to rob the people of Oman of their freedom, independence, dignity, and take over by the force of arms their resources and petroleum potentialities along with their mineral resources and agricultural wealth so that ignorance and poverty, disease, misery and backwardness would prevail. But, today, people are no longer as a piece of property to be sold or bought in slave markets. The people of Oman have decided to live and to rise to the occasion. Britain must leave Oman sooner or later; at that time there will be great progress in Oman which will link its present to its past and its future.

(*Signed*) Himyar SULAIMAN
The Representative of the State of Imamate
of Oman in Cairo

ANNEX XV

Replies to the additional questions addressed to the Imam by the Committee

(*received on 19 January 1965*)

QUESTIONS

1. At the time of the Buraimi crisis in 1952, is it a fact that the Imam responded to a request made to him by the Sultan as his superior, for military assistance to expel the invaders?

2. Is it also a fact that the Imam dispatched a considerable number of his subjects to Buraimi in compliance with that request?

3. In Dammam, the Imam said: "In 1954, Ibri was in the charge of a *wali* appointed by the Imam. There had been trouble there and he had sent a delegation to discuss peace, but there had been a misunderstanding". Can this misunder- standing be clarified?

4. Is it true that the Duru area, including the town of Ibri, was outside the territory of the Imam as agreed by the Treaty of Sib?

ANSWERS

1. The Imam of Oman never considered Said bin Taimur as a superior authority before, during, or after the Buraimi crisis. The Imam did not respond to any request from anybody who would consider himself superior in authority.

2. What really happened was that under the true democratic processes which the Omani people enjoyed under the govern- ment of the Imam, one of the prominent people criticized certain administrative measures taken by the *wali* of Ibri who had been appointed by the Imam. The *wali* strongly defended himself against that criticism. When the Imam heard of this news he sent a delegate to ascertain the truth. However, the dispute between the *wali* and the person who had criticized him had become more serious. The Imam then visited Ibri and settled the matter himself. The situation became normal again.

3. The Treaty of Sib is known by all. The region inhabited by the Duru tribe is a desert land, a part of which is in the

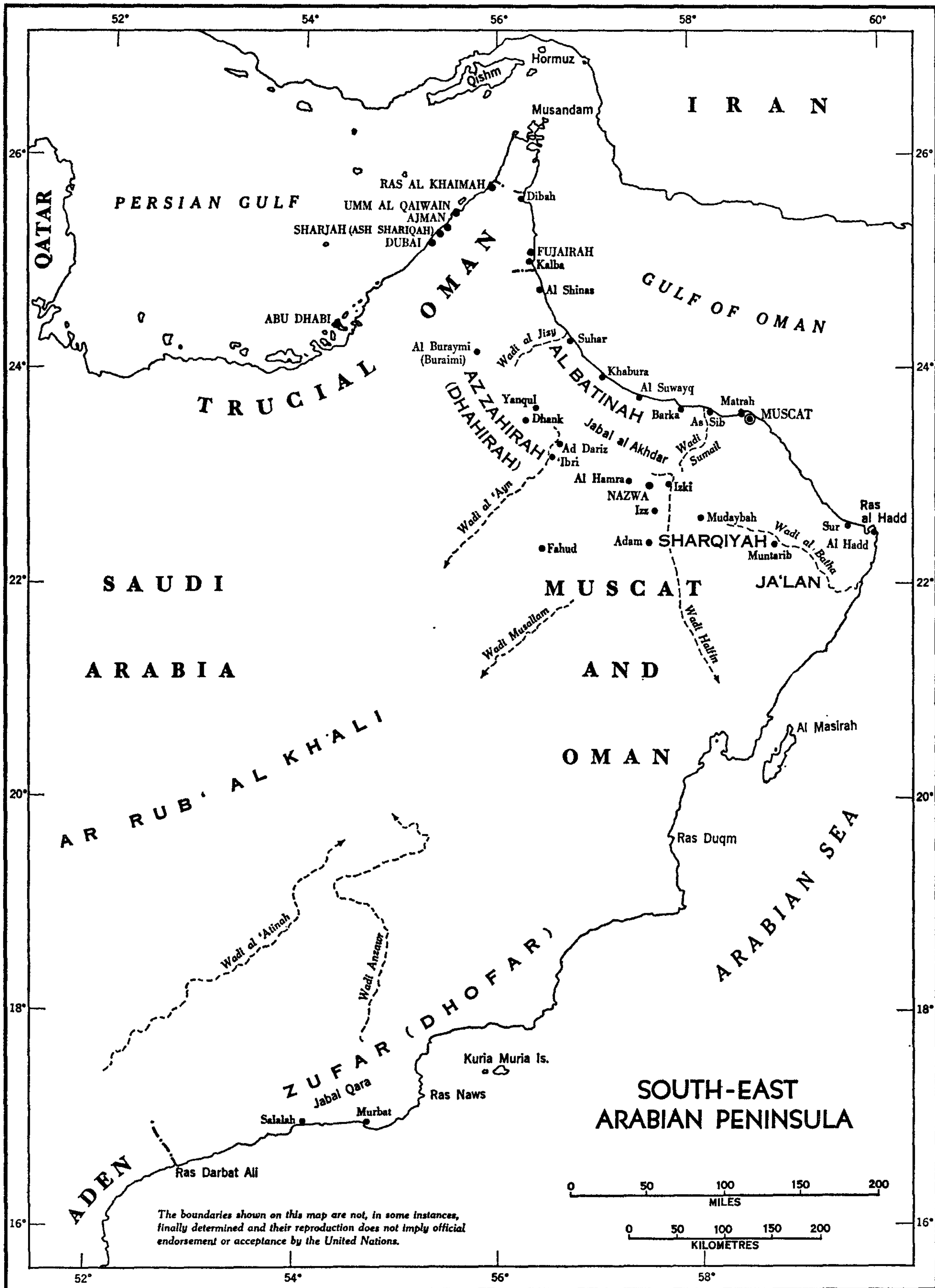
province of Nazwa, another in the province of Adam, another in the province of Bali, and another in the province of Ibri. These provinces, like all other provinces, are administered by a *wali* appointed by the Imam of Oman. The Duru tribe is known as a nomadic tribe whose people do not inhabit the cities or the towns, with the exception of the small town of Natgham, which is administratively in the province of Ibri and is 16 kilometres away from the town of Ibri.

ANNEX XVI

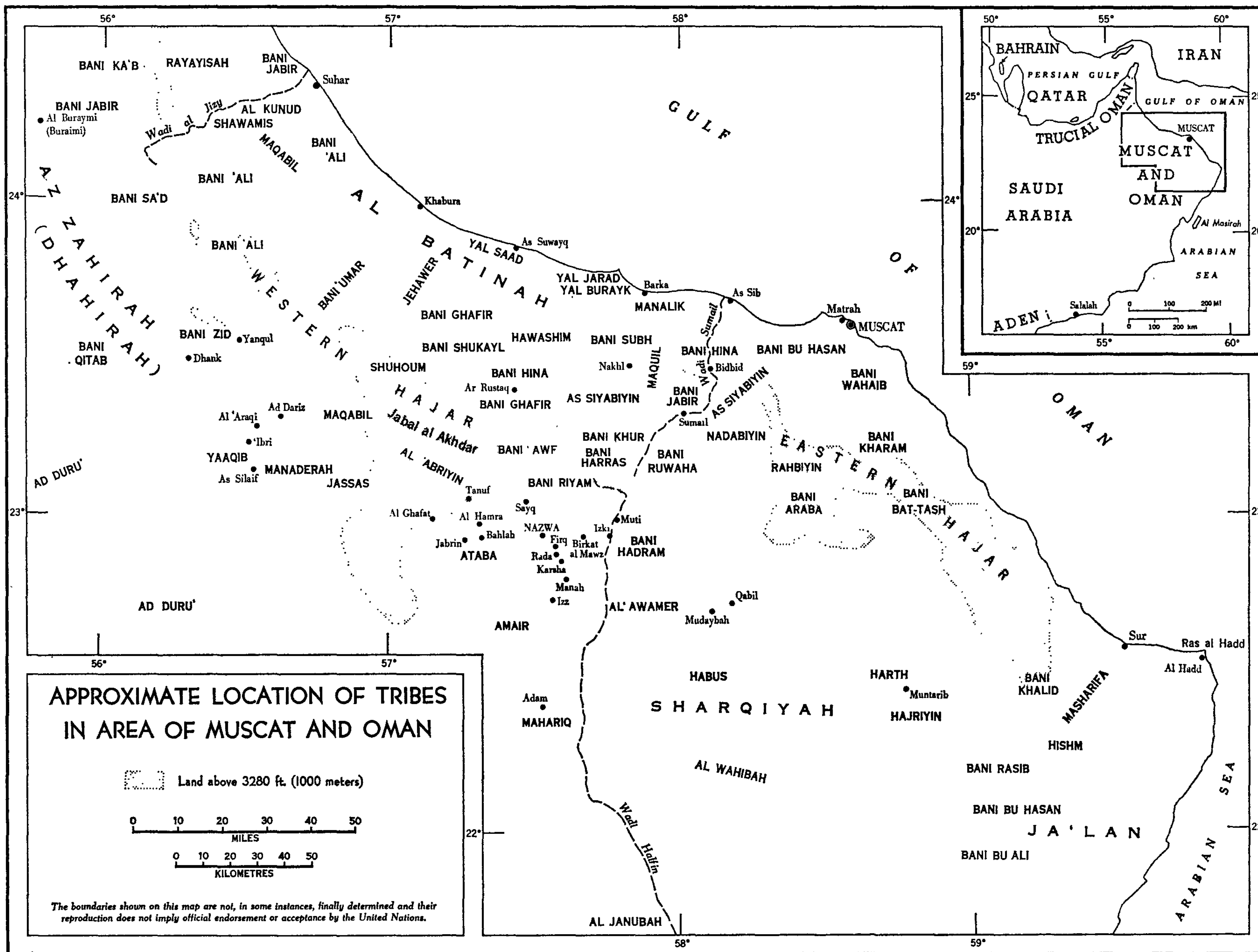
Maps

(As indicated in paragraph 166 of the report, the terminolog used by the Committee in these maps in no way prejudg any of the questions at issue, including the question sovereignty.)

(*See pages 95 and 96*)



MAP NO. 1579 UNITED NATIONS
JANUARY 1965



APPROXIMATE LOCATION OF TRIBES IN AREA OF MUSCAT AND OMAN
Land above 3280 ft. (1000 meters)
0 10 20 30 40 50 MILES
0 10 20 30 40 50 KILOMETRES
The boundaries shown on this map are not, in some instances, finally determined and their reproduction does not imply official endorsement or acceptance by the United Nations.
GULF OF OMAN
AL BATINAH
WESTERN HAJAR
EASTERN HAJAR
AZ ZAHIRAH (DHAHIRAH)
SHARQIYAH
JA'LAN
ARABIAN SEA
AD DURU'
AL WAHIBAH
AL JANUBAH
Jabal al Akhdar
Wadi al Jizy
Wadi Sumail
Wadi Halfin
BANI KA'B
RAYAYISAH
BANI JABIR
AL KUNUD
SHAWAMIS
MAQABIL
BANI 'ALI
BANI SA'D
BANI 'UMAR
JEHAWER
YAL SAAD
YAL JARAD
YAL BURAYK
MANALIK
BANI GHAFIR
BANI SHUKAYL
HAWASHIM
BANI SUBH
MAQUIL
BANI HINA
BANI BU HASAN
BANI WAHAIB
SHUHOUM
AS SIYABIYIN
NADABIYIN
BANI KHUR
BANI HARRAS
BANI RUWAHA
RAHBIYIN
BANI KHARAM
BANI ARABA
BANI BAT-TASH
BANI 'AWF
BANI RIYAM
BANI HADRAM
AL 'ABRIYIN
BANI ZID
BANI QITAB
YAAQIB
MANADERAH
JASSAS
ATABA
AMAIR
AL' AWAMER
HABUS
HARTH
HAJRIYIN
BANI KHALID
MASHARIFA
HISHM
BANI RASIB
BANI BU ALI
MAHARIQ
Suhar
Al Buraymi (Buraimi)
Khabura
As Suwayq
Barka
As Sib
Matrah
MUSCAT
Nakhl
Bidbid
Sumail
Ar Rustaq
Yanqul
Dhank
Al 'Araqi
Ad Dariz
'Ibri
As Silaif
Tanuf
Al Ghafat
Al Hamra
Bahlah
Jabrin
Sayq
NAZWA
Firq
Birkat al Mawz
Izki
Muti
Rada
Karsha
Manah
Izz
Qabil
Mudaybah
Adam
Muntarib
Sur
Ras al Hadd
Al Hadd
BAHRAIN
PERSIAN GULF
QATAR
IRAN
GULF OF OMAN
TRUCIAL OMAN
MUSCAT AND OMAN
SAUDI ARABIA
Al Masirah
ARABIAN SEA
ADEN
Salalah

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1330th plenary meeting, on 18 February 1965, the General Assembly noted that the report of the *Ad Hoc* Committee on Oman (A/5846) had been received.

CHECK LIST OF DOCUMENTS

ocument No.	*Title*	*Observations and references*
/4521	Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, United Arab Republic and Yemen: request for the inclusion of an additional item in the agenda of the fifteenth session	*Official Records of the General Assembly, Fifteenth Session, Annexes,* agenda item 89
/5149	Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic and Yemen: request for the inclusion of an item in the provisional agenda of the seventeenth session	*Ibid., Seventeenth Session, Annexes,* agenda item 79
/5284	Letter dated 8 November 1962 from the representative of the United Kingdom of Great Britain and Northern Ireland to the President of the General Assembly	*Ibid.*
/5492 and Add.1	Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic and Yemen: request for the inclusion of an additional item in the agenda of the eighteenth session	*Ibid., Eighteenth Session, Annexes,* agenda item 78
/5562	Report of the Special Representative of the Secretary-General on his visit to Oman	*Ibid.*
/C.4/604 and Add.1	Requests for hearings: letter dated 24 September 1963 from Mr. Robert Edwards, M.P., Chairman of the Committee for the Rights of Oman, addressed to the Secretary-General; and enclosed memorandum	Mimeographed
/C.4/619	Telegram dated 26 October 1963 from the Sultan of Muscat and Oman to the President of the General Assembly	*Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 78
/C.4/627	Statement by the representative of Syria at the 1499th meeting of the Fourth Committee	Mimeographed; for summary see A/C.4/SR.1499, paras. 2-24
/C.4/L.783 and Corr.1	Afghanistan, Algeria, Indonesia, Iraq, Jordan, Kuwait, Lebanon, Libya, Mali, Morocco, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia: draft resolution	*Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 78, document A/5657, para. 9
/C.4/L.783/ Rev.1	Afghanistan, Algeria, Indonesia, Iraq, Jordan, Kuwait, Lebanon, Libya, Mali, Morocco, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia: revised draft resolution	*Ibid.,* para. 10
/C.4/L.784	Argentina, Brazil, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Peru, Uruguay and Venezuela: draft resolution	Adopted without change. See *Official Records of the General Assembly, Eighteenth Session, Annexes,* agenda item 78, document A/5657, para. 16
/SPC/59	Letter dated 26 October 1961 from the Permanent Representatives of Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic and Yemen to the Chairman of the Special Political Committee	*Official Records of the General Assembly, Sixteenth Session, Annexes,* agenda item 23
/SPC/62	Cable dated 29 November 1961 from the Sultan of Muscat and Oman to the President of the General Assembly	*Ibid.*
'SPC/73	Letter dated 13 November 1962 from the representatives of Algeria, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia and United Arab Republic to the Chairman of the Special Political Committee	*Ibid., Seventeenth Session, Annexes,* agenda item 79
'SPC/L.67	Afghanistan, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, United Arab Republic, Yemen and Yugoslavia: draft resolution	*Ibid., Fifteenth Session, Annexes,* agenda item 89, document A/4745, para. 5
'SPC/L.78 and Add.1	Afghanistan, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Mali, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia: draft resolution	*Ibid., Sixteenth Session, Annexes,* agenda item 23, document A/5010, para. 10
'SPC/L.88	Afghanistan, Algeria, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Mali, Mauritania, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic, Yemen and Yugoslavia: draft resolution	*Ibid., Seventeenth Session, Annexes,* agenda item 79, document A/5325, para. 8

'inted in U.S.A. 4828—August 1965—2,150

United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 17

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 appointments made by the Secretary-General;
(*e*) United Nations Administrative Tribunal;
(*f*) United Nations Staff Pension Committee

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* Item 70 of the provisional agenda.
For the relevant meeting, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings*, 1328th meeting.

(*a*) Advisory Committee on Administrative and Budgetary Questions

DOCUMENT A/5715

Note by the Secretary-General

[*Original text: English*]
[*24 June 1964*]

1. The rules of procedure of the General Assembly provide that:

"Rule 156

"The General Assembly shall appoint an Advisory Committee on Administrative and Budgetary Questions (hereinafter called the 'Advisory Committee'), with a membership of twelve, including at least three financial experts of recognized standing.

"Rule 157

"The members of the Advisory Committee, no two of whom shall be nationals of the same State, shall be selected on the basis of broad geographical repre-

sentation, personal qualifications and experience, and shall serve for three years corresponding to three financial years, as defined in the regulations for the financial administration of the United Nations. Members shall retire by rotation and shall be eligible for reappointment. The three financial experts shall not retire simultaneously. The General Assembly shall appoint the members of the Advisory Committee at the regular session immediately preceding the expiration of the term of office of the members, or, in case of vacancies, at the next session."

2. The present membership of the Committee is as follows:

Mr. Mohamed Abdel Maged Ahmed (Sudan);

Mr. Jan P. Bannier (Netherlands);

Mr. Albert F. Bender (United States of America);

Mr. Raouf Boudjakdji (Algeria);

Mr. André Ganem (France);

Mr. James Gibson (United Kingdom of Great Britain and Northern Ireland);

Mr. Alfonso Grez (Chile);

Mr. Raúl A. Quijano (Argentina);

Mr. E. Olu Sanu (Nigeria);

Mr. Dragos Serbanescu (Romania);

Mr. Agha Shahi (Pakistan);

Mr. V. F. Ulanchev (Union of Soviet Socialist Republics).

3. At its sixteenth session, the General Assembly, by its resolution 1688 (XVI) of 18 December 1961, appointed Mr. Ahmed, Mr. Grez, Mr. Sanu, and Mr. Serbanescu for three-year terms beginning on 1 January 1962. Since the terms of office of these members of the Committee are due to expire on 31 December 1964, it will be necessary for the General Assembly, at its nineteenth session, to appoint four persons to fill the resulting vacancies. The members so appointed will serve for a period of three years starting on 1 January 1965.

4. At previous sessions, the Fifth Committee, after a secret ballot, has submitted to the General Assembly a draft resolution containing the names of the persons recommended for appointment. It is suggested that a similar procedure be followed at the nineteenth session.

DOCUMENT A/5874

Note by the Secretary-General

[*Original text: English*]
[*8 February 1965*]

1. As indicated in document A/5715, four vacancies have arisen in the membership of the Advisory Committee on Administrative and Budgetary Questions as the result of the expiration on 31 December 1964 of the terms of office of Mr. Mohamed Abdel Maged Ahmed (Sudan), Mr. Alfonso Grez (Chile), Mr. E. Olu Sanu (Nigeria) and Mr. Dragos Serbanescu (Romania).

2. Mr. Paulo Lopes Corrêa (Brazil), Mr. Mohamed Riad (United Arab Republic), Mr. E. Olu Sanu (Nigeria) and Mr. Dragos Serbanescu (Romania) have been proposed for appointment for a period of three years with effect from 1 January 1965.

[*The second part of this document, containing the* curricula vitae *of the candidates, is available in mimeographed form only.*]

(*b*) Committee on Contributions

DOCUMENT A/5716

Note by the Secretary-General

[*Original text: English*]
[*24 June 1964*]

1. The rules of procedure of the General Assembly provide that:

"*Rule 159*

"The General Assembly shall appoint an expert Committee on Contributions, consisting of ten members.

"*Rule 160*

"The members of the Committee on Contributions, no two of whom shall be nationals of the same State, shall be selected on the basis of broad geographical representation, personal qualifications and experience, and shall serve for a period of three years corresponding to three financial years, as defined in the regulations for the financial administration of the United Nations. Members shall retire by rotation and shall be eligible for reappointment. The General Assembly shall appoint the members of the Committee on Contributions at the regular session immediately preceding the expiration of the term of office of the members, or, in case of vacancies, at the next session."

2. The present membership of the Committee is as follows:

Mr. Raymond T. Bowman (United States of America);

Mr. B. N. Chakravarty (India);
Mr. T. W. Cutts (Australia);
Mr. Jorge Pablo Fernandini (Peru);
Mr. James Gibson (United Kingdom of Great Britain and Northern Ireland);
Mr. F. Nouredin Kia (Iran);
Mr. Stanislaw Raczkowski (Poland);
Mr. D. Silveira da Mota (Brazil);
Mr. V. G. Solodovnikov (Union of Soviet Socialist Republics);
Mr. Maurice Viaud (France).

3. At its sixteenth session, the General Assembly, by its resolution 1689/A/(XVI) of 18 December 1961, appointed Mr. Bowman, Mr. Kia, and Mr. Raczkowski for three-year terms beginning on 1 January 1962. Since the terms of office of these members of the Committee expire on 31 December 1964, it will be necessary for the General Assembly, at its nineteenth session, to appoint three persons to fill the resulting vacancies. The members so appointed will serve for a period of three years beginning on 1 January 1965.

4. At previous sessions, the Fifth Committee, after a secret ballot, has submitted to the General Assembly a draft resolution containing the names of the persons recommended for appointment. It is suggested that a similar procedure be followed at the nineteenth session.

DOCUMENT A/5875

Note by the Secretary-General

[*Original text: English*]
[*8 February 1965*]

1. As indicated in document A/5716, three vacancies have arisen in the membership of the Committee on Contributions as the result of the expiration on 31 December 1964 of the terms of office of Mr. Raymond T. Bowman (United States of America), Mr. F. Nouredin Kia (Iran) and Dr. Stanislaw Raczkowski (Poland).

2. The same three persons have been proposed for re-election for a further term of three years with effect from 1 January 1965.

[*The second part of this document, containing the* curricula vitae *of the candidates, is available in mimeographed form only.*]

(*c*) Board of Auditors

DOCUMENT A/5720

Note by the Secretary-General

[*Original text: English*]
[*13 July 1964*]

1. Resolution 74 (I) adopted by the General Assembly on 7 December 1946 provides:

"That in 1947 and every year thereafter, the General Assembly shall appoint an Auditor to take office from 1 July of the following year and to serve for a period of three years."

2. The present membership of the Board of Auditors is as follows:

The Auditor-General (or officer holding the equivalent title) of Colombia;

The Auditor-General (or officer holding the equivalent title) of the Netherlands;

The Auditor-General (or officer holding the equivalent title) of Pakistan.

3. The Auditor-General of the Netherlands was appointed to the Board by the General Assembly at its sixteenth session (resolution 1655 (XVI) of 28 November 1961) for a three-year term which expires on 30 June 1965. Thus the General Assembly will be required at its nineteenth session to fill the resulting vacancy by the appointment of the Auditor-General (or officer holding the equivalent title) of a Member State. The Auditor thus appointed will serve for a period of three years beginning on 1 July 1965.

4. The existing system of external audit involves the provision by members of the Board of Auditors of technical staff from their respective national audit services for the performance of the detailed audit of the accounts, based on an allocation of work agreed upon from time to time among the members of the Board. Under the current arrangements, the Auditor-General of the Netherlands provides the staff for the audit of the United Nations and related accounts at Headquarters, including the accounts of the Expanded Programme of Technical Assistance, the Special Fund and the Suez Canal Surcharge Operation, and the accounts of the International Court of Justice. These audits involve the assignment of ten auditors during two periods in a year for a total of some 110 days; the Auditor-General devotes the equivalent of approximately three months per year to United Nations work.

5. At previous sessions, a draft resolution including the name of a Member State whose Auditor-General (or officer holding the equivalent title) was recommended for appointment has been submitted by the Fifth Committee to the General Assembly. It is suggested that a similar procedure be followed at the nineteenth session.

DOCUMENT A/5876

Note by the Secretary-General

[*Original text*: *English*]
[*8 February 1965*]

1. As indicated in document A/5720, a vacancy will arise on the Board of Auditors as the result of the expiration on 30 June 1965 of the term of office of the Auditor-General of the Netherlands.

2. The Government of Belgium has proposed for appointment the First President of the Belgian Audit Office, and the Government of Czechoslovakia has proposed the Deputy Chairman of the Central Commission of People's Control and Statistics.

(*d*) Investments Committee: confirmation of the appointments made by the Secretary-General

DOCUMENT A/5877

Note by the Secretary-General

[*Original text*: *English*]
[*8 February 1965*]

1. By resolution 155 (II) of 15 November 1947, the General Assembly established an Investments Committee in accordance with the provisions of section 25 of the provisional regulations for the United Nations Joint Staff Pension Scheme and provided, *inter alia,* as follows:

"The normal term of office of a member of the Investments Committee shall be three years, and members shall be eligible for reappointment. At the regular session of the General Assembly each year, the Secretary-General shall submit the appointments which he has made after consultation with the Advisory Committee on Administrative and Budgetary Questions."

2. The General Assembly, at its fifteenth session, approved, *inter alia,* an amendment to article XXV of the Regulations of the United Nations Joint Staff Pension Fund (resolution 1561 (XV), section II, of 18 December 1960), under the terms of which the Investments Committee was enlarged from three to six members.

3. The membership of the Committee at 31 December 1964 was:

Mr. Eugene Black
Mr. Roger de Candolle
Mr. R. McAllister Lloyd
Mr. George A. Murphy
Mr. B. K. Nehru
Mr. Jacques Rueff

4. In accordance with the relevant resolutions of the General Assembly [1728 (XVI) of 20 December 1961, 1794 (XVII) of 11 December 1962 and 1926 (XVIII) of 11 December 1963], by which the appointment of the above-mentioned members by the Secretary-General was confirmed, their respective terms of office all expired on 31 December 1964.

5. With the concurrence of the Advisory Committee on Administrative and Budgetary Questions, the Secretary-General has reappointed the same six members to serve for a further period ending on 31 December 1967. In accordance with the provisions of section 25 of the Provisional Regulations for the Joint Staff Pension Fund, the Secretary-General seeks the General Assembly's confirmation of these appointments.

(*e*) United Nations Administrative Tribunal

DOCUMENT A/5717*

Note by the Secretary-General

[*Original text*: *English*]
[*24 June 1964*]

1. Article 3 (paragraphs 1 and 2) of the Statute of the Administrative Tribunal (General Assembly resolution 351 A (IV) of 24 November 1949) provides that:

"1. The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Only three shall sit in any particular case.

"2. The members shall be appointed by the General Assembly for three years, and they may be reappointed; provided, however, that of the members initially appointed, the terms of two members shall expire at the end of one year and the terms of two members shall expire at the end of two years. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term."

*Incorporating document A/5717/Corr.1.

2. The present composition of the Tribunal is as follows:

Mr. James W. Barco (United States of America);
Mrs. Paul Bastid (France);
The Right Honourable Lord Crook (United Kingdom of Great Britain and Northern Ireland);
Mr. Hector Gros Espiell (Uruguay);
Mr. Louis Ignacio-Pinto (Dahomey);
Mr. Bror Arvid Sture Petrén (Sweden);
Mr. R. Venkataraman (India).

3. At its sixteenth session, the General Assembly, by its resolution 1638 (XVI) of 30 October 1961, appointed Mrs. Bastid and Mr. Venkataraman for three-year terms, beginning on 1 January 1962; at its seventeenth session, the Assembly, by its resolution 1795 (XVII) of 11 December 1962, appointed Mr. Ignacio-Pinto for a period ending on 31 December 1964. Since the terms of these members of the Tribunal expire on 31 December 1964, it will be necessary for the General Assembly at its nineteenth session to appoint three persons to fill the resulting vacancies. The persons so appointed will serve for a period of three years, beginning on 1 January 1965.

4. At previous sessions, the Fifth Committee, after a secret ballot, has submitted to the General Assembly a draft resolution containing the names of the persons recommended for appointment to the Tribunal. It is suggested that a similar procedure be followed at the nineteenth session.

DOCUMENT A/5878

Note by the Secretary-General

[*Original text: English and French*]
[*8 February 1965*]

1. As indicated in document A/5717, three vacancies have arisen in the membership of the administrative Tribunal as a result of the expiration on 31 December 1964 of the terms of office of Mrs. Paul Bastid (France), Mr. Louis Ignacio-Pinto (Dahomey) and Mr. R. Venkataraman (India).

2. The same three persons have been proposed for re-election for a further term of three years with effect from 1 January 1965.

[*The second part of this document, containing the* curricula vitae *of the candidates, is available in mimeographed form only.*]

(*f*) United Nations Staff Pension Committee

DOCUMENT A/5718

Note by the Secretary-General

[*Original text: English*]
[*24 June 1964*]

1. At its sixteenth, seventeenth, and eighteenth sessions, the General Assembly by its resolutions 1690 (XVI) of 18 December 1961, 1796 (XVII) of 11 December 1962, and 1895 (XVIII) of 6 November 1963, appointed the following persons, for terms of office ending on 31 December 1964, as members and alternate members of the United Nations Staff Pension Committee, in accordance with article XXI of the Regulations of the United Nations Joint Staff Pension Fund:

Members:

Mr. Albert F. Bender (United States of America);
Mr. James Gibson (United Kingdom of Great Britain and Northern Ireland);
Mr. Rigoberto Torres Astorga (Chile).

Alternate members:

Mr. Brendan T. Nolan (Ireland);
Mr. Nathan Quao (Ghana);
Mr. Shilendra K. Singh (India).

2. Accordingly, it will be necessary for the General Assembly, at its nineteenth session, to elect three members and three alternate members to the Committee to serve for a period of three years beginning on 1 January 1965.

3. At previous sessions, the Fifth Committee, after a secret ballot, has submitted to the General Assembly a draft resolution containing the names of the persons recommended for appointment. It is suggested that a similar procedure be followed at the nineteenth session.

DOCUMENT A/5879

Note by the Secretary-General

[*Original text: English*]
[*8 February 1965*]

1. As indicated in document A/5718, six vacancies have arisen in the membership of the United Nations Staff Pension Committee as the result of the expiration on 31 December 1964 of the terms of office of Mr. Albert F. Bender (United States of America), Mr. James Gibson (United Kingdom of Great Britain

and Northern Ireland) and Mr. Rigoberto Torres Astorga (Chile) as members, and of Mr. Brendan T. Nolan (Ireland), Mr. Nathan Quao (Ghana) and Mr. Shilendra K. Singh (India) as alternate members.

2. The following persons have been proposed for appointment for a three-year term with effect from 1 January 1965:

Members:

Mr. Albert F. Bender (United States of America);

Mr. James Gibson (United Kingdom of Great Britain and Northern Ireland);

Mr. José Espinoza (Chile).

Alternate member:

Mr. Shilendra K. Singh (India).

3. Candidates have not been proposed in respect of two remaining vacancies in the alternate member category.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1328th plenary meeting, on 10 February 1965, the General Assembly adopted the draft resolutions submitted by the President of the General Assembly on parts (*a*) (A/L.450); (*b*) (A/L.451); (*c*) (A/L.452); (*d*) (A/L.453); (*e*) (A/L.454) and (*f*) (A/L.455). For the final texts, see resolutions 1996 (XIX), 1997 (XIX), 1998 (XIX), 1999 (XIX), 2000 (XIX) and 2001 (XIX) below.

Resolutions adopted by the General Assembly

1996 (XIX). Appointments to fill vacancies in the membership of the Advisory Committee on Administrative and Budgetary Questions

The General Assembly

1. *Appoints* the following persons as members of the Advisory Committee on Administrative and Budgetary Questions:

Mr. Paulo Lopes Corrêa,

Mr. Mohamed Riad,

Mr. E. Olu Sanu,

Mr. Dragos Serbanescu;

2. *Declares* Mr. Corrêa, Mr. Riad, Mr. Sanu and Mr. Serbanescu to be appointed for a three-year term beginning on 1 January 1965.

1328th plenary meeting,
10 February 1965.

* * *

As a result of the above appointments, the Advisory Committee on Administrative and Budgetary Questions will be composed as follows: Mr. Jan P. Bannier (*Netherlands*), Mr. Albert F. Bender (*United States of America*), Mr. Raouf Boudjakdji (*Algeria*), Mr. Paulo Lopes Corrêa (*Brazil*), Mr. André Ganem (*France*), Mr. James Gibson (*United Kingdom of Great Britain and Northern Ireland*), Mr. Raúl A. J. Quijano (*Argentina*), Mr. Mohamed Riad (*United Arab Republic*), Mr. E. Olu Sanu (*Nigeria*), Mr. Dragos Serbanescu (*Romania*), Mr. Agha Shahi (*Pakistan*) and Mr. V. F. Ulanchev (*Union of Soviet Socialist Republics*).

1997 (XIX). Appointments to fill vacancies in the membership of the Committee on Contributions

The General Assembly

1. *Appoints* the following persons as members of the Committee on Contributions:

Mr. Raymond T. Bowman,

Mr. F. Nouredin Kia,

Mr. Stanislaw Raczkowski;

2. *Declares* Mr. Bowman, Mr. Kia and Mr. Raczkowski to be appointed for a three-year term beginning on 1 January 1965.

1328th plenary meeting,
10 February 1965.

* * *

As a result of the above appointments, the Committee on Contributions will be composed as follows: Mr. Raymond T. Bowman (*United States of America*), Mr. B. N. Chakravarty (*India*), Mr. T. W. Cutts (*Australia*), Mr. Jorge Pablo Fernandini (Peru), Mr. James Gibson (*United Kingdom of Great Britain and Northern Ireland*), Mr. F. Nouredin Kia (*Iran*), Mr. D. Silveira da Mota (*Brazil*), Mr. Stanislaw Raczkowski (*Poland*), Mr. V. G. Solodovnikov (Union of *Soviet Socialist Republics*) and Mr. Maurice Viaud (*France*).

1998 (XIX). Appointment to fill a vacancy in the membership of the Board of Auditors

The General Assembly

Appoints the First President of the Audit Office of Belgium as a member of the Board of Auditors for a three-year term beginning on 1 July 1965.

1328th plenary meeting,
10 February 1965.

* * *

As a result of the above appointment, the Board of Auditors will be composed as follows: the First President of the Audit Office of Belgium, the Auditor-General of Colombia and the Auditor-General of Pakistan.

1999 (XIX). Confirmation of the appointments made by the Secretary-General to fill vacancies in the membership of the Investments Committee

The General Assembly

Confirms the appointment by the Secretary-General of Mr. Eugene Black, Mr. Roger de Candolle, Mr. R. McAllister Lloyd, Mr. George A. Murphy, Mr. B. K. Nehru and Mr. Jacques Rueff as members of the Investments Committee for a three-year term beginning on 1 January 1965.

1328th plenary meeting,
10 February 1965.

2000 (XIX). APPOINTMENTS TO FILL VACANCIES IN THE MEMBERSHIP OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL

The General Assembly

1. *Appoints* the following persons as members of the United Nations Administrative Tribunal:

Mrs. Paul Bastid,

Mr. Louis Ignacio-Pinto,

Mr. R. Venkataraman;

2. *Declares* Mrs. Bastid, Mr. Ignacio-Pinto and Mr. Venkataraman to be appointed for a three-year term beginning on 1 January 1965.

1328th plenary meeting,
10 February 1965.

*
* *

As a result of the above appointments, the United Nations Administrative Tribunal will be composed as follows: Mr. James W. BARCO (*United States of America*), Mrs. Paul BASTID (*France*), the Right Honourable Lord CROOK (*United Kingdom of Great Britain and Northern Ireland*), Mr. Héctor GROS ESPIELL (*Uruguay*), Mr. Louis IGNACIO-PINTO (*Dahomey*), Mr. Bror Arvid Sture PETRÉN (*Sweden*) and Mr. R. VENKATARAMAN (*India*).

2001 (XIX). APPOINTMENTS TO FILL VACANCIES IN THE MEMBERSHIP OF THE UNITED NATIONS STAFF PENSION COMMITTEE

The General Assembly

1. *Appoints* the following persons as members of the United Nations Staff Pension Committee:

Mr. Albert F. Bender,

Mr. José Espinoza,

Mr. James Gibson;

2. *Appoints* the following person as an alternate member of the United Nations Staff Pension Committee:

Mr. Shilendra K. Singh;

3. *Declares* Mr. Bender, Mr. Espinoza, Mr. Gibson and Mr. Singh to be appointed for a three-year term beginning on 1 January 1965.

1328th plenary meeting,
10 February 1965.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/INF/107	Note by the Secretary-General transmitting the annual note by the Administrative Tribunal to the President of the General Assembly	Mimeographed
A/L.450	Draft resolution submitted by the President of the General Assembly	Adopted without change. See above "Action taken by the General Assembly", resolution 1996 (XIX)
A/L.451	Draft resolution submitted by the President of the General Assembly	*Idem*, resolution 1997 (XIX)
A/L.452	Draft resolution submitted by the President of the General Assembly	*Idem*, resolution 1998 (XIX)
A/L.453	Draft resolution submitted by the President of the General Assembly	*Idem*, resolution 1999 (XIX)
A/L.454	Draft resolution submitted by the President of the General Assembly	*Idem*, resolution 2000 (XIX)
A/L.455	Draft resolution submitted by the President of the General Assembly	*Idem*, resolution 2001 (XIX)

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United Nations

GENERAL ASSEMBLY

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ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 18

Report of the United Nations Joint Staff Pension Board*

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* Item 76 of the provisional agenda.

For the relevant meetings, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings*, 1327th, 1328th and 1330th meetings.

DOCUMENT A/5819**

Report of the Advisory Committee on Administrative and Budgetary Questions

[*Original text: English*]
[*30 November 1964*]

1. The Advisory Committee on Administrative and Budgetary Questions has considered the annual report of the Joint Staff Pension Board (A/5808), which contains, in addition to the usual statistical and financial information relating to the operation of the Fund during the year ended 30 September 1963, and the report of the Board of Auditors thereon, several recommendations for action by the General Assembly which were formulated by the Joint Staff Pension Board at its twelfth session held in Paris from 13 to 24 July 1964. The Advisory Committee considered in conjunction with this report a statement by the Secretary-General (A/C.5/1020) on behalf of the executive heads of the member organizations of the Fund (with the exception of the International Civil Aviation Organization (ICAO), whose Council has still to consider the matter) relating to the two principal recommendations of the Board, and reports by the Fund's consulting actuary, and the Committee of Actuaries appointed by the Secretary-General to advise the Board, on four alternative actuarial valuations of the Fund carried out during 1964.

2. The recommendations for which the approval of the General Assembly is requested by the Board may be summarized as follows:

(*a*) A change in the level of base pensionable remuneration from the present mid-point between the gross and the net salary, known as half-gross to the gross salary level;

(*b*) A systematic arrangement for the adjustment of pensions in payment, based on cost-of-living movements as reflected in the post adjustment element in the pensionable remuneration of serving staff in the Professional category, to replace the 1 per cent per annum increase which has been authorized by the General Assembly as a provisional measure during the last three years;

(*c*) A change in the conditions of eligibility for benefits of the widowers of deceased female participants or pensioners;

(*d*) An increase in minimum pensions;

(*e*) Certain minor amendments to the Regulations designed, in the main, to reduce hardship in certain eventualities and having no significant cost implications.

Level of pensionable remuneration

3. The proposal to raise the level of pensionable remuneration from the half-gross to the full-gross basis rests essentially on the conclusion reached by the Pension Review Group in 1960, that there is "a clear case in principle for using a 'gross' scale for pension purposes . . . ".[1] The Pension Review Group considered it an anomaly that in the United Nations family of organizations, pensions were based on a net salary exempt from tax whereas the pensions themselves were subject to tax. At the same time, outside these organizations, pensionable remuneration was normally, and probably invariably, based on gross pay.

4. The Pension Review Group was, however, unable to recommend the immediate implementation of the full-gross formula largely because only two organizations (United Nations and ICAO) applied a gross salary system and because it considered that their gross scales at that time would be too high as the base for pensionable remuneration having regard to comparable outside gross levels. It accordingly recommended a move from

** Incorporating document A/5819/Corr.1.

[1] *Official Records of the General Assembly, Fifteenth Session, Annexes*, agenda item 63, document A/4427, para. 88.

net to half-gross (mid-way between gross and net) "leaving the complete achievement of a full gross basis until such time as the gross salary system is more of a reality than it is at present . . . ".[2]

5. The Advisory Committee notes that the imperfections referred to by the Pension Review Group have largely been removed and it consequently agrees that the gross basis now appears appropriate for pensions, provided that gross salaries are kept under review to ensure that they remain in line with outside gross remuneration in the main Headquarters areas. The Committee's comments on the financial and budgetary aspects of the proposed change are to be found in paragraphs 9-12 below.

Adjustment of pensions in payment

6. The Advisory Committee notes the detailed study which has been given to this complex subject by the Board since 1960, when attention was focused on its importance by the Pension Review Group. The complexities are due principally to the large number of duty stations at which staff are employed under local conditions, and the fact that changes in cost of living vary, often considerably, from country to country. Furthermore, the extent of future changes is difficult to forecast accurately, so that the cost implications of any scheme must necessarily remain a matter of some uncertainty. The interim increase of 1 per cent per year authorized by the General Assembly in 1962, for the years 1962, 1963 and 1964, is in part a reflection of these factors.

7. The Board now considers that some form of systematic adjustment is necessary—as is the practice of many national governments—to keep the purchasing power of pensions once awarded reasonably abreast of increases in the cost of living. The Board proposes to do this by way of applying to all retired staff a cost-of-living adjustment based on the post adjustments which are incorporated into the pensionable remuneration of serving staff in the Professional and higher categories. This proposal is in a sense a conservative one, implying as it does a considerable time-lag between the increase itself and its reflection in the adjusted pension. The Advisory Committee believes, however, that this goes as far as would be wise until experience permits some practical assessment of the cost of the present proposals. It accordingly supports the proposals of the Board in their present form, and endorses in particular the recommendation that no adjustment should take place beyond 1966 without further review by the General Assembly of the financial situation of the Fund at that time.

Remaining proposals

8. The further proposals of the Board are relatively minor in character and only those relating to dependent widowers and to the minimum level of pensions have any financial significance for the Fund. In regard to the former, the Advisory Committee would be inclined to question whether any change involving dependency should be considered unless and until the Board has examined the possibility of adopting a single definition of dependency for all Pension Fund purposes. In the meantime, it recommends that no change be made to article VII of the Pension Fund Regulations. The proposal to increase minimum pensions is, in effect, complementary to the general adjustment proposals reviewed in paragraph 7 above, since these are not to be applied to pensions computed under the minimum provisions. The Committee considers that the increase recommended is reasonable, having regard to general increases in the cost of living since the minimum provisions were introduced and therefore supports it.

Financial aspects

9. The Board, in consultation with its expert actuarial advisers, has estimated the cost to the Fund of the four proposals reviewed above, in the actuarial sense, to be as follows: (*a*) $36 million in respect of the change to a full gross salary basis for past service; (*b*) $3 million in respect of the adjustment of pensions; (*c*) $2.1 million in respect of dependent widowers (in paragraph 8 above, the Committee has recommended deferment of this proposal); (*d*) $0.9 million in respect of the increase in minimum pensions. The Advisory Committee notes that it is proposed to finance the entire cost of these, which total $42 million, from the present and future resources of the Fund, and in particular from an actuarial surplus, disclosed by the valuation as at 30 September 1963, of some $44.6 million.

10. The Advisory Committee was, at first sight, inclined to question whether the relatively narrow actuarial margin remaining, $2.6 million, represented an adequate safeguard against possibly adverse experience in the future. It ascertained, however, from an examination of the various actuarial reports, that the valuation upon which the above estimates were based was carried out on a conservative basis and is probably not unduly optimistic. The Advisory Committee accepts the view of the Committee of Actuaries, therefore, that the results of the valuation in question represent an adequate degree of caution and leave some provision against possible adverse experience in the future. The Committee consequently has reason to believe that the four measures proposed by the Board can be carried out without significant financial risk. The Committee would, however, emphasize that, as regards the future, it is essential to ensure that the principle of financial self-sufficiency of the Pension Fund is preserved and that nothing should be done which is likely to entail any appreciable risk to its actuarial soundness.

Budgetary implications

11. One only of the four proposals made by the Board has budgetary consequences for the member organizations. This is the proposal for the change in the level of pensionable remuneration, which will have the effect of increasing the amounts represented by the 7 per cent and the 14 per cent of the above which the participants and the member organizations will respectively contribute to the Fund in the future. The annual additional cost is rather more than $2 million, of which the participants' share as a whole is some $700,000, and that of member organizations $1,400,000.

12. It is pointed out by the Board, and the Advisory Committee agrees, that this additional charge is a necessary one if the principle of full gross pensionable remuneration is accepted. In support, the Board draws attention to the fact that the Fund itself will absorb the total capital cost of the measure, from the inception of the Fund in 1946 to 31 December 1964, amounting to some $36 million, so that no increased contributions on a retroactive basis are required. It also points out

[2] *Idem.*, para. 97.

that the longer contributions are made, by both participants and organizations, on less than the full-gross pensionable remuneration basis, the higher the relative capital costs will become and that a point could soon be reached when these costs would exceed the Fund's own resources.

DOCUMENT A/5820

Report of the Advisory Committee on Administrative and Budgetary Questions

[*Original text: English*]
[*30 November 1964*]

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Joint Staff Pension Board (A/5808) and, more particularly, the proposals in respect of which the Board is seeking the approval of the General Assembly. The Committee's comments and recommendations on these proposals are contained in document A/5819.

2. Of the proposed changes which are endorsed by the Advisory Committee, one alone has budgetary consequences for member organizations.

3. In paragraph 11 of document A/5819 it is explained that the adoption of the full gross basis for pensionable remuneration will involve increased contributions from 1 January 1965 amounting to rather more than $2 million per annum, of which one-third will be borne by participants (approximately $700,000), and two-thirds by member organizations (some $1.4 million).

4. In document A/C.5/1020, the Secretary-General indicates that of the total of $1.4 million to be borne by the member organizations, $647,000 would be a charge to the United Nations. This figure will, however, be reduced to $640,500 if the General Assembly approves the reductions recommended by the Advisory Committee under section 3 (Salaries and wages) of the 1965 budget estimates.[3]

5. As the Advisory Committee has recommended (A/5819, para. 2) that the General Assembly approve, *inter alia,* the proposed move to full-gross salaries as the basis for pensionable remuneration, it now further recommends that the General Assembly approve an additional credit in the amount of $640,500 for 1965, distributed among the relevant budget sections as follows:

	$
Section 4. Common staff costs	609,800
Section 19. United Nations Field Service	10,500
Section 20. Office of the High Commissioner for Refugees	16,000
Section 21. International Court of Justice	4,200
	640,500

[3] *Ibid., Nineteenth Session, Supplement No. 7* (A/5807), paras. 123-167.

DOCUMENT A/C.5/1020

Note by the Secretary-General

[*Original text: English*]
[*25 November 1964*]

1. In the report of its twelfth session (A/5808, paras. 18-38 and annex IV), the Joint Staff Pension Board makes a number of recommendations for changes in the Joint Staff Pension Fund. In so far as those recommendations relate to matters which are governed by the Regulations of the Fund, neither the Secretary-General nor his colleagues on the Administrative Committee on Co-ordination (ACC) wish to comment; the recommendations were unanimous and were supported by the representatives of the executive heads. However, two of the recommendations have administrative and budgetary implications going beyond the Regulations of the Fund, and on these the Secretary-General, in agreement with ACC, wishes to make certain observations.

Pensionable remuneration

2. The most important of these recommendations is the proposal that pensionable remuneration should henceforth be based on the amount of the gross salary and that benefits for staff retiring after the operative date (apart from the cash withdrawal settlement) should be calculated as though this had always been the case (*ibid.*, para. 20 and annex IV, chapters I and II). The Secretary-General and his colleagues on ACC endorse this unanimous proposal of the Board.[4]

3. The intrinsic merits of the question of basing pensions on gross pay were thoroughly examined in 1959-1960 by the Pension Review Group, which concluded that a gross basis should be used. The move to "half-gross" was intended to be only an interim measure pending certain changes in the staff assessment system which have now been accomplished. ACC accordingly agrees with the Joint Staff Pension Board that, if the gross basis is adopted, there will be a continuing need to ensure, on the occasion of salary reviews, that United Nations staff assessment rates are such that the corresponding United Nations gross salaries are appropriate for pension purposes. The International Civil Service Advisory Board will be asked to consider the matter.

4. In ACC's view, existing gross salaries are reasonable for pension purposes in relation to outside tax rates. In commenting on the report of the Pension Review Group in 1960 ACC pointed out that since the

[4] The Secretary-General of ICAO has reserved his position on the level of pensionable remuneration, pending a pronouncement on this matter by the ICAO Council.

pensionable scales for virtually all staff in the Professional and higher categories had remained unchanged between 1950 and 1960, there was a clear case for arguing that the post adjustment element should be reflected in pensionable remuneration, not merely to the extent of its movement since 1956—namely, 5 per cent as proposed by the Pension Review Group—but to the extent of its movement since 1950, which was 15 per cent. ACC then agreed that, having regard to financial and other circumstances, the proposal to use only the movement since 1956 was acceptable if the principle of a gross base level was recognized.[5]

5. The executive heads recognized that payment of future pensions contributions on the basis of full gross salaries would lead to additional budgetary charges. Over all the organizations these would amount in 1965 to approximately $1.4 million, of which $647,000 would relate to the United Nations; additional contributions by all participants would amount to some $700,000, of which approximately $308,000 would be payable by United Nations personnel. It should be stressed, however, that the whole of the capital costs—which amount to $36 million in the actuarial sense—can be met from existing surpluses in the Fund. These capital costs increase with each year that the move to full gross is deferred. (The move to half gross in 1961 was estimated to cost $14 million with an interest rate of 3 per cent).[6] There are therefore evident financial reasons for moving to full gross now rather than later.

Adjustment of pensions

6. The Board proposes that with effect from 1 January 1965 the present provisional scheme by which pensions are increased after award by 1 per cent compound per annum should be replaced by a new system (document A/5808, paras. 22-33, and annex IV, chapter III). Under the scheme proposed there would in effect be an annual review of the level of pensions in payment in relation to movement of cost of living. The amount of any pensions adjustments would, broadly speaking, be proportional to any improvement which had occurred during the previous year in the final average remuneration of serving staff in so far as that improvement was attributable to increases in the cost of living as reflected on a world-wide basis by the move of the weighted average of post adjustments. In principle a decrease in the weighted average should result in a corresponding downward adjustment in pensions, though this reduction would never in itself lead to a reduction in the pension which would have been payable had there been no scheme of adjustments at all.

7. ACC agrees that the proposed system is reasonable. It is simple to administer. ACC observes, however, that since the final average is calculated over a period of five years, it is always lagging behind the cost of living if the latter is rising.

8. Should the General Assembly adopt the proposal that pensionable remuneration be henceforth based on the amount of gross salaries (see paragraphs 2 to 5 above), an additional credit in the amount of $647,000 would be required for 1965, distributed among the relevant budget sections as follows:

	$
Section 4. Common Staff Costs	616,300
Section 19. United Nations Field Service	10,500
Section 20. Office of the High Commissioner for Refugees	16,000
Section 21. International Court of Justice	4,200
	647,000

[5] *Ibid., Fifteenth Session, Annexes*, agenda item 63, document A/4468 and Add.1, paras. 8 and 9.

[6] *Ibid.*, document A/4427, para. 61.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1328th and 1330th plenary meetings, on 10 and 18 February 1965, the General Assembly adopted the draft resolution submitted by the Secretary-General (A/L.457 and Corr.1). For the final text, see resolution 2007 (XIX) below.

Resolution adopted by the General Assembly

2007 (XIX). REPORT OF THE UNITED NATIONS JOINT STAFF PENSION BOARD

The General Assembly

Having noted the report of the United Nations Joint Staff Pension Board (A/5808) and the comments thereon by the Secretary-General and the executive heads of the other member organizations (A/C.5/1020),

Having noted the statement of the Secretary-General at the 1327th plenary meeting of the General Assembly, on 8 February 1965,

Recalling the terms of the authorization given to the Secretary-General in General Assembly resolution 2004 (XIX) of 18 February 1965, and under those same terms,

I

Pensionable remuneration of the staff

1. *Decides* that, for the purpose of article I.3 of the Regulations of the United Nations Joint Staff Pension Fund, the pensionable remuneration of United Nations staff shall, with effect from 1 March 1965, consist of the sum of:

(*a*) The amount of the salary of the official established in accordance with regulation 3.1 of the Staff Regulations of the United Nations and adjusted, in the case of staff in the Professional category and above who are subject to the post adjustment system under annex I of the Staff Regulations, in multiples of 5 per cent whenever the weighted average of the post adjustment classifications of the headquarters and regional offices of the member organizations varies by 5 per cent measured from 1 January 1962; such adjustments shall be effective from the 1 January following the date on which each 5 per cent variation in the weighted average was accomplished;

(*b*) The amount of any personal allowance to which the official may be entitled under staff rule 103.10;

(*c*) The amount of any non-resident's and/or language allowance payable to the official after the deduction for staff assessment;

2. *Recommends* that, in the interest of maintaining the common system of salaries, allowances and conditions of service, the other member organizations of the Fund should take appropriate action to ensure that the pensionable remuneration of their staff is brought into conformity with that of United Nations staff as of the same date;

II

Application of pensionable remuneration to future and current benefits

1. *Decides* that benefits which accrue on or after 1 March 1965 shall, subject to article X.4 of the Regulations of the United Nations Joint Staff Pension Fund, be calculated as though the pensionable remuneration had at all times been established in accordance with section I above, save that:

(*a*) In the case of staff in the Professional and higher categories, between 1 January 1959 and 31 December 1961 pensionable remuneration shall, in accordance with General Assembly resolution 1310 (XIII) of 10 December 1958, be deemed to have been increased during such period by an additional 5 per cent;

(*b*) The language allowance shall be deemed to have been included in the pensionable remuneration before 1 March 1965 at the rate applicable before the deduction for staff assessment;

2. *Decides* that benefits which accrued before 1 March 1965 shall be recalculated in accordance with paragraph 1 above and shall accrue in the recalculated amounts with effect from that date, save that no additional entitlement shall accrue in respect of any benefit of which payment was received as a lump sum except in so far as a part remains which is payable in the form of a periodic benefit, and in respect of that part in the proportion which it bears to the benefit as originally calculated.

1328th and 1330th plenary meetings,
10 and 18 February 1965.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5808	Annual report of the United Nations Joint Staff Pension Board	*Official Records of the General Assembly, Nineteenth Session, Supplement No. 8.*
A/L.457 and Corr.1	Draft resolution submitted by the Secretary-General	Adopted without change. See above "Action taken by the General Assembly", resolution 2007 (XIX). The text of the resolution appears also in *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15.*

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United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 19

United Nations International School: report of the Secretary-General*

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* Item 77 of the provisional agenda.

For the relevant meeting, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings*, 1327th and 1328th meetings.

DOCUMENTS A/5834 AND ADD.1

Report of the Secretary-General

[*Original text: English*]
[*9 December 1964*]

DOCUMENT A/5834

1. Last year the General Assembly, noting the action taken by the Board of Trustees, with the assistance of the Secretary-General, to provide for a permanent building to house the United Nations International School, took a major step in advancing plans for the School. In its resolution 1982 (XVIII) of 17 December 1963, the General Assembly appealed to Governments of Member States to take such measures as they might consider necessary to ensure that voluntary contributions for building and endowing the International School would be forthcoming at the earliest possible date from appropriate sources, governmental or non-governmental. The discussion leading to this resolution indicated the widespread conviction that this School is necessary to facilitate the recruitment and retention of qualified international staff.

2. As reported by the Board of Trustees (see annex to this document), this action laid the groundwork for renewed efforts with foundations as well as an appeal addressed to Governments by the Secretary-General on 10 January 1964. On 19 September 1964, the Secretary-General was informed that the Ford Foundation would be prepared to make a grant of up to $7.5 million to cover the cost of building and equipping the new School if it could receive assurances that the United Nations attached real importance to this project and expressed in a tangible way the support of the Member States. The Foundation indicated its concern that the question of the site should be satisfactorily resolved and that an endowment fund should be established adequate to ensure the School's independence.

3. The Secretary-General agrees with the Board of Trustees that this generous offer represents the "break-through" sought for the past five years. It is important that the remaining problems should be solved at the earliest possible date. The first of these, the question of the site, has proved to be more intransigent than either the Secretariat or the Board of Trustees had believed possible. The Physical Planning Committee appointed by the Board, together with the architect and the chief engineer of the United Nations, examined over an extended period all sites available on the East Side of Manhattan within a reasonable distance of the United Nations Headquarters. In this quest, the Board had the assistance of the Mayor of New York City and the President of the Borough of Manhattan, as well as experienced real estate firms. In its 1963 report, the Board reported to the Secretary-General that it had acquired during April a site at 89th Street and York Avenue. This site comprised 34,500 square feet and was adequate for a School for 750 children.[1] In September 1963, a new survey of United Nations staff members indicated that it would be much more realistic to plan for 1,000 children if the School was to be adequate for a decade. Since the site on 89th Street was considered inadequate for a School of this capacity, the Board reported to the Secretary-General in November that it was engaged in negotiations to acquire an adjacent parcel of land. Unfortunately, negotiations for the required additional land broke down completely early in 1964 and the whole question had to be reconsidered. Further explorations revealed no available site in East Manhattan which was adequate and within the financial possibilities of the Board.

4. It was in these circumstances that the Secretary-General decided to reconsider an earlier idea, namely, the construction of the School at the north end of the

[1] *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 68, document A/5607, annex, para. 3.

United Nations Headquarters site. The United Nations architects, Harrison and Abramovitz, who have also been retained as the architects for the School, after re-examining this proposal, reported favourably on the feasibility of building the United Nations International School in the area north of the 47th Street gate. As the model now under preparation will show, the building will harmonize with the whole United Nations complex and, indeed, add to its attractiveness. It would be a building of three storeys, including libraries, laboratories, art studios, an auditorium, lecture and meeting rooms, workshops and cafeteria in the main building, with four classroom wings or bays for the junior, primary, secondary and tutorial groups. Owing to the contours of the land, the building would be barely visible from the General Assembly building and most of the trees could be preserved. The existing lawn and rose gardens would not be disturbed nor would the schoolchildren have access to the park. A gymnasium and swimming-pool would provide opportunities for physical education and recreation, and the children could be transported by bus to playing fields, a practice of most urban private schools.

5. An important by-product of having the School on the Headquarters site would be the study and recreational facilities which would thus be made available to delegations and staff. Modern language laboratories and ample classroom space would enable the extensive United Nations language training courses, which begin at 6 p.m., to be accommodated much more adequately than at present. These arrangements, together with the possible accommodations the proposed School complex would provide for some forty United Nations clubs, would appreciably ease the critical situation with regard to space and security, which exists in the Secretariat and Conference buildings. In addition, the auditorium, swimming-pool and gymnasium would be available, after school hours and during week-ends, for the use of delegates and staff.

6. The advantages that would result for the staff from the proximity of the School and the attendant recreation facilities are obvious. The possible disadvantages have, however, not been overlooked. The School must be protected from too many visitors; at the same time, the legitimate interest of educators from all parts of the world must be encouraged. Modern closed-circuit television and one-way vision glass for certain rooms could solve this problem. The children could certainly be kept out of the United Nations Secretariat and Conference buildings by organized after-school programmes for those who must wait for their parents.

7. It is, of course, of vital importance that the School should be allowed to develop the highest quality of education under the general policies established by the Board of Trustees and administered by the Director and faculty. It is for this reason that the Secretary-General fully agrees with the opinion expressed many times by the General Assembly and underlined by the Board of Trustees and the Ford Foundation that the School must have an endowment or development fund adequate to ensure its financial independence. As indicated in paragraph 40 of its report, the Board of Trustees believes that such a Fund should reach a level of not less than $3 million to ensure an annual income approximating $150,000. This would allow a scholarship fund of $75,000, about two and one-half times the present level. This has been calculated to take account of the expansion to 1,000 of the present student body and also to allow bursaries for children whose United Nations parents are not entitled to the United Nations education grant. As pointed out in the Secretary-General's report in 1963, many of these parents are international by language and culture but have been recruited locally. They strongly desire an international education for their children.

8. The other $75,000 in income would be applied to measures for improving the quality of education. Income from tuitions at the present level of fees ($1,000 for secondary and $800 for primary children) cannot support the essential curriculum research, the preparation of international teaching materials, staff training opportunities, and a broadening of the base of recruitment of teachers which the Board believes desirable.

9. Against the $3 million required, the Board has reported cash gifts and pledges amounting to $963,000; of this amount $75,878 has been pledged or paid by ten Governments in response to the General Assembly resolution and the balance has come from individual and foundation gifts. The Board indicates that some other smaller foundations have expressed interest and it is estimated that approximately an additional $1 million may be raised from such sources, given some time and further efforts by the Development Fund Committee.

10. The Secretary-General agrees with the Board that a significant part of the balance for the Development Fund should come from Governments. This is important not only from the point of view of realizing in a tangible way the responsibility of Governments for the education of the children of their nationals serving the United Nations abroad but also of ensuring the truly international character of this enterprise. The value of the site plus at least $1 million in contributions from United Nations Members would represent a substantial United Nations counterpart to the Ford Foundation gift.

11. The best method of achieving this goal must be carefully weighed by the General Assembly. The Secretary-General expressed his view last year that "a greater effort is required on the part of Member States, on a voluntary basis, to solve this problem".[2] As the record shows, the results of this effort have so far been meagre. The General Assembly since 1949 has made subventions to the School to pay rental costs and to liquidate operating deficits. These grants, made from the regular budget, have ranged from $7,400 in 1952 to $100,000 in 1959. A grant of $1 million to the Development Fund to be paid over a four- or five-year period would, of course, share the burden equitably and would represent a capitalization of the annual subsidy in order to achieve financial viability for the School. If the efforts are to be continued on a voluntary basis, new and vigorous action must be taken by each Government concerned in the solution of this problem of the education of United Nations children. The Secretary-General would suggest a specific pledging date geared to discussion of this question in the General Assembly with the hope and expectation that Members will be prepared to make the effort necessary to resolve this problem of the Development Fund in time to allow construction to begin in the spring of 1965.

12. While the main preoccupations of the School authorities during the past year have been the plans

[2] *Ibid.*, document A/5607, para. 7.

for the permanent School and its financing, it is also called to the attention of the General Assembly that the estimated deficit for the current school year is $45,000. As long as the Development Fund is so far from its goal and present inadequate premises will not permit significant expansion in the number of pupils, there will continue to be an operating deficit unless fees are substantially increased, a course the Board deems unwise and undesirable before the new building is completed. In 1963, the General Assembly decided to contribute $35,000 against an estimated deficit of $36,000 and also contributed to the International School Fund $20,000 for advancing plans for the new School as well as authorizing a carry-over of $18,700 from previous grants. The Secretary-General hopes that the General Assembly will find it possible to make an appropriate grant to the Fund for 1965 to cover the operating deficit.

13. The Secretary-General wishes to express his gratitude to all those members of the Board of Trustees and volunteers who have worked untiringly for the realization of this project. Now that the generous offer of the Ford Foundation has brought the goal within reach, he hopes that the General Assembly will take all necessary steps to bring the matter to a successful conclusion.

ANNEX

Report of the Board of Trustees of the United Nations International School

General

1. The Board of Trustees of the United Nations International School[a] is pleased to present through the office of the Secretary-General, for the information of the General Assembly, the following report on the School's development and progress during the past year.

2. The School continued to concern itself in improving its usefulness to the United Nations international staff and members of delegations. Every effort was made to accept during the course of the academic year the children of parents taking up new appointments with the United Nations or the delegations. This resulted in special programmes of individualized courses to bring such children up to the requirements in the International School wherever necessary. While this service places a heavy burden on the School and its resources, it is one which the Board feels must be provided in the special circumstances of recruitment and movement of international and diplomatic staff. During the academic year 1963-1964, sixteen new children were admitted and twenty-three children graduated or transferred to other schools. In the case of separating children, special tuition was provided, when requested by the parents, to enable the children to fit into the national system to which they were returning.

3. Another service which the Board has encouraged the Director to pursue is the provision of classes in the mother-tongue languages. Such classes are at present being given in Arabic, Chinese, Danish, Hindi and Spanish. Other classes are being set up as the demand arises. The School has also striven to set high scholastic standards to enable students, on separation, to move with relative ease into the higher educational system in their own countries. The Director is consciously attempting to formulate a curriculum which will in time set a standard for international education.

4. The international character of the School has been maintained and to some extent enhanced. Teachers have been drawn from seventeen countries.[b] Although the recruitment of teachers on an international basis has resulted in some instances in extra expenditure in terms of travel, allowances and other privileges, it was felt important that the School should have direct knowledge of and contribution from other educational systems if it is to build up international standards. The student body also reflects the international character of the School which on 1 October 1964 comprised 568 children of sixty-eight nationalities.

5. The Board accepted with regret the resignation of the Director, Mr. Aleck Forbes, who retired to New Zealand at the end of August after three years of service in which he made important contributions to the administrative efficiency and growth of the School. At its June meeting, the Board appointed Mr. Desmond Cole, an educator with valuable experience in British schools and in international schools in Brazil, as Director. He took up his appointment on 1 September 1964.

6. The major concern of the Board aside from its general responsibility for the policies and operation of the School has, of course, continued to be the planning of the future permanent premises for the School and the fund-raising efforts required to make these plans a reality. The Board is pleased to report that in its view these efforts are nearing a successful conclusion. A detailed account of the progress in this sector is given at the end of this report (paragraphs 31-43).

Development of the School in 1964

7. The end of the academic year, 1963-1964, saw ten graduates from the School moving into universities which included Boston, Johns Hopkins, Tufts and New York Universities, Reed College in Oregon, Barnard College of Columbia University and the American University of Beirut. The acceptance of these graduates by such well-known universities is, in the view of the Board, indicative of the standard of education achieved by the School at the senior secondary level.

8. The 1964-1965 school year has commenced with an enrolment of 568 made up of 239 secondary and 329 primary students. Of the total enrolment 400 students are in Manhattan and 168 in the Parkway Village Branch.

9. The 1964-1965 student body can be classified as follows: 280 from Secretariat families; 41 from delegation families; 57 of international origin not directly connected with the United Nations; 190 local United States families.

10. The increase in numbers since the 1963-1964 school year has taken place in the Manhattan secondary division. This has been made possible by the rearrangement of the building to accommodate a reasonable maximum of 575 students, and an absolute physical maximum of 600. A place or two is available at each level for children of representatives arriving in November or December. Otherwise, there are vacancies only in Middle A and Tutorial I, II and III.

11. The number of Secretariat children has increased, while that of delegation children has remained almost stationary. Children of Secretariat and delegation families have been accepted at the School in every month of the year. By deliberate policy of the Board, admission of children of non-United Nations families—both international and local—has been restricted. There were, therefore, no new admissions of local children during 1963-1964, nor will this be possible in future with the present limited accommodation and the demand from United Nations families.

12. Improvements were made in the physical facilities at the Parkway Village Branch which should obviate any basic accommodation problems until the new school is built. Two new classrooms were created in the limited space available in the Manhattan building to meet the demands of increasing enrolment in the higher grades. Sets of improved modern classroom furniture and light-weight collapsible dining room tables were purchased.

13. On the academic side, serious efforts have been made to improve the teaching of English as a foreign language. A teacher of English as a foreign language is giving small group classes in the secondary school.

14. The French first-language programme continues to receive attention. At the Parkway Village Branch, the French

[a] The composition of the Board of Trustees is given in appendix I below.

[b] Australia, Burma, Ceylon, China, Denmark, France, Haiti, India, Ireland, Lebanon, Netherlands, Norway, Spain, Sweden, Turkey, United Kingdom, United States.

first-language classes are conducted in the morning. In the afternoon these students join corresponding-age English language classes. When this class has a French second-language class, the French-speaking child is given a special English lesson by the class teacher. After a few years, during which all the fundamental French language studies are maintained, the student is also facile in the use of the English language, both oral and written. The same bilingual programme is offered at the Manhattan School at the primary level.

15. In addition to French, the other languages offered within the curriculum are Spanish, Greek and Latin. Extra-curriculum courses in Russian and German are given before or after normal school hours. Where there are at least five students and a teacher is available, the School sets up the class and pays for the teaching. If there are less than five students, the School still undertakes to organize a class provided a teacher is available. However, the parents are expected to pay a differential fee.

16. New and experimental courses are being taught in biology and chemistry, while much of the "new math" is being taught in the junior secondary classes. A new process known as the Initial Teaching Alphabet which was invented by Mr. Pitman of shorthand fame and sponsored by the Institute of Education of London University, has been introduced experimentally into one of the Junior A classes at the Parkway Village Branch. The remarkable success of this new system in experiments carried out in the United Kingdom and the New York area and the fact that the Institute of Education of London University has loaned the services of a specially trained and expert teacher to conduct the classes in the International School will undoubtedly create great interest and recognition in the international sphere.

17. As the International School draws pupils from and sends them to many different educational systems, it cannot afford to digress too far from established and generally accepted methods and subject matter. It attempts, therefore, to relate the experimental work closely to what it can determine are the real indicators of change or growth throughout the educational world.

18. The teaching staff is composed of forty-six full-time and seventeen part-time teachers. This is a ratio of approximately one teacher to eleven students. The average salary is $6,700, which is below the public schools' average, but comparable to the private school average. The staff is a dedicated and capable body.

Bursaries and scholarships

19. The bursary and scholarship system of the School continues to play an important role in making the School accessible to children from families at different income levels, but the funds available are still much too inadequate to meet the real needs.

20. For the school year 1963-1964, bursaries and scholarships in a sum of $25,830 were granted to 105 children, representing approximately 20 per cent of the enrolment. Of this amount $15,010 were awarded to children of staff members of the United Nations and members of delegations and $10,820 to children of non-United Nations families. All funds for the latter group were raised through voluntary effort in the community.

21. In the consideration of grants, the Bursary Committee, following the directives of the Board of Trustees, has given a larger amount of grants to the children of those United Nations staff members not entitled to an education grant, in order to make the School financially more accessible to as large a number of children from United Nations families as possible.

22. The financial resources for bursaries and scholarships were to some extent augmented last year through fund-raising activities. The increasing number of applications and the need to broaden the base for award and in some instances to increase the amounts of individual grants make it all the more necessary that new sources of funds should be sought. The Development Fund which is expected to be raised in connexion with the permanent premises for the School should go a long way in meeting this need.

23. For the academic year, 1964-1965 a budget of $27,500 has been earmarked for bursaries and scholarships, of which $17,500 is for children of United Nations families and $10,000 for those of non-United Nations families. Of this amount, $23,270 has already been disbursed in grants.

Financing the operation of the School

24. A table is appended (appendix III) showing the budget estimates for 1963-1964, the actual income and expenditures for that year, and the budget estimates for 1964-1965. The main source of income of the School is from tuition fees and other dues, in which there has again this year been an improvement reflecting the increase in enrolment in the secondary classes of the School. Additional income is derived from donations and fund-raising events. The principal expenditure items are the salaries of teachers and other staff and related expenses. Other main items of expenditure are rentals, maintenance and utility, school lunches, supplies and equipment.

Financial year 1963-1964

25. The budget estimates for 1963-1964 showed an anticipated deficit of $36,000, while the actual deficit as shown by the audit account was $35,578.86. This deficit was met to the extent of $35,000 by a transfer from the International School Fund. As stated in paragraph 46 of this report, an audited statement pertaining to the Special Account of the International School Fund stating the position as at 30 June 1964 is contained in appendix II to the present report.

Financial year 1964-1965

26. The budget estimates for 1964-1965 are based on an average enrolment of 571 pupils, which is slightly higher than the actual enrolment when the school opened in September (568). The total income from tuition fees and other dues, donations and other revenues, such as dividends, is estimated at $525,400, which represents an increase of approximately $32,300 over the income for 1963-1964. On the other hand, the estimated expenditures for 1964-1965, including automatic rebates for multiple enrolment and scholarships, total $570,400, and thus show an increase of $41,300 as compared to the figures for 1963-1964. The increase in income for the current year resulting mainly from higher enrolment, is not quite sufficient, however, to offset the rise in expenditures resulting from the change in Director, the necessary additions to the teaching staff in the secondary school, annual salary increases to teachers and other staff and related expenses.

27. On the basis of the above figures, the anticipated operational deficit for the current school year is estimated at $45,000 as compared to the deficit of $36,000 for 1963-1964, envisaged at this time last year.

Permanent premises for the School

28. It has long been recognized by the Board of Trustees as well as by the General Assembly that a solution to the problem of adequate physical facilities was essential for the future of the School. Last year, the Board reported to the Secretary-General the purchase of property at 89th Street and York Avenue in Manhattan[c] which appeared to be a suitable site for a school of 750 children in April 1963. Preliminary plans were drawn by the architects, Harrison and Abramovitz, and a cost-plan prepared on the basis of which systematic fund-raising efforts could be undertaken.

29. A new questionnaire sent out by the Staff Council, together with the Board of Trustees, in the early autumn of 1963 indicated that an additional 400-500 United Nations children would attend the School if it were financially possible. This led to a re-examination of plans for the new School and it became clear that a projected enrolment of 1,000 children would be more realistic. As the site acquired at 89th Street and York Avenue was on the basis of a school for 750 pupils, the Board was faced with the following courses of action: (*a*) to negotiate for the acquisition of an adjacent block of 15,000 square feet to square off the L-shaped site already acquired; (*b*) to find another site, or (*c*) to build on the L-shaped site by providing more storeys. Although every effort was made, the Board was unsuccessful in its negotiations to

[c] See *ibid.*, A/5607, annex, para. 3.

acquire the adjacent land or to locate a suitable alternative site. In regard to the third alternative, the sketches prepared by the architects, Harrison and Abramovitz, indicated that a building of eight or nine storeys with elevators would be required on the L-shaped site to meet the projected requirements. This was rejected on grounds of functional desirability, appearance and cost.

30. In view of these difficulties, the Secretary-General, on the recommendation of his advisers and the architects, agreed that if the Board approved, he would make an alternative proposal to the General Assembly that the new School should be constructed at the north end of the United Nations premises. This site had been considered for the School when the proposal to build a permanent school was first mooted and had long been considered by many members of the Board to be the best solution to the site problem. The Board therefore unanimously agreed to accept the offer of the Secretary-General to submit the proposal to the General Assembly.

31. The architects have prepared preliminary plans for the School on this site which would provide accommodation for 1,000 pupils in four bays of four classrooms each, linked to a main building consisting of an assembly hall, library, arts centre, students centre, science laboratories, canteen, gymnasium and other requirements of the School programme. All this accommodation would be provided in a low, three-storey building which conforms with the design of the United Nations Headquarters complex.

32. These preliminary plans are now being developed by the architects in consultation with a Physical Planning Committee appointed by the Board, and other Consultants. A model indicating the relation of the School to other buildings of the United Nations complex will be available to the General Assembly by late November.

33. These developments have raised the question of the disposal of the site at 89th Street if the General Assembly should agree to the proposal of the Secretary-General. The Board has under consideration several proposals for the utilization or disposal of the site. Of particular interest is the possibility that the New York City authorities concerned might authorize a middle-income housing project which would be available to United Nations families on a priority basis. This would solve the housing problems of parents now living in the suburbs who wish to enrol their children in the new School in Manhattan, of teachers at the United Nations School and some of the tenants of the present dwelling units on the site.

FINANCING THE PERMANENT SCHOOL

34. By its resolution 1982 (XVIII), the General Assembly requested the Secretary-General to continue to lend his good offices to the Board of Trustees in seeking financial and other assistance from both governmental and private sources for the construction and equipment of an appropriate school building and the creation of an endowment fund. The Assembly appealed for the first time to Governments of Member States to take such measures as they considered necessary to ensure that voluntary contributions should be forthcoming from appropriate sources, governmental or non-governmental.

35. During the early part of 1964, the Board was assisted by a special representative of the Secretary-General in Europe, Mr. Victor Beermann, in approaching European sources, both governmental and non-governmental to obtain voluntary gifts for the School. At the same time, the Chairman of the Board, in the course of her official travels on other United Nations business in Asia and in Africa, took occasion to discuss the question with a number of Governments in those regions. Other Governments have acted on their own initiative in response to the Secretary-General's letter of 10 January 1964 calling attention to the General Assembly resolution and requesting urgent attention to this matter.

36. The Board recognizes that governmental procedures on such questions are necessarily time-consuming but members must confess some disappointment in the meagreness of the results to date—as of 13 October, only nine Governments had made commitments for cash contributions and one other had pledged contributions in kind in the form of building materials or furnishings. On the other hand, many of the Governments visited indicated a strong interest in the project but preferred to wait upon the results of the campaign for non-governmental contributions. A number of European Governments also pointed to the financial responsibilities they had assumed as hosts to international schools within their borders.

37. The campaign among foundations reported last year was intensified under the sponsorship of the Building and Development Fund Committee of the Board of Trustees, which is composed of Mr. Paul Hoffman, Chairman; Mr. Rashid Abdul-Aziz Al-Rashid of Kuwait; Mr. Tore Tallroth of Sweden; Mr. Bruce R. Turner; Miss Julia Henderson and Mrs. Murray Fuhrman. The Committee has been ably assisted by a group of volunteers under the devoted leadership of Mrs. Fuhrman.

38. The most important single development has been the recent decision of the Ford Foundation to allocate up to $7.5 million to this project if the United Nations resolved the problem of the site and the Board raised a substantial Development Fund which would ensure the educational excellence and the financial independence of the School. Such a generous gift would, of course, represent the breakthrough which the Board has sought for several years.

39. As noted in paragraph 30, the Board is of the opinion that only the agreement of the General Assembly to the Secretary-General's proposal to build the School on the United Nations site can provide an adequate answer to the site question. Such a decision would not only provide the land required in mid-Manhattan but would also underscore the support which the Member States give to this project as an essential supporting facility of the United Nations.

40. The question of the Development Fund (or endowment) has also been examined again by the Board in terms of the amount of income required annually to ensure the financial independence of the School. Since it is not feasible to raise net tuition fees for United Nations children who will constitute a growing proportion of the student body and ways must be found to reduce tuition for staff members in lower income brackets, it is estimated that $150,000 annual income will be required to support an adequate scholarship system and provide the type of curriculum research and teacher-training programmes necessary to achieve the highest quality of education possible for this School. It has been agreed that a $3 million capital fund would be required to ensure this income.

41. Of this amount, the Board has been informed by its Development Fund Committee that cash and pledges as of 10 October 1964 amount to $963,000. Having regard to its experience in raising funds, the Board is of the opinion that most of the balance of the Development Fund will have to come from governmental sources, if the final goal is to be achieved. A number of smaller foundations which were approached are having the matter under consideration and are awaiting final word on the site and a new cost plan before making their decision.

42. In light of these extensive changes in plans for the new School, it has, of course, been necessary to revise the cost plans and targets for fund-raising. Although a decision on the use of a portion of the United Nations site would eliminate land cost to the School, there are a number of balancing factors which would increase costs considerably. The most significant of these are factors affecting the cost of the building: the change from 750 to 1,000 students; the requirement that the exterior harmonize with the rest of the United Nations structures; the expansion of recreation facilities required to accommodate needs of the staff and delegations after school hours so that this School may become truly a "community centre" for the United Nations; and the rising cost of construction with each passing year. There has also been a proportionate rise in equipment costs not only for the higher enrolment figures but also in relation to planning for new types of modern teaching aids. Finally, the rise in our target for the Development Fund has been explained above. The new cost plan is therefore:

	United States dollars
Building cost	6,000,000
Equipment and furnishings	1,000,000
Development Fund	3,000,000
	10,000,000

43. In the light of the encouraging news from the Ford Foundation and the funds committed thus far from other private sources, the Board is confident that this target will be achieved in time to see the new School open its doors in September 1966.

INTERNATIONAL SCHOOL FUND

44. In accordance with the Financial Rules for the International School Fund[d] the report of the Board of Trustees shall contain details of the operation of the Special Account for the United Nations contributions to the Fund and shall contain an audited statement thereon.

45. As reported last year, the balance in the Fund on 30 June 1963 was $18,700. At the eighteenth session of the General Assembly, the Fifth Committee decided that this unspent balance should be carried over to 1964, for planning purposes.[e] The General Assembly further decided (resolution 1982 (XVIII)) to contribute $35,000 to the International School Fund towards liquidating the operational deficit anticipated for the school year 1963-1964 and an additional sum of $20,000 for the purpose of advancing plans for the permanent accommodation of the School.

46. An audited statement of the Special Account of the International School Fund is contained in appendix II to the present report, giving the status of the account as at 30 June 1964. As shown by that statement, the total grant of $35,000 was used to liquidate the deficit of the school for the year 1963-1964. Furthermore, the General Assembly grant of $20,000 as well as the unspent balance of $18,700 from last year, for the purpose of advancing plans for the permanent accommodation of the School have been used in full. After meeting these charges, the available balance in the Fund as at 30 June 1964 was $13,300, representing contributions made by the Holy See ($1,000) and New Zealand ($12,300) in response to General Assembly resolution 1982 (XVIII).

Appendix I

COMPOSITION OF THE BOARD OF TRUSTEES AS OF 13 OCTOBER 1964

The Board of Trustees, which is responsible for the policy and the overseeing of the administration of the School, is composed of members chosen in accordance with article IV of the Constitution of the Association for the United Nations International School. Its present membership is as follows:

Dr. Julia Henderson, Director, Bureau of Social Affairs, United Nations, Chairman;

H.E. Mr. B. N. Chakravarty, Permanent Representative of India to the United Nations, Vice-Chairman;

H.E. Mr. Bohdan Lewandowski, Permanent Representative of Poland to the United Nations, Vice-Chairman;

H.E. Mr. Alex Quaison-Sackey, Permanent Representative of Ghana to the United Nations, Vice-Chairman;

H.E. Mr. Roger Seydoux, Permanent Representative of France to the United Nations, Vice-Chairman;

The Hon. Mr. Tore Tallroth, Consul General of Sweden to the United States, Vice-Chairman;

Sir Alexander MacFarquhar, Director of Personnel, United Nations, Vice-Chairman;

Mr. Bruce R. Turner, Controller, United Nations, Vice-Chairman;

Mr. Dudley Madawela, Social Affairs Officer, United Nations, Secretary;

Miss Karen Petersen, Secretary of the Committee on Contributions, Office of the Controller, United Nations, Treasurer;

Mr. Godfrey K. J. Amachree, Under-Secretary for Department of Trusteeship and Non-Self Governing Territories, United Nations;

Dr. Walter Anderson, Dean, School of Education, New York University;

Mr. Irshad H. Baqai, Political Affairs Officer, United Nations;

Dr. Andrew Cordier, Dean, School of International Affairs, Columbia University;

Dr. Pearl Foster;

Mrs. Murray Fuhrman, Chairman, Endowment Fund Committee, UNIS;

Mr. Paul G. Hoffman, Managing Director, United Nations Special Fund;

Mrs. Walker Stuart, Visiting Committee, UNIS.

During the past twelve months three vacancies in the elective offices, which occurred through the expiration of the terms of Mr. Shukri Salameh, Mrs. Murray Fuhrman and Mr. Oliver Weerasinghe have been filled by the election of: Mr. D. Madawela, Mrs. M. Fuhrman and Mr. I. Baqai.

[d] *Ibid., Fifteenth Session, Annexes,* agenda item 61, document A/4541, appendix I.

[e] *Ibid., Eighteenth Session, Annexes,* agenda item 68, document A/5685, para. 7.

Appendix II

INTERNATIONAL SCHOOL FUND

Status Statement of the Special Account for the United Nations and Government contributions to the International School for the fiscal year 1 July 1963-30 June 1964

		United States dollars
Fund balance as at 1 July 1963		18,700.19
Add: Funds provided by:		
United Nations contribution pursuant to General Assembly resolution 1982 (XVIII) for:		
Liquidation of anticipated operational deficit for the 1963-1964 school year	35,000.00	
Advancing plans for the permanent accommodation of the School	20,000.00	55,000.00
Governments' contributions in response to appeal for voluntary contributions contained in General Assembly resolution 1982 (XVIII):		
Holy See	1,000.00	
New Zealand	12,300.00	13,300.00
TOTAL FUNDS AVAILABLE		87,000.19
Less: Funds applied to:		
Subsidy to the Association for the United Nations International School to liquidate the operational deficit for the year ended 30 June 1964	35,000.00	
Expenditures in connexion with permanent accommodations	38,700.19	73,700.19
Fund balance as at 30 June 1964		13,300.00

Appendix II (*continued*)

Assets of the Fund:

	United States dollars
Cash in bank—Chemical Bank New York Trust Company	1,000.00
Due from the United Nations General Fund	12,300.00
Fund balance as at 30 June 1964	13,300.00

AUDIT CERTIFICATE

I have examined the above statement of status of the Special Account for the United Nations and Government contributions to the International School. In the course of conducting my examination, I obtained all the information and explanations which I required, and, as a result of the audit performed, I certify, that in my opinion, the above statement is correct as presented.

(*Signed*) Donald R. LA MARR
Auditor

Appendix III

BUDGET ESTIMATES FOR 1963-1964 AND 1964-1965

	Budget estimates 1963-1964	*Actual income and exptnditures 1963-1964*	*Budget estimates 1964-1965*
		(In U.S. dollars)	
Income:			
Gross tuition fees[a]	483,100	484,600.00	509,300
Donations and other income[b]	10,000	12,978.80	16,100
	493,100	497,578.80	525,400
United Nations grant (GA resolution 1982 (XVIII))	35,000	35,000.00	
TOTAL	528,000	532,578.80	525,400
Expenditures:			
Staff costs and related expenses[c]	404,000	405,468.29	444,000
Rentals[d]	31,000	30,880.00	31,000
Maintenance[e]	12,500	12,682.50	10,500
Supplies and equipment[f]	18,000	14,762.10	18,000
School lunches[g]	10,000	9,700.63	9,000
Other expenses[h]	11,000	13,422.14	11,400
	486,500	486,915.66	523,900
Scholarships[i]	26,600	25,930.00	27,500
Automatic rebates for multiple enrolment	16,000	20,312.00	19,000
	529,100	533,157.66	570,400
Deficit	1,000	578.86	45,000

[a] This item includes admission fees and association membership fees as well as tuition fees. The estimated income from tuition fees for 1964-1965 is based on an enrolment of 571 pupils, as compared to an average of 545 pupils for 1963-1964.

[b] This item includes donations, dividends and other miscellaneous income. It also includes a transfer to cover scholarship grants to non-United Nations children, from the financial results of special fund-raising events.

[c] This item includes salaries and allowances of all personnel on the payroll: teachers, office staff and maintenance staff. It also includes Provident Fund and Social Security payments, as well as recruitment expenses and travel on home leave.

[d] This item covers the rental for the temporary quarters in Manhattan as well as the apartments in Parkway Village.

[e] This item includes the cost of maintaining the Manhattan building as well as the apartments in Parkway Village but does not include the salaries of the maintenance staff. Also included are the cost of utilities, covering the cost of coal, gas, water and electricity for Manhattan and electricity only for Parkway Village, where gas, water and heating are included in the rental. Furthermore, this item includes repairs and alterations to building.

[f] This item includes specialist equipment and furniture for laboratories, classrooms and lunch-rooms, as well as textbooks, stationery, office and art supplies.

[g] The operation of the programme is under a contractor, on a cost-plus-management fee basis. Starting with the school year 1962-1963, free lunches to the pupils were suspended, but arrangements were made to provide lunches at an annual fee of $100 which does not cover the full cost. Free lunches continue to be provided for teachers and office personnel as well as free milk for all children.

[h] This item covers the costs of telephone, insurance, physical education programmes, bus transportation, etc.

[i] This item includes scholarships to children of United Nations, non-United Nations and delegation families.

DOCUMENT A/5834/ADD.1

[*Original text: English*]
[*21 January 1965*]

Proposals for the new building

1. In paragraph 30 of the report of the Secretary-General on the United Nations International School (A/5834 annex), it was stated that the Board of Trustees had unanimously agreed to accept the offer of the Secretary-General to make an alternative proposal to the General Assembly that the new school should be constructed at the north end of the United Nations premises. Preliminary plans have now been prepared by the architects, Messrs. Harrison and Abramovitz in consultation with a Physical Planning Committee appointed by the Board and other consultants provided by the Ford Foundation and these plans are annexed to the present report.

2. In designing the school, the architects were guided by three main objectives. First, the new school should be a model of modern school construction and education. Secondly, it should be so located as to cause no interference with the activities of the United Nations and, thirdly, the school should conform to the architecture of the United Nations complex of buildings.

3. The school has been designed for 1,000 pupils but there is room for some future expansion. The new concept of the "house" system of classrooms for separate age groups has been incorporated into the design by providing the classrooms in four pavilions which are linked to the main building in which the "common" facilities, such as the school auditorium, library, science laboratories, administration centre, arts centre, students centre, canteen, gymnasium and swimming-pool, have been provided. Another feature of the design is the flexibility of the internal arrangement of the classrooms which permits them to be partitioned into small units for seminars or group study or opened out into large classrooms for lectures, when required.

4. Plan No. 1 shows the school in relation to the United Nations buildings. The entire school has been located on a site approximately 340 feet wide and 180 feet deep at the northern extremity of the United Nations premises. In order to eliminate interference with the United Nations activities, no access is provided from the school to the garden which separates the school from the United Nations buildings. All school traffic will be confined to the northern side of the school, which abuts the road leading to the Franklin D. Roosevelt Drive. Both in the location of the school and in its design, due consideration has been given to the elimination of noise from school activities.

5. Much thought has been given to the external appearance of the new school. In order to avoid any conflict with the United Nations buildings, all the accommodation needed has been provided in a low building of three storeys and a basement. On the garden side, however, only two and a half storeys would be visible above ground level. The use of the pavilion-type design has also reduced the massive appearance of the school and brought it into conformity with the architecture of the United Nations complex of buildings. In order further to relate the school to the United Nations buildings, it is proposed to use stone similar to that in the United Nations buildings, on the façades of the new school.

6. The school has a total floor area of approximately 210,000 square feet and the architects have estimated that it would cost approximately $6 million to construct. The estimated cost of furniture, equipment, landscaping and professional fees is $1 million.

Ground floor

7. Plan No. 2 shows the floor of the school at the level of the main entrance from the existing road and ramp on the northern boundary of the United Nations premises. The auditorium of the school, which is on the second floor, is cantilevered over the entrance and provides a covered area for cars and school buses during inclement weather.

8. At the entrance, there is a large hall and exhibition area, with the administrative office of the school located directly opposite the entrance. On either side of the entrance hall are the staircases and elevators providing access to the upper floors and basement. In the main building of this floor are also located the faculty lounge, the students centre, the health centre, all-purpose rooms, and the classrooms for the five-year-old children which are grouped around a small open play space for their use. The four pavilions on this floor provide classrooms for the primary school.

Second floor

9. The auditorium seating 500 persons, with a spacious stage and modern theatre lighting and equipment, is the chief feature of this floor (plan No. 3). At the northern end of the auditorium, a balcony has been provided (shown in plan No. 4) with movable partitions which would normally be used for two lecture rooms but which could be opened out to the auditorium, when required, to seat 300 more persons. In the main building are also located the mathematics and science centre as well as the library for the primary school. The four pavilions on this floor contain classrooms for the primary and secondary schools.

Third floor

10. This floor (plan No. 4) is given over entirely to the secondary school. The main building contains the school library which will be sub-divided into various reading and study areas and will contain equipment for microfilm viewing and language study, and carrels for individual study by students. Located in the main building are also the resource centres and study areas. The four pavilions on this floor contain the classrooms for the secondary school.

Basement

11. The basement floor (plan No. 5) contains the dining and recreation areas of the school as well as rooms for music and drama, shops, and arts and crafts studios. Ample space is also provided for the accommodation of the heating, air-conditioning and other mechanical equipment of the school. Areas will also be excavated but left unfinished for future use.

12. The recreation area, which consists of a swimming-pool and fully equipped gymnasium, a cafeteria and rooms for music and drama have been designed to enable them to be used by members of delegations and the United Nations Secretariat after school hours.

(See plans at end of fascicle)

DOCUMENT A/5888

Report of the Advisory Committee on Administrative and Budgetary Questions

[Original text: English]
[18 February 1965]

1. By its resolution 1982 (XVIII) the General Assembly, at its eighteenth session, appealed to Governments of Member States to take such measures as they might consider necessary to ensure that voluntary contributions for building and endowing the International School would be forthcoming at the earliest possible date from appropriate sources, governmental or non-governmental.

2. In his report to the General Assembly (A/5834 and Add.1) the Secretary-General indicated that this action laid the groundwork for renewed efforts with foundations as well as an appeal addressed to Governments by the Secretary-General on 10 January 1964. On 19 September 1964, the Secretary-General was informed that the Ford Foundation would be prepared to grant up to $7.5 million to cover the cost of building and equipping the new School if it could receive assurances that the United Nations attached real importance to this project and expressed in a tangible way the support of the Member States. The Foundation indicated its concern that the question of the site should be satisfactorily resolved and that an endowment fund adequate to ensure the School's independence should be established. The Advisory Committee on Administrative and Budgetary Questions joins with the Secretary-General in expressing its appreciation of the generous offer of the Ford Foundation.

3. The Advisory Committee recalled that a proposal to construct the United Nations International School on the Headquarters site was first made by the Board of Trustees in 1956 and a report by the Secretary-General on the proposal was discussed by the Fifth Committee during the twelfth session of the General Assembly in 1957.[3] While recognizing that the School's facilities had become increasingly inadequate, the Secretary-General had pointed out that the provision of accommodation on the Headquarters site, even with no financial obligation to the United Nations, would have implications requiring most careful consideration. He had mentioned, in particular, transportation, parking and traffic problems which would result from the daily attendance of some 700-750 pupils; problems of disturbance and property maintenance; and, generally, problems of possible impact on the efficient working of the Organization in the discharge of its main functions. On the other hand, certain members of the Fifth Committee stressed the convenience both to staff and to delegates of a school located on the Headquarters site, not to mention the financial advantages to the School. It was doubted whether the pupils would add to the problems which already existed in dealing with regular daily visitors to the Headquarters buildings. Mention was made, during the discussions in the Fifth Committee, of the necessity of preserving the independence of the School; reference was also made to the legal problems that would arise in connexion with construction on the Headquarters site. Upon the recommendation of the Fifth Committee, the General Assembly, in resolution 1228 A (XII) of 14 December 1957, requested the Secretary-General, *inter alia,* to consult with the appropriate authorities on the possibility of constructing permanent premises for the School on the Headquarters site, and to use his good offices to assist the Board of Trustees of the School in finding a site for the School in Manhattan, including the "Headquarters District".

4. Since the twelfth session of the General Assembly, the efforts of the Board of Trustees have, with the assistance of the Secretary-General, been directed towards the acquisition of a suitable site in East Manhattan but outside the Headquarters area. As the Secretary-General has explained in paragraph 3 of his report, "further explorations revealed no available site in East Manhattan which was adequate and within the financial possibilities of the Board". It is in these circumstances that the Secretary-General decided to revert to the earlier proposal that the School be constructed at the north end of the Headquarters site.

5. In document A/5834/Add.1, the Secretary-General has made available a series of plans of the proposed School which were prepared by the architects. They provide for a construction which conforms to the architecture of the United Nations complex of buildings and which is so located as to cause little or no inconvenience to existing United Nations activities. Some of the problems to which reference was made in 1957 by the members of the Fifth Committee (see paragraph 3 above) would appear to have been resolved. The Advisory Committee wishes, however, to call the attention of the General Assembly to one or two matters which it believes to be of considerable importance.

6. In the first place, authorization to use the Headquarters site would, in practice, be equivalent to a substantial donation towards the construction of the School. It is clear to the Advisory Committee, however, from information furnished by the architects, that little land suitable for building would remain should the General Assembly wish at some future date to extend the Headquarters premises. The only possibilities would be: (*a*) a part of the gardens immediately north of the visitors' entrance opposite 46th Street; (*b*) a small area adjacent to the south-east corner of the Secretariat building. With regard to the School's own possible need for future expansion, the Committee was informed that whereas a student body of about 1,000 was foreseen, the premises could, if necessary, be adapted to accommodate some 1,500.

7. In the second place, it is evident that the construction of the School on the Headquarters site would give rise to a number of legal problems. In this connexion, the Advisory Committee notes that it would be the Secretary-General's intention to submit to it in precise form the legal and administrative arrangements to be entered into between the United Nations and the School.[4]

8. Apart from the question of the specific site, there is one important matter which the Advisory Committee wishes to bring to the particular attention of the General Assembly. It concerns the contingent liability of Mem-

[3] *Official Records of the General Assembly, Twelfth Session, Annexes,* agenda item 52, document A/3688.

[4] See below for action taken by General Assembly.

ber States should construction be begun before the total financing of the School is assured. On several occasions in the past, the Committee has requested an assurance from the Secretary-General that no commitments with regard to the construction of a new building would be entered into except on the basis of funds actually donated or firmly pledged, sufficient to cover all or a substantial portion of the cost of the project. The Committee notes that of the $3 million which the Board of Trustees considers necessary for the Development Fund, some $2 million remains to be raised. It is part of this sum—at least $1 million, in the Secretary-General's opinion—which Members are being invited to contribute on a voluntary basis. The Committee cannot over-emphasize the importance of the establishment of an adequate Development Fund to ensure the School's financial independence. Without such a fund the School would in all likelihood continue to call upon the General Assembly each year to take measures to deal with an operating deficit. Basing itself on past experience, the Committee strongly recommends that construction should not start unless and until the greater part of the development Fund has been received or firmly pledged.

9. In paragraph 12 of his report, the Secretary-General refers to the operating deficit for the current school year, estimated at $45,000, and to the possibility that the General Assembly may, as in past years, agree to cover this deficit by a grant. Bearing in mind resolution 1439 (XIV) of 5 December 1959 providing for financial assistance to the United Nations International School for a period of five years, the General Assembly may wish to make a grant to the Development Fund for 1965 to cover the operating deficit of the school year 1964-1965. The Advisory Committee believes, however, that once the target of the Development Fund has been attained, the School can be expected to achieve a balanced budget and that no further assistance from the General Assembly should be required.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1328th plenary meeting, on 10 February 1965, the General Assembly adopted the draft resolution submitted by the Secretary-General (A/L.459). For the final text, see resolution 2003 (XIX) below.

Resolution adopted by the General Assembly

2003 (XIX). UNITED NATIONS INTERNATIONAL SCHOOL

The General Assembly,

Noting the report of the Secretary-General on the United Nations International School (A/5834 and Add.1.),

Having noted the statement of the Secretary-General at the 1327th plenary meeting of the General Assembly, on 8 February 1965,

Having noted the establishment of a Development Fund with a goal of $3 million to ensure the financial independence of the School,

1. *Approves in principle* the use of the north end of the Headquarters site for the construction of the United Nations International School, subject to a review of the legal arrangements by the Advisory Committee on Administrative and Budgetary Questions;

2. *Calls upon* Governments of Member States to take prompt action to fulfil the intent of General Assembly resolution 1982 (XVIII) of 17 December 1963 to ensure voluntary contributions towards the establishment of a $3 million Development Fund for the School;

3. *Expresses its appreciation* for the generous offer of the Ford Foundation to grant up to $7.5 million to build and equip the School;

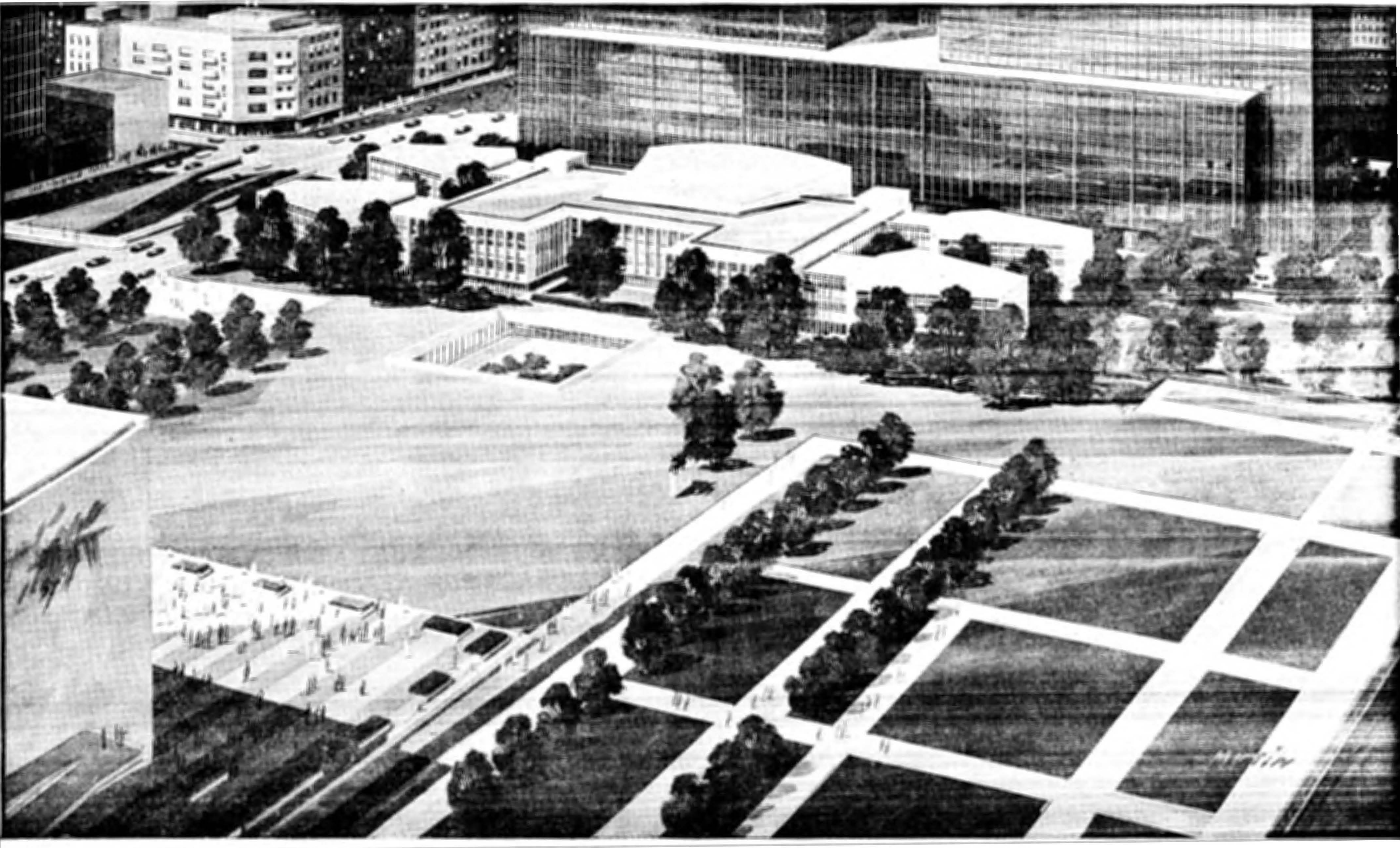
4. *Requests* the Secretary-General to transmit the present resolution to the Ford Foundation as an expression of the gratitude and appreciation of the General Assembly.

1328th plenary meeting,
10 February 1965.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/L.459	Draft resolution submitted by the Secretary-General	Adopted without change. See above "Action taken by the General Assembly", resolution 2003 (XIX). The text of the resolution appears also in *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15*

Printed in U.S.A. S—04828—April 1965—2,150



Perspective of proposed United Nations International Scho

EAST RIVER

PLAY AREA

CONFERENCE BUILDING

SECRETARIAT

GENERAL ASSEMBLY

LIBRARY

pool

U.N.I.S

entry

to f.d.r. drive uptown

48th STREET

42nd STREET

FIRST AVENUE

UNITED NATIONS INTERNATIONAL SCHOOL

SITE PLAN 1

0 50'

0 15M

RAMP TO FDR DRIVE

RAMP DOWN

BUS LOADING

LIGHT WELL

LOBBY AND EXHIBITION AREA

ADMINISTRATION

AP

D

C

H

FL

SC

T

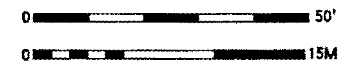
F

PLAY YARD

UNITED NATIONS PLAZA

47th STREET ENTRANCE

SUNKEN COURT

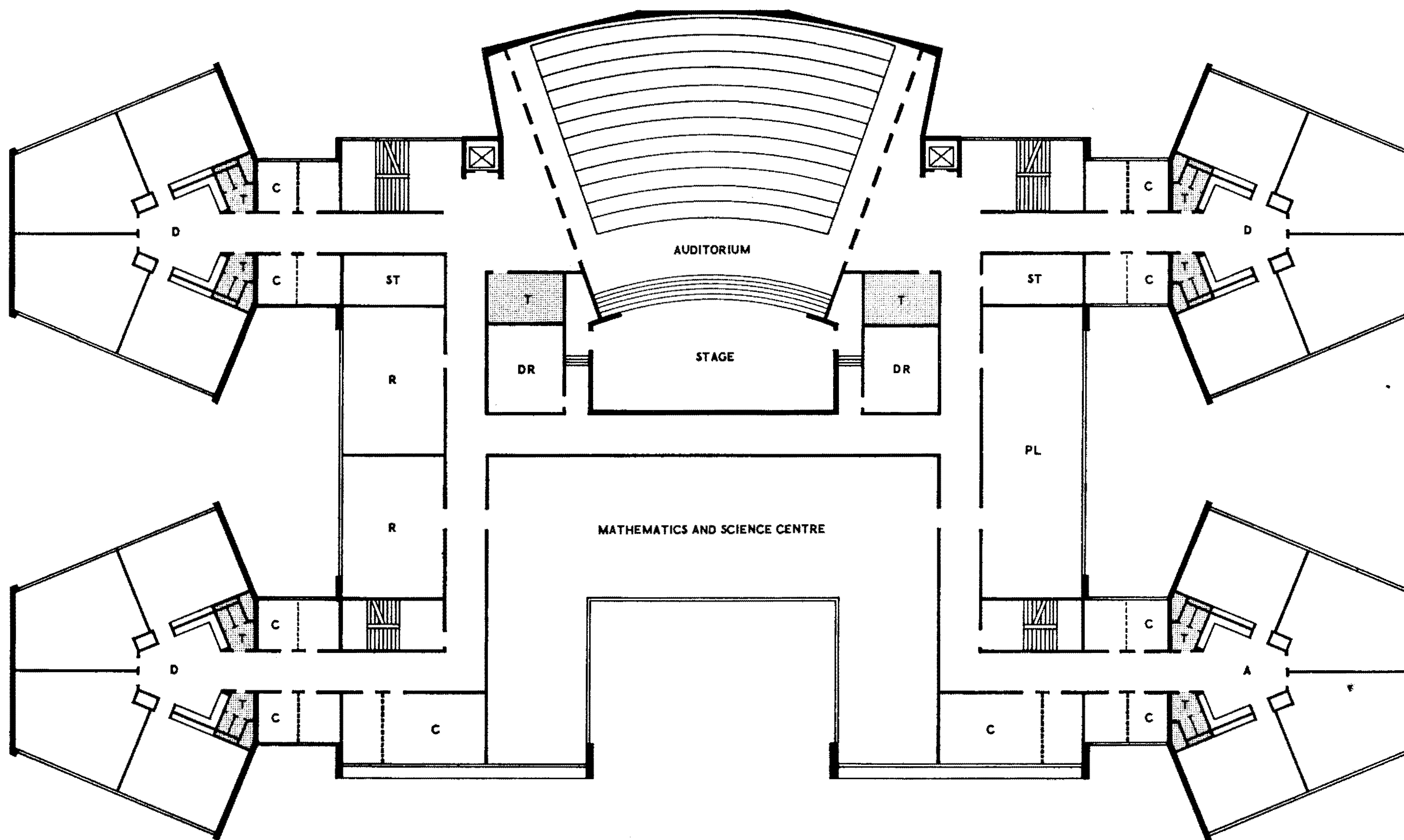


LEGEND

F - FIVE YEAR OLDS' CLASSROOMS
D - PRIMARY CLASSROOMS
C - CONFERENCE ROOMS AND OFFICES
AP - ALL PURPOSE ROOMS
FL - FACULTY LOUNGE
SC - STUDENT CENTRE
H - HEALTH ROOMS
T - TOILETS

GROUND FLOOR

PLAN NO 2



LEGEND
A - SECONDARY CLASSROOMS
C - CONFERENCE ROOMS AND OFFICES
D - PRIMARY CLASSROOMS
DR - DRESSING ROOMS
R - RESOURCE AREAS
PL - PRIMARY LIBRARY
ST - STORAGE
T - TOILETS

0 50'
0 15M

NORTH

SECOND FLOOR

PLAN NO 3

LH LH

UPPER AUDITORIUM

C A C

C T ST SC T UPPER STAGE C T ST R C C

SECONDARY LIBRARY

C A C

C C C C A C

LEGEND

A - SECONDARY CLASSROOMS

C - CONFERENCE ROOMS AND OFFICES

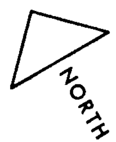
LH - LECTURE HALL

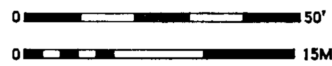
SC - STUDENT CENTRE

ST - STORAGE

T - TOILETS

R - RESOURCE AREA

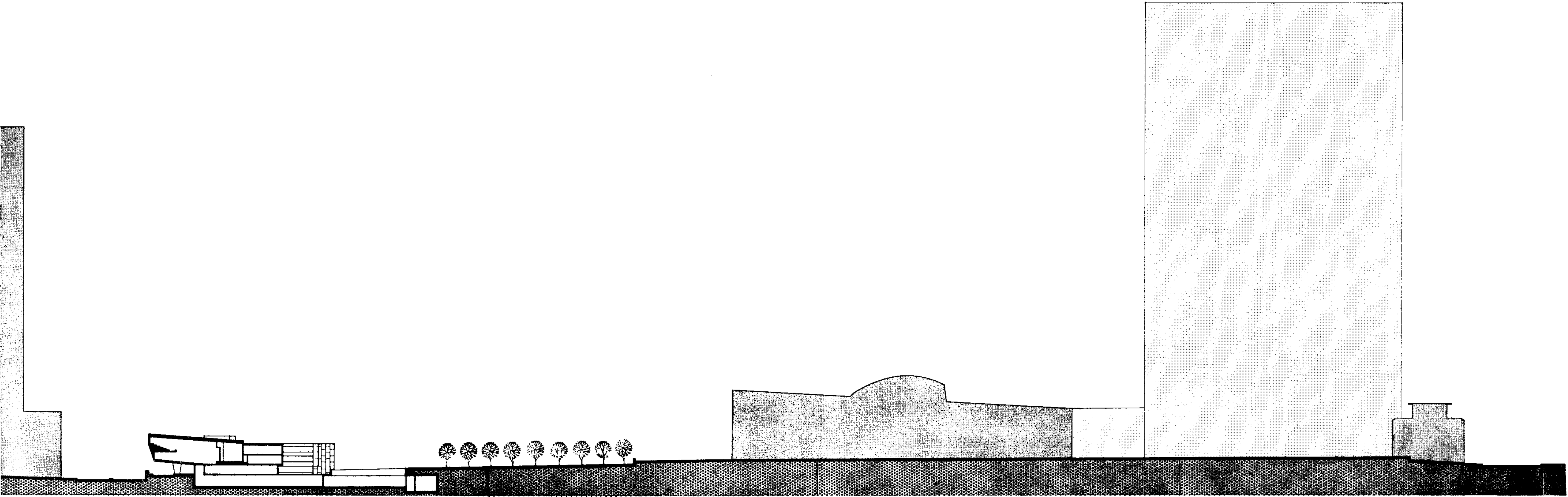




THIRD FLOOR

PLAN NO 4

MECHANICAL EQUIPMENT
ARTS AND CRAFTS STUDIOS
MECHANICAL EQUIPMENT
S
MUSIC AND DRAMA
S
SERVICE ENTRANCE
S
T
FOOD PREPARATION
T
S
SERVICE DRIVE
DN
DN
FUTURE EXPANSION
CAFETERIA
FUTURE EXPANSION
GL
GL
O
O
COURT
NORTH
POOL
GYMNASIUM
LEGEND
S - SHOPS
T - TOILETS
O - OFFICES
GL - GIRLS LOCKERS
BL - BOYS LOCKERS
0
50'
0
15M
BL
O
O
BASEMENT
PLAN NO 5



UNITED NATIONS INTERNATIONAL SCHOOL

PLAN SECTION 6

0 50'

0 15M

United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 20

Interim financial arrangements and authorizations for 1965*

CONTENTS

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A/5892	Letter dated 18 February 1965 from the Permanent Representative of India to the President of the General Assembly	1
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A/5897	Letter dated 19 February 1965 from the Alternate Representative of Mexico to the President of the General Assembly	2
A/5901	Letter dated 23 February 1965 from the Permanent Representative of the Ukrainian Soviet Socialist Republic to the President of the General Assembly	2
A/5903	Letter dated 27 February 1965 from the Permanent Representative of the Byelorussian Soviet Socialist Republic to the Secretary-General	2
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* For the relevant meetings, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings,* 1315th, 1326th to 1328th and 1330th meetings.

DOCUMENT A/5892

Letter dated 18 February 1965 from the Permanent Representative of India to the President of the General Assembly

[*Original text: English*]
[*18 February 1965*]

I have the honour to forward herewith a statement by the Indian delegation to the nineteenth session of the General Assembly on the question of "Interim financial arrangements and authorizations for 1965" (draft resolution A/L.456 submitted by the President to the General Assembly), which appears as the second item on today's agenda of the 1330th plenary meeting of the General Assembly.

I request you to arrange for the circulation of this statement as an official document of the nineteenth session of the General Assembly.

(*Signed*) B. N. CHAKRAVARTY
Permanent Representative of India to the United Nations

STATEMENT

The Indian delegation wishes to place on record its comments on the item on the agenda of the plenary meeting of the General Assembly concerning the interim financial arrangements and authorizations for 1965, as well as the draft resolution circulated by the President of the General Assembly (A/L.456). The Indian delegation while concurring in this draft resolution desires to point out that neither in the Secretary-General's statement made to the General Assembly on 30 December 1964, on this subject (1314th plenary meeting), nor in his statement of 8 February 1965 (1327th plenary meeting), nor even in the draft resolution contained in document A/L.456, has a distinction been made between the regular budget of the United Nations for the year 1965 and special accounts like that of the United Nations Emergency Force in the Middle East.

The special accounts in the past have always been kept separate from the regular budget. The concurrence of my delegation in the draft resolution now before the Assembly cannot be construed to affect this position.

DOCUMENT A/5896

Letter dated 19 February 1965 from the Permanent Representative of France to the Secretary-General

[*Original text: French*]
[*19 February 1965*]

At its 1330th plenary meeting, on 18 February 1965, the General Assembly approved the interim financial arrangements and authorizations that you had proposed to it on 8 February (1327th plenary meeting).

As you know, the procedure followed in this matter is the subject of serious reservations on the part of the French Government. I have had occasion to state these reservations on several occasions, in particular on 1

December 1964 during two meetings held, on your initiative, in the Secretariat.

As the Assembly was unable to express its views by means of a vote, I wish to state that, if a normal procedure had been followed, the French delegation would have voted against the inclusion in the budget of payments on the United Nations loan and would have abstained on the budgetary arrangements as a whole.

My delegation has, however, noted that the authorization that you requested of Member States was given without prejudice to the "basic positions and objections of certain Member States with respect to certain sections of the budget and the budget as a whole".

I have consequently received instructions to inform you that the French Government will, as in the two preceding years, deduct its share of the payments on the loan from the advance payment requested of it.

Bearing in mind the circumstances in which the budgetary documents for 1965 were drawn up, the French delegation wishes to stress that the French Government considers it of the utmost importance that the commitments and payments for the current financial year should not exceed the corresponding commitments and payments for the year 1964.

I should be much obliged if you would kindly make the necessary arrangements to have this letter circulated as an official United Nations document.

(*Signed*) Roger SEYDOUX
Permanent Representative
of France to the United Nations

DOCUMENT A/5897

Letter dated 19 February 1965 from the Alternate Representative of Mexico to the President of the General Assembly

[*Original text: Spanish*]
[*19 February 1965*]

I have the honour to refer to document A/L.456, containing the interim financial arrangements and authorizations for 1965, which was adopted without objection at the 1330th plenary meeting of the General Assembly on 18 February 1965.

In this connexion I wish to make it clear that my delegation's support for this document was given by reason of the provisional nature of the financial arrangements and authorizations with which it deals. The document makes no distinction between the regular budget of the United Nations for the financial year 1965 and the special accounts, such as that of the United Nations Emergency Force for the Middle East, which have always been separate from the regular budget. The fact that my delegation made no objection to the said document is not to be interpreted as affecting its position on the matter.

I should be grateful if you would take the necessary steps to circulate this statement as an official document of the General Assembly at its nineteenth session.

(*Signed*) Francisco CUEVAS CANCINO
Alternate Representative of Mexico
to the United Nations, Chargé d'affaires, a.i.

DOCUMENT A/5901

Letter dated 23 February 1965 from the Permanent Representative of the Ukrainian Soviet Socialist Republic to the President of the General Assembly

[*Original text: Russian*]
[*1 March 1965*]

With reference to the statement of the Secretary-General at the 1327th plenary meeting of the General Assembly, on 8 February 1965, and to General Assembly resolution 2004 (XIX) concerning interim financial arrangements and authorizations for 1965, which was adopted at the 1330th plenary meeting of the General Assembly, we consider it necessary to note that our basic position and objections with respect to certain sections of the budget and the budget as a whole, as set forth in the statements of the representatives of the Ukraine at the fourth special session and eighteenth regular session of the General Assembly and in a number of letters to the Secretariat, remain unaltered and are fully applicable to the interim financial arrangements and authorizations for 1965.

We take note of the statement by the Secretary-General, which was confirmed by the above-mentioned resolution, that expenditure under the regular budget in 1965 will be at the level of the 1964 budget, and of the provision that the adoption of decisions concerning interim financial arrangements and authorizations is without prejudice to the basic positions and objections of countries with respect to certain sections of the budget and to the budget as a whole.

Please arrange for this letter to be circulated as an official document of the United Nations.

(*Signed*) S. SHEVCHENKO
Permanent Representative of the Ukrainian
Soviet Socialist Republic to the United Nations

DOCUMENT A/5903

Letter dated 27 February 1965 from the Permanent Representative of the Byelorussian Soviet Socialist Republic to the Secretary-General

[*Original text: Russian*]
[*4 March 1965*]

In connexion with your statement on 8 February 1965 at the 1327th plenary meeting of the General Assembly, and with General Assembly resolution 2004 (XIX) entitled "Interim financial arrangements and authorizations for 1965", which was adopted at the 1330th plenary meeting on 18 February 1965, I have the honour to inform you of the following.

I note the provision in your statement and the above resolution that the adoption of the resolution on budgetary matters is without prejudice to the basic posi-

tions and objections of States with respect to certain sections of the budget and to the budget as a whole, and hereby confirm that the basic position of the Byelorussian SSR with respect to the 1964 budget, and therefore to expenditure under the regular budget in 1965, which the General Assembly has decided should be at the level of the previous year's budget, remains as before.

This position has been set forth by the representatives of the Byelorussian SSR at the fourth special session and the eighteenth regular session of the General Assembly and in a number of notes from the Permanent Mission to the Secretary-General.

Specifically, the Byelorussian SSR will not take part in financing the expenses of measures which are carried out in contravention of the Charter of the United Nations or run counter to the Organization's real interests. These include the payment of interest on, and amortization of, the so-called United Nations loan, which was floated in violation of the Charter to defray the expenses of the United Nations operations in the Congo and the Middle East, the expenses of the United Nations Commission for the Unification and Rehabilitation of Korea, which is used to cloak the occupation of South Korea by foreign troops and support anti-popular régimes in that part of the country, the expenses of the United Nations Memorial Cemetery in Korea, the United Nations Truce Supervision Organization in Palestine and the so-called United Nations Field Service. With regard to the financing of the technical assistance programme under the regular budget of the United Nations, the Byelorussian SSR will pay its share of the contribution to this programme in Soviet roubles with a view to its contribution being used for the supply of equipment from Byelorussia, the seconding of Byelorussian experts to the developing countries and the training of specialists from such countries in Byelorussia.

The Byelorussian SSR confirms its previous position with regard to expenses under the special accounts for the operations in the Congo and the Middle East, which are illegal and have nothing to do with the United Nations budget.

Please be good enough to circulate this letter as a document of the General Assembly at its nineteenth session.

(*Signed*) G. CHERNUSHCHENKO
Permanent Representative of the Byelorussian Soviet Socialist Republic to the United Nations

DOCUMENT A/5908

Letter dated 4 March 1965 from the Permanent Representative of the United Arab Republic to the Secretary-General

[*Original text: English*]
[*9 March 1965*]

I have the honour to refer to document A/L.456, containing the interim financial arrangements and authorizations for 1965, which was adopted by the General Assembly without objection at its 1330th plenary meeting on 18 February 1965. As the document makes no distinction between the regular budget of the United Nations for the financial year 1965 and the special accounts, which have always been separate from the regular budget, my delegation would like to put on record that its concurrence does not affect its position concerning the special accounts.

I should be grateful if you would take the necessary steps to circulate this letter as an official document of the General Assembly at its nineteenth session.

(*Signed*) Mohamed Awad EL-KONY
Permanent Representative of the United Arab Republic to the United Nations

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ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1330th plenary meeting, on 18 February 1965, the General Assembly adopted the draft resolution submitted by the President (A/L.456). For the final text, see resolution 2004 (XIX) below.

Resolution adopted by the General Assembly

2004 (XIX). INTERIM FINANCIAL ARRANGEMENTS AND AUTHORIZATIONS FOR 1965

The General Assembly,

Having noted the statement of the Secretary-General at the 1327th plenary meeting of the General Assembly, on 8 February 1965,

Noting the basic positions and objections of certain Member States with respect to certain sections of the budget and the budget as a whole,

1. *Authorizes* the Secretary-General, subject to statutory requirements, to enter into commitments and to make payments at levels not to exceed the corresponding commitments and payments for the year 1964;

2. *Authorizes* the Secretary-General, within the overall limits of the authorization in paragraph 1 above, to transfer funds between categories of expense and to enter into such minimum commitments as may be required for the purpose of financing certain new priority programmes and supporting services in 1965, notably in the field of trade and industrial development;

3. *Decides* that, pending further decisions, the arrangements and authorizations with respect to unforeseen and extraordinary expenses and the Working Capital Fund, as approved for the financial year 1964, shall be considered as continuing in force;

4. *Requests* Member States to make advance payments towards the expenses of the Organization in amounts not less than 80 per cent of their assessed contributions for the financial year 1964, pending decisions by the General Assembly on the level of appropriations and the scale of assessments for 1965, and subject to such retroactive adjustments as may then be called for.

1330th plenary meeting,
18 February 1965.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5808	Annual report of the United Nations Joint Staff Pension Board	*Official Records of the General Assembly, Nineteenth Session, Supplement No. 8*
A/L.456	Draft resolution submitted by the President of the General Assembly	Adopted without change. See above "Action taken by the General Assembly", resolution 2004 (XIX). The text of the resolution appears also in *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15*

Printed in U.S.A. 4828—September 1965—2,150

United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 21

Comprehensive review of the whole question of peace-keeping operations in all their aspects*

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A/5729	Letter dated 11 September 1964 from the Acting Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General, transmitting a memorandum entitled "The question of the financial situation of the United Nations"	6
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* For the relevant meetings, see *Official Records of the General Assembly, Nineteenth Session, Plenary Meetings*, 1326th, 1327th, 1329th, 1330th and 1331st meetings.

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Abbreviations

ICJ	International Court of Justice
NATO	North Atlantic Treaty Organization
ONUC	United Nations Operation in the Congo
UNEF	United Nations Emergency Force
UNFICYP	United Nations Peace-keeping Force in Cyprus
UNICEF	United Nations Children's Fund
UNMOGIP	United Nations Military Observers Group in India and Pakistan
UNOGIL	United Nations Observation Group in Lebanon
UNTEA	United Nations Temporary Executive Authority
UNTSO	United Nations Truce Supervision Organization in Palestine
UNYOM	United Nations Yemen Observation Mission
Working Group of Twenty-one	Working Group on the Examination of the Administrative and Budgetary Procedures of the United Nations

DOCUMENT A/5721

Letter dated 10 July 1964 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General, transmitting a "Memorandum of the Government of the Union of Soviet Socialist Republics regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security"

[*Original text: Russian*]
[*13 July 1964*]

I request you to arrange to have the attached "Memorandum of the Government of the Union of Soviet Socialist Republics regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security"[1] issued as an official document of the General Assembly.

(*Signed*) N. FEDORENKO
Permanent Representative of the Union of Soviet Socialist Republics to the United Nations

MEMORANDUM OF THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING CERTAIN MEASURES TO STRENGTHEN THE EFFECTIVENESS OF THE UNITED NATIONS IN THE SAFEGUARDING OF INTERNATIONAL PEACE AND SECURITY

10 July 1964

1. Recently the course of international relations has begun to show distinct signs of changes for the better. The conclusion of the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water,[2] followed by the achievement of an understanding not to orbit objects carrying nuclear weapons and to reduce in the United States of America, the Soviet Union and the United Kingdom the production of fissionable materials for military purposes, have contributed to a certain easing of international tension and to the germination of seeds of mutual trust in relations between States. The principles of peaceful coexistence of States with different social systems have been given increasing recognition as the sole reasonable basis for international relations in our time.

There has been some improvement, too, in the situation within the United Nations, as revealed in the course of the eighteenth session of the General Assembly and in the deliberations of the Security Council on a number of important political issues. Nevertheless, the general state of international relations is still not satisfactory from the standpoint of securing a durable peace. The threat of war has not been eliminated. Some countries are still endeavouring by force to maintain their dominion over peoples waging the just struggle for freedom and independence. In various parts of the

[1] Transmitted also to the Security Council (see S/5811) and to the Special Committee on Peace-keeping Operations (see A/AC.121/2).

[2] Signed at Moscow on 5 August 1963 by the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

world friction in the relations between States and even conflicts fraught with dangers to world peace have arisen because of the actions of certain circles that have no interest in preserving peace. These same circles continue to impede progress at the disarmament negotiations.

The Soviet Government is deeply convinced that it is the duty of all countries to do everything in their power to help in further easing of international tension, in strengthening mutual trust in relations between States and in normalizing the international situation. In the opinion of the Soviet Government, a major contribution in this respect would be the achievement of an understanding among States Members of the United Nations on the strengthening of the Organization's effectiveness in safeguarding international peace and security. The United Nations Charter offers the necessary possibilities in this regard, but up to now these possibilities have not always been fully exploited.

2. The Charter contains the essential principles for peaceful and good-neighbourly relations among States. Therefore, to enhance the effectiveness of the United Nations in keeping the peace means first of all putting an end to violations of the Charter, permanently ridding the Organization of all remnants of the "cold war" period, creating within the United Nations a situation favourable to the co-operation of all States as equals. At the same time, wider use should be made of the peaceful means of settling international disputes provided for in the Charter. The enormous changes which have occurred in the world over the past decade, the expansion and consolidation of peace-loving forces, give every reason to believe that if countries, and primarily the great Powers which are permanent members of the Security Council, demonstrate goodwill and a genuine desire to preserve the peace, much can be done to enhance the ability of the United Nations to thwart attempts to disturb the peace and to prevent conflicts by means of the peaceful procedures provided for in Chapter VI of the Charter, such procedures as negotiation, good offices, conciliation, etc.

The Soviet Government does not deny, however, that in some cases there may arise a situation in which the maintenance of peace in a given area may be difficult to secure by peaceful means of settlement alone.

In such cases, where there is a threat to the peace, a breach of the peace or an act of aggression, the Soviet Government considers it rightful for the Security Council to adopt enforcement measures of a non-military character, in accordance with Article 41 of the Charter, including the interruption of economic relations, the severance of diplomatic relations and other related measures.

As is well known, the Soviet Government has repeatedly supported in the Security Council the demands of African States for the application of such measures to the Republic of South Africa, which is pursuing the inhuman policy of *apartheid* fraught with dangers to peace in Africa, and also to Portugal, whose Government is waging a colonial war against the people of Angola and other Territories.

3. While the Soviet Government holds that the peaceful, non-military means prescribed in the Charter should first be used to settle disputes and conflicts between countries, it does not exclude the possibility that situations may arise where the only way to prevent or stop aggressive acts, and protect the sovereignty and territorial integrity of a victimized State, is for the United Nations to employ force in accordance with Article 42 of the Charter. In these exceptional cases it may prove necessary to send United Nations armed forces to the area concerned.

Decisions of this kind should be taken, however, only as a last resort and after all the relevant facts have been carefully weighed, for it must be kept in mind that the use of any foreign troops including those of the United Nations to settle conflicts, indeed their very presence in foreign territory, may, as experience has shown, lead to the very opposite result, i.e., to interference in the domestic affairs of States, to grave international complications, to a heightening of tensions.

The indispensable condition for the application of so extreme a measure as the use of United Nations armed force must at all times and in all circumstances be scrupulous compliance with all the provisions of the Charter dealing with the use of force for the maintenance or restoration of international peace.

Under the Charter, the only body authorized to take action in the maintenance or restoration of international peace and security is the Security Council. It is likewise within the purview of the Security Council to adopt decisions in all matters relating to the establishment of United Nations armed forces, the definition of their duties, their composition and strength, the direction of their operations, the structure of their command and the duration of their stay in the area of operation, and also matters of financing. No other United Nations body, including the General Assembly, has the right under the Charter to decide these matters.

These provisions of the Charter are profoundly sensible. They form the only basis on which it is possible to ensure that the United Nations armed forces may not be used in the narrow unilateral interest of any individual States or groups of States to the detriment of the interests of other States, which would lead not to a strengthening of peace but rather to a further aggravation of the situation. This basis is the agreement of the permanent members of the Security Council on all fundamental matters relating to the establishment, utilization and financing of United Nations armed forces in each particular case.

In the present circumstances, when an active part in international affairs is being played by numerous States belonging not only to different geographical areas but also to different military and political groupings, a further necessary condition to ensure that the utilization of force by the United Nations corresponds solely to the interests of peace and not to the unilateral aims of any particular States or groups of States is the adoption of arrangements for the composition of the United Nations armed forces whereby these forces would include, together with contingents from Western and neutral countries, contingents from the socialist countries. This means, too, that representatives of the socialist countries would participate in the command of United Nations armed forces established by decision of the Security Council in a given situation.

The Soviet Government takes the view, however, that it is inadvisable for United Nations armed forces to have contingents from nations which are permanent members of the Security Council.

As regards assistance to the Security Council in all matters relating to the use of United Nations armed force, including the preparation of plans for its application, under Articles 46 and 47 of the Charter, this task

belongs to the Military Staff Committee. The Secretary-General, as the chief administrative officer of the United Nations, should contribute by all the means at his disposal to the execution of the relevant decisions of the Security Council.

The Soviet Government considers that the question of the reimbursement of expenditure required for the execution of emergency measures adopted by the Security Council to deter or repel aggression through the use of United Nations armed forces should be decided in conformity with the generally recognized principle of international law that aggressor States bear political and material responsibility for the aggression they commit and for the material damage caused by that aggression.

Nevertheless, the Soviet Government does not rule out the possibility that situations may arise where, in order to execute the above-mentioned emergency measures of the Security Council, it will be necessary for States Members of the United Nations to take part in defraying the expenditure involved in the maintenance and use of United Nations armed forces established in order to maintain international peace and security. In such future cases when the Security Council adopts decisions to establish and finance United Nations armed forces in strict compliance with the provisions of the Charter, the Soviet Union will be prepared to take part with other States Members of the United Nations in defraying the expenditure involved in the maintenance of those armed forces.

4. With a view to securing conditions in which contingents could, when necessary, be promptly made available to the Security Council for inclusion in United Nations armed forces, the Soviet Government thinks it advisable that agreements, prescribed in Article 43 of the Charter and defining the procedures and terms for the provision of such contingents by States, should be concluded between the Security Council and States Members of the United Nations which so desire. In keeping with Article 45 of the Charter, those agreements might make it an obligation of States which have entered into such arrangements with the Security Council to hold immediately available, within their armed forces, certain military contingents and supporting facilities which would be at the disposal of the Security Council.

A draft of the main provisions of such agreements might be prepared by the Military Staff Committee, for subsequent consideration by the Security Council. Upon approval of the main provisions by the Security Council, the conclusion of appropriate agreements between the Security Council and interested States might commence.

The Soviet Government is convinced that the achievement of an understanding among States Members of the United Nations, and first and foremost among the permanent members of the Security Council, to strengthen the effectiveness of the United Nations in the safeguarding of peace and security on the basis of the propositions set forth in this memorandum will help to enhance the authority and prestige of the United Nations as an instrument for international co-operation, among equal partners, in the cause of peace and the good of nations.

DOCUMENT A/5726

Letter dated 5 August 1964 from the Deputy Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General, transmitting the text of a note by the United Kingdom in reply to the Soviet memorandum of 10 July 1964 on peace-keeping

[Original text: English]
[5 August 1964]

I have the honour to transmit the text of a note by Her Majesty's Government in reply to the memorandum of the Soviet Union on United Nations peace-keeping operations [see A/5721] which was delivered to the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics on 24 July by Her Britannic Majesty's Embassy in Moscow.

I should be grateful if you would arrange for the note to be circulated both as a Security Council[3] and General Assembly document.

(*Signed*) R. W. JACKLING
Deputy Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations

NOTE BY THE UNITED KINGDOM IN REPLY TO THE SOVIET MEMORANDUM OF 10 JULY 1964 ON PEACE-KEEPING

1. Her Majesty's Government have carefully studied the memorandum of the Soviet Union of 10 July 1964 [see A/5721] on the strengthening of the effectiveness of the United Nations in the maintenance of international peace and security. The settlement of international disputes by peaceful means is a fundamental principle of British foreign policy. The United Kingdom as a founder member of the United Nations therefore welcome the Soviet reaffirmation of support for the purposes and principles of the United Nations Charter, notably Article 1, paragraphs 1, 2 and 4.

2. Her Majesty's Government agree that it is important to build further on the foundation of the agreements mentioned in section 1 of the Soviet memorandum. Her Majesty's Government fully share the Soviet Government's view in section 2 of their memorandum that the means for peaceful settlement of international disputes embodied in the United Nations Charter should be used more extensively. Her Majesty's Government have already had occasion to suggest to the Soviet Government, in connexion with the message of 31 December 1963 from Mr. Khrushchev, Chairman of the Council of Ministers, on the settlement of territorial disputes and frontier problems,[4] that greater use should be made of negotiations, mediation and conciliation or other peaceful means in the settlement of international disputes, with particular reference to the

[3] Circulated to the Security Council as document S/5853.

[4] See document A/5740 (mimeographed).

International Court of Justice, the Permanent Court of Arbitration at The Hague and the machinery of the United Nations generally.

3. This machinery has been gradually and in the view of Her Majesty's Government reasonably adapted to meet the great changes in the international scene, which have, as the Soviet memorandum recognizes, occurred over the last two decades. Newly independent nations have come on to the scene and new problems have arisen in new situations which could not have been foreseen in 1945. It has therefore been natural that over this period the United Nations has had to develop the necessary flexibility to enable it to deal with such dangers to peace as have arisen in various parts of the world. The United Nations has fortunately found means not only for dealing with breaches of the peace between States, but also cases in which the prospect for the maintenance of international peace have been undermined by the situation existing in certain areas. In these cases, the United Nations has been able to contribute to the maintenance of international peace and security by the provision of forces bearing arms, which have entered the territory of the States concerned with the consent of their Governments. Her Majesty's Government hope the Soviet Government have no intention of excluding the possibility of these valuable activities which are clearly in accordance with the United Nations Charter.

4. Her Majesty's Government recognize the primary responsibility of the Security Council for the maintenance of international peace and security. They welcome and continue to work for developments in the international situation which will reduce the divergencies of views among permanent members of the Security Council. But so long as these divergencies exist the international community cannot allow them altogether to preclude the pursuit of joint action for the maintenance of international peace and security. Her Majesty's Government trust that the Soviet memorandum is not intended to support the doctrine that any permanent member of the Security Council has the right under the Charter wholly to prevent the United Nations fulfilling its peace-keeping role.

5. Her Majesty's Government note that the Soviet memorandum suggests that negotiations for the conclusion of special agreements under Article 43 of the Charter should be renewed so that forces may be placed at the disposal of the Security Council as originally contemplated. While it may be recalled that the lack of progress in this respect was in no way due to any obstruction on the part of the United Kingdom, Her Majesty's Government would be interested to learn at an appropriate time the views of the Soviet Government about how and when to resume discussions of this matter. Her Majesty's Government for their part are always ready to consider the possibilities of establishing under the appropriate chapters of the Charter efficient means for the maintenance of peace, including the placing of forces at the disposal of the Security Council for the purposes foreseen in Chapter VII of the Charter.

6. However, the basic question to be considered is the proper role of the Security Council and of the General Assembly respectively in relation to peace-keeping operations and their financing. In this connexion, in addition to the advisory opinion of the International Court of Justice entitled "Certain expenses of the United Nations" dated 20 July 1962,[5] the deliberations of the General Assembly at its fourth special session in 1963 are of special importance. In particular, General Assembly resolutions 1874 (S-IV) and 1877 (S-IV) must be taken into account. The general principles set out in resolution 1874 (S-IV) to serve as guidelines for the sharing of the costs of future peace-keeping operations, and the proceedings of the Working Group of Twenty-one[6] (established under resolutions 1854 B (XVII) and 1880 (S-IV)), will have an important bearing on the work of the General Assembly at its nineteenth session. It is noted here, in relation to resolution 1877 (S-IV), that the Soviet memorandum makes no mention of how the problem of arrears for past operations is to be solved.

7. In approaching the problems here involved, Her Majesty's Government have three considerations in mind. First, the responsibility of all Member States under the Charter to contribute to the expenses of United Nations peace-keeping operations. Second, the need to take account of any excessive burden which the costs of an extensive operation might impose on the economies of the developing countries. Third, recognition of the special responsibilities and contributions of the larger countries, since they may in fact have to bear a heavy financial responsibility for large peace-keeping operations.

8. The general ideas of Her Majesty's Government based on these principles have already been put to the Soviet Government at the beginning of March 1964. The salient features are as follows:

(*a*) All peace-keeping proposals should be dealt with first by the Security Council and should be referred to the General Assembly only if the Security Council were to demonstrate that it was unable to act;

(*b*) A peace-keeping finance committee, including all permanent members of the Security Council, would be established by the General Assembly;

(*c*) The committee would consider a number of alternative schemes for the financing of peace-keeping operations, including possibly any special scale of payments that might be formulated by the United Nations Working Group of Twenty-one. The General Assembly would arrange to act only on a recommendation from the committee passed by a two-thirds majority of its membership.

9. These proposals were put to the USSR by the representatives of the Governments of the United Kingdom and of the United States of America in a genuine attempt to find some compromise between the known views of the Soviet Union on the one hand and of the vast majority of United Nations membership on the other. The proposals cover the whole field of possible United Nations action involving the use of peace-keeping forces in the light of United Nations experience to date. Her Majesty's Government suggest that the object of all Member nations should be to work towards agreement on the principles governing future peace-keeping operations, in particular the equitable sharing of the costs, taking account of developments since 1945, including the relevant specific decisions of the Security Council and the General Assembly.

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[5] *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

[6] Working Group on the Examination of the Administrative and Budgetary Procedures of the United Nations.

10. Her Majesty's Government are deeply concerned to maintain the principle of collective financial responsibility to put United Nations finances on a proper basis, and to make effective arrangements acceptable to all countries for United Nations peace-keeping operations in the future. Any moves by the Soviet Union or other Member States of the United Nations in support of these aims will have the firm and sympathetic support of Her Majesty's Government. Her Majesty's Government would welcome further discussion of these matters.

DOCUMENT A/5729*

Letter dated 11 September 1964 from the Acting Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General, transmitting a memorandum entitled "The question of the financial situation of the United Nations"

[*Original text: Russian*]
[*11 September 1964*]

Please arrange for the attached memorandum from the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics concerning "The question of the financial situation of the United Nations"[7] to be circulated as an official document of the General Assembly.

(*Signed*) P. MOROZOV
Acting Permanent Representative of the Union of Soviet Socialist Republics to the United Nations

THE QUESTION OF THE FINANCIAL SITUATION OF THE UNITED NATIONS

(MEMORANDUM FROM THE MINISTRY OF FOREIGN AFFAIRS OF THE UNION OF SOVIET SOCIALIST REPUBLICS)

11 September 1964

The financial situation of the United Nations has been attracting universal attention lately. Frequent references are even made to "the financial crisis of the United Nations".

This problem is taking on especial significance for the United Nations, and not only because the financing of the United Nations is important in itself. The main point is that, in this matter as in others, some States are trying to compel the United Nations to violate its Charter, in order to justify illegal acts which have been committed under the United Nations flag in the past, and in order to make it easier to violate the Charter in the future.

The effectiveness of the United Nations as an instrument of peace and international co-operation can be assured only if individual States, as well as the Organization as a whole, abide by the provisions of the United Nations Charter. Violation of the provisions of the Charter, on the other hand, may have serious adverse consequences for the international situation and may even lead to the collapse of the United Nations.

It is universally known that the existing financial difficulties of the United Nations have been caused by the expenses incurred in maintaining the Emergency Force in the Middle East and the operations in the Congo.

What would the position be with regard to the payment of such expenses if the United Nations Charter was adhered to?

* Incorporating document A/5729/Corr.1.
[7] Transmitted also to the Security Council (see S/5964).

I

The operations of the United Nations Emergency Force in the Middle East and the United Nations operations in the Congo lay no financial obligation on Members of the United Nations, inasmuch as these operations have been conducted otherwise than in accordance with the requirements of the United Nations Charter

The United Nations was established in the same way as other international organizations; namely, through the conclusion of an international treaty—the Charter. This treaty determines, in particular, the competence of United Nations organs, their procedure, and so forth. Under the United Nations Charter, States have assumed certain obligations which cannot be altered without a new agreement among the Members of the Organization. It is perfectly evident—and this situation is universally recognized—that the Charter does not place the United Nations above States, that it does not authorize it to act without regard for the provisions of the Charter.

It is natural, therefore, that financial obligations for the Members of the United Nations can arise only out of such actions of the United Nations as conform to its Charter. As to expenses connected with actions which do not conform to the Charter, such actions cannot give rise to obligations for Member States with regard to the payment of expenses.

It is precisely to this category of expenses that the cost of maintaining the United Nations Emergency Force in the Middle East and the cost of the United Nations operations in the Congo belong.

The United Nations Emergency Force in the Middle East was established on the basis of resolutions 998 (ES-I) of 4 November 1956 and 1000 (ES-I) of 5 November 1956, adopted at the first emergency special session of the General Assembly.

The USSR Government has repeatedly emphasized that the establishment of the Emergency Force in the Middle East was carried out in violation of the United Nations Charter.

In matters relating to the maintenance of international peace and security, the Charter clearly delimits the competence of the Security Council and of the General Assembly. According to the Charter, only the Security Council is empowered to decide questions relating to the taking of action to maintain international peace and security; the establishment of the United Nations Emergency Force in the Middle East falls into this category.

In order to ensure prompt and effective action by he United Nations, the Members of the United Nations have conferred on the Security Council "primary responsibility for the maintenance of international peace and security", and have agreed that "in carrying out its duties under this responsibility the Security Council acts on their behalf" (Article 24 of the Charter). The States Members of the United Nations have assumed an obligation to accept and carry out the decisions of the Security Council (Article 25).

The General Assembly may, as provided in Article 11, "discuss any questions relating to the maintenance of international peace and security" and "may make recommendations with regard to any such question". However, as stated further on in the same Article, "Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion".

Under Article 39, it is specifically the Security Council which "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression, and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security". Each succeeding Article of Chapter VII of the Charter contains provisions confirming, reinforcing and crystallizing the proposition that all questions relating to the establishment and use of United Nations armed forces lie within the competence of the Security Council.

Guided by these provisions of the Charter, the USSR representative at the first emergency special session of the General Assembly in 1956 had the following to say about the decision to establish the Emergency Force in the Middle East:

"... As regards the creation and stationing on Egyptian territory of an international police force, the Soviet delegation is obliged to point out that this Force is being created in violation of the United Nations Charter.

"The General Assembly resolution on the basis of which it is now proposed to form this Force is inconsistent with the Charter. Chapter VII of the Charter empowers the Security Council, and the Security Council only, not the General Assembly, to set up an international armed force and to take such action as it may deem necessary, including the use of such a force, to maintain or restore international peace and security."[8]

The Government of the Union of Soviet Socialist Republics, in a memorandum concerning the procedure for financing the operations of the United Nations Emergency Force in the Middle East and the United Nations operations in the Congo, transmitted to the International Court of Justice in 1962, drew the following conclusion:

"Thus, since the Emergency Force for the Middle East was set up in violation of the United Nations Charter and in circumvention of the Security Council, its financing cannot be regarded as an obligation devolving on States Members of the United Nations pursuant to the Charter."[9]

[8] *Official Records of the General Assembly, First Emergency Special Session, Plenary Meetings,* 567th meeting, paras. 291 and 292.

[9] *Ibid., Seventeenth Session, Annexes,* agenda item 64, document A/C.5/957.

The basis for the conduct of the United Nations operations in the Congo was the Security Council resolution of 14 July 1960 (S/4387),[10] which was adopted at the request of Patrice Lumumba's Government in consequence of the Belgian aggression in that country. Thereafter, however, in the course of the operations of the United Nations armed forces in the Congo, both this resolution and the United Nations Charter were grossly violated.

According to the Charter, the Security Council shall determine which States shall take part in carrying out its decisions for the maintenance of international peace and security. Article 48 of the Charter provides that: "The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine". In violation of these provisions of the Charter, the Secretary-General, bypassing the Security Council, himself determined the group of States which were invited to take part, with armed forces or otherwise, in the United Nations operations in the Congo. As early as the Security Council meeting of 20 July 1960 [877th meeting], the USSR representative was compelled to protest against the actions of the Secretary-General, which were undertaken in violation of the Security Council resolution of 14 July.

Furthermore the provisions of the Charter were not observed in relation to the direction of the United Nations operations in the Congo.

The decisive criterion for the legality of the actions of a United Nations armed force in any eventuality is, of course, their consistency with the purposes and principles of the United Nations. It is possible to conceive a situation in which the requirements of the Charter are satisfied as regards the establishment of United Nations armed forces, but the activity of those forces is so directed as to produce results which are diametrically opposed to the purposes set forth in the Charter. This is precisely what happened in the Congo.

The then Secretary-General and the United Nations Command in the Congo, acting in the interest of the colonizers and in flagrant contradiction to the Charter, frustrated the implementation of the Security Council decision of 14 July 1960, which—as was repeatedly pointed out by USSR representatives and as is required by the Charter—should have put an end to interference by the colonizers in the domestic affairs of the Congo and served to strengthen the independence of the new Congolese State. The USSR Government, in its statement of 14 February 1961,[11] roundly condemned the actions of the Secretary-General and proposed the prompt withdrawal of all foreign troops from the Congo so as to enable the Congolese people to settle their domestic affairs themselves.

The sequel to these violations of the Charter was that the Secretary-General, ignoring the Security Council, asked the General Assembly for appropriations to cover the cost of the United Nations operations in the Congo; the General Assembly, in its turn, without being competent to do so under the Charter, took a decision to make an appropriation for these operations and to apportion the cost they entailed among the

[10] Security Council resolution 143 (1960).

[11] *Official Records of the Security Council, Sixteenth Year, Supplement for January, February and March 1961,* document S/4704.

States Members of the United Nations in accordance with the scale of assessment for the regular budget of the Organization.

Obviously, however, resolutions of the General Assembly cannot make the reimbursement of expenses, incurred on measures carried out otherwise than in accordance with the Charter, into an obligation upon States Members of the United Nations.

II

Expenditure for United Nations armed forces does not come under Article 17 of the United Nations Charter

All questions connected with the establishment and operations of United Nations armed forces, including the question of expenditure for such forces, come under Chapter VII of the Charter and are within the competence of the Security Council.

Article 17 of the Charter reads in part:

"1. The General Assembly shall consider and approve the budget of the Organization.

"2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly."

It is perfectly obvious that paragraph 2 of Article 17 is closely linked to paragraph 1 and refers to the budgetary expenses of the Organization. The General Assembly apportions the expenses of the United Nations budget among the Member States and these are required to bear such expenses in accordance with that apportionment.

The phrase "expenses of the Organization" as used in Article 17 of the Charter does not by any means signify "all the expenses of the Organization" but only the expenses under the budget, i.e., the "normal" expenses of the United Nations. The apportionment of such expenses among the Member States is decided by the General Assembly. Expenditure for United Nations armed forces and other matters connected with the establishment and operations of such forces are governed by the provisions of Chapter VII of the Charter and fall within the competence of the Security Council.

That is precisely what the participating States had in mind in 1945 at the San Francisco Conference at which the Charter was drafted. That explains why the provisions dealing with the contributions of Members of the United Nations to the maintenance of international peace and security (Chapter VIII, Section B),[12] including the financing of United Nations armed forces, were referred to Committee 3 of Commission III—the committee which drafted the present Chapter VII of the Charter which concerns "Action with respect to threats to the peace, breaches of the peace, and acts of aggression", i.e., matters within the exclusive jurisdiction of the Security Council.

During the discussion of these matters in the Committee, a proposal was introduced which provided that the expenses of enforcement measures against an aggressor State should be borne by that State. In that connexion, the Committee, in a unanimously adopted report, after recognizing as legitimate the proposal that "the expenses of enforcement action carried out against a guilty State should fall upon that State", declared itself "satisfied with the provisions of paragraphs 10 and 11"[13] (Articles 49 and 50 of the Charter). This opinion of the Committee was approved, again unanimously, by the plenary Conference.

Thus, the Committee considered that, in the solution of the problem of meeting the expenses of United Nations armed forces, account should be taken of the principle of the political and material responsibility of the aggressor State for its aggression and for the material damage resulting from that aggression. This is the question of sanctions, which includes evaluation of the actions of States in cases of aggression, determination of a State's responsibility or degree of responsibility, and settlement of the question of compensation for the damage it caused to other States and for expenditure borne by the United Nations. These are matters within the competence of the Security Council.

The reference in the Committee's report to Articles 49 and 50 of Chapter VII of the Charter also underlines the fact that the expenses of United Nations armed forces were regarded by the Committee as coming under Chapter VII and not under Article 17 of the Charter and, consequently, as falling within the exclusive jurisdiction of the Security Council.

The principle that any United Nations action undertaken on the basis of Chapter VII falls within the exclusive jurisdiction of the Security Council is laid down in the Charter clearly and unequivocally. Chapter VII speaks only of the Security Council and does not even mention the General Assembly. When at the San Francisco Conference the proposal was made by the New Zealand delegation that "in all matters of the application of sanctions, military or economic, the Security Council associate with itself the General Assembly",[14] it was not adopted. During the discussion on the proposal, it was pointed out, in particular by the United States representative, that the General Assembly should not encroach on the Security Council's powers and the Security Council should be the main agency to prevent aggression.[15]

For a long time after the adoption of the United Nations Charter and until the Western Powers, and especially the United States, began their violations of the provisions of the Charter on this matter, no one questioned the fact that under the Charter measures relating to the establishment and operations of United Nations armed forces, including the question of expenditure for such forces, did not come under Article 17 and had no connexion with the "budget" mentioned in that Article.

In their analysis of Article 17, paragraph 2, the well-known commentators on the Charter, Goodrich and Hambro, who had participated in the San Francisco Conference, flatly assert that the "expenses referred to in this paragraph do not include the cost of enforcement action".[16]

While illegally considering questions of financing United Nations armed forces, the General Assembly was nevertheless forced to recognize the special nature of these expenses and the fact that they are not part of the "regular" budget of the United Nations.

[12] See "Dumbarton Oaks Proposals for a General International Organization" [United Nations Conference on International Organization, G/1 (vol. 3, p. 1)].

[13] United Nations Conference on International Organization, III/3/46 (vol. 12, p. 513).

[14] United Nations Conference on International Organization, III/3/9 (vol. 12, p. 296).

[15] United Nations Conference on International Organization, III/3/5 (vol. 12, p. 316).

[16] Leland M. Goodrich and Edvard Hambro, *Charter of the United Nations. Commentary and Documents*, second and revised edition (Boston, 1949), p. 184.

In the first place, at no time has the General Assembly placed the expenditure for the United Nations Emergency Force in the category of expenses of the Organization within the meaning of Article 17, paragraph 2.

In resolution 1001 (ES-I) which it adopted on 7 November 1956 at its first emergency special session the General Assembly approved "the basic rule concerning the financing of the Force laid down in paragraph 15 of the Secretary-General's report". That paragraph reads in part:

"... A basic rule which, at least, could be applied provisionally, would be that a nation providing a unit would be responsible for all costs for equipment and salaries, while all other costs should be financed outside the normal budget of the United Nations ..."[17]

General Assembly resolution 1122 (XI) of 26 November 1956 provides for the establishment of "a United Nations Emergency Force Special Account", to which funds received by the United Nations, outside the regular budget, for the purpose of meeting the expenses of the Force would be credited, and from which payments for that purpose would be made.

As to the expenditure for the forces in the Congo, there again the General Assembly was compelled to note the special nature of such expenditure.

In resolution 1619 (XV) of 21 April 1961, the General Assembly stated that:

"... the extraordinary expenses for the United Nations operations in the Congo are essentially different in nature from the expenses of the Organization under the regular budget and that therefore a procedure different from that applied in the case of the regular budget is required for meeting these extraordinary expenses."

Similar wording is used in resolution 1732 (XVI) of 20 December 1961.

In resolution 1854 (XVII) of 19 December 1962, that is to say, after the International Court's advisory opinion of 20 July 1962,[18] the General Assembly again drew a distinction between the "regular" budget of the Organization and expenditure for the United Nations Emergency Force and the United Nations operations in the Congo, emphasizing that peace-keeping operations of the United Nations accompanied by heavy expenditure, such as those in the Congo and in the Middle East, required a different financing procedure from that applied to the regular budget.

Thus, expenditure for United Nations armed forces, even in cases in which their establishment and operation conform to the Charter, must be regarded as special expenses which are not part of the budget dealt with in Article 17, do not, in fact, come under Article 17, and therefore are not within the competence of the General Assembly. They are expenses governed by the provisions of Chapter VII and are an inseparable part of the measures taken under that Chapter by decision of the Security Council.

[17] *Official Records of the General Assembly, First Emergency Special Session, Annexes,* agenda item 5, document A/3302, para. 15.

[18] *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

III

There can be no question of applying Article 19 of the Charter not only in connexion with the cost of maintaining the Emergency Force in the Middle East and the armed forces in the Congo, but also in cases where United Nations armed forces are created and employed in accordance with the United Nations Charter

The question is sometimes raised, in connexion with the cost of maintaining the Emergency Force in the Middle East and the armed forces in the Congo, whether Article 19 of the Charter can be applied against States which are allegedly in arrears in defraying such expenses.[19]

It is obvious, however, that Members of the United Nations can be said to be in arrears only in cases where they are under an obligation to defray the expenses in question. In the present case, no such obligation exists.

There could be no obligation for Members of the United Nations to pay the cost of maintaining the armed forces in the Middle East and the Congo because, in any case, the question of the cost of maintaining United Nations armed forces does not come under Article 17 of the Charter and is within the competence of the Security Council and not of the General Assembly. When it considered matters connected with defraying the cost of maintaining armed forces in the Middle East and the Congo, the General Assembly exceeded its powers (*ultra vires*). Hence, the General Assembly's resolutions on these matters cannot impose any financial obligation on Members of the United Nations.

Article 19 of the Charter provides that a Member of the United Nations which is in arrears beyond a certain amount in the payment of its financial contributions shall have no vote in the General Assembly. The arrears to which this Article refers are arrears in the payment of expenses under Article 17 of the Charter, which, as has already been pointed out, do not include expenditure on the maintenance of United Nations armed forces.

It should be recalled that at the San Francisco Conference Articles 17 and 19 of the Charter were regarded as parts of a whole. The Committee first approved the provisions which later became Article 17 and then approved supplementary provisions which today constitute Article 19.

Article 19 was drafted on the basis of Indian, Netherlands and Norwegian amendments, which were submitted as additions to the present Article 17 and Article 18, paragraph 1. The purpose of these amendments was stated as follows: "It should come under consideration whether the right of voting of Member States which do not pay their contribution should be suspended".[20]

It will be recalled that, in the Committee, Australia introduced an amendment to the present Article 19 for the purpose of extending its application to obligations of Member States under Chapter VII of the Charter.[21] However, that amendment was not incorporated into the Charter.

[19] See, for example, *Article 19 of the Charter of the United Nations, Memorandum of Law* (Department of State, Washington, D. C., February 1964).

[20] United Nations Conference on International Organization, G/7 (n), (vol. 3, p. 356).

[21] United Nations Conference on International Organization, II/1/34 (vol. 8, p. 470).

Thus, it is quite clear that Article 19 of the Charter applies only to the financial obligations of Member States with regard to expenses governed by Article 17. This further bears out the proposition stated above that Article 17 does not apply to the costs of maintaining United Nations armed forces, which are governed by Chapter VII of the Charter.

IV

Strict compliance with the provisions of the Charter relating to the establishment, employment and financing of United Nations armed forces is of particular importance.

In its "Memorandum regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security" [see A/5721], the USSR Government made a number of proposals designed to increase the effectiveness of the United Nations in safeguarding international peace and security. The basic idea of these proposals is, as was emphasized in the memorandum itself, the following:

"The Charter contains the essential principles for peaceful and good-neighbourly relations among States. Therefore, to enhance the effectiveness of the United Nations in keeping the peace means first of all putting an end to violations of the Charter, permanently ridding the Organization of all remnants of the 'cold war' period, creating within the United Nations a situation favourable to the co-operation of all States as equals."

This is particularly important as regards action to maintain international peace and security and, above all, as regards the employment of armed forces.

The employment of United Nations armed forces is an emergency measure which can greatly affect the international situation. At the same time, employment of such forces entails substantial expenditure.

The question of the payment by Member States of expenses connected with such operations must be decided in accordance with the provisions of the United Nations Charter, which, in this as in other matters, are based on the principles that all States enjoy sovereign equality, that the situation and capacities of each State must be taken into account, and that the armed forces must truly be employed for the purpose of maintaining or restoring international peace and security.

In the above-mentioned memorandum, the USSR Government stated that the question of the reimbursement of expenditure required for the execution of emergency measures adopted by the Security Council to deter or repel aggression through the use of United Nations armed forces should be decided in conformity with the generally recognized principle of international law that aggressor States bear political and material responsibility for the aggression they commit and for the material damage caused by that aggression.

The memorandum went on to state:

"Nevertheless, the Soviet Government does not rule out the possibility that situations may arise where, in order to execute the above-mentioned emergency measures of the Security Council, it will be necessary for States Members of the United Nations to take part in defraying the expenditure involved in the maintenance and use of United Nations armed forces established in order to maintain international peace and security. In such future cases when the Security Council adopts decisions to establish and finance United Nations armed forces in strict compliance with the provisions of the Charter, the Soviet Union will be prepared to take part with other States Members of the United Nations in defraying the expenditure involved in the maintenance of those armed forces."

The question of reimbursing United Nations expenditure on the maintenance of armed forces is tremendously important, and affects the very foundations of the Organization. For that reason, it is of the utmost importance that the provisions of the United Nations Charter should be observed in deciding this question.

Being convinced that compliance with the Charter is essential to the viability of the United Nations and guarantees the effectiveness of its activities in safeguarding peace and developing international co-operation, the Soviet Union does not intend to depart from the provisions of the Charter.

DOCUMENT A/5739

Letter dated 8 October 1964 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General, transmitting a memorandum entitled "The United Nations financial crisis"

[*Original text: English*]
[*8 October 1964*]

I have the honour to enclose a memorandum by the United States of America, dated 8 October 1964, concerning "The United Nations financial crisis". I would appreciate it if you would arrange to have the memorandum circulated as an official document of the General Assembly.

The memorandum deals with the serious extent of the financial issue facing the Organization, the law on the issue as established by the International Court of Justice and the General Assembly, and the implications which a breach of the Charter on the question would entail.

(*Signed*) Adlai E. STEVENSON
Permanent Representative of the United States of America to the United Nations

THE UNITED NATIONS FINANCIAL CRISIS

(MEMORANDUM BY THE UNITED STATES OF AMERICA)

8 October 1964

A. *The financial crisis*

The United States of America is vitally interested in the survival of the United Nations as an effective institution, and is deeply troubled by the financial crisis facing the Organization.

The crisis is painfully clear. The United Nations has a net deficit of $134 million.

On 30 June 1964 the United Nations had on its books unpaid obligations owed to Governments and other outsiders totalling some $117 million. In addition,

it owed to its own Working Capital Fund—which it is supposed to have on hand in order to keep afloat and solvent pending the receipt of assessments—$40 million. Other internal accounts were owed $27 million. Against this total of $183 million of obligations it had $49 million in cash resources, or a net deficit of $134 million.

What does this mean?

It means that the United Nations does not have the money to pay its debts, and that it would be bankrupt today if it were not for the forebearance of the Member Governments to which it owes those debts.

It means that, unless something is done, the United Nations will have to default on its obligations to Member Governments which, in good faith and in reliance on the Organization's promises and good faith, have furnished troops and supplies and services to the United Nations, at its request, for the safeguarding of the peace. In so doing, these Governments incurred substantial additional and extraordinary expenditures which the United Nations agreed to reimburse—an agreement which the Secretary-General referred to in his statement at the opening session of the Working Group of Twenty-one on 9 September 1964 (A/AC.113/29) as "the commitment which the Organization has accepted, in its collective capacity, towards those of its Members who have furnished the men and material for its successive peace-keeping operations".

Which are those Governments?

The United Nations owes significant amounts to Argentina, Austria, Brazil, Canada, Denmark, Ethiopia, Ghana, India, Indonesia, Iran, Ireland, Italy, Liberia, Malaysia, Mali, Morocco, Netherlands, Nigeria, Norway, Pakistan, Philippines, Sierra Leone, Sudan, Sweden, Tunisia, United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, Yugoslavia, and the United States of America. It is to be noted that nineteen of these twenty-nine countries are developing countries.

As the Secretary-General said in the Working Group of Twenty-one, these twenty-nine Members "are surely entitled to expect the United Nations to keep faith with them" (*ibid.*). For the United Nations to keep that faith, it must get the money from its Members, for it has no other practicable source.

These twenty-nine countries will suffer if the United Nations is forced, by the default of the Members which owe it, into defaulting to those which it owes; the entire Organization will suffer if it does not honour its just obligations and becomes morally bankrupt.

The twenty-nine Members would suffer by a default, but the real sufferer would be the United Nations itself. How could an enfeebled and creditless defaulter maintain peace and security? Indeed, how could any institution that had committed such a breach of faith hope long to survive as a credit-worthy and effective organization?

As the Secretary-General said in the Working Group of Twenty-one, "failure to take care of the past may not leave us with much of a future" (*ibid.*).

What has caused this crisis?

The crisis has been thrust upon the United Nations by those Members which have refused to pay the assessments for the Middle East (UNEF) and Congo (ONUC) operations as voted by the General Assembly in accordance with the Charter.

It is worthwhile recalling exactly how those operations were authorized and exactly what they were.

B. *The Middle East operation—UNEF*

UNEF grew out of the Suez crisis of 1956. The Security Council found itself unable to act because of vetoes by certain of the permanent members. Yugoslavia then, on 31 October 1956, introduced the following draft resolution:

"*The Security Council,*

"*Considering* that a grave situation has been created by action undertaken against Egypt,

"*Taking into account* that the lack of unanimity of its permanent members at the 749th and 750th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"*Decides* to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950," [*Note*: The "Uniting for peace" resolution] "in order to make appropriate recommendations."

The Council adopted the draft resolution by 7 votes to 2, with 2 abstentions and the Soviet Union voted *for* the resolution (S/3721).[22]

Thus the Soviet Union *supported* the referral by the Security Council of the crisis to the General Assembly for "appropriate recommendations" under the very "Uniting for peace" resolution which the Soviet Union now tries to discredit.

The "appropriate recommendations" began with resolution 997 (ES-I), adopted by 64 votes to 5, with 6 abstentions (the Soviet Union voting for), calling for an immediate cease-fire, and resolution 998 (ES-I), adopted by 57 votes to none, with 19 abstentions (the Soviet Union abstaining), requesting the Secretary-General to submit "a plan for the setting up, with the *consent of the nations concerned,* of an emergency international United Nations Force *to secure and supervise* the *cessation of hostilities* in accordance with all the terms of the aforementioned resolution"—i.e., Assembly resolution 997 (ES-I) [*Note:* emphasis supplied].

There followed resolution 999 (ES-I), adopted by 59 votes to 5, with 12 abstentions (the Soviet Union voting for), authorizing the Secretary-General to arrange for the implementation of the cease-fire, and resolution 1000 (ES-I), which noted with satisfaction the Secretary-General's plan for the international force (A/3289),[23] and provided as follows:

"*The General Assembly*

"...

"1. *Establishes* a United Nations Command for an emergency international Force to secure and supervise the cessation of hostilities in accordance with all the terms of General Assembly resolution 997 (ES-I) of 2 November 1956".

The vote on the resolution was 57 to none, with 19 abstentions. There was not a single vote against (the Soviet Union abstained).

Further, the General Assembly, by resolution 1001 (ES-I), which was adopted by 64 votes to none, with 12 abstentions, approved the Secretary-General's second

[22] Security Council resolution 119 (1956).

[23] See *Official Records of the General Assembly, First Emergency Special Session, Annexes,* agenda item 5.

report (A/3302).[23] That report specifically indicated: (*a*) that UNEF was intended only to secure and supervise the cease-fire and the withdrawal of forces, and *not* to enforce the withdrawal, (*b*) that it was not an enforcement action, nor was UNEF a force with military objectives, and (*c*) that no use of force under Chapter VII of the Charter was envisaged. The Soviet Union abstained and did not vote against that resolution either.

Yet now the Soviet Union contends that there was something illegal about an operation (*a*) which was recommended by the General Assembly pursuant to a referral by the Security Council voted for by the Soviets themselves, (*b*) which involved no enforcement or military action whatsoever but merely the securing and supervising of a previously agreed to cease-fire, (*c*) which was consented to by the Government concerned, and (*d*) which was authorized by the Assembly without a negative vote by anyone.

Rejecting the Soviet contentions, the International Court of Justice held (see sect. D.1 below) that UNEF *was* properly authorized by the Assembly.

C. *The Congo operation—ONUC*

The United Nations Operation in the Congo was authorized by the Security Council on 14 July 1960, by resolution S/4387,[24] reading in part as follows:

"*The Security Council*

"...

"2. *Decides* to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with such military assistance as may be necessary until, through the efforts of the Congolese Government with the technical assistance of the United Nations, the national security forces may be able, in the opinion of the Government, to meet fully their tasks".

The Soviet Union voted *for* the resolution, which clearly gave the Secretary-General discretionary authority, in consultation with the Congolese Government, to determine the make-up of ONUC.

On 18 July 1960, the Secretary-General presented to the Security Council his first report (S/4389)[25] in which he recited the steps taken by him to invite Member States to furnish forces for ONUC.

On 22 July 1960, the Security Council adopted resolution S/4405,[26] reading in part as follows:

"*The Security Council,*

"...

"*Appreciating* the work of the Secretary-General and the support so readily and so speedily given to him by all Member States invited by him to give assistance,

"...

"3. *Commends* the Secretary-General for the prompt action he has taken to carry out resolution 143 (1960) and for his first report".

The Soviet Union voted *for* the resolution.

In the face of this record, it is difficult to understand the Soviet Union's present claim—contained in section I of the Soviet memorandum of 11 September 1964 (see A/5729) that it was improper for the Secretary-General to invite States to take part in ONUC—when he did so pursuant to direct Security Council authorization and approval, twice voted for by the Soviet Union itself. There was no "bypassing" of the Security Council (*ibid.*); on the contrary the Secretary-General did exactly what the Council authorized him to do and commended him for having done!

On 9 August 1960, the Security Council adopted resolution S/4426,[27] confirming the authority given to the Secretary-General by the two prior resolutions and requesting him to continue to carry out his responsibility. The Soviet Union voted *for* that resolution too.

Furthermore, six months later, the Security Council on 21 February 1961, adopted resolution S/4741[28] which broadened ONUC's mandate and reaffirmed the three earlier Security Council resolutions and an intervening General Assembly resolution. The Soviet Union abstained.

Finally, the Security Council on 24 November 1961, nine months later, adopted resolution S/5002,[29] which in effect again reauthorized the ONUC operation, recalling the earlier Security Council resolutions (and intervening General Assembly resolutions), and again broadened ONUC's mandate. The Soviet Union voted *for* the resolution.

Against this record of Security Council authorization and repeated reauthorization, it is difficult to understand how the Soviet Union can now contend that the operation was not legal and was not validly authorized.

As for the Soviet contention that ONUC was not conducted in accordance with the five Security Council resolutions, it is enough to point out that ONUC was reauthorized by the Security Council's resolutions of 21 February and 24 November 1961—six months and fifteen months, respectively, after its inception.

If the Security Council had felt that ONUC was not being properly conducted in accordance with its resolutions, it could at any time have changed or given further explicit instructions. No such instructions were ever given or even suggested by the Security Council, and the record of Security Council authorization and reauthorization, and reaffirmation, of the ONUC operation, remains unchallenged.

The International Court of Justice accordingly held (see sect. D below) that ONUC *was* properly authorized.

D. *Soviet legal arguments*

Let us now consider the legal arguments which have been made by the USSR.

It should first be noted that every one of the arguments put forward by the Soviet Union in its memorandum of 11 September, 1964, and elsewhere, was made by the Soviet representative in his submission and argument[30] before the International Court of Justice in the summer of 1962, when the Court considered the question of whether the UNEF and ONUC assessments voted by the General Assembly were "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter, and therefore binding obligations of the Members.

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[24] Security Council resolution 143 (1960).

[25] See *Official Records of the Security Council, Fifteenth Year, Supplement for July, August and September 1960.*

[26] Security Council resolution 145 (1960).

[27] Security Council resolution 146 (1960).

[28] Security Council resolution 161 (1961).

[29] Security Council resolution 169 (1961).

[30] *I.C.J. Pleadings, Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, pp. 270-274 and 397-412.

Every single one of those arguments was specifically rejected in the Court's advisory opinion of 20 July 1962.[31] That Opinion was accepted on 18 December 1962 by the General Assembly [resolution 1854 (XVII)] by the overwhelming vote of 76 to 17, with 8 abstentions, after the Assembly had decisively defeated an amendment which would merely have taken note of the opinion.

Nevertheless, it may be useful to deal briefly with the Soviet contentions.

1. *The claimed "exclusive" peace-keeping rights of the Security Council*

The Soviet position is that the Security Council, and *only* the Security Council, has *any* right to take any action whatsoever with respect to the keeping of the peace, and that the General Assembly has no rights whatsoever in that area.

It should first be noted that this argument has nothing to do with ONUC, which was authorized and reauthorized by the Security Council by repeated resolutions, four out of five of which were voted *for* by the Soviet Union—it abstained on the fifth. Further, it will be remembered that UNEF was recommended by the General Assembly pursuant to the Security Council's referral of the problem to the General Assembly for its recommendations, by a resolution which the Soviet Union voted *for* [see sect. B above].

In any event, there is no basis for the contention that the Security Council has exclusive rights as to peace-keeping, and the General Assembly none. Article 24 of the Charter gives the Security Council "primary responsibility for the maintenance of international peace and security", *primary* but not *exclusive* authority.

The Charter provisions set forth unequivocally the authority of the General Assembly in this regard. Subject only to Article 12, paragraph 1:[32]

Article 10 authorizes the General Assembly to discuss and make recommendations on any questions or matters within the scope of the Charter;

Article 11, paragraph 2, authorizes the General Assembly to discuss and make recommendations with regard to any questions relating to the maintenance of international peace and security (except that any question on which "action" is necessary shall be referred to the Security Council);

Article 14 authorizes the General Assembly to recommend measures for the peaceful adjustment of any situation likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the purposes and principles of the United Nations; and

Article 35 provides that any dispute or situation which might lead to international friction or give rise to a dispute may be brought to the attention of the Security Council or of the General Assembly, whose proceedings are to be subject to Articles 11 and 12.

The word "action" in the exception to Article 11, paragraph 2, clearly applies only to coercive or enforcement action, and therefore not to recommendations by the General Assembly. So the International Court of Justice held in its Advisory Opinion of 20 July 1962, saying that:

"The Court considers that the kind of action referred to in Article 11, paragraph 2, is coercive or enforcement action. This paragraph, which applies not merely to general questions relating to peace and security, but also to specific cases brought before the General Assembly by a State under Article 35, in its first sentence empowers the General Assembly, by means of recommendations to States or to the Security Council, or to both, to organize peace-keeping operations, at the request, or with the consent, of the States concerned. This power of the General Assembly is a special power which in no way derogates from its general powers under Article 10 or Article 14, except as limited by the last sentence of Article 11, paragraph 2. This last sentence says that when 'action' is necessary the General Assembly shall refer the question to the Security Council. The word 'action' must mean such action as is solely within the province of the Security Council. It cannot refer to recommendations which the Security Council might make, as for instance under Article 38, because the General Assembly under Article 11 has a comparable power. The 'action' which is solely within the province of the Security Council is that which is indicated by the title of Chapter VII of the Charter, namely 'Action with respect to threats to the peace, breaches of the peace, and acts of agression'. If the word 'action' in Article 11, paragraph 2, were interpreted to mean that the General Assembly could make recommendations only of a general character affecting peace and security in the abstract, and not in relation to specific cases, the paragraph would not have provided that the General Assembly may make recommendations on questions brought before it by States or by the Security Council. Accordingly, the last sentence of Article 11, paragraph 2, has no application where the necessary action is not enforcement action."[33]

The Security Council *does* have the sole authority, under Chapter VII, to make binding decisions, obligatory and compulsory on all Members, for *coercive* or *enforcement* action, but that does not mean that the General Assembly cannot make *recommendations* (as opposed to binding decisions) as to the preservation of the peace.

UNEF, as shown by the Secretary-General's report and on the face of the resolutions which authorized it (see sect. B above), involved no enforcement action, and was clearly within the recommendatory power of the General Assembly as regards a situation turned over to it by the Security Council by a resolution voted for by the Soviet Union.

ONUC *was* authorized by the Security Council, and reauthorized by the Security Council, and no valid objection can be raised to that authorization.

Few Members of the United Nations would ever agree that, if the Security Council proves itself unable to act in the face of an international emergency, the General Assembly can only stand by, motionless and powerless to take any step for the preservation of the peace.

Certainly the record of recent years shows that the General Assembly can take and has taken appropriate measures in the interest of international peace, and that

[31] *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

[32] That paragraph reads:

"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."

[33] Op. cit., pp. 164 and 165.

it has done so with the support of the overwhelming majority of the Members, who believe that such measures are fully within the letter and the spirit of the Charter.

2. *The claimed "exclusive" rights of the Security Council as to peace-keeping expenses*

The Soviet Union also contends that the Security Council has *sole* authority to determine the expenses of a peace-keeping operation, and to assess them on the membership, and that the General Assembly has no such right.

We think it unlikely that many Members would ever agree that the eleven members of the Security Council should be able to assess the other 101 Members without any consent or action on their part—surely taxation without representation.

There is not the slightest justification in the Charter for any such contention. The only reference in the Charter to the Organization's expenses is in Article 17, paragraph 2, which provides that "the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly". The Security Council is never mentioned in the Charter in connexion with any expenses of the United Nations.

3. *The claimed "non-includability" of peace-keeping expenses under Article 17 of the Charter*

Article 17 of the Charter reads in part:

"1. The General Assembly shall consider and approve the budget of the Organization.

"2. The expenses of the Organization *shall* be borne by the Members as apportioned by the General Assembly." [*Note:* emphasis supplied.]

It is clear that if the expenses of UNEF and ONUC, as apportioned by the General Assembly, are "expenses of the Organization", they are obligatory on the Members and must be paid.

This is precisely the question which was decided in the affirmative by the International Court of Justice in its Advisory Opinion of 20 July 1962, accepted by the General Assembly.

Before the Court the Soviet Union contended, as it does in section II of its memorandum of 11 September 1964, that paragraph 2 of Article 17 refers only to the *budgetary* expenses of the Organization. The Court points out, in its advisory opinion, that "on its face, the term 'expenses of the Organization' means *all* the expenses and not just certain types of expenses which might be referred to as 'regular expenses'."[34] [*Note:* emphasis supplied.]

The Soviet memorandum refers, in section II, to a proposal made at San Francisco as to costs of enforcement action. In point of fact, the proposal was made by the Union of South Africa, which suggested an amendment to what is now Article 50 of the Charter.

Article 50 deals with the right of a State (whether a Member of the United Nations or not) to consult the Security Council for a solution of any special economic problems arising from preventive or enforcement measures taken by the Council; the Article obviously relates to the situation where, for example, a Security Council embargo or boycott against an aggressor has the side effect of seriously harming the economy of an innocent third country.

[34] Op. cit., p. 161.

The amendment submitted by the Union of South Africa was to the effect that a guilty country against which United Nations enforcement action is taken should be required to pay the costs of the enforcement action and to make reparation for losses and damages sustained by the economies of innocent third countries as a result. Countries participating in the enforcement action were to submit their claims for costs and reparation to the Security Council for approval and for action required to ensure recovery. The amendment had nothing whatever to do with the payment of peace-keeping costs incurred by the United Nations itself. Furthermore, the amendment was *rejected* by Committee III/3 by a vote of 19 to 2. The two votes in favour of the amendment were presumably those of the Union of South Africa, the proposer, and Iran, the seconder, which indicates that both the Soviet Union and the United States voted for rejection.[35]

The full text of the report of Committee III/3 on the matter (partially quoted in section II of the Soviet memorandum) was as follows:

"*Economic Problems of Enforcement Action.* In conclusion, having heard various explanations on the subject of mutual assistance between states in the application of the measures determined by the Security Council and having noted the legitimate concern expressed by South Africa that the expenses of enforcement action carried out against a guilty state should fall upon that state, the Committee declared itself satisfied with the provisions of paragraphs 10 and 11." [*Note* the present Articles 49 and 50 of the Charter, which contain no provisions as to the treatment of peace-keeping expenses.]

"A desire moreover was expressed that the Organization should, in the future, seek to promote a system aiming at the *fairest possible distribution* of expenses incurred as a result of enforcement action." [*Note* emphasis on the original.]

"Having duly noted the explanations and suggestions given, the Committee unanimously adopted paragraphs 10 and 11 of the Dumbarton Oaks Proposals without change."[36]

The Committee's rejection of the proposal of the Union of South Africa that aggressors pay, and the Committee's omission from Articles 49 and 50 of any reference to expenses, left Article 17 as the *only* Article in the Charter dealing with expenses. That rejection and omission, and the Committee's emphasis on the fairest possible distribution of enforcement expenses, buttress the conclusion that such expenses *are* to be included in Article 17, paragraph 2, and apportioned by the General Assembly, and *are* to be borne by the Members.

The Soviet memorandum of 11 September 1964 in section II refers to a statement of Goodrich and Hambro in "*Charter of the United Nations. Commentary and Documents*" (Boston, 1949), that the expenses referred to in Article 17, paragraph 2, do not include the cost of enforcement action. In point of fact the statement is found in a foot-note, foot-note 90 on page 184. The foot-note refers to Article 49 (which provides that Members are obligated to join in affording mutual assistance in carrying out Chapter VII measures

[35] See United Nations Conference on International Organization, G/14(d)(2) (vol. 3, p. 478), and III/3/34, III/3/41, III/3/45, III/3/46 (vol. 12, pp. 393, 435, 493, 513).

[36] United Nations Conference on International Organization, III/3/46 (vol. 12, p. 513).

decided upon by the Security Council) and to the discussion of that Article on page 295 of the same book. Both references, and the discussion, make it clear that the authors have in mind enforcement costs that are to be borne by Members *themselves* in carrying out measures decided upon by the Security Council under Articles 48 and 49, and not the type of non-enforcement peace-keeping expenses involved in UNEF and ONUC, where, by agreement, primary expenses *were* to be borne by the States furnishing the forces, but their extra and additional expenses were to be reimbursed by the United Nations.

The Soviet memorandum contends, towards the end of section II, that the fact that the General Assembly set up separate accounts for UNEF and ONUC expenses, apart from the regular budget, and, in certain cases, apportioned and assessed those expenses in a manner different from that used in the case of regular budget expenses, took UNEF and ONUC expenses out of the category of "expenses of the Organization" as found in Article 17, paragraph 2.

The International Court of Justice in its advisory opinion of 20 July 1962 decisively rejected this contention, saying with respect to UNEF expenses, after a full review—pages 172 to 175—of the General Assembly UNEF assessment resolutions from 1956 to date:

"The Court concludes that, from year to year, the expenses of UNEF have been treated by the General Assembly as expenses of the Organization within the meaning of Article 17, paragraph 2, of the Charter."[37]

As to ONUC expenses, the Court said:

"The conclusion to be drawn from these paragraphs is that the General Assembly has twice decided that even though certain expenses are 'extraordinary' and 'essentially different' from those under the 'regular budget', they are none the less 'expenses of the Organization' to be apportioned in accordance with the power granted to the General Assembly by Article 17, paragraph 2. This conclusion is strengthened by the concluding clause of paragraph 4 of the two resolutions just cited" [*note* General Assembly resolutions 1619 (XV) and 1732 (XVI)] "which states that the decision therein to use the scale of assessment already adopted for the regular budget is made 'pending the establishment of a *different scale of assessment* to defray the extraordinary expenses'. The only alternative—and that means the 'different procedure'—contemplated was another *scale* of assessment and not some method other than assessment. 'Apportionment' and 'assessment' are terms which relate only to the General Assembly's authority under Article 17."[38] [*Note* emphasis in the original.]

The clear conclusion is that the UNEF and ONUC expenses *are* "expenses of the Organization" as referred to in Article 17, paragraph 2, and, as duly apportioned by the General Assembly, *shall* be borne by the Members as obligatory obligations.

4. *The claimed "non-applicability" of Article 19 of the Charter*

The first sentence of Article 19 of the Charter reads as follows:

"A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years."

The Soviet memorandum of 11 September 1964 states in section III that the arrears to which Article 19 refers are arrears in the payment of expenses under Article 17. This is of course true.

But the memorandum contends that since, according to the Soviet claim, UNEF and ONUC expenses are solely within the competence of the Security Council and are not "expenses of the Organization" under Article 17, they cannot be included in the calculation of arrears under Article 19.

But, as the International Court of Justice has held and as the General Assembly confirmed (see sect. D.3 above), UNEF and ONUC expenses *are* "expenses of the Organization" under Article 17 and *were* properly apportioned under that Article by the General Assembly. Therefore they *are* to be included in any calculation of arrears under Article 19.

The memorandum refers, also in section III, to an amendment to the present Article 19 proposed at the San Francisco Conference by Australia. The amendment in question would have added to Article 19 a provision that a Member shall have no vote if it has not carried out its obligations under what is now Article 43. In other words, for example, if a Member has agreed with the Security Council under Article 43 to furnish certain troops on the Council's call, and later refuses to do so, it should lose its vote. The proposed amendment would thus have *added* to Article 19, which already provided for loss of vote by a member failing to pay its assessments for United Nations expenses, a provision for loss of vote by a Member failing to comply with its Article 43 obligations. Expenses were not involved in the proposed amendment at all.

In point of fact the proposed amendment was withdrawn by Australia and was never voted on. The proposed amendment and its withdrawal have nothing to do with the fact that Article 19 *does* deprive a member of its vote for failing to pay its assessments for United Nations expenses, and the fact that those expenses include, as the International Court of Justice has held, the UNEF and ONUC peace-keeping expenses incurred by the United Nations itself and duly assessed on all Members by the General Assembly. Those interested in the proposed amendment will find the accurate story in the documents of the United Nations Conference on International Organization, volume 8, pages 470 (II/1/34) and 476 (II/1/35).

So the conclusion is clear that, in the calculation of arrears under Article 19, UNEF and ONUC assessments *are* to be included.

E. *The attitude of the United Nations membership*

From the foregoing it is clear that UNEF and ONUC arrears are legal and binding obligations of Members. Furthermore, it is the overwhelming conviction of the United Nations membership that they *should* be paid, and that all Members have a collective responsibility for the financing of such operations.

General Assembly resolution 1854 (XVII), of 19 December 1962, accepting the International Court of Justice Advisory Opinion that UNEF and ONUC expenses *are* "expenses of the Organization" within the meaning of Article 17, paragraph 2, has already been

[37] Op. cit., p. 175.
[38] Op. cit., pp. 178-179.

cited, together with the vote of 76 to 17, with 8 abstentions in its favour.

By resolution 1874 (S-IV), adopted on 27 June 1963 by 92 votes to 11, with 3 abstentions, the General Assembly affirmed, among other principles, the principle that the financing of peace-keeping operations is the collective responsibility of *all* States Member of the United Nations.

On 27 June 1963, by 79 votes to 12, with 17 abstentions, the General Assembly adopted resolution 1877 (S-IV), reading in part as follows:

> "*The General Assembly,*
>
> "...
>
> "*Noting with concern* the present financial situation of the Organization resulting from the non-payment of a substantial portion of past assessments for the United Nations Emergency Force Special Account and the *Ad Hoc* Account for the United Nations Operation in the Congo,
>
> "*Believing* that it is essential that all assessments for these accounts be paid as soon as possible,
>
> "1. *Appeals* to Member States which continue to be in arrears in respect of their assessed contributions for payment to the United Nations Emergency Force Special Account and the *Ad Hoc* Account for the United Nations Operation in the Congo to pay their arrears, disregarding other factors, as soon as their respective constitutional and financial arrangements can be processed, and, pending such arrangements, to make an announcement of their intention to do so;
>
> "2. *Expresses its conviction* that Member States which are in arrears and object on political or juridical grounds to paying their assessments on these accounts nevertheless will, without prejudice to their respective positions, make a special effort towards solving the financial difficulties of the United Nations by making these payments".

Despite the overwhelming support for the *legal* conclusion of the International Court of Justice that UNEF and ONUC expenses are legally binding obligations, and for the *political* conclusion that these expenses *should* be paid, regardless of legal dissent, to keep the Organization solvent, the United Nations is still faced with refusals by certain States to pay their shares of these expenses.

F. *Article 19 of the Charter*

November 10 is the opening of the General Assembly, and November 10 presents the inevitable and inescapable issue of Article 19 unless requisite payments are made before that opening. Article 19 reads as follows:

> "A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member."

The first sentence of Article 19 says in simple and clear terms that a Member subject to its provisions *shall have* no vote in the General Assembly. It does not say that the General Assembly has any discretion with respect to such a Member; it does not say that the General Assembly shall *vote* as to whether the delinquent shall have no vote; it simply says that the delinquent *shall* have no vote. The first sentence of Article 19 in the French text is even more emphatic: it says the delinquent Member *cannot* vote—"*ne peut participer au vote*".

The second sentence of Article 19 *does* provide for a vote; a delinquent Member whose failure to pay is due to conditions beyond its control *may* be permitted by the General Assembly to vote. But there is no discretion as to a delinquent Member whose failure to pay is *not* due to conditions beyond its control, no discretion as to a Member which *refuses* to pay.

The United States hopes that those Members about to be confronted by Article 19 will take the action necessary to avoid the confrontation.

The way to avoid the confrontation is for those subject to the terms of Article 19 to make the necessary payments.

The United States does not seek the confrontation—but if on November 10 the plain and explicit terms of Article 19 do become applicable, there is no alternative to its application.

It is not only that Article 19 means what it says—that the Member shall have no vote—it is that failure to apply the Article would be a violation of the Charter which would have far-reaching consequences.

Failure to apply the Article would break faith with the overwhelming majority of Members who are paying their peace-keeping assessments—often at great sacrifice—as obligations binding under the Charter.

Failure to apply the Article would be a repudiation of the International Court of Justice and of that rule of international law whose continued growth is vital for progress toward peace and disarmament.

Failure to apply the Article would mean the discarding of the *only* sanction which the United Nations has in support of its capacity to collect what its Members owe it.

Failure to apply the Article would undermine the only mandatory power the General Assembly has—the power under Article 17 to assess the expenses of the Organization on the Members.

Failure to apply the Article would tempt Members to pick and choose, with impunity, from among their obligations to the United Nations, refusing to pay for items they dislike even though those items were authorized by the overwhelming vote of the Members. Indeed, the Soviet Union has already said that it will not pay for certain items in the regular budgets. How could any organization function on such a fiscal quicksand?

Failure to apply the Article to a great Power simply because it is a great Power would undermine the constitutional integrity of the United Nations, and could sharply affect the attitude toward the Organization of those who have always been its strongest supporters.

Failure to apply the Article could seriously jeopardize the support of United Nations operations and programmes, not only for the keeping of the peace but for economic and social development.

The consequences of not applying Article 19 would thus be far worse than any conjectured consequences of applying it.

We believe that it is the desire of most Members of the United Nations that the situation *not* arise which makes Article 19 applicable, and therefore we believe

that it is up to the membership to see to it that the confrontation is avoided through the means available under the Charter for avoiding it—the making of the necessary payments.

G. *The fundamental issue*

The United Nations financial crisis is not an adversary issue between individual Members; it is an issue between those who refuse to pay and the Organization itself, the Organization as a whole. It is an issue which involves the future capacity of the United Nations as an effective institution. If the United Nations cannot collect what is due from its Members, it cannot pay what it owes; if it cannot collect what is due from its Members, it will have no means of effectively carrying on its peace-keeping functions and its economic and social programs will be jeopardized.

The issue is one which vitally affects *all* Members of the United Nations.

The United Nations is of particular importance to its developing Members. It is not only a free and open forum where all can defend what they think and urge what they want, it is an institution which, in response to the interests of all—both large and small—can *act*. But it cannot act unless it has the funds to support its acts. And if it cannot get from its Members the funds to support its acts, *all* would be the losers. So it is to *all* countries that the United Nations must look for a solution.

It has sometimes been said that somehow the United States should work out with the Soviet Union a compromise on some of the fundamental issues.

Could the United States—or should it—agree that Member States which are not members of the Security Council should have nothing at all to say about peace-keeping, even in cases in which the Security Council cannot act? And nothing to say about peace-keeping expenses or their assessment?

Could the United States—or should it—agree that Article 19, despite its plain terms, should not be applied against a great Power in support of General Assembly assessments, simply because it is a great Power?

The United States does not see how, without violating the Charter, anyone could or should agree to any of these propositions.

H. *United States efforts to find solutions*

The sincere and earnest desire of the United States to find a way out of the United Nations financial crisis, and to avoid confrontation under Article 19, is evidenced by the repeated attempts it has made to reach common ground.

On 6 March of this year the United States proposed to the Soviet delegation certain ideas as to the initiation, conduct and financing of future peace-keeping operations which it was hoped—without sacrificing the rights of the General Assembly—would emphasize the *primary* role of the Security Council in peace-keeping and the desirability of according full weight to the views and positions of the permanent members of the Security Council and other major contributors to peace-keeping expenses. The United States hope was that agreement as to *future* peace-keeping operations would facilitate the solution of the present problem.

However, despite frequent inquiries as to when a reply to the United States suggestions could be expected, four months went by without any answer. Then in early July, the Soviet Union circulated a [memo]randum, dated 10 July 1964 (S/5811),[39] which m[erely] repeated the familiar Soviet thesis that only the Security Council has any rights under the Charter with respect to peace-keeping operation, and that the General Assembly and the Secretary-General have none. There was no mention of the arrears problem or of any of the ideas the United States had suggested for discussion.

On receipt of that memorandum, and later, the United States delegation again endeavoured to enter into a discussion with the Soviet delegation as to the United States suggestions. Unfortunately the unvarying answer was that the uncompromising Soviet memorandum of 10 July was the only reply to be expected.

This sincere effort to enter into a dialogue with the Soviet delegation was in the hope that adjustments as to the arrangements for the initiation and financing of future peace-keeping operations could make it easier to reach some solution as to the present and the past. Unfortunately, there has been no Soviet willingness to enter into that dialogue.

It is common knowledge that representatives of other Member States also have sought to initiate discussions with the Soviet Union on this subject and also have been met with a reiteration of past Soviet contentions.

None the less, the United States has not given up hope, and it intends to continue its attempts to work out new arrangements in the hope that solutions for the future may make it easier for those in arrears on UNEF and ONUC assessments to clear up in some manner these past arrears. The United States intends to continue its efforts in the Working Group of Twenty-one, now meeting under the chairmanship of Chief Adebo of Nigeria, and the United States hopes that all other members of the Group will join in this attempt.

Accordingly, on 14 September 1964, the United States tabled in the Working Group of Twenty-one, as a basis for discussion, a working paper which sets forth examples of the kinds of new arrangements it has in mind as to peace-keeping operations involving the use of military forces. The following elements were mentioned:

"1. All proposals to initiate such peace-keeping operations would be considered first in the Security Council. The General Assembly would not authorize or assume control of such peace-keeping operations unless the Council had demonstrated that it was unable to take action." [This would be a self-denying ordinance on the part of the General Assembly, emphasizing the *primary* role of the Security Council.]

"2. The General Assembly would establish a standing special finance committee. The composition of this committee should be similar to that of the present Working Group of Twenty-one . . ." [The committee membership would include the permanent members of the Security Council, who would thus have a position more commensurate with their responsibilities than in the General Assembly.]

"3. In apportioning expenses for such peace-keeping operations, the General Assembly would act only on a recommendation from the committee passed by a two-thirds majority of the committee's membership." [The permanent members of the Security Council would have an influence greater than in the Assembly, but no single Member could frustrate, by a veto, action desired by the overwhelming majority.]

[39] See A/5721.

. In making recommendations, the committee ould rather consider various alternative methods of financing, including direct financing by countries involved in a dispute, voluntary contributions, and assessed contributions. In the event that the Assembly did not accept a particular recommendation, the committee would resume consideration of the matter with a view to recommending an acceptable alternative.

"5. One of the available methods of assessment for peace-keeping operations involving the use of military forces would be a special scale of assessments in which, over a specified amount, States having greater ability to pay would be allocated higher percentages, and States having less ability to pay would be allocated smaller percentages than in the regular scale of assessments." [A/AC.113/30.]

The United States hopes that such ideas may lead to a measure of agreement among Members of the United Nations as to how these operations are to be started and paid for in the future. Arrangements of this kind should go a long way toward giving the Soviet Union and others in a similar position such assurances for the future as should make it easier for them to make their payments relating to the past.

I. *What other States have done*

It is recognized that the Soviet Union and certain other States in arrears for UNEF and ONUC have strongly-held views against paying these arrears. However, the example of what other States have done when in a similar position indicates that loyalty to the Organization, respect for the International Court of Justice and the rule of law, and consideration for the overwhelming views of Members, should be overriding.

On this point, the following was said by Ambassador Piero Vinci, the Permanent Representative of Italy to the United Nations, in the Working Group of Twenty-one on 23 September 1964:

". . . But we feel that the correct line is the one that the Latin American countries have chosen to follow, although they did not consider the International Court's ruling consistent with the views they had been upholding. The working paper submitted by the delegations of Argentina, Brazil and Mexico and circulated as document A/AC.113/3[40] reads as follows: '. . . also because they wish to maintain the prestige of the Court, whose objectivity in considering the matters submitted to it is one of the most solid guarantees of the maintenance of international peace and security, the Latin American countries accepted the advisory opinion'. In keeping with this well-inspired and wise policy, the distinguished Representative of Mexico informed us, on Thursday, 17 September, that his Government had decided of its own free will—if I understood correctly—by a sovereign act which does not affect its position of principle, to pay its arrears. We have here an example and an implicit suggestion that, I believe, should be carefully weighed and even more usefully followed by whomever might still have reservations on the subject."

In 1954 the United States itself faced a somewhat similar predicament[41] in connexion with an issue on which it had very strong convictions. This was a matter involving awards made by the United Nations Administrative Tribunal to certain former officials of the United Nations Secretariat. The United States and a number of other countries objected strongly on legal grounds to the payment of such awards by the General Assembly. To settle the matter, the General Assembly decided to seek an advisory opinion from the International Court of Justice. The United States vigorously argued its position before the Court. Nevertheless, the Court handed down an advisory opinion contrary to that sought by the United States.

Despite its strongly-held views on the issue, the United States voted with the majority to act in accordance with the opinion of the International Court of Justice. It was not easy for the United States to accept the majority view as to the issue, but it saw no real alternative if the rule of law and the Charter, as interpreted by the Court, were to be maintained.

The case illustrates the fact that all Members, large or small, *can* be called upon and *can* be expected to comply with an authoritative legal opinion and the clearly demonstrated will of the General Assembly that they should make payments as to which they may have the strongest legal and political reservations.

In insisting that Member States, including great Powers, follow the examples cited and find some way to make the necessary payments, all must be prepared to be flexible with regard to the modalities of payment. The only vitally essential ingredient in any solution is that the funds be made available to the United Nations. Most Member States are undoubtedly prepared to be flexible in approach to such a solution, are inclined to be considerate of the interests and prestige of States which have thus far found difficulty in payment, and are ready to negotiate on any reasonable basis consistent with the relevant provisions of the United Nations Charter and Financial Regulations.

J. *Conclusion*

The United Nations is faced with a financial and constitutional crisis which must be solved if the Organization is to continue as an effective instrument. The Charter cannot be ignored. Faith cannot be broken. Commitments must be met. Bills must be paid.

The problem is one which is of crucial importance to *all* Members, and a solution can be found only if *all* Members work together in a search for common ground.

The issue is one between (*a*) the countries that have brought on the crisis by their refusals to pay and (*b*) the other Members of the Organization. It is now the task of *all* those other Members to get the help of those who have thus far refused to pay in solving the crisis that faces the entire Organization.

This memorandum has dealt, among other things, with Article 19 and its applicability. The consequence of not applying it, if it becomes applicable, would be to undermine the very integrity and capacity of the United Nations. Let *all* Members co-operate in finding that common ground which would make possible the receipt by the United Nations of the funds which would make Article 19 inapplicable and which would enable the Organization, thus strengthened, to look forward to continued effective usefulness and man's best hope for a peaceful world.

[40] See *Official Records of the General Assembly, Fourth Special Session, Annexes*, agenda item 7.
[41] Document A/AC.113/36 (mimeographed).

DOCUMENT A/5777

Letter dated 7 November 1964 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General, transmitting a statement by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations

[Original text: Russian]
[9 November 1964]

Please arrange for the attached statement by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations to be circulated as an official document of the nineteenth session of the General Assembly.

(*Signed*) N. FEDORENKO
Permanent Representative of the Union of Soviet Socialist Republics to the United Nations

STATEMENT BY THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS

7 November 1964

On 8 October 1964 a memorandum by the United States of America concerning the so-called "United Nations financial crisis" was circulated as an official document of the nineteenth session of the General Assembly [see A/5739]. This document repeats once again the long-familiar assertions of the United States of America and some other Western countries that the States Members of the United Nations are bound to share in the expenses of the United Nations operations in the Congo and the Middle East and that Article 19 of the Charter of the United Nations should be applied to anyone who refuses to share in those expenses. At the same time, attempts are made to give the impression that, because of the refusal of the Soviet Union and several other States to share in those unlawful expenses, the United Nations is now in a state of financial crisis. For this reason, the Permanent Mission of the USSR to the United Nations, on the instructions of the Soviet Government, finds it necessary to make the following statement.

1. In the statement by the Soviet Government of 21 March 1964 and in the memorandum from the Ministry of Foreign Affairs of the USSR dated 11 September 1964 [see A/5729] it was exhaustively demonstrated that no legal grounds exist for the compulsory collection of any funds whatsoever from States Members of the United Nations to pay the expenses of the United Nations operations in the Congo and in the Middle East.

Under the Charter the adoption of decisions concerning action to maintain international peace and security is a matter for the Security Council alone. None of the pseudo-legal arguments that are heaped up one upon the other in the United States memorandum of 8 October 1964 can do away with, or even shake, this principle, which is also of decisive significance in determining the positions of Member States on the question of sharing in the expenses of specific United Nations operations for the maintenance of international peace and security. Since the only organ of the United Nations authorized to take decisions concerning United Nations operations for the maintenance of peace and security is the Security Council, only the Security Council can lay down the procedure for financing such operations. No other organ is authorized to do this, and without a Security Council decision on the subject no one is bound to share in covering the cost of United Nations operations.

It is sometimes argued that the International Court of Justice, in its advisory opinion of 20 July 1962,[42] gave a different interpretation of the Charter and declared participation in the expenses of the United Nations operations in the Congo and in the Middle East to be just as obligatory for Member States as their participation in expenses under the regular United Nations budget. Such arguments, however, in no way alter the real state of affairs, inasmuch as the International Court of Justice has no right to give a binding interpretation of the Charter. Neither has the General Assembly any such right, nor can it have; consequently its resolution 1854 (XVII) of 19 December 1962 accepting the aforesaid advisory opinion of the International Court of Justice cannot be binding on Member States either.

Even while the Charter was being drafted at the San Francisco Conference in 1945 it was recognized that no United Nations organ could give an interpretation of the Charter that would be binding on States Members of the Organization, and that if differences arose in the interpretation of particular provisions of the Charter, those differences should be overcome by appropriate amendment of the Charter in accordance with the procedure laid down for the purpose: i.e., through negotiation with a view to bringing about agreement. Accordingly, it is obvious that the interpretation of the Charter given in the advisory opinion of the International Court of Justice of 20 July 1962 and in the General Assembly resolution of 19 December 1962 cannot bind anyone to any course of action.

The view that where a particular military action was called a "United Nations operation" all Member States were automatically bound to share in the expenses incurred has not in the past been held even by the United States itself. Suffice it to recall that when, in 1950, the United States of America organized armed intervention in Korea, neither the United States —although it launched the action under cover of the United Nations flag—nor any other country dreamed of trying to impose on all Members of the United Nations the cost of financing that intervention, which amounted to many thousands of millions of dollars. Now, however, the United States and a number of other Powers are insisting that all Member States are obliged to share in the costs of the United Nations operations in the Congo and the Middle East. But the procedure for financing these operations was decided behind the back of the Security Council, and consequently no State can be bound to share in their costs. It is for that reason that the Soviet Union, like many other States which take a firm stand for observance of the Charter, has not shared and will not share, in meeting the costs of the United Nations

[42] *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

operations in the Congo and the Middle East. To act otherwise would be to act contrary to the United Nations Charter and to countenance a violation of the Charter.

Such is the position from the standpoint of international law. But that is not all.

2. The United States memorandum of 8 October 1964 is completely silent on the important question of the circumstances in which the United Nations operations in the Congo and the Middle East were undertaken. Yet this question has the most direct connexion with the question whether the Member States are bound to share in meeting the expenses involved in these operations.

It is well known that the United Nations operation in the Middle East was initiated in connexion with the armed aggression launched by the United Kingdom, France and Israel against Egypt, while the United Nations operation in the Congo was initiated in connexion with Belgium's armed aggression against the Republic of the Congo—aggression supported by a number of other States members of the NATO military bloc. In both cases, therefore, the United Nations was called upon to deal with situations arising from acts of aggression launched against independent States Members of the United Nations.

It follows from the generally recognized principles of international law, and justice demands, that liability for liquidating the consequences of the acts of aggression committed in the Middle East and the Congo, including their financial consequences, must rest with those who committed these acts of aggression, and not in any circumstances with all States Members of the United Nations. To take any other approach would be to encourage aggressors. The Soviet Union, whose consistent policy is the consolidation of peace and the support of peoples fighting to strengthen their independence, sovereignty and territorial integrity, naturally has no intention of encouraging the aggressor, either by sharing in the costs of liquidating the consequences of the aggression launched against Egypt and the Congo or by any other means.

Inseparably linked with the question of the circumstances in which any particular United Nations operations were carried out is the question how and in whose interests they were carried out. The entire history of the "United Nations operation" in the Congo shows that this operation, in defiance of the Security Council's well-known resolutions, was not carried out in the interests of the Congolese people or with the object of ensuring the independence, sovereignty and territorial integrity of the Republic of the Congo, and was therefore not carried out in the interests of the United Nations but in those of the colonialists, who were attempting, as they are still attempting, to restore their domination and their power over the Congolese people, to seize the opportunity once again to despoil and exploit the people of the Congo and its natural wealth.

The United Nations operation in the Congo began in 1960 with the use of the United Nations flag to cover the infamous murder of Patrice Lumumba, Prime Minister of the Republic of the Congo and the national hero of the Congolese people. It concluded with the factual return to the Congo of the colonialists and their henchmen, supported by the bayonets of racist mercenaries and acting in defiance of the peoples of Africa and Asia, as was made abundantly clear at the Cairo Conference of Non-Aligned States.[43]

These facts alone are sufficient to show in whose interests the United Nations operation in the Congo was carried out. It served as a cover for the colonialist policy of a quite specific group of Powers. There is documentary evidence also on this point—in particular, the testimony of Mr. O'Brien, the former chief representative of the United Nations in Katanga.

The Soviet Union stands firmly for support of the peoples struggling against imperialism and colonialism; it has always opposed and will always oppose all attempts to exploit the United Nations as a weapon for the suppression of the national liberation movement. The USSR's refusal to share in the costs of such United Nations actions is an expression of this, its unshakeable and fundamental policy.

Such is the situation from the point of view of international politics.

3. The question also arises why the United States and various other Western Powers have chosen this particular moment to make a commotion about the so-called "United Nations financial crisis" and are trying to represent the Soviet Union and other States pursuing a policy of strict compliance with the United Nations Charter as "responsible" for this crisis. For the United States and all other States Members of the United Nations are well aware that such an approach has no justification, and can have none, from either the legal or the political standpoint.

Why, in general, is the question of the financial situation being pushed into the foreground by certain Powers as virtually the most important problem facing the United Nations?

The situation in the United Nations shows that the Governments of certain countries would like, by means of the commotion about the "United Nations financial crisis", to attain important aims which are extremely dangerous for the United Nations.

The principal and determining factor in the development of the United Nations in recent years has been the admission to membership in the Organization of many young independent States of Asia, Africa and Latin America which won their freedom in struggle with the colonialists. With the entry of these States it is becoming more and more difficult for the United States of America and other Western Powers to put together a mechanical majority of votes and to impose decisions to their liking upon the United Nations by means of the "voting machine". A new majority is being formed in the United Nations—a majority of States which are in favour of strengthening peace, are opposed to imperialism and colonialism and support a relaxation of international tension.

It is precisely the formation of this new majority of States that has enabled the United Nations in recent years to adopt historic decisions on general and complete disarmament, the granting of independence to colonial countries and peoples, the elimination of racial discrimination, and the development of international economic relations on a basis of equality. The principal task of the United Nations today is to fight for the implementation of these decisions.

[43] Second Conference of Heads of State or Governments of Non-Aligned Countries, held at Cairo from 5 to 10 October 1964.

This, however, is opposed by those who are pursuing the policy of the arms race and of provoking military conflicts, who are supporting the inhuman racist policy of *apartheid* and who are striving to keep the economy of the developing States subordinate to the imperialist monopolies. They are also endeavouring by all means in their power to prevent the United Nations from becoming an increasingly effective instrument for the strengthening of peace, the liquidation of colonialism and the development of international co-operation on a basis of equality.

History, however, moves inexorably forward, and within the United Nations the co-operation of the forces which support historic progress is becoming ever stronger. In these circumstances the United States and certain other States have plainly resolved to attempt to strike the United Nations a blow aimed at destroying the unity of the peace-loving forces and so undermining the effectiveness of the United Nations as a weapon for lasting peace and the freedom for all peoples. For this purpose they have decided to use the question of the Organization's financial difficulties, which were brought about by the actions of the colonialists themselves.

Threatening now to apply Article 19 of the Charter against the Soviet Union and a number of other States because of their refusal to pay their so-called "debt" for United Nations operations in the Congo and the Middle East, the United States and certain other Powers seek to force the Soviet Union to make a choice: either to acquiesce in the actual destruction of the Charter and, consequently, to allow the colonialists to use the United Nations in their own interests, or to face the necessity of reviewing its attitude towards the United Nations and all its activities. They wish in fact to impose this choice upon all the Members of the United Nations and the Organization as a whole.

Because of these manœuvres the United Nations now stands in danger. This danger, however, can be removed. For this, all Member States must show their awareness that what is now at stake is not merely some number of dollars which were illegally spent at some time in the past and which now have somehow to be replaced, but important political issues on which the entire future of the United Nations as a world organization largely depends.

The United Nations is needed by all, and first and foremost by the countries which are compelled to defend themselves against encroachments from without upon their national interests and their inalienable right to build their national life on the basis of the principles of sovereignty, independence and equality of all States. They, too, must now have their say, with all the weight it carries, and some of them have already made definite statements aimed at preventing the break-up of the United Nations and strengthening the Organization. On its side, the Soviet Union, which is one of the founders of the United Nations and bears special responsibility as a permanent member of the Security Council, has always worked for and will continue unfailingly to work for the strengthening of the United Nations on the basis of faithful compliance with the Charter of the United Nations by all Member States.

DOCUMENT A/5821

Note verbale dated 26 November 1964[44] from the Permanent Representative of Czechoslovakia to the United Nations addressed to the Secretary-General

[*Original text: English*]
[*27 November 1964*]

The Permanent Representative of the Czechoslovak Socialist Republic to the United Nations presents his compliments to the Secretary-General of the United Nations and on the instruction of the Government of the Czechoslovak Socialist Republic has the honour to communicate the position of the Czechoslovak Socialist Republic on certain questions concerning strengthening the effectiveness of the United Nations in the safeguarding of international peace and security.

Recently, international attention has been drawn to the problems of United Nations military operations. In considering this matter, it is necessary to bear constantly in mind that the use of armed forces plays the role of only an emergency measure in the security system of the United Nations, which may be resorted to only after all peaceful means of the settlement of dispute provided for in the Charter have been applied. Any other procedure might only render the international situation more complicated, might increase the tensions in the world and might facilitate interference into the domestic affairs of States. The question of the so-called United Nations peace-keeping operations then must be seen as a part of a broader problem of strengthening the effectiveness of the United Nations.

[44] Transmitted also to the Security Council (see S/6070).

In view of the role of the United Nations in safeguarding international peace and security it is evident that the successful fulfilment of this serious task is important to a great extent for the future of the United Nations as an organization associating States of different geographical and political regions and differing social and economic systems.

The increased interest of the States Members of the United Nations in this question is only natural. The Czechoslovak Socialist Republic regards the question of the machinery of collective security of the United Nations and the strengthening of the effectiveness of the Organization as one of the most important spheres of the present and future activities of the United Nations.

Endeavours to regulate properly the various aspects of future United Nations activities in maintaining or consolidating peace may be welcome only if one single, but the most important, condition is met, namely, that all efforts must be fully in accordance with the Charter of the United Nations. If this basic condition is not respected, actions of States do not represent anything but undermining of the pillars on which the Organization rests.

It has been an alarming circumstance of some of the current meetings dealing with the United Nations

military operations that they are held outside the Organization. Czechoslovakia is highly critical of the initiative of that kind, as in the case of the conference of military experts[45] held in Ottawa, Canada, from 2 to 6 November 1964. Such talks may only fortify world public opinion in its belief that some Powers do not intend to draw a lesson from the past and their only concern is to create a military machinery which would serve the interests of a certain group of States under the United Nations flag.

The present situation in the talks concerning military operations of the United Nations is highly absurd; discussions are being held on different aspects of the practical conduct of future military operations of the United Nations, as e.g. their financing, while certain Powers attempt to dispute the basic principles according to which such operations should be conducted. These principles, which should not be disputable since they are embodied in the United Nations Charter, were often violated in the past and those who bear the main responsibility for such violations even make believe that the firm and unambiguous provisions of the Charter, in particular its Chapter VII on "Actions with respect to threats to the peace, breaches of the peace and acts of aggression", have lost their validity. This was the tone prevailing not only at the recent Ottawa meeting but also in the attitudes taken by some Member States of the Working Group of Twenty-one at the United Nations Headquarters.

A characteristic feature of the positions of some countries, mainly the member States of NATO, is the fact that they disregard the provisions of the United Nations Charter on exclusive authority of the Security Council in such cases when any action is to be taken under the United Nations auspices in order to strengthen or restore international peace and security or to thwart aggression. Naturally the question poses itself what are the limits of their "flexibility" that permits the shifting of the Security Council's authority to the General Assembly, which upsets the basic principle of the distribution of authority among the United Nations bodies. Who will offer the guarantee that tomorrow they may not advance the argument that the United Nations executive machinery is the competent body? Of what value are then any provisions of the Charter when what is most fundamental is so easily abandoned by the Western Powers?

It should be clear to everyone, after almost twenty years of the existence of the United Nations, that compromises between the position of those who abide by strict observance of the Charter and those who adjust the Charter to their unilateral needs would be harmful primarily to the Organization itself.

It is especially difficult to understand that some countries hold that only the General Assembly or a new body subordinated to it but not the Security Council are competent to take decisions concerning financial matters of the United Nations military operations. Such a position was expressed by the United States representative in the Working Group of Twenty-one at its meetings held in September at the United Nations Headquarters and is also held by the Government of the United Kingdom, as follows from its reply (S/5853)[46] to the memorandum of the Government of the USSR of 10 July 1964 (S/5811)[47] regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security. The British reply proposes the establishment of a peace-keeping finance committee subordinated to the General Assembly. Although it is recognized in the British reply that the Security Council is primarily responsible for keeping international peace and security, it expressly excludes the financing of such operations from the authority of the Security Council and wishes to put it in the hands of a committee subordinated to the General Assembly although it may be clearly understood from the Charter and all the negotiations preceding its signing that the exclusive and not only the primary responsibility in all questions connected with actions for maintaining or restoring international peace and security rests with the Security Council.

It could not escape the attention of those who follow the exchange of views on the question of United Nations military operations that in the discussions of the United Nations peace-keeping operations the countries associated in NATO in their majority have not expressed their views on one significant principle of international law, namely, that the State perpetrating aggression bears full responsibility for the aggression it committed as well as for the material damage caused by such aggression. A satisfactory solution to the question of the financial coverage of the United Nations military operations is subject to the general adoption of the principle of material responsibility of the aggressor for his aggression. The socialist and the non-aligned countries have spoken clearly in favour of such principle.

It results from the substance of the question that United Nations military operations should be conducted by forces composed of military contingents of countries belonging to all social systems, i.e., also of contingents of the armed forces of the socialist countries which, of course, would also participate in the command of the units established by a decision of the Security Council. Clear expression of a positive attitude to this principle which, as will be understood by everyone, we regard as one of the basic conditions would not only dissipate the existing ambiguities but, no doubt, would also bring the different positions closer to each other. It is necessary that the countries of the socialist world, to which the Czechoslovak Socialist Republic belongs, should be given clear assurances that the principle of full equality will govern steps to be taken in this matter as well.

The Czechoslovak Socialist Republic resolutely adheres to the principle of strengthening the United Nations on the basis of strict observance of the Charter by all Member States. The study of the positions taken so far by individual Members of the United Nations clearly demonstrates that the only proposal giving a clear-cut answer to the question of United Nations military operations is the Memorandum of the Government of the USSR regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security of 10 July 1964 (S/5811).[47]

The proposals contained therein enjoy full support of the Government of the Czechoslovak Socialist Republic which identifies itself with them since all the proposed measures are in complete accordance with the United Nations Charter. Therefore they constitute a good and reliable starting point for any further international negotiation of these questions.

[45] Meeting of Military Experts to consider the Technical Aspects of United Nations Peace-keeping Operations.
[46] See A/5726.
[47] See A/5721.

The Permanent Mission of the Czechoslovak Socialist Republic to the United Nations has been authorized to declare in this connexion that under conditions explained in the present statement, the Government of the Czechoslovak Socialist Republic, in accordance with Article 43 of the Charter, is ready to make available to the Security Council a contingent of the Czechoslovak armed forces. Under condition that the principles referred to in the Czechoslovak statement will be put to life, the Czechoslovak Socialist Republic, in compliance with provisions of Article 43 of the Charter, is ready to conclude an appropriate agreement with the Security Council. If necessary and under conditions specified in the present statement, the Czechoslovak Socialist Republic is willing to participate in the financial coverage of military operations conducted by the Security Council.

The Government of the Czechoslovak Socialist Republic expects that all questions related to the strengthening of the effectiveness of the United Nations in the safeguarding of international peace and security will be considered with the objective to work out within this framework also generally recognized rules for United Nations military operations meeting the provisions of the United Nations Charter.

The Permanent Representative of the Czechoslovak Socialist Republic to the United Nations has the honour to request that this *note verbale* be circulated to the States Members of the United Nations as a General Assembly document.

DOCUMENT A/5839

Note verbale dated 17 December 1964[48] from the Permanent Representative of Bulgaria to the United Nations addressed to the President of the General Assembly

[*Original text: Russian*]
[*18 December 1964*]

The Permanent Representative of the People's Republic of Bulgaria to the United Nations presents his compliments to the President of the General Assembly and on the instructions of the Government of the People's Republic of Bulgaria has the honour to state the following:

In accordance with its consistently peaceful policy, the Government of the People's Republic of Bulgaria firmly and unswervingly adheres to the view that it is essential to strengthen the United Nations, to increase its role in international relations, and to turn it into a truly collective organ for international co-operation on a basis of equal rights and for the maintenance of strengthening of international peace and security. The essential conditions for the achievement of these objectives are strict observance of the United Nations Charter by all the States Members of the United Nations, wider use of the peaceful means for the settlement of international disputes provided for in the Charter, and the renunciation by certain Powers of their attempts to use the United Nations to further their own selfish policies which are against the interests of peace and international co-operation.

Recently, the question of the so-called United Nations peace-keeping operations has assumed particular urgency and significance. It is the Bulgarian Government's view that this question is inseparably linked with the question of the system of collective security within the framework of the United Nations and the improvement of the Organization's effectiveness in maintaining peace and security, and that it is only a small part of this large question. This explains the anxious watch kept by Member States on developments in connexion with these questions and the great interest shown by them in the search for ways and means of increasing the effectiveness of the United Nations and safeguarding international peace and security. There can be no question but that the search for ways and means of increasing the effectiveness of the United Nations can only be carried out on the basis of the Charter and provided that there is a desire for co-operation on an equal footing among all the countries concerned. Any other attempts which fail to take these basic requirements into account cannot lead to positive results and may well give rise to additional difficulties and obstacles.

The Government of the People's Republic of Bulgaria considers that the use of United Nations armed forces is an extremely delicate question and that the establishment and use of such forces should be an exceptional and extreme measure, to be taken in accordance with the Charter in order to prevent or stop aggression, only when all the possibilities of settling disputes or conflicts between States by peaceful and non-military means provided for in the Charter have been exhausted. Under the Charter, only the Security Council is competent to take preventive or enforcement measures to maintain or restore international peace and security. By virtue of those powers, it is within the competence of the Security Council to take decisions in all matters relating to the establishment of United Nations armed forces, the definition of their duties, their composition and strength, the direction of their operations, the structure of their command, the duration of their stay in the area of operations, and the financing of the expenditures involved. According to the Charter, no other body, including the General Assembly, has the right to decide these matters. In the light of the purposes and principles of the Charter, the Bulgarian Government considers that when United Nations military operations are necessary they should be carried out by forces made up of military contingents from States belonging to all the social systems at present existing in the world, that is to say, including contingents from the armed forces of the Socialist countries, which should, of course, also participate in the command of military units established by a decision of the Security Council.

The Government of the People's Republic of Bulgaria is ready in case of need to make contingents from the Bulgarian armed forces available to the Security Council, in accordance with Article 43 of the United Nations Charter, after concluding an agreement to that effect with the Security Council. Provided the Charter, and particularly its provisions regarding the exclusive responsibility of the Security Council in all matters

[48] Transmitted also to the Security Council (see S/6120).

connected with preventive or enforcement measures to maintain or restore international peace and security, is strictly observed, the Government of the People's Republic of Bulgaria is also willing to participate in the financing of military operations which the Security Council may undertake in the future.

As a Socialist country, the People's Republic of Bulgaria is vitally concerned with the maintenance and strengthening of international peace and security. For that reason, its Government fully shares the views expressed in the memorandum of the Government of the USSR dated 10 July 1964 (S/5811)[49] and the *note verbale* dated 26 November 1964 from the Permanent Representative of Czechoslovakia to the United Nations addressed to the President of the Security Council (S/6070)[50] and supports the measures proposed in those documents, which are in accordance with the United Nations Charter and represent a reasonable basis for the achievement of agreement among the States Members of the United Nations regarding the strengthening of the effectiveness of the United Nations in the safeguarding of international peace and security. The Bulgarian Government is of course also willing to give due consideration to other proposals which might help to make the United Nations a truly collective and effective instrument for the maintenance of international peace and a centre for the concerting of efforts by States to achieve the common objectives of its Members.

The Permanent Representative of the People's Republic of Bulgaria to the United Nations has the honour to request that steps should be taken to have this *note verbale* issued as an official document of the General Assembly.

[49] See A/5721.
[50] See A/5821.

DOCUMENT A/5900

Note by the President of the General Assembly

[*Original text: English*]
[*26 February 1965*]

After appropriate consultations by the President of the General Assembly and the Secretary-General, the following Members have accepted to serve on the Special Committee on Peace-keeping Operations established under paragraph 2 of General Assembly resolution 2006 (XIX) of 18 February 1965: Afghanistan, Algeria, Argentina, Australia, Austria, Brazil, Canada, Czechoslovakia, El Salvador, Ethiopia, France, Hungary, India, Iraq, Italy, Japan, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Poland, Romania, Sierra Leone, Spain, Sweden, Thailand, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia.

DOCUMENT A/5902

Letter dated 1 March 1965 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, transmitting a copy of a letter dated 1 March 1965 to the President of the General Assembly

[*Original text: English*]
[*2 March 1965*]

I have the honour to enclose herewith a copy of a letter to the President of the General Assembly.

I shall be obliged if you will be so good as to cause this letter to be circulated as a General Assembly document relative to resolution 2006 (XIX) adopted by the Assembly on 18 February 1965.

(*Signed*) Liu Chieh
Permanent Representative of China to the United Nations

LETTER DATED 1 MARCH 1965 TO THE PRESIDENT OF THE GENERAL ASSEMBLY

Ref. No. 54-238

On 19 February 1965, I addressed to you a letter in the matter of the Special Committee on Peace-keeping Operations to be established under paragraph 2 of General Assembly resolution 2006 (XIX) of 18 February 1965. In that letter, as in my conversation with you on 15 February, I urged upon you that the Republic of China, as a permanent member of the Security Council, the fifth largest contributor to the United Nations budget and a member of the Working Group of Twenty-one hitherto concerned with the financing of peace-keeping operations, should be included in the proposed negotiating machinery. I also drew your attention to the precedents and customary practices in the formation of similar bodies.

On 27 February the composition of the Special Committee was finally announced, with a membership of thirty-three nations from which the Republic of China was conspicuously excluded. It is common knowledge that the Soviet Union objected to the participation of the Republic of China and threatened to refuse payment of its arrears if its objection were not accepted. It is no surprise that the Soviet Union should have taken that position, since its objective has been to flout the authority of the General Assembly and to disrupt the orderly functioning of the Organization. But to yield to the blackmail tactics of the

Soviet Union, especially in the face of its truculent attitude on the financing of peace-keeping operations, is to encourage recalcitrance at the expense of a loyal Member State which has fulfilled all its obligations under the Charter of the United Nations.

This calculated discrimination against the Republic of China as a permanent member of the Security Council and a major contributor to United Nations finances is not only contrary to the practices of the United Nations but to all sense of equity. It casts a shadow on the office of the Presidency in the impartial discharge of its functions and will in effect undermine the entire fabric of the United Nations.

On behalf of my Government, I have to register the most emphatic protest and reserve the right to review any conclusions that may be reached by the Special Committee.

(*Signed*) LIU Chieh
Permanent Representative of China to the United Nations

DOCUMENT A/5904

Letter dated 1 March 1965 from the Deputy Representative of Morocco to the United Nations addressed to the Secretary-General, transmitting a copy of a letter dated 26 February 1965 to the President of the General Assembly

[*Original text: French*]
[*4 March 1965*]

I have the honour to transmit to you herewith a copy of the letter (Ref.: UN/1569) which I addressed on 26 February 1965 to the President of the General Assembly, and request you to be good enough to circulate the text as an official document of the General Assembly.

(*Signed*) Dey Ould SIDI BABA
Deputy Permanent Representative of Morocco to the United Nations

LETTER DATED 26 FEBRUARY 1965 TO THE PRESIDENT OF THE GENERAL ASSEMBLY

UN/1569

I have the honour to draw your attention to the illegal and disputed nature of the procedure adopted at the meeting of the African Group held on 19 February 1965 for the purpose of choosing the countries which you are to appoint as members of the Special Committee established by General Assembly resolution 2006 (XIX).

At a further meeting of the Group held today, when the question was raised for a second time, some delegations, including that of Morocco, deplored as illegal, improvised and without precedent the voting procedure by which the candidates were chosen.

In view of this serious irregularity, and since it refused to participate in the vote, the Moroccan delegation would be grateful if you would bear in mind that it regards itself as in no way bound by the proposal which has been submitted to you on behalf of the majority of the African Group.

(*Signed*) Dey Ould SIDI BABA
Deputy Permanent Representative of Morocco to the United Nations

DOCUMENT A/5905

Letter dated 5 March 1965 from the President of the General Assembly to the Permanent Representative of China to the United Nations

[*Original text: English*]
[*5 March 1965*]

I have the honour to acknowledge receipt of your letter No. 54-238 dated 1 March 1965 [see A/5902].

As you are aware, General Assembly resolution 2006 (XIX) authorized "the President of the General Assembly to establish a Special Committee on Peace-keeping Operations... the composition of which [would] be announced by the President after appropriate consultations".

I undertook these consultations over a protracted period and my concern was to achieve a balanced composition which would be most conducive to the implementation of the objectives of the resolution. I had naturally to take into account various points of view and various claims for inclusion in the Committee, which had already become very large. In the circumstances, the final composition could be reached only on the basis of the greatest common measure of agreement, and I could not possibly find a place for every country which wished to be represented on the Committee.

Your statement regarding the "calculated discrimination against the Republic of China" and your observations in regard to the office of the Presidency have pained me. In the circumstances explained, I must say that these views are inaccurate and unfair.

Your Government has, of course, the right to review any conclusions that may be reached by the Special Committee, as do all Member Governments, when the conclusions of the Committee are discussed in the General Assembly in due course.

(*Signed*) Alex QUAISON-SACKEY
President of the General Assembly

DOCUMENT A/5909

Letter dated 10 March 1965 from the President of the General Assembly to the Deputy Permanent Representative of Morocco to the United Nations

[*Original text: French*]
[*10 March 1965*]

I have the honour to acknowledge receipt of your letter UN/1569 dated 26 February 1965 [see A/5904] and have taken note of your observations.

Since your complaint is concerned essentially with the procedure followed at the meeting of the African Group held on 19 February 1965, I am having your letter forwarded for action to the Chairmen of the African Group for the months of February and March.

(*Signed*) Alex QUAISON-SACKEY
President of the General Assembly

DOCUMENTS A/5915 AND ADD.1

Report of the Special Committee on Peace-keeping Operations

DOCUMENT A/5915

[*Original text: English*]
[*15 June 1965*]

1. On 18 February 1965, the General Assembly adopted resolution 2006 (XIX) on the subject of a comprehensive review of the whole question of peace-keeping operations in all their aspects. The resolution reads as follows:

[*For the text, see "Action taken by the General Assembly," page 97 below.*]

2. On 26 February 1965, the President of the General Assembly, in pursuance of paragraph 2 of the above resolution, appointed the members of the Special Committee on Peace-keeping Operations (see A/5900). The members are Afghanistan, Algeria, Argentina, Australia, Austria, Brazil, Canada, Czechoslovakia, El Salvador, Ethiopia, France, Hungary, India, Iraq, Italy, Japan, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Poland, Romania, Sierra Leone, Spain, Sweden, Thailand, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia.

3. The Special Committee held its 1st meeting on 26 March 1965 and agreed that on the question of the procedure for taking decisions it should be the aim to conduct the work in such a way that the Committee should endeavour as far as possible to reach agreement by general consensus without need for voting. It was understood, however, that voting procedures would be resorted to whenever any member felt, and there was agreement in the Committee, that such procedure was necessary in any particular case.

4. The Special Committee has held fourteen meetings so far between 26 March and 15 June 1965. The records of the meetings are annexed to the present report (annex I).[51]

5. At the 1st meeting of the Special Committee, on 26 March, the representative of the Union of Soviet Socialist Republics requested that the memorandum of the Government of the USSR of 10 July 1964 regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security should be circulated as an official document of the Committee (see A/AC.121/2).

6. At the 2nd meeting of the Special Committee, on 22 April, the representative of the United States of America requested that the Working Paper on the financing of United Nations peace-keeping operations (A/AC.113/30), submitted by his delegation on 14 September 1964 to the Working Group on the Examination of the Administrative Procedures of the United Nations, be circulated as a document of the Committee (see A/AC.121/3).

7. At the 3rd meeting of the Special Committee, on 23 April, the representative of Ethiopia submitted a draft resolution (A/AC.121/L.1). A revised version of the draft resolution (A/AC.121/L.1/Rev.1) was submitted by the representative of Ethiopia at the 10th meeting of the Committee, on 9 June. According to the revised draft, the Special Committee would:

(i) Note that all Member States are agreed that the General Assembly should conduct its proceedings normally;

(ii) Note further that all Member States are agreed that, in the best interests of the Organization, a confrontation should be avoided on the question of the applicability of Article 19 of the Charter of the United Nations with respect to the financial difficulties of the Organization arising out of its peace-keeping operations;

(iii) Agree that the financial situation of the Organization should be brought to solvency by voluntary contributions by the entire membership of the Organization, on the understanding that this arrangement shall not be construed as any change in the basic position of any individual Member, and should be accepted as a co-operative effort by all Member States aimed at the strengthening of the United Nations with a view to creating a climate in which the future may be harmoniously planned;

(iv) Appeal to Member States to make contributions as early as possible, and particularly to the highly developed countries to make such substantial contributions as would result in the solution of the financial difficulties of the Organization.

8. At the 9th meeting of the Special Committee, on 2 June, the Secretary-General introduced the report jointly submitted to the Committee by the President of the General Assembly and himself (A/AC.121/4). That report is annexed hereto (annex II).[51] The Special Committee agreed that the guidelines in regard to

[51] This annex was subsequently circulated in document A/5915/Add.1.

future peace-keeping operations, indicated in paragraph 52 of this report, be referred to all Member States of the Organization with a request that they should submit their views thereupon not later than 1 August 1965, so that the Special Committee could take these views into consideration in its further deliberations.

9. At the same meeting, the representative of Mexico submitted a draft resolution (A/AC.121/L.2), according to which the Special Committee would recommend that the General Assembly:

(i) Agree to resolve the present financial situation by means of voluntary contributions by Member States;

(ii) Decide that the costs of the United Nations operations in the Congo and the Middle East shall be defrayed by means of voluntary contributions by Member States;

(iii) State, without prejudice to the positions taken by Member States on the financial question, that the contributions made until now for the purpose of defraying the expenses of the United Nations Emergency Force and the United Nations Operation in the Congo constitute voluntary contributions for the maintenance of peace;

(iv) Accordingly urge all Member States, in particular the industrialized countries, to act urgently to deal with the Organization's financial problems by making such contributions as will, in the spirit of international solidarity embodied in the Charter, make it possible to safeguard the future of the United Nations.

10. During the meetings of the Special Committee, the members discussed the various aspects of the problem entrusted to the Committee. Detailed consideration was given to the constitutional, financial, organizational and other aspects of peace-keeping operations by the United Nations.

11. The members of the Special Committee agreed that the United Nations should be strengthened through a co-operative effort and that the General Assembly when it reconvenes must conduct its work according to the normal procedure established by its rules of procedure.

12. The Special Committee came to the conclusion that more time is required to complete the consideration of the matters covered by its mandate from the General Assembly and has decided to continue its work.

DOCUMENT A/5915/ADD.1[52]

Annexes

ANNEX I

Special Committee on Peace-keeping Operations

Summary records of meetings held at Headquarters, New York, from 26 March to 15 June 1965*

First meeting
held on Friday, 26 March 1965, at 3.15 p.m.
[A/AC.121/SR.1]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

ADOPTION OF THE AGENDA

The provisional agenda of the first meeting (A/AC.121/Agenda 1)[a] *was adopted.*

* For the list of delegations, see documents A/AC.121/INF.1 and Rev.1 and 2, p. 92 below.

[52] Circulated on 12 August 1965.

[a] The text of the document was as follows:
"1. Adoption of the agenda.
"2. Organization of work.
"3. Other matters."

ORGANIZATION OF WORK

1. The Chairman said that he and the Secretary-General had held informal consultations with all the members of the Committee regarding various questions of procedure connected with its work. The meeting had been convened in response to a general desire to initiate the work of the Committee and agree on certain matters of procedure.

2. Some members had expressed the view that, because of the nature of the Committee's task, it might be preferable for it to hold closed meetings; others had expressed a clear preference for open meetings. He thought that the Committee should adopt a flexible approach and not take a firm decision on the matter at that stage. As far as the procedure for taking decisions was concerned, there was an almost unanimous feeling that the Committee should endeavour to reach agreement by general consensus without voting. It was understood, however, that a vote would be taken whenever any member felt and the Committee agreed that such a procedure was necessary. As far as the officers of the Committee were concerned, the informal consultations had conveyed the impression that there was no need for a rapporteur. On the question of a vice-chairman, several suggestions had been put forward; fairly wide support had been given to the suggestion that the Committee should adopt a flexible and informal approach and not formally elect a vice-chairman. That procedure was in conformity with General Assembly resolution 2006 (XIX), which gave a specific mandate to the Chairman. He hoped that he would be able to carry out that mandate. If, however, he was ever unable to preside over a meeting of the Committee, he would request one of the members to replace him.

3. In accordance with operative paragraph 1 of General Assembly resolution 2006 (XIX), he and the Secretary-General had already made preliminary arrangements and intended to undertake a series of intensive consultations on the question of peace-keeping operations. They interpreted that paragraph to mean that the consultations should be as broad as possible and not restricted to the membership of the Committee. The views of all the Members of the United Nations should be taken into consideration.

4. There was a clear consensus in favour of the Committee recessing for a certain period of time to allow the consultations to take place, in the hope that they would produce a sound basis for the Committee to embark upon its substantive work. The Committee could meet again to discuss substantive matters on or about 22 April 1965.[b]

5. Mr. FEDORENKO (Union of Soviet Socialist Republics) drew attention to the fact that the Committee was beginning its work at a time when the United States of America was engaged in activities in South-East Asia which were extremely dangerous to the cause of peace. The United States provocations against the Democratic Republic of Viet-Nam could only be described as piratical acts of planned aggression, flouting the basic rules of international law and the United Nations Charter and violating the 1954 Geneva Agreements on Indo-China. The United States had embarked upon the very slippery course of expanding the war in South-East Asia. Thousands of United States soldiers and foreign mercenaries were fighting against the South Viet-Namese patriots and their weapons included poison gas, whose use was a crime against mankind and a gross violation of the principles of international law. The Soviet Government called for an immediate end to the aggression in South Viet-Nam, which was undermining the only basis on which relations could exist between the Soviet Union and the United States—the principle of peaceful co-existence.

6. As far as the work of the Committee was concerned, the Soviet delegation considered that, since the question of United Nations peace-keeping operations was one of the most important issues facing the Organization, it should be dealt with in the Committee itself. All those concerned and all the members of the Committee should participate in the consideration of the question referred to the Committee by the General Assembly.

[b] The complete text of the statement made by the Chairman was subsequently circulated as document A/AC.121/1.

All Member States could and should contribute to the task of strengthening the United Nations and solving its difficulties. It was for that very reason that the General Assembly had set up a Committee with a widely representative membership. However, discussion of all the issues in the Committee itself did not exclude the possibility of informal consultations among all delegations, with the participation of the Secretary-General and the Chairman.

7. The Soviet delegation agreed that decisions should be the result not of a vote but of a consensus, since it was clear that agreed solutions must be sought. That was the principle underlying General Assembly resolution 2006 (XIX). His delegation was in favour of open meetings, since the Committee had nothing to conceal from other Members of the United Nations or from world opinion. It had listened carefully to the Chairman's comments on the question of the Committee's officers and would study any views on the subject advanced by members.

8. It was well known that the current financial difficulties of the United Nations were the direct result of the flagrant violations of the Charter and of the illegality tolerated in the United Nations operations in the Congo and the Middle East. The Committee should therefore begin by discussing future United Nations peace-keeping operations and ways of ensuring that a similar situation did not recur. After such a discussion, it would be easier to find ways of overcoming the present financial difficulties of the Organization. Such an approach was in accordance with operative paragraph 1 of General Assembly resolution 2006 (XIX).

9. Like other States, the Soviet Union had joined the United Nations under specific conditions, clearly stated in the Charter, and it had always strictly adhered to the provisions of the Charter. It was in favour of strengthening the effectiveness of the United Nations in the safeguarding of international peace and security and on 10 July 1964 it had submitted a memorandum containing a number of important proposals on the subject (see A/5721). He requested that the memorandum should be circulated as an official document of the Committee.[c]

10. The Soviet Union memorandum, after outlining the peaceful means of settling disputes at the disposal of Members of the United Nations and urging their wider use, recognized that situations might arise in which the maintenance of peace in a given area might be difficult to secure by peaceful means of settlement alone and might even require the use of force by the Organization. However, at all times and in all circumstances there should be scrupulous compliance with all the provisions of the Charter dealing with the use of force for the maintenance or restoration of international peace.

11. The Charter clearly defined the competence of the Security Council and that of the General Assembly in such matters. Members conferred on the Security Council "primary responsibility for the maintenance of international peace and security" and agreed that "in carrying out its duties under this responsibility the Security Council acts on their behalf". In Article 25 of the Charter, the Members of the United Nations agreed to accept and carry out the decisions of the Council. Chapter VII of the Charter contained several provisions confirming that the Security Council was the only body authorized to take action in the maintenance or restoration of international peace and security and to adopt decisions in all matters relating to the establishment of United Nations armed forces. Some people were trying to create the impression that the Soviet Union wished to deny some of the Assembly's rights with respect to the maintenance of international peace and security. That was a flagrant distortion of the true position of the Soviet Union. While proposing greater use of the Security Council in that matter, it also supported the exercise by the General Assembly of those rights conferred upon it by the Charter. In Articles 11, 12, 14 and 35, for example, the Charter conferred upon the Assembly the right to discuss any questions relating to the maintenance of international peace and security and, within the limits of its powers, to make recommendations with regard to any such questions. However, any such question on which action was necessary had to be referred to the Security Council by the General Assembly. If for any reason the Council was unable to take a decision on any matter connected with the maintenance of peace, there was nothing to prevent the Assembly from reconsidering the matter and making further recommendations.

12. The need for agreement among the permanent members of the Security Council ensured that United Nations armed forces would not be used in the narrow unilateral interest of any individual States or groups of States. A further safeguard was the inclusion in the United Nations armed forces of contingents from the socialist countries, as well as from the western and neutralist States. It was inadvisable to include contingents from States which were permanent members of the Council. In accordance with Articles 46 and 47 of the Charter, the Military Staff Committee was to assist the Council in making plans for the application of armed force.

13. The financing of United Nations peace-keeping operations was of considerable importance also, but was a derivative of the basic issue. Under the Charter, all questions concerned with financing must be decided by the Security Council. In the opinion of the Soviet Government, the decision should take into account the generally recognized principle of international law that aggressor States bore political and material responsibility for the aggression they committed and for the material damage it caused. His Government recognized, however, that it might be necessary for Member States to contribute to the cost of peace-keeping operations. In such case in the future, when the Security Council adopted decisions to establish and finance United Nations armed forces in strict compliance with the provisions of the Charter, the Soviet Union would be prepared to take part in defraying the expenditure involved. The agreements concerning the provision of military contingents prescribed in Article 43 of the Charter should be concluded between the Security Council and Member States desiring to furnish such contingents. Proposals to that effect had already been made by the Governments of the Czechoslovak Socialist Republic (A/5821) and the People's Republic of Bulgaria (A/5839).

14. The Soviet Government called upon all countries interested in strengthening international peace and security to support its constructive programme, which was based on the Charter of the United Nations.

15. Mr. TREMBLAY (Canada) supported the Chairman's recommendations for the organization of the Committee's work. His delegation's overriding concern was with time; if a further confrontation was to be avoided when the General Assembly resumed its nineteenth session, the Committee would have to reach an agreed conclusion, and it was doubtful whether it would be clear, until informal consultations had taken place, what elements could form the basis for an agreed settlement. The lengthy discussions at the nineteenth session had demonstrated that the past alone could not provide a basis for a unanimously acceptable agreement, and the additional elements involving present and future arrangements for peace-keeping operations which might provide such a basis would become apparent only after serious negotiations had begun.

16. The failure of the Working Group on the Examination of the Administrative and Budgetary Procedures of the United Nations (Working Group of Twenty-one) to find a solution had been due primarily to the fundamental disagreement, basically political in character, between the permanent members of the Security Council. No settlement could emerge unless there were substantial compromises by all the parties concerned, but especially by the permanent members of the Council, among the most intensive consultations should therefore take place. The first aim of negotiations should be the elaboration of a framework of agreement, without which the Committee's work could not be successful, and to hold formal meetings at the present stage would be of only limited value. Many members of the Committee had already put their views on record in the Working Group of Twenty-one or in the General Assembly, and he suggested that members, or indeed non-members, of the Committee which considered that they had new ideas to submit might do so in writing to the Secretariat at any time, either

[c] Subsequently circulated as document A/AC.121/2.

as a help to the Chairman in conducting informal consultations or for circulation to all members of the Committee.

17. His delegation believed that that approach was an amplification of the philosophy which underlay General Assembly resolution 2006 (XIX). The members of the Committee must, of course, keep the informal consultations under constant review, in order that the Committee might, if necessary, revitalize the negotiations by re-emphasizing the need for a basic framework of agreement. When the Committee reconvened in late April, it could review the results of the first round of informal consultations and, depending on the success achieved, his delegation might consider it appropriate at that time to recommend raising the level of the negotiations, in order to ensure that Governments were fully committed to reaching a settlement.

18. Mr. LEKIC (Yugoslavia) said that his delegation was deeply disturbed by the present situation, both in the United Nations and in the world. When the General Assembly had agreed to the adjournment of the nineteenth session and the establishment of the Special Committee, the vast majority of the members had accepted that procedure as a necessary means of achieving the ultimate normalization of the Assembly's work. Since the establishment of the Committee there had been a perceptible deterioration in the international situation, primarily because of the expansion of the war in Viet-Nam which, if it continued, would be more and more difficult to control and could easily draw the world into broader conflict. The Yugoslav Government condemned the aggressive actions of the United States against the sovereignty and territorial integrity of the Democratic Republic of Viet-Nam through the continued bombing of its territory, and it most vigorously condemned the use of poisonous gas as a flagrant violation of the norms of international law and custom, which carried with it the responsibility for unforeseeable consequences. South-East Asia was merely the focal point of a widening spectrum of international crises, and it was impossible to believe that the General Assembly, if it had been confronted with the present situation, would have adjourned without taking steps to solve the crisis.

19. Consequently, it would be most useful to adapt the task of the Committee to the new situation, which greatly increased its responsibility and made the execution of its mandate a matter of extraordinary importance. While the crisis in the United Nations might reflect certain crises in international relations, it was also true that the passivity of the United Nations, and specifically the blocking of the work of the General Assembly, could not have a most undesirable effect on the development of events, whereas the normal functioning of all its organs would contribute immeasurably to an easing of tension and would facilitate the most effective and democratic method of solving conflicts, namely, negotiations. That being so, the work of the Committee must be accelerated and its task completed before the time-limit of 15 June 1965 established in General Assembly resolution 2006 (XIX).

20. His delegation considered that priority should be given to the question of normalizing the work of the General Assembly, and a sense of urgency in undertaking that task should be the basic principle in organizing the Committee's work. It would be useful if the Chairman held immediate consultations with the members of the Committee and with other Member States on the necessity for the speedy normalization of the General Assembly's work and reported on the results of those consultations at the earliest possible date, in order that the Committee might concentrate on that fundamental question.

21. Under the terms of General Assembly resolution 2006 (XIX), the Committee's task with respect to peace-keeping operations was to undertake a comprehensive review of the whole question, and it would be most appropriate to begin, without delay, a general debate in the plenary. So far as ways of overcoming the Organization's present financial difficulties were concerned, many proposals had been submitted since December 1964, and the opposing positions had come closer together in many ways; the General Assembly had been informed of a consensus on a number of points, which represented a solid basis for continuing the work. The best organization of work for the purpose of finding a solution to "the present financial difficulties" might be the establishment of a limited working group, which would submit a report to the Committee within a specified time. In his view, the so-called consultations had been conceived as a complementary means of accelerating the work of the Committee and making it more effective, and they could serve that purpose only if they developed parallel with the work of the Committee and its bodies. The system of consultations must therefore be further improved in the future work of the Committee, whose aim should be to carry out the task entrusted to it with a maximum of success; but whatever the final outcome of its work, it should not hinder the normal continuation of the General Assembly and the ultimate normalization of the Organization.

22. Mr. DE BEUS (Netherlands) agreed with the Chairman's suggestions concerning the organization of the Committee's work, and emphasized two aspects of General Assembly resolution 2006 (XIX), namely, the primary importance given in operative paragraph 1 to the consultations on the whole question of peace-keeping operations to be undertaken by the Secretary-General and the President of the General Assembly, and the need for the Committee as a whole to work with the greatest possible speed in accordance with the terms of operative paragraph 3. Where the first of those elements was concerned, it seemed obvious that the Committee could do little constructive work unless a certain degree of basic understanding was first achieved in informal high-level talks with the parties most directly concerned, including, first and foremost, the permanent members of the Security Council. That applied, in particular, to "ways of overcoming the present financial difficulties of the Organization". The need for speed was equally obvious, if the United Nations was to regain the prestige and the world confidence which in great measure it had lost as a result of the General Assembly's failure to solve the question of the Organization's finances at its nineteenth session. There again, however, the Committee could not fruitfully undertake the substance of its task until some basic progress had been made in the first round of consultations with the parties mainly concerned.

23. Mr. TINE (France) said that the Chairman's suggestions would undoubtedly facilitate the smooth progress of the Committee's work. However, the notion of a consensus was subject to different interpretations and, in order to avoid subsequent misunderstandings, he wished to state that his delegation regarded a decision adopted by consensus as being no more and no less than a decision adopted unanimously. If unanimity could not be achieved and the Committee still wished to take a decision, the procedure to be followed must be such as to leave no doubt concerning the position of every Member State represented in the Committee; in other words, a vote must be taken, if necessary, as the only means of enabling each delegation to express the views of its Government without ambiguity. He welcomed the Chairman's statement on that point, while hoping that it would be possible to achieve unanimity on the matters before the Committee. His delegation would express its views on those matters at the appropriate time. At the present stage, he would merely state that the Committee would do well to concentrate in the first instance on the problem that was really of most importance, namely, future peace-keeping operations.

24. Mr. ALVAREZ VIDAURRE (El Salvador), speaking on behalf of the delegations of Argentina, Brazil, El Salvador, Mexico and Venezuela, said that the fact that General Assembly resolution 2006 (XIX) authorized the President of the General Assembly to serve *ex officio* as Chairman of the Special Committee was no impediment to the procedure, customary in any collective body, of electing other officers to assist and advise the Chairman and the Secretary-General in the important negotiations entrusted to them. The delegations for which he spoke would not object to a decision not to elect other officers for the time being, but reserved the right to raise the question again if they felt that such action might be conducive to the normalization of the work of the General Assembly, which was the fundamental purpose of the Committee.

25. Mr. LEWANDOWSKI (Poland) observed that patient search for the solution of difficult problems and for compromises which would facilitate agreement on even the most complicated issues had always been in the tradition of his delegation. While the proper functioning of the United Nations hinged on concerted action by the great Powers, other States must also play their part, and it was in that spirit that his delegation approached the Committee's task, which was to remove all the obstacles that had paralysed the work of the Assembly at its nineteenth session and jeopardized the very existence of the United Nations.

26. During the negotiations at the nineteenth session, his delegation had expressed its support for the proposal of the African and Asian delegations of 30 December 1964, and it was still prepared to consider its implementation as a means of overcoming the Organization's present financial difficulties. The voluntary contributions provided for in that proposal should be truly voluntary, with no preconditions attached, and the Committee should assure the General Assembly that the only obstacle to the normalization of its work, namely, the threat to apply Article 19 of the Charter to those who for reasons of principle refused to support, financially or otherwise, the illegal operations of the past and the present, would be removed once and for all. His delegation would express its views on the comprehensive review of the whole question of peace-keeping operations in detail at a later stage, and it believed that the proposals outlined in the USSR memorandum of 10 July 1964 (see A/5721) provided a good basis for an agreement.

27. The Committee was not working in a political vacuum, and the world was gravely concerned at the dangerous situation developing in South-East Asia. The continued aggression by the United States of America against the people of Viet-Nam and the prolonged violation of the 1954 Geneva Agreements had been widely condemned; yet, step by step, new means of destruction had been introduced—intensified bombing, napalm, and finally the use of poisonous gas. The aggression against the Democratic Republic of Viet-Nam must stop, and foreign troops must be removed from South Viet-Nam, in order to permit a peaceful solution of the conflict in accordance with the sovereign rights of the Viet-Namese people.

28. His delegation believed that whatever procedural measures were adopted by the Committee should lead to the fulfilment of its main task, namely, the normalization of the work of the General Assembly. It would therefore agree to the Chairman's suggestions if they were approved by the Committee as a whole, but it was strongly in favour of open meetings, in order to prevent any suspicion of connivance at an agreement that would run counter to the interests of non-members of the Committee. In that connexion, he welcomed the Chairman's suggestion that all Member States which wished to participate in the forthcoming consultations should be able to do so. He agreed that the Committee should strive to achieve unanimous decisions on the important issues before it, for past experience had shown that the United Nations never profited from decisions taken by a majority vote which ran counter to the interests or positions of other delegations. His delegation had no strong views on the election of additional officers, and it would accept the decision of the majority on that point.

29. Mr. PLIMPTON (United States of America) regretted that certain representatives had injected into the first meeting of the Committee a discordant, irrelevant and cold-war propagandistic note to which he had no intention of replying in detail, since most of the statements in question did not warrant the Committee's serious attention. Out of respect for the truth, however, he wished to reiterate the basic, essential facts, which had been repeatedly set forth in official statements by his Government during the past few weeks

30. The facts were that the totalitarian communistic régime in Hanoi was conducting a war of aggression against its neighbour, the Republic of Viet-Nam, and that the subjugation by force of the Republic of Viet-Nam was the formal, announced, official policy of the Hanoi régime. The continuing aggression was conducted to a major degree through active assistance and leadership supplied by the North Viet-Namese authorities to the Viet-Cong, whose officers, specialists, technicians, intelligence agents, political organizers and propagandists had been trained, equipped and supplied in North Viet-Nam and then sent into the Republic of Viet-Nam under the military orders of Hanoi. Most of the weapons, ammunition and other supplies used by the Viet-Cong had been sent from North to South Viet-Nam. That continuing pattern of activity by the Hanoi régime was in violation of the general principles of international law, the Charter of the United Nations, and the Geneva Agreements of 1954. Long-term aggression through infiltration was a relatively new type, but it was still aggression, and the defensive measures taken in recent weeks by the Government of the Republic of Viet-Nam and the United States Government were designed solely to counter that aggression and to emphasize their joint determination, not only to resist the aggression, but also to hold the Hanoi régime fully accountable for it. The United States threatened no régime and coveted no territory; it sought no wider conflict, but only the termination of aggression, and nothing stood in the way of peaceful settlement in Viet-Nam except the determination of the Hanoi régime to continue its efforts to destroy its neighbour. The United States continued to await the first indication from some source that Hanoi was willing to abandon its aggression and to return to the ways of peace and to a peaceful resolution of the conflict.

31. An attempt had been made in the Committee to foster the totally false impression that the Republic of Viet-Nam and the United States were embarking upon gas warfare. The truth was that the United States was not embarking upon gas warfare in Viet-Nam, the gas referred to was entirely non-lethal and no different from the anti-riot substances used by many of the police forces of the world. As the United States Secretary of State had done in a statement on 24 March 1965, he would express the hope that those who were concerned about tear gas would be concerned about the fact that during 1964 over 400 civilian officials and 1,300 other civilians had been killed, and over 9,000 civilians kidnapped, in South Viet-Nam. Surely those statistics were sufficient to demonstrate the urgency of restoring peace to Viet-Nam, which could be achieved through a simple decision of the Hanoi régime to stop its aggression and to leave the people and Government of South Viet-Nam free to settle their own future. In the meantime, as President Johnson had stated on 25 March 1965, it was, and would remain, the policy of the United States to furnish assistance to South Viet-Nam for as long as was required to bring communist aggression and terrorism under control, and the military actions of the United States would be such, and only such, as served that purpose at the lowest possible cost in human life to both sides.

32. The USSR representative had once again repeated the arguments with which his Government had tried to justify its refusal to pay assessments levied by the General Assembly; the United States delegation regretted in particular his reiteration of the position that only the Security Council could take any action for the maintenance of peace, and that the General Assembly had no right whatsoever as concerned the keeping of the peace or its financing. Thus, if he had understood the USSR representative correctly, his Government still insisted that there must be a perpetual veto by any permanent member of the Security Council on the authorization, conduct and financing of any peace-keeping operations. The members of the Committee and of the General Assembly would have to decide whether that was the position they really wished to prevail.

33. In broad terms, the Committee was faced with two major problems: firstly, to ensure the solvency of the United Nations; and secondly, to arrive at a workable understanding concerning the respective roles of the Security Council and the General Assembly in the maintenance of peace. His delegation was prepared to consider seriously and with an open mind all proposals designed to find solutions to those two problems. It agreed with the Chairman's view that the primary emphasis in the coming weeks should be on informal negotiations to lay the groundwork for the substantive meetings of the Committee, and it was prepared to begin such negotiations immediately. While agreeing on the importance of negotiation among the

larger Powers, his delegation considered it equally important that members of the Committee, and indeed other Members of the General Assembly, should be involved in the informal consultations. The United States had no illusions about the difficulty and complexity of the problems, but they must be solved if the United Nations was to fulfil its essential role in the maintenance of peace, as envisaged in the Charter.

34. Mr. HASEGANU (Romania) said that the organization of the Committee's work must be based on the terms of General Assembly resolution 2006 (XIX) and on the procedures laid down in the Charter and in the rules of procedure. The Committee's primary task was to eliminate all the difficulties which prevented the normalization of the work of the General Assembly. Once that problem had been solved, attention could be given to the other aspects of the question, but it was scarcely desirable that the General Assembly should remain paralysed until all the problems connected with peace-keeping operations had been resolved.

35. Since the Committee was not a mere working group, but a most important political body, it should follow the normal procedure of the Main Committees of the General Assembly and of its special organs established to deal with major questions. Meetings must therefore be open and statements recorded, in order that all Member States might be informed of the proceedings. He hoped that the Committee's decisions would be unanimous, and he believed that unanimity—rather than a "consensus"—could be obtained through constructive negotiations between all the interested parties. His desire for unanimity should not be interpreted as a suggestion that the members of the Committee should waive their right to vote, or to request a vote, on problems of interest to them, since voting was the expression of the will of the independent and sovereign States participating in the Committee's work. The Committee should begin its work as soon as possible in order to be able to submit its report to the General Assembly by 15 June 1965.

36. His delegation agreed with others which had expressed their indignation at the continuing acts of aggression by the United States against the Democratic Republic of Viet-Nam, and at the use of gas by the United States Armed Forces as a weapon of war against the Viet-Namese people. The Romanian Government had demanded, in its statement of 9 March 1965,[d] that the United States Government should cease its interference in the internal affairs of the South Viet-Namese people and its military intervention in South Viet-Nam and should strictly apply the Geneva Agreements of 1954.

37. Mr. WALDHEIM (Austria) said that his delegation was open-minded on the question whether to hold closed or open meetings, both of which had their advantages. The Committee should, in general, try to reach its decisions by consensus —a procedure which had been used successfully in the Committee on the Peaceful Uses of Outer Space—although situations might arise in which a vote was unavoidable. While all members were eager to begin work as soon as possible in order to meet the time-limit set by the General Assembly, his delegation believed that the consultations referred to in operative paragraph 1 of resolution 2006 (XIX) were of the utmost importance to the Committee's deliberations, and it therefore agreed with the Chairman's suggestion that the Committee should adjourn until 22 April. Since the Committee had been set up for a very special purpose under the chairmanship of the President of the General Assembly, his delegation agreed that there was no need to elect other officers, and it would be glad to leave the conduct of business to a representative nominated by the Chairman if he was unable to preside at any meeting.

38. Since it was most important to achieve the solvency of the United Nations at the earliest possible date, his delegation considered it desirable to stress that aspect of the problem, although the very important question of future peace-keeping operations would obviously arise during the negotiations. Lastly, he wished to stress the importance of an agreement between the permanent members of the Security Council, without which it would be difficult for the Committee to succeed in its task.

39. Lord CARADON (United Kingdom) said that the unanimous agreement which appeared to prevail in the Committee with respect to the Chairman's procedural proposals marked an important first step in its work. In the interest of continued progress, he cautioned against introducing controversial questions which were not directly related to the problems referred to the Committee by the General Assembly and against a mere restatement of previously-held views on those problems. The Committee had the task of finding new methods, new machinery and new ideas for peace-keeping in the world and nothing should be brought in which would stand in the way of agreement.

40. He expressed confidence in the decision taken by the General Assembly, that in the first stage the initiative should come from the Chairman, and the Secretary-General, and that at a subsequent stage the support of the General Assembly should be sought through the Committee.

41. Mr. MISKE (Mauritania) expressed his delegation's support for the Chairman's proposals regarding the Committee's procedure. He hoped that when it resumed its work in the future, it would hear concrete proposals for a solution of the problems before it rather than statements of principle. It might be desirable at times to hold closed meetings during the discussion of those proposals so that speakers might not be influenced by the public.

42. Mr. HAJEK (Czechoslovakia) emphasized that the Committee's task was to extricate the General Assembly and the United Nations as a whole from the impasse which had frustrated the work of the nineteenth session and rendered the Organization powerless at a time when the world situation was fraught with danger to peace. In particular, the situation in South-East Asia, which was a matter preoccupying all delegations, cast its shadow on the efforts to solve the United Nations peace-keeping problems; it could not be regarded as an extraneous or irrelevant question. It was the direct responsibility of those who were waging a murderous war against the people of South Viet-Nam and illegally bombing the territory of the Democratic Republic of Viet-Nam in defiance of international law and the provisions of the 1954 Geneva Agreements and in violation of the basic principles of human conduct. The White Paper published by the United States Government in an effort to justify its criminal aggression against the Democratic Republic of Viet-Nam had been—as stated in the magazine *The New Republic,* in its issue of 13 March 1965—entirely unconvincing, illogical and misleading, and had been designed to prepare a moral platform for widening the war. The further efforts of the State Department to justify the napalm bombing of villages and the use of poisonous gas could not quiet the indignation of people all over the world. It was not accidental that those who were engaged in escalating the aggression in Viet-Nam without regard for public opinion and for the danger to human life had not hesitated to paralyse the General Assembly by brandishing the threat of invoking Article 19 of the Charter against States refusing to recognize illegal operations undertaken by the United Nations in the past, and had obstinately refused to consider even the moderate Afro-Asian compromise plan for solving the peace-keeping crisis that arose at the nineteenth session of the General Assembly. He regretted that he had felt compelled to refer to those facts but he had done so in order to place the crisis in its historical context.

43. The Czechoslovak delegation considered that the Committee's work should encompass all aspects of the question of peace-keeping operations, as specified in operative paragraph 3 of General Assembly resolution 2006 (XIX), and should not be limited to the financial aspect only. It believed that the effectiveness of the United Nations should be strengthened through improvement of its machinery for collective security. However, all endeavours to regulate future peace-keeping activities should take into account one basic prerequisite, namely, respect for the provisions of the Charter. His delegation was satisfied that the Soviet statement of position based on its memorandum of 10 July 1964 (see A/5721) met that condition.

[d] *Official Records of the Security Council, Twentieth Year, Supplement for January, February and March 1965,* document S/6224.

44. Meetings of the Committee should be open to avoid the risk of leakage and misrepresentation which might mislead public opinion and impair the prestige of the United Nations. In exceptional cases, however, the Committee might decide to hold closed meetings. Decisions of the Committee should be taken by unanimous agreement, but such unanimity should not be construed to mean consensus at any price: it must be achieved as the result of patient and systematic negotiations. Although the Committee had little time in which to achieve a solution which would facilitate a resumption of the Assembly's nineteenth session and normalize the work of its twentieth session, every effort must be made to do so, taking into account the historical and political context of the crisis and the situation as a whole. The Chairman's task might be facilitated by the designation of a number of vice-chairmen from the basic groups represented in the Committee, but that was a matter for further negotiation. His delegation would be happy to co-operate fully in the negotiations.

45. Mr. HAY (Australia) regretted the introduction into the discussion of matters which, though in all representatives' minds, were not likely to further the Committee's immediate purpose. However, since the situation in South Viet-Nam and the surrounding area was a matter of intimate concern to Australia, he wished to state his Government's position on it. The fact was that a dissident communist-controlled movement had been created in South Viet-Nam from outside to wage war against the established social order and Government. The Australian Government had evidence of this from its own diplomatic missions, which had been in the area for many years, and from many other sources, including the 1962 report of the International Control Commission, which had condemned North Viet-Nam for violating the 1954 Geneva Agreements by sending men and arms from the North and inciting and encouraging hostilities in the South. The force which had established itself in South Viet-Nam had done so not through a programme of economic and social reform, but by coercion and terrorism. The aggression from the North could be halted only if the authorities in North Viet-Nam changed their policies. In those circumstances the people of South Viet-Nam would have the possibility of genuine self-determination. Until those policies were changed, there was no alternative for Governments which valued the freedom of the peoples of the area but to try to stop the aggression. Australia intended to honour its obligations under international law and custom to that end.

46. His delegation generally supported the Chairman's proposals for the organization of the Committee's work, but considered that open meetings would be fruitful only if members exercised restraint and confined their remarks to the specific problems assigned to the Committee by the General Assembly. The Committee should give attention to the explicit priority given in General Assembly resolution 2006 (XIX) for the arrangements for appropriate consultations which were left in the hands of the President of the General Assembly and the Secretary-General. It might therefore be preferable to leave the date of the Committee's next meeting to a time when the President and the Secretary-General felt it most appropriate in the light of their consultations. His Government attached great importance to the urgency of those consultations.

47. Mr. Amjad ALI (Pakistan) said that events in the world outside served to re-emphasis the urgency and necessity of creating effective United Nations peace-keeping machinery. With regard to the Chairman's procedural proposals, his delegation favoured open meetings unless closed meetings were absolutely necessary. It would prefer to have agreement rather than a consensus; in the absence of agreement, decisions should be taken by a vote.

48. The object of the consultations to be undertaken by the Chairman and the Secretary-General was to obtain great-Power agreement. However, if such agreement could not be achieved, it devolved upon the majority of Member States to keep the United Nations intact and functioning in the usual manner. They would have to discharge that responsibility at some time during the resumed nineteenth session. The Committee should seek to achieve a twofold purpose: the normalization of the functioning of the General Assembly and the restoration of financial integrity to the United Nations.

49. Mr. FEDORENKO (Union of Soviet Socialist Republics) said that it was the height of cynicism for the Soviet Union to be accused of injecting the cold war into the discussion by the very persons who were responsible for the bloodshed in Viet-Nam and the use of napalm and poisonous gases against the Viet-Namese people. The use of those barbarous weapons constituted a crime against humanity and a gross violation of international law. It was now clear why the United States had never subscribed to the Geneva Protocol of 1925.[e] In its note to the United States Government dated 26 March 1965,[f] the Soviet Government had resolutely condemned the use of poisonous substances by the United States against the population of South Viet-Nam. The United States, the note had stated, should weigh carefully the responsibility it assumed by resorting to such an inhuman act as the use of chemical weapons and take the necessary steps to cease the use of such weapons immediately. No Government could proceed in its international behaviour on the assumption that it could do something which was prohibited to all the States. Clearly the world would be in serious danger if all States felt free to take the kind of arbitrary action on which the United States had embarked. It was impossible to reconcile the frequent assurances given by the United States that it wished to improve international relations, strengthen international co-operation and promote observance of the United Nations Charter with its actions in Viet-Nam where it was violating universally recognized rules of international relations enshrined in the Charter and international agreements.

50. The facts were that a national war of liberation was being fought in South Viet-Nam against United States imperialism and a bankrupt puppet Government in Saigon which was being kept in power by United States military forces. It was the height of hypocrisy for the United States representative to speak of freedom and humanitarianism when his Government was engaged in flagrant violation of international law, repression of freedom and forcible interference in Indo-Chinese internal affairs. It was sanctimonious for that Government to say that the Democratic Republic of Viet-Nam must show signs of readiness to negotiate while it continued its own lawless bombing of that sovereign country. The truth was that United States provocations against the Democratic Republic of Viet-Nam made a mockery of the 1954 Geneva Agreements and many Member States had resolutely condemned them. Moreover, the war, fanned by United States imperialism in Viet-Nam, threatened to spread to other regions of the world. In the interest of preserving world peace, the United States should end its criminal aggression in Viet-Nam and withdraw its troops immediately.

51. The United States representative had once again attempted to distort the Soviet position regarding the peace-keeping functions of the General Assembly by implying that the Soviet Union sought to deny the rights of the General Assembly in regard to the maintenance of international peace and security. On the contrary, the Soviet Union favoured the full exercise by the Assembly of its rights within its sphere of competence as defined in Articles 11, 12, 14 and 35 of the Charter. When the Security Council was unable to act in matters relating to the maintenance of international peace and security, there was nothing to prevent the Assembly from considering such matters further and, within the framework of its competence, from making further recommendations regarding them.

52. Mr. VINCI (Italy) considered it inappropriate to inject into the Committee's discussion controversial matters which were very far from the Committee's real objective. All Member States were seriously concerned by the situation in South-

[e] Protocol for the Prohibition for the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva, on 17 June 1925.

[f] See *Official Records of the Security Council, Twentieth Year, Supplement for January, February and March 1965*, document S/6260.

East Asia and desired a peaceful settlement. For its part, the Italian Government had expressed confidence in the sense of responsibility of the United States and had approached the principal Governments concerned in an effort to ease the situation and pave the way for the opening of negotiations.

53. He endorsed the practical arrangements for the organization of the Committee's work suggested by the Chairman and emphasized that the Committee could not afford to fail in its important task because the very survival of the United Nations was at stake. In the circumstances, despite the pressure of time, it should not embark upon a substantive discussion until the ground had been thoroughly prepared through consultations.

54. He sought clarification and further exploration of the Soviet representative's statement that if the Security Council should find itself unable to act on a matter relating to the maintenance of peace and security, the General Assembly might consider the matter again and make further recommendations concerning it. He would also welcome some elucidation of the Soviet Representative's reference to the fact that, in matters of peace-keeping, all Member States were on an equal footing. While the sovereign equality of Member States was guaranteed by the Charter to which they had subscribed and the forum of the United Nations was open to all, surely the Soviet representative had not meant to suggest that each individual State should be free to fix the price of its participation in the Organization.

55. The need to ensure the solvency of the United Nations, to which the United States representative in particular had referred, was regarded by the Italian delegation as a matter of paramount and primary importance. Efforts must be made to meet the existing emergency and at the same time to prevent a recurrence of financial crisis in future, without impairing the effectiveness of the United Nations.

56. Mr. CHIBA (Japan) supported the procedure for the organization of work outlined by the Chairman.

57. Although it was vitally important to make the United Nations solvent as soon as possible, the Committee should not limit itself to the problems of financial solvency but should adopt a flexible attitude and be prepared to deal with any aspect of the over-all problem that seemed likely to promote agreement.

58. His delegation attached primary importance to the consultations envisaged in operative paragraph 1 of General Assembly resolution 2006 (XIX). It hoped that the consultations, which must be pursued actively and without loss of time, would produce positive and constructive guidelines.

59. Mr. CSATORDAY (Hungary) said that the consultations had shown that much goodwill and co-operation would be needed if the Committee was to carry out its task, which was political as well as procedural and financial.

60. In speaking about the problem of keeping the peace, one could hardly ignore events in which peace was being destroyed. Despite the condemnation voiced by the Hungarian Government and by other Governments throughout the world, the United States was accelerating the pace of its mad war in Viet-Nam. The world had been shocked to learn about the use of gas in that country. The United States representative had dismissed the statements made by several delegations in the Committee as communist propaganda. However, *The New York Times,* which could not be regarded as a source of communist propaganda, had strongly condemned the use of gas in Viet-Nam. The attempts made in the United States White Paper to show that people had come from North Viet-Nam to launch a revolution in South Viet-Nam were unconvincing. It should rather be asked where the United States soldiers were coming from. If the United States would abandon its imperialist war in South-East Asia, the task of the Committee, in which strict adherence to the United Nations Charter was essential, would be facilitated. Discussing the problems before the Committee in all their aspects should necessarily include the measures of paramount importance, namely, those for normalization of the work of the General Assembly and that of the whole of the United Nations, ensuring their proper functions under the Charter of the Organization.

61. Referring to a point made by the representative of Italy to the effect that individual States were not free to fix the price of their participation in the Organization, the Hungarian representative indicated that in reality the problem was that some States were expected to defray the costs of special actions in which they did not participate and to which they objected.

62. In accordance with rule 62 of the rules of procedure of the General Assembly, the meetings of the Committee should be held in public, unless it decided otherwise. The Committee had an obligation to keep the public informed about its work and, if the meetings were closed, there might be speculation and rumours. The positions of various delegations had been widely publicized and the Committee's report on the work would be published and discussed by the General Assembly. As regards voting procedures, the Hungarian delegation thought that the word "unanimity" was more suitable than the word "consensus". It did not think that there would be any need to elect officers of the Committee. The consultations would complement rather than replace discussion in the Committee; they should be held in addition to Committee meetings and should be as broad as possible. In conclusion, he assured the Committee of his delegation's support and co-operation to achieve its goals as set forth in General Assembly resolution 2006 (XIX).

63. Mr. PAZHWAK (Afghanistan) said that anything which prevented the United Nations from functioning normally or reduced its effectiveness was contrary to the interests of the Organization. Unless the Committee achieved constructive results, there could be no normal or effective United Nations. His delegation fully supported the procedure outlined by the Chairman. It hoped, however, that at the proper time—after a clear understanding of the general situation had been obtained through a broad exchange of views—the Committee would bear in mind the idea of a working group. Particularly in the absence of agreement, a working group composed of members of the Committee would facilitate appropriate initiatives, based on the wishes of all the Members of the United Nations.

64. Only a political solution could achieve a settlement of the problems facing the United Nations, and such a solution had to be sought. It was to be hoped that the collective political understanding which had resulted in the establishment of the Committee would ensure the success of its work.

65. The CHAIRMAN suggested that the Committee should adopt the procedure he had outlined, noting the reservation made by the Latin American members. He and the Secretary-General would immediately start consultations on the substantive aspects of the Committee's work. He urged delegations to submit any ideas or suggestions they might have. The Committee would reconvene on or about 22 April 1965.

It was so decided.

OTHER MATTERS

66. Mr. CHAKRAVARTY (India) proposed that verbatim records of the Committee's debates should be issued.

67. The CHAIRMAN said that a verbatim record would be provided, unless the Committee decided to hold closed meetings, in which case it would have to decide whether it wanted a verbatim record.

The meeting rose at 6.50 p.m.

Second meeting

held on Thursday, 22 April 1965, at 10.55 a.m.
[A/AC.121/SR.2]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

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1. The CHAIRMAN informed the Committee that, immediately after the 1st meeting, the Secretary-General and he had started the consultations envisaged in operative paragraph 1 of General Assembly resolution 2006 (XIX).

2. Mr. FEDORENKO (Union of Soviet Socialist Republics) recalled that, under General Assembly resolution 2006 (XIX),

the Special Committee had been given the task of considering one of the main questions facing the United Nations and one to which its fate was linked. That task was all the more important in that it was as a result of the violation in recent years of the Charter provisions concerning the maintenance of international peace and security that the peace-keeping operations had been undertaken. Those operations contrary to the Charter had in turn created considerable difficulties within the Organization itself, and a group of States had even gone so far as to attempt, under various pretexts, to paralyse the work of the General Assembly. His delegation was convinced that the States Members of the United Nations would not tolerate any such obstruction of the Assembly's work in the future. As it had always been of the opinion that the Assembly's work should proceed normally, it could see no justification whatever for the violation of the Assembly's procedures. It wished to stress once again that the Committee itself should consider the question which had been entrusted to it, so that all its members could contribute, as it was their duty to do, to the common cause of strengthening the United Nations. The General Assembly had obviously intended that different groups of countries should participate in the Special Committee so that a large number of States would be able to take an active part in the consideration of the complex problem of measures to maintain peace and security. As he had already pointed out, the discussion in the Special Committee in no way precluded the possibility of consultations among the various delegations, with the participation of the Secretary-General and the Chairman of the Committee; useful as such consultations might be, however, they could not be a substitute for the important work which had to be performed by the Committee itself.

3. His delegation felt obliged to point out once again that the United Nations Charter contained the provisions necessary for increasing the effectiveness of the United Nations in preserving international peace and security. In many cases, however, the possibilities it offered had not been fully exploited, because the United States of America and some other Western Powers had followed a policy of disregarding the Charter. The Committee's task was to make the best use of those possibilities, in other words, to put an end to violations of the Charter and to create an atmosphere propitious for co-operation among all States on a footing of equality. It would naturally be well, first of all, to make more use of the methods of peaceful settlement provided in the Charter, without excluding the possibility that in some cases coercive measures might be taken in accordance with Article 41 or, in exceptional cases, the United Nations might have recourse to the use of armed force in conformity with Article 42 of the Charter. In such extreme cases as the use of armed force, it was particularly important that all the relevant provisions of the Charter should be strictly observed.

4. As the Charter clearly specified, the Security Council bore primary responsibility for the maintenance of international peace and security. That meant that the Security Council was the only organ entitled to action to maintain or to restore international peace and security. The Security Council therefore had the competence to adopt decisions in all matters relating to the establishment and use of United Nations armed forces—their composition and strength, the structure of their command, the direction of their operations, the definition of their duties and the duration of their stay in the area of operation—and also matters of financing.

5. The Charter gave the General Assembly, too, a share of the responsibility for maintaining international peace and security. Its role was to consider any questions relating to that subject and to adopt suitable recommendations, bearing in mind the competence it was given under the Charter. The Charter defined the respective functions of the Security Council and the General Assembly clearly; any question on which action became necessary was to be referred by the Assembly to the Council. At the same time, if the Security Council was unable to adopt a decision on any specific question relating to the maintenance of peace, then of course there was nothing to prevent the Assembly from reviewing the entire matter in order to make new recommendations, always bearing in mind its own sphere of competence.

6. In that connexion he recalled the USSR Government's memorandum of 10 July 1964 (see A/AC 121/2), in which the USSR Government had based itself on the fact that, in applying the various provisions of the Charter, it was necessary to take account of the real international situation prevailing at the time In particular, in order to ensure that the use of force by the United Nations should be exclusively in the interests of peace and should not serve the unilateral interests of individual States, it was essential that all three groups of States—Western, neutralist and socialist—should participate in the composition of the United Nations forces and have a voice in their command; on the other hand, it was inadvisable for contingents from the permanent members of the Security Council to be included in such armed forces. In future cases in which the Security Council took steps to establish and finance United Nations armed forces in strict compliance with the provisions of the Charter, the Soviet Union would be prepared to take part with other States in defraying the expenditures which the maintenance of those forces entailed.

7. The Soviet Union supported the legitimate demands of the African and Asian countries for a broadening of the composition of the Security Council in order to enable those countries to take a direct part in the peace-keeping activities of the Security Council. It had been the first—and so far, unfortunately, the only—permanent member of the Security Council to ratify the relevant amendments to the United Nations Charter (see General Assembly resolution 1991 A (XVIII)).

8. The Military Staff Committee offered important, but so far untapped, possibilities; he strongly recommended that a large number of States—not only the non-permanent members of the Security Council but also States which could provide contingents and other facilities for the United Nations operations—should take part in its work, the purpose of which was to assist the Security Council in all questions relating to the use of armed forces by the United Nations. The representatives of those States should participate in the general strategic direction of the United Nations forces. In accordance with Article 47 of the Charter, and after consultation with the appropriate regional organizations, such as the Organization of African Unity in the case of Africa, the Military Staff Committee could create its own regional organs. As was stated in the memorandum, it would be advisable that the Security Council and the Members of the United Nations which so desired should conclude the agreements prescribed in Article 43 of the Charter; his delegation welcomed the initiatives taken in that direction by Czechoslovakia on 26 November 1964 (A/5821) and by Bulgaria on 17 December 1964 (A/5839). The Soviet Union for its part proposed that the Military Staff Committee, in consultation with all interested Member States and without waiting for the conclusion of the Special Committee's work, should undertake the preparation of a model draft agreement, which would then be submitted to the Security Council.

9. Mr. GEBRE-EGZY (Ethiopia) said that it was clear from the terms of General Assembly resolution 2006 (XIX) that the Committee, the Secretary-General and the President of the General Assembly were called upon to find a solution, firstly, to the financial difficulties of the Organization and, secondly, to the question of peace-keeping operations to be undertaken by the United Nations. The consultations of the past few weeks had dealt with the second aspect of the problem, and his Government was giving the fullest attention to the unofficial summary of positions that had been circulated. His delegation was still convinced, however, that unless a solution was found to the first problem it would be extremely difficult to find a solution to the second and the Organization would be faced with a dilemma when the nineteenth session of the General Assembly was resumed. While it did not wish to give priority to either aspect of the problem, his delegation would suggest that the Chairman should arrange consultations for the purpose of finding a solution to the Organization's financial difficulties, in the light of the statements which the Chairman

had made in the General Assembly, the statements made by the Secretary-General, and the informal paper on the subject which had been submitted by the African-Asian group during the first part of the nineteenth session.

10. Mr. WYZNER (Poland) said that the question of peace-keeping operations was of the utmost importance to the United Nations, as was attested by the declaration entitled "Programme for peace and international co-operation" (see A/5763)[g] adopted by the Second Conference of Heads of State or Government of Non-Aligned Countries, held at Cairo from 5 to 10 October 1964.

11. His delegation appreciated the efforts made by the Secretary-General and the Chairman since the last meeting to find an acceptable solution to the problems facing the Organization. The Committee would have to redouble its efforts if it was to have its report to the General Assembly ready in time.

12. While his delegation favoured informal discussions and consultations and had taken an active part in them, it felt that they should take place parallel with an official exchange of views in the Committee itself in which Governments set forth their positions. All the members of the Committee, great and small Powers alike, were responsible for discharging the task entrusted to the Committee by the General Assembly.

13. The present difficulties were a direct result of the errors, abuses and violations of the Charter that had been committed against the will and despite the warnings of certain States, including Poland, in the course of the illegal military operations undertaken in the Congo and the Middle East. While constructive proposals had been presented which offered hope of a positive solution, it was the Committee's task to make certain that the situation with which the Organization had been confronted during the nineteenth session of the General Assembly did not arise again and that there was no repetition of the attempts made, under the pretext of peace-keeping, to create machinery which was contrary to international law, in particular the principles of the Charter, and was designed to cover up the acts committed by colonial or imperialist Powers.

14. With regard to the future role of the United Nations in maintaining international peace and security, no final and agreed solution could be found without the guidance of the Charter. It was clearly stated in the Charter that the Security Council was the body competent to initiate action in that field, the competence of the General Assembly being limited to debate and recommendation.

15. According to the Charter, the Security Council was responsible for determining whether the situation in a given region required the use of military forces to maintain or restore international peace and security; Article 39 and the following Articles of Chapter VII of the Charter gave the Council exclusive competence to take decisions binding on Member States. It was also the Council's responsibility to determine the financial obligations of Member States.

16. Member States were sovereign and equal, and the United Nations was not a super-Power that could impose upon its Members illegal decisions adopted by its organs. The basic characteristic of the Charter was the division of competence among the various organs of the United Nations, which meant that one organ could not assume the privileges of another. Hence, the General Assembly could not replace the Security Council, particularly since it had no right to adopt binding decisions except on budgetary questions. All its resolutions had the character of recommendations. That was not merely a legal concept; it was also a present-day political reality at both the international and the domestic level.

17. It was a striking fact that the same people who would be shocked at the idea of letting a parliament sentence criminals or a supreme court enact legislation were willing to transfer from one United Nations organ to another the competence defined in the Charter, which was the Constitution of the United Nations. While it was the Committee's duty to examine all possible solutions, it could not sacrifice the fundamental principles of the Organization in the interests of certain Member States.

[g] Mimeographed document.

18. It was the Committee's task to overcome the obstacles created by past misconceptions and illegality and, learning from experience, to decide how to prevent a repetition of such errors. The constructive proposals and ideas put forward by the Soviet Union representative at the present meeting and at the previous meeting provided a good basis for agreement. Efforts to reach agreement must begin with the recognition that no operation aimed at the maintenance of international peace and security could be lawfully undertaken without a decision by the Security Council. That was necessary in order to maintain peace and law in world affairs and to prevent any State or group of States from infringing the sovereignty and independence of other peaceful countries, as had occurred when, before the admission of the new African and Asian States, one bloc of countries had had an automatic majority of votes.

19. In that connexion, the problem of the ratification of the amendments to the Charter increasing the membership of the Security Council and the Economic and Social Council (see General Assembly resolution 1991 (XVIII)) was of particular importance. It was essential that the composition of the Security Council should reflect the changes which had taken place in the world, and particularly the growing role of the African and Asian States. Poland had already ratified the amendments and hoped that the countries which had not yet done so would ratify them by September 1965; that applied especially to the great Powers without whose ratification the amendments could not enter into force.

20. In stressing the special role of the Security Council, his delegation did not mean to minimize the importance of the General Assembly, on which the Charter conferred the right to discuss any question relating to the maintenance of international peace and security and to make recommendations to the States concerned or to the Security Council in cases where the Council was unable to take a decision.

21. If it was agreed that the Security Council was the organ responsible for taking action in that field, a number of Articles of the Charter which were at present almost a dead letter would become fully operative once again. He would mention in that regard the special agreements provided for in Article 43 and the provisions of Articles 46 and 47 relating to the Military Staff Committee.

22. Military operations as a means of halting a threat to peace or an act of aggression were an exceptional measure to which the United Nations should resort only when all other measures had proved insufficient. It was essential to make certain, first and foremost, that no State or group of States would try to use the United Nations forces for its own egoistic and perhaps dangerous purposes. That was why such forces should include contingents from the socialist countries together with contingents from the neutral and Western countries. The same principle should apply to the composition of the commands of United Nations forces.

23. Poland had always supported the United Nations and had participated, financially and otherwise, in its regular work and in the special programmes which depended entirely on voluntary contributions. In the past few years it had twice increased its voluntary contributions to the Special Fund and the Expanded Programme of Technical Assistance, and it would do its best to ensure that the General Assembly was able to discharge its functions normally when the nineteenth session was resumed.

24. A return to the principles of the Charter was essential if the United Nations was once again to function properly as a centre for peaceful negotiations and activities.

25. Mr. VINCI (Italy) said that he had listened with particular attention to the Chairman's statement concerning the consultations that were being held. At the present juncture, the best course would be for them to be actively continued before the Committee itself embarked on a further stage in its proceedings.

26. In fact, those consultations, which had been requested in General Assembly resolution 2006 (XIX), were of vital importance and should be intensified in the coming weeks. The

Committee could then sum up their results in order to prepare a substantial and, he hoped, positive report by the date laid down.

27. He doubted whether, at the present stage, a general debate in the Committee would improve the chances of progress. The problems before the Committee had already been thoroughly discussd in past years and the position of each delegation was known to all. It should therefore be possible to draw up the broad lines of a practical solution without returning to statements of principle.

28. A consideration of the statements made by the various Member States showed that there were areas of agreement which should be explored further. For its part, the Italian delegation did not think that anyone denied that the Charter gave the Security Council primary but not exclusive responsibility in matters concerning the maintenance of international peace and security. The powers of the General Assembly in that connexion had given rise to many controversies in the past. The Italian delegation had always maintained that it would be contrary to the Charter itself to deny the General Assembly any function in that field. The so-called "residual powers" of that body were still a most controversial issue and a clear understanding of them would represent a very important factor in any future agreement.

29. There had been a number of developments which might facilitate the achievement of positive results. In that respect, he recalled the statement made by the representative of France on 16 October 1964, at the 28th meeting of the Working Group of Twenty-one (A/AC.113/47).[h] Moreover, the Soviet Union representative had spoken of the General Assembly's right to reconsider a matter and to make recommendations if the Security Council had been unable to take a decision. That element seemed worth exploring further.

30. The real problem now seemed to be to continue consultations in order to reach an agreement on the extent of the so-called "residual powers" of the General Assembly. In any case, his delegation felt that in matters of finance the General Assembly had indisputable powers to take decisions or make recommendations involving the general membership of the United Nations. His delegation found it difficult to agree with the statement of the Soviet Union representative concerning the financial powers of the Security Council. There was no record in the past practice of the United Nations, or in the Charter, which could support that thesis. He would revert to the Soviet Union representative's statement when he had studied it more carefully.

31. In the present situation, the main task was to consider both the nature and the extent of peace-keeping operations, which might vary from a small group of observers to the extreme cases mentioned by the representative of the Soviet Union which corresponded to the limited cases set forth in Chapter VII of the Charter.

32. He thought that the various possible types of peace-keeping operations might be considered separately and that no general formula could be applied to every case. A practical approach of that nature could facilitate the achievement of positive results in the forthcoming consultations.

33. Mr. CUEVAS CANCINO (Mexico) said that the principal organs of the United Nations had changed considerably since the Organization's establishment and had had to cope with realities which the Charter could not foresee. The Charter, though a multilateral and law-originating treaty, was in the final analysis only a treaty. However, the acceptance of realities which ended by becoming customary required the express agreement of all concerned, and mere rules of custom enabled Member States to take refuge at any time behind the written rules.

34. Over the years a new type of international operation had emerged, organized under United Nations auspices for the maintenance of peace. The provisions of the Charter were clear and remained unchanged and neither the measures set forth in Chapter VII nor the fact that the Security Council had primary responsibility for the maintenance of peace were in question. On the other hand, a new form of customary law now existed which had not as yet been accepted by all Member States.

35. The purpose of the Special Committee's work was to ensure that the new realities were accepted by all Member States and to obtain recognition of the fact that it had been possible to bring the provisions of the Charter into line with the reality of peace-keeping operations and that those operations, far from violating the Charter, in fact strengthened it.

36. Peace-keeping operations could only be carried out with the consent of the State or States parties to the dispute and were carried out very differently from the action prescribed in Chapter VII; in particular, the guarantees set forth in Article 43 were envisaged in a different manner.

37. The principle of the Charter laid down that armed force should not be used save in the common interest. The whole legal structure of the Charter would collapse if Member States were to be allowed to use force without restrictions. As a common conscience emerged among nations, the use of force would become reserved exclusively to the international community. Peace-keeping operations were moving in precisely that direction. The Committee's role was to determine how and when such operations might be carried out.

38. The United Nations could make a positive contribution to the peaceful settlement of disputes between States. The widest possible use should be made of the peaceful means of settlement chosen by the parties concerned in the framework of the Charter and peace-keeping operations were in that category.

39. It was held by some that peace-keeping operations were based on the collective responsibility of all Member States, but such responsibility could not imply a strictly proportional distribution of the financial costs, and the developing countries could not be asked to accept new responsibilities in that regard.

40. The United Nations should assume strict political responsibility at every stage. The Committee's main problem was to determine in accordance with what rules and in which bodies that responsibility should be exercised. As his delegation had previously stated, the powers of the Security Council and of the General Assembly should be considered as complementary and not as contradictory. Future peace-keeping operations would only be effective and positive if the General Assembly and the Security Council participated in their initiation and implementation within the limits of their competence under the Charter.

41. After the Assembly's inability to act at its nineteenth session and the failure of the negotiations between the great Powers, the Special Committee was beginning its task with a severe handicap. The General Assembly could only function normally at its twentieth session if the Committee succeeded in defining clearly the nature of peace-keeping operations within the framework of the Charter. For that reason his delegation proposed to put forward certain ideas concerning the respective powers of the Security Council and the General Assembly.

42. In its opinion, any Member State might bring before the General Assembly any dispute or any situation which might endanger international peace and security, and the Assembly could discuss that dispute, make recommendations and communicate them to the Member States concerned and to the Security Council. If the General Assembly's discussion showed that a peace-keeping operation was advisable, the Assembly would be able to recommend that the Security Council should undertake the operation with the consent of the parties to the dispute. At the same time it would make the necessary financial and budgetary arrangements and transmit its financial recommendations to the Council.

43. If the General Assembly, at the request of several States, acted to settle a dispute and recommended a peace-keeping operation, it was the Security Council's function to intervene at the request of the General Assembly itself. The Council should approve the execution of the proposed measures and should help to implement them if it saw fit to do so.

[h] Ditto.

Thus, the case was one provided for in the Charter: that of a procedure adopted by the parties for the settlement of a dispute, to which the Security Council should give preference under Article 36, paragraph 2. However, the Council would still be able to intervene at any stage of the dispute, if it considered it necessary to do so, either by virtue of its powers under Article 36, paragraph 1, or pursuant to Article 34.

44. In sum, the General Assembly and the Security Council had to work in harmony. The Council, for its part, retained the very broad powers which the Charter conferred upon it to investigate any dispute or any situation which might lead to international friction; it could act at the request of the parties, on the initiative of any one of its members or upon the proposal of the Secretary-General under Article 99. In the case of an entirely new dispute, the Security Council could act without any restriction, but in the case of a dispute already before the General Assembly, it could intervene only if it considered that the dispute constituted a threat to the peace, a breach of the peace, or an act of aggression. If that was not the case, the Council would act at the request of the States concerned, taking into account any procedure for the peaceful settlement of their dispute which the parties themselves had adopted and which might be the same as that recommended by the General Assembly.

45. When the Security Council deemed it necessary to undertake a peace-keeping operation—and in the case he was considering the broad powers conferred upon the Council by Chapter VII of the Charter were not involved—it would inform the Assembly of its recommendations by means of the special reports provided for in Article 15. Those reports would include, where appropriate, the Council's recommendations concerning the financing of the operation. In that case, the General Assembly could either accept the Council's financial recommendations or send them back to the Council for further consideration.

46. The Mexican delegation was aware that a great many possibilities had not been sufficiently covered in its brief statement, but it was essential that the Special Committee should proceed on the lines indicated. Only by adhering strictly to the principles of the Charter yet at the same time constantly endeavouring to make use of all the possibilities offered to it would the Committee be able to carry out its task.

47. Lord CARADON (United Kingdom) said that in the light of the statements made at the current meeting, a general debate might well be possible since constructive and thoughtful proposals had been put forward.

48. The representative of the Soviet Union had made a number of suggestions, some of which were new and called for further thought. Like that representative, he was convinced that delegations must seek to understand each other and work in an atmosphere of mutual confidence. He hoped that such an atmosphere would indeed be created. He recalled that his Government intended to ratify the amendments providing for an increase in the membership of the Security Council. He wished to express his confidence in the initiatives taken by the Chairman of the Special Committee, in his capacity as President of the General Assembly, and by the Secretary-General. Lastly, he shared the views of the Soviet Union representative regarding the part to be played by the Members of the General Assembly, for the matters before the Committee did not concern the great Powers alone and their solution rested in the last analysis with the Assembly. The General Assembly seemed to be in favour of negotiations, conducted in an atmosphere of mutual respect, and did not expect the members of the Committee to restate old positions.

49. In reply to the observations made by the Ethiopian representative, he said that he did not believe that it would be possible to find a solution to the financial difficulties of the past until the question of the procedure to be followed in the future had been in great part resolved. The United Kingdom Government had already publicly undertaken to make a voluntary contribution at the appropriate time, if the conditions were suitable. Like the Polish representative, he thought that the Committee should endeavour to settle the questions before it well in advance of the twentieth session of the General Assembly. Those questions were of a constitutional, financial and administrative nature.

50. His delegation, for its part, would continue to support the initiative taken by the President of the General Assembly and the efforts of the Secretary-General. It welcomed the fact that all the members of the Committee appeared determined to settle with all possible speed the differences which confronted the Organization and thus enable the twentieth session of the General Assembly to go forward in a normal manner.

51. Mr. WALDHEIM (Austria) said that the questions before the Committee were of such vital importance for the future of the United Nations that members should be cautious and try to create an atmosphere of calm and co-operation. As opinions were still rather divergent and there was little common ground, the consultations requested in General Assembly resolution 2006 (XIX) should be continued until an acceptable basis for negotiations was found.

52. There was no doubt that under Article 24 of the Charter the Security Council had primary responsibility for the maintenance of international peace and security, and it was therefore in the Council that questions concerning peace-keeping operations should be dealt with. However, the expression "primary responsibility" implied that another organ also bore responsibility, of a residual nature. A study of the provisions of the Charter relating to the competence of the General Assembly made it clear that the residual responsibility in question rested in the General Assembly. Article 11, paragraph 2, and Article 12 of the Charter clearly defined the powers of the General Assembly with regard to the maintenance of peace and the limits of those powers.

53. With regard to the financing of peace-keeping operations, experience had shown that several methods were possible. However, some of those methods could not be recommended for the future, as they deviated considerably from the principle of the collective financial responsibility of all Members of the United Nations, a principle which his Government had always supported. He favoured a procedure that would reflect that collective responsibility, even if a special scale of assessments had to be envisaged. Accordingly, he also considered that all Member States should have an opportunity to be heard on the question of financing, and he hoped that the Committee would be able to work out a formula which took that requirement into account.

54. The Austrian delegation would abstain, at that stage of the deliberations, from going into the details of the question. It considered that the members of the Committee should continue their consultations with a view to finding a basis for agreement. As his delegation had already said at the Committee's 1st meeting, such a basis could only be found with the close co-operation of the permanent members of the Security Council. Since all the members of the Committee were interested in preserving the United Nations as an effective body for maintaining peace and security in the world, he hoped that they would co-operate to that end.

55. Mr. CSATORDAY (Hungary) said that even allowing for the consultations which had been held, the Committee was behind in its work and had less than two months in which to submit a report to the General Assembly to constitute a comprehensive review of the question of peace-keeping operations. It was therefore not the time, as some delegations had advocated, to slow down the work by holding negotiations, primarily among the members of the Special Committee. The Committee should be an open forum, conducting its work in open sessions. Besides corresponding to normal practice, that procedure had many advantages, including that of keeping the Press and public opinion informed. There must not be a standstill in the Committee's work, under the pretext of cautious consultations. It was the Committee's duty to explore new means and new approaches to ensure the proper functioning of United Nations peace-keeping operations.

56. The question of peace-keeping operations could not be taken out of the context of the Charter. It was only one aspect

of United Nations activities and should be dealt with accordingly. Above all, it was part and parcel of the system of collective security provided for under Articles 1 and 2 of the Charter. The settlement of that question could not, therefore, be regarded as a final answer to all the situations that might emerge in an ever-changing world.

57. The settlement of that problem was nevertheless of vital importance and the matter must therefore be examined in strict observance of the provisions of the Charter. Under Article 24, the Members of the United Nations conferred on the Security Council primary responsibility for the maintenance of international peace and security and agreed that in carrying out its duties under that responsibility the Council was acting on their behalf. The founding fathers of the Organization had thought it appropriate to divide the important task of maintaining peace and security in the world among various organs which should complement and not conflict with one another. Under Article 39, the Security Council determined the existence of any threat to the peace, breach of the peace or act of aggression. Having done so, it could adopt enforcement measures of a non-military character, such as complete or partial interruption of economic relations and of communications, and the severance of diplomatic relations, as provided in Article 41. Under Article 42, the Security Council could employ the armed forces of Members of the United Nations only if such measures would be inadequate or had proved to be inadequate. The General Assembly could discuss any questions relating to the maintenance of international peace and security and make appropriate recommendations with regard to them. If the situation warranted, it could, within its competence as defined in Articles 11, 12, 14 and 35, consider any question with a view to making further recommendations. However, questions on which action was necessary should be referred by the General Assembly to the Security Council. The practice followed in that connexion had been at variance with those provisions of the Charter and it could not be regarded as constituting a precedent or as imposing any juridical or moral obligation on Member States. Moreover, under General Assembly resolution 2006 (XIX), the Special Committee was not authorized to discuss revision of the Charter. It should focus its attention on the devising of new means of applying the provisions of that instrument and there could be no doubt that the success of its efforts would be closely linked to developments in international relations.

58. As far as the financing of peace-keeping operations was concerned, his delegation felt that in each case where United Nations forces were used the Security Council should decide upon all the financial implications which such operations might have for States Members of the United Nations and that the expenses of peace-keeping operations should therefore not be considered part of the regular budget of the United Nations.

59. Mr. YOST (United States of America) said that he felt obliged to state once more the basic principles underlying his delegation's position with regard to the initiation and financing of peace-keeping operations.

60. Firstly, the Charter specifically conferred on the Security Council primary responsibility for the maintenance of international peace and security. Renewed efforts should be made to ensure that the Council would be able fully to discharge that responsibility.

61. Secondly, the Charter did not give the Council exclusive responsibility for the maintenance of peace and security, nor, in the opinion of his delegation, should it do so. It conferred on the Security Council exclusive power only in respect of decisions on measures, commonly called enforcement actions, and the Council's decisions taken in the exercise of that power were binding on all Member States. That was the action which the Charter reserved to the Security Council, as the International Court of Justice had confirmed.[i] In accordance with the Charter, the General Assembly had always had and should continue to have full authority to make recommendations with respect to the maintenance of peace and security, including recommendations for the initiation of operations. There was no reason why that power conferred by the Charter should be withdrawn from the General Assembly and a situation created whereby any nation could, unilaterally and without any possible recourse, prevent the United Nations from functioning in that vital area. Such an abdication would certainly not be in the long-run interest of the majority of Member States.

62. Thirdly, his Government considered that the expenses of peace-keeping operations should be the collective financial responsibility of the entire membership of the United Nations; on the basis of that principle the Organization could best be assured of the financial stability it required in order to be an instrument for keeping the peace. His delegation would endeavour to preserve but principle, not to side-track or abandon it.

63. Fourthly, and finally, only the General Assembly had, under the Charter, the power to apportion the expenses of peace-keeping operations among Member States.

64. Those were the principles which, in the view of his delegation, should be applied. Nevertheless, while it felt that the practice currently followed in applying those principles was satisfactory, it was ready to consider any new idea consistent with those principles. One new idea with respect to financing had already been put forward, namely the suggestion that when the General Assembly apportioned the expenses of major peace-keeping operations in future it should take into account any strong political objections to such operations which had been voiced by a permanent member of the Security Council. His delegation would prefer to have the full collective responsibility of all Member States and it felt that the principle of collective financial responsibility should continue to be the presumptive one for peace-keeping operations. If, however, others felt that a modification of that sort was necessary for the preservation of the basic principle, his delegation would be willing to consider it, for it did not think that it would be in the interests of the Organization to take the position that the only alternative to the principle of collective financial responsibility was to abandon that principle altogether.

65. His delegation's view on future arrangements for the initiation and financing of peace-keeping operations had been set forth in more detail in document A/AC.113/30, which it had submitted to the Working Group of Twenty-one and was now submitting to this Committee.[j] The proposals in that document remained valid. Like the United Kingdom representative, he hoped that negotiations would be undertaken in a spirit of mutual respect.

66. Mr. GEBRE-EGZY (Ethiopia), replying to the observations of the United Kingdom representative, said that he wished to clarify his position, which was that the question of financial difficulties and the question of future peace-keeping operations should not be divorced and that the two questions should be considered in parallel terms. That position was based on the experience of the nineteenth session of the General Assembly. Moreover, he did not think that such an important question as that of future peace-keeping operations could be settled in a few months. It was, indeed, a matter which was capable of developing and might well have to be re-examined from time to time. The Special Committee therefore need not be confronted with a dilemma. At the General Assembly's nineteenth session a consensus had been reached. That consensus should be maintained and the Special Committee should strive to settle the matter, before 15 June if possible, and, if not, then before 1 September without fail. At the next meeting he would elaborate on the suggestion which he had made. During the nineteenth session of the General Assembly the Afro-Asian group had submitted a proposal which had been almost unanimously accepted. It should therefore have been possible to reach a solution and he hoped that the Special Committee would be able to do so.

[i] *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962*, p. 163.

[j] Subsequently circulated as document A/AC.121/3.

67. Mr. FEDORENKO (Union of Soviet Socialist Republics) regretted that the Italian representative should have seen fit to sow the seeds of doubt even before the Committee had really begun its work. He saw no reason why the Committee should not proceed with an exhaustive discussion of the questions which it was called upon to study, particularly since some delegations had already expressed their desire to make their views known and to submit proposals. The representatives of Poland, Hungary and Mexico had made important statements at that very meeting, the United Kingdom representative had noted the usefulness of that exchange of views and the United States representative, who had promised to study those statements, had recognized that an open discussion would be desirable. If the Committee decided not to have an open discussion, its members would be deprived of their lawful right to express their views; that situation would not be acceptable to his delegation. As he had already observed, such a discussion would in no way preclude consultations which in his view, however useful they might be, could not and should not take the place of the work of the Committee.

68. Although he did not wish to analyse in detail the other points made by the Italian representative, he felt compelled to observe that the Italian delegation's views on the role and powers of the Security Council in connexion with the financing of peace-keeping operations were clearly contrary to the provisions of the Charter. The United States representative, for his part, had claimed that an attempt was being made to deprive the General Assembly of its rights under the Charter. To that argument he would reply that no one denied that the General Assembly too had responsibilities with respect to the maintenance of international peace and security. Those responsibilities included the examination of all questions relating to the maintenance of peace and security and the adoption of the necessary recommendations, having regard to the competence conferred on the General Assembly by the Charter. In that connexion, the Charter clearly differentiated between the competence of the Security Council and that of the General Assembly; it specified that only the Security Council could take action and if it could not take a decision on specific questions relating to the maintenance of peace, there was nothing to prevent the General Assembly from considering the whole of the matter again so that it could submit new recommendations within the limits of its competence.

The meeting rose at 1 p.m.

Third meeting

held on Friday, 23 April 1965, at 10.50 a.m.
[A/AC.121/SR.3]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

TRIBUTE TO THE MEMORY OF SIR PIERSON DIXON, PERMANENT REPRESENTATIVE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE UNITED NATIONS

1. The CHAIRMAN expressed his deep distress on learning of the death of Sir Pierson Dixon, who for a long time had been the Permanent Representative of the United Kingdom to the United Nations. He asked the representative of the United Kingdom to convey the Committee's and his own condolences to the bereaved family.

2. Mr. HOPE (United Kingdom) thanked the Chairman.

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3. Mr. ASTROM (Sweden) said that the problems to be discussed by the Committee concerned the maintenance of peace and security in the world, and consequently related to the fundamental objectives of the United Nations.

4. The Committee's task was not made any easier by the fact that those problems were not clearly defined. The expression "peace-keeping operations", though used in the resolution setting up the Special Committee, did not appear in the Charter and was subject to various interpretations. It was advisable that the members of the Committee should start by agreeing on the meaning of that expression.

5. First of all, he considered that it did not include decisions taken by the Security Council under Chapter VII of the Charter. Those decisions, which were binding on Members of the United Nations, presupposed full and clearly expressed unanimity of the permanent members of the Security Council and could be taken only in extreme cases. The machinery provided for in Chapter VII nevertheless remained a vital part of the total United Nations system and should be preserved and valued as the embryo of genuine collective security.

6. The positive suggestions made by the Soviet Union at the previous meeting for activating the Military Staff Committee were therefore to be welcomed. Those suggestions were interesting contributions to the debate on how to strengthen the United Nations and they deserved careful attention. They might also serve as a stimulus to the study of the less ambitious plans for some measure of preparation, on a national and an international scale, for peace-keeping operations. But they were only marginally related to the Committee's essential task which was to review the question of peace-keeping operations according to Chapter VI. In defining them, the Committee should base itself on the practical experience acquired by the United Nations up to the present time in the field of peace-keeping. It seemed reasonable, first of all, to limit the concept to operations that were essentially voluntary, in that they could only be undertaken at the request of, or at least with the consent of, the country where they were to take place, and they did not place any obligation on Member States in regard to personnel, equipment or logistics. He would revert later to the question of financing.

7. Besides the essentially voluntary character of peace-keeping operations, their scope could be delimited and their functions illustrated on the basis of previous United Nations practice, for example: observation missions along a frontier, supervision of a truce or an armistice or missions of mediation or conciliation or assistance to a country to maintain law and order in conditions in which international peace might otherwise be disturbed.

8. It went without saying that a peace-keeping operation should in no case serve as a pretext for foreign intervention or to infringe the national sovereignty of any State whatsoever. If armed personnel were involved, the use of force should be absolutely prohibited except in self-defence.

9. That was the type of limited steps which the United Nations could take and had already taken in order to localize conflicts or to create favourable conditions for negotiation, and the Committee should devote itself to the study of steps of that type. Everyone appeared agreed on the necessity of allowing the United Nations to undertake such operations, but opinions were divided on the methods of initiating and financing them.

10. Regarding the first of those two aspects, the primary responsibility for the maintenance of peace and security, including the initiation of peace-keeping operations, rested with the Security Council. Arrangements should therefore be made to ensure that the Council always had the first opportunity to decide on, or make a recommendation for the initiation of a peace-keeping operation.

11. In those circumstances, two possibilities could be envisaged. On the one hand, if an issue which might give rise to a peace-keeping operation were already debated by the General Assembly, it would be advisable for the Assembly to refer the matter to the Security Council, possibly with a recommendation. If the Security Council failed to make a recommendation or to decide what measures should be taken, the Assembly could take the matter up again and, if appropriate, make recommendations for a peace-keeping operation. On the other hand, if the matter were taken up first in the Security Council and the Council could not act, the issue could be taken up by the Assembly itself at the request either of the Security Council or of a majority of Member States. The important point was that in considering a recommendation for a peace-

keeping operation, the Assembly should be fully cognizant of the positions taken in the Council, including those of the permanent members. Conversely, the members of the Security Council would know that their activities were being followed by the whole membership of the United Nations. They would also know that if no recommendation were passed or decision taken by them, the Assembly could itself make recommendations for a peace-keeping operation.

12. That system, subject to such amendments as might seem appropriate, would establish a balanced relationship and a really fruitful interaction between the Assembly and the Council.

13. It was the opinion of the Swedish delegation that legally the Assembly was empowered, under the Charter, to make recommendations on peace-keeping operations as just defined. Moreover, given the voluntary and peaceful nature of those operations, no Member State could consider its interests endangered if the General Assembly exercised that limited power. Furthermore, it was natural that the small and medium-sized Powers should wish to maintain and assert the rights of the General Assembly, the exercise of which could hurt nobody and was potentially of infinite usefulness to all Members of the United Nations.

14. Turning to the problem of financing, he said that in the view of the Swedish Government the principle of collective responsibility was still the principle most in accord with the basic ideas of the Charter. That principle should therefore be applied, as often and as far as possible, and unless the expenses for a peace-keeping operation were covered by special arrangements it was for the General Assembly to apportion them in accordance with Article 17, on the understanding that it might, where appropriate, use a special scale of assessment accepted in advance and designed to take relevant factors into account such as the capacity to pay of developing countries or the particular interest of a country or group of countries in a given operation. In that connexion, excellent guidance could be found in General Assembly resolution 1874 (S-IV) and in the proceedings of the Working Group of Twenty-one, and it would not be difficult, when the time came, to formulate concrete suggestions aimed at assisting the Assembly in its task of apportionment.

15. With regard to the administration of and the preparations for peace-keeping operations, it would not be easy to lay down definite rules as such operations would probably always be tailor-made and dependent on *ad hoc* arrangements. However, much experience was available and it might be useful, at the appropriate time, to have a digest prepared of previous practices and procedures, possibly supplemented by some general guidelines for the future.

16. As to the organization of the Committee's work, the consultations and the Committee's debates were of equal importance and should be pursued simultaneously and with equal vigour. It was clear that no arrangement could be reached without the co-operation and consent of the great Powers, and it would seem that explorations aimed at attaining such co-operation and consent would be more usefully undertaken through consultations rather than through discussions in the Committee. It was to be hoped that the consultations would lead to serious negotiations, in New York or elsewhere. But that in no way detracted from the importance of the Committee, and its members would watch with interest and vigilance the positions taken by the great Powers in the consultations.

17. The Swedish delegation would not enter into the debate over whether a settlement of the past would help the future, or vice versa; that was a side issue. With regard to the settlement of the past, the Swedish delegation saw no other solution than that of voluntary contributions. Sweden would like the contributions of all Member States, particularly those of the highly developed countries, to be substantial so as to result in the solution of the financial difficulties; it was ready to pay the share which would fall to it under that formula.

17. Mr. TREMBLAY (Canada) stressed that the problem of the solvency of the Organization still existed and that, while it was important to reach an agreement regarding the future, it was also necessary to find a formula for the financing of current operations which would be acceptable to the majority.

19. The Canadian delegation agreed completely with the representative of Sweden regarding the definition of peace-keeping operations; his own remarks would apply exclusively to operations which were undertaken under Chapter VI of the Charter and which were therefore not coercive in nature. In his view, the prime responsibility with regard to those operations should lie first of all with the Security Council, but it was essential to safeguard the powers conferred on the General Assembly by several Articles of the Charter, including Article 14, which authorized it to "recommend measures for the peaceful adjustment of any situation". That provision had played an extremely useful role at the time of the establishment of the United Nations Emergency Force and its deployment in Gaza. Furthermore, while the Canadian delegation considered that the Members of the United Nations should have recourse first to the Security Council when peace and security were threatened, it would be opposed to any formula which called in question the residual powers of the Assembly.

20. Canada would be ready to envisage a procedure under which the General Assembly could make recommendations to the Security Council in cases where the latter, for any reason, had not acted. It would be better, however, not to tie the Assembly to that procedure in all possible situations in view of the periods of inactivity and delays which would inevitably result and which would be liable to jeopardize the maintenance of peace.

21. The Canadian delegation also attached great importance to the principle that the General Assembly alone had the power to impose assessments on all Members. It was possible for that power to be exercised, on occasion, on the basis of a Security Council recommendation. That idea was fully consistent with the Charter and it had rightly been mentioned by the Mexican representative at the previous meeting. The recommendation of the Security Council should not, however, be binding on all Members until after the General Assembly itself had signified its agreement.

22. His delegation had taken note of regulation 13.1 of the Financial Regulations of the United Nations, which he read out. The rules of procedure of the General Assembly contained a similar provision, and it therefore seemed reasonable that the Security Council should agree to consider the financial implications of any proposals submitted to it before taking a decision. That might mean in practice a rule that the Council, when it was obliged to establish a peace-keeping force and additional expenditures would be incurred, should include in its resolution a paragraph concerning the method of financing which it proposed.

23. He reiterated that his delegation was in favour of the establishment of a special scale of assessments for the apportionment of the costs of major operations.

24. Mr. SEYDOUX (France) said that it might be useful to set out certain considerations of a general nature at the outset in order to guide the Committee's work in a direction which would ensure success and to avoid a course which could only lead to failure. The Committee had been set up to try to work out the bases for an agreement on the question of peace-keeping operations; it was natural to think of seeking a kind of common denominator among the different conceptions, but it would be illusory to try to find it by amalgamating elements borrowed from different theses. There was but one common denominator upon which Members of the United Nations could undoubtedly agree: the United Nations Charter, which, until it was amended or revised in accordance with the procedures laid down, remained the law for everyone. It was because the Charter had been departed from that the difficulties and conflicts now besetting the Organization had arisen; it was only by returning to that indisputable source, and not by inventing new schemes, that the divergencies of views paralysing the United Nations could be ended.

25. One of the basic provisions of the Charter was that of Article 24 conferring on the Security Council primary responsibility for the maintenance of international peace and security. An attempt had been made by some to find in the word "primary" support for the argument that the General Assembly was entitled, in certain cases, to take the place of the Security Council or to act as a kind of court of appeal in relation to it. No provision of the Charter could be quoted in support of that argument. Article 24, it was true, indicated that the General Assembly could not ignore the problem of the maintenance of peace; but it merely reflected the distribution of powers provided for by the other Charter provisions: those of Chapters VI, VII, VIII and XII, which defined the specific powers of the Security Council, and those of Articles 10, 11, 12, 14 and 15 which described the nature of the General Assembly's responsibilities in the same sphere.

26. His delegation had never claimed that the Security Council had exclusive responsibility. It merely pointed out that the respective fields of responsibility of the Council and the Assembly were clearly defined by the Charter; on the one hand, the Security Council had the exclusive power to rule, either in a decision or a recommendation, on action by the United Nations, i.e. on any operation involving the use of force; on the other hand, the General Assembly was empowered to discuss questions relating to the maintenance of peace and to make any recommendation which would not encroach on the prerogatives of the Council, i.e., according to Article 14, a recommendation concerning measures for the peaceful adjustment of the situation under consideration. That was what was sometimes described as the "residual powers of the General Assembly"; they were not negligible powers when it was considered that in many cases the maintenance of peace could, fortunately, be brought about by methods of "peaceful adjustment" and that such recommendations could be adopted by the Assembly not only before the deliberations of the Security Council but also after such deliberations, when the Council had been unable to reach agreement. Thus the complementary character of the two organs would be brought out. But to give any other powers to the General Assembly, in particular that of recommending the measures envisaged in the Articles which dealt with the specific powers of the Security Council, including Article 41, would amount to a revision of the Charter.

27. His delegation reserved the right, at a later stage, to supplement and develop those observations, which it had made at the present time with the sole concern of avoiding an impasse in the Committee's work and in the hope that, on the contrary, they would enable the Organization to regain its equilibrium and its true bearings.

Mr. Bouattoura (Algeria) took the Chair.

28. Mr. GEBRE-EGZY (Ethiopia) submitted, on behalf of his delegation, a draft resolution (A/AC.121/L.1) which repeated the terms of a working paper that had been prepared by the African-Asian group during the first part of the nineteenth session and accepted by a number of the permanent members of the Security Council.

29. His delegation appealed to all the Members of the United Nations, and particularly to the permanent members of the Security Council, to realize the gravity of the Organization's financial difficulties and to make contributions to solve those difficulties so that the United Nations would be able to resume its task in a harmonious atmosphere.

30. Mr. LEKIC (Yugoslavia) said that peace-keeping operations, whose purpose was to prevent local conflicts from expanding and endangering world peace, were only palliative measures, a more or less effective means of stopping a war. It was therefore indispensable to undertake other preventive measures to remove the causes of conflict, and joint efforts to seek a solution could alone lead to positive results. If peace-keeping operations were dealt with in isolation rather than within the general context of United Nations activity, it would mean accepting war as a permanent feature of international relations, in spite of the desire of peoples and the absolute need to prohibit war for all time. Since the world today was becoming increasingly integrated, it was essential to bring the various national interests into harmony with those of mankind as a whole.

31. Colonialism, the arms race and economic inequality were the three main factors threatening world peace. Lasting world peace could not be achieved so long as peoples continued to be deprived of their freedom, independence and right to self-determination, and so long as the world continued to be threatened by nuclear annihilation and remained divided into the developed North and the under-developed South. It was evident that the creation of the necessary conditions for an effective solution of those major issues would make it far easier to prepare and implement effective peace-keeping operations.

32. The rapid world growth during the last twenty years made it necessary for all peoples to co-operate on an equal basis; poverty, intimidation, discrimination and enslavement were anachronisms; the need for all countries and all peoples to be independent and the need for accelerated economic development were gradually reducing the importance of ideological, social, political and religious differences. A new framework of international relations was being formed, which called for an adjustment of man's thinking to the present realities. Peaceful and active coexistence was the only way to make the transition from previous forms of international relations to those of today. Conversely, any attempt to prevent that progress could only lead to upheavals and to huge losses in human lives and material.

33. Peace-keeping operations held an important place in the establishment of a lasting peace. No satisfactory formula had as yet been found and all peace-keeping operations had been organized on an *ad hoc* basis. The division of the world immediately following the last war and the formation of antagonistic military-political groupings—elements which fostered the cold war—had led to infringements of the United Nations Charter from its very inception, while the United Nations had functioned under conditions which had restricted its scope and hampered its activities to a considerable extent. That was the real origin of the present crisis. In addition, the fact that one of the five permanent members of the Security Council had been deprived of its rightful place and had been unable to carry out its responsibilities within the Organization had further impaired international relations and had had a negative impact on the work of the United Nations. In addition, some of the great Powers had sought to take advantage of local conflicts to change the balance of power, strengthen their positions and expand their spheres of influence. However, the resistance of the peace-loving forces to the policy of tension and cold war had contributed to the relaxation of tension, which had been welcomed with great relief by world public opinion and which was reflected in the increasing activity and effectiveness of the United Nations.

34. Now international relations had seriously deteriorated once again because certain great Powers were using force to settle political issues. The crisis was continuing and the United Nations could not meet its obligations because there was a persistent refusal to accept the present-day realities. Failure to recognize the social, economic and political changes brought about by the development of science and human knowledge generally could only be detrimental to the interests of the international community. For that reason it was imperative that all countries, and especially the United Nations, should adjust to the new realities of the world and create more equitable international relations which alone could ensure lasting peace. That could be brought about only through co-ordination of the efforts of all Member States and by ensuring that all were adequately represented. Without a concerted effort, it would not be possible to adapt the structure, organization and method of work of the United Nations to present needs nor would it be possible to find a successful solution to the question of peace-keeping operations.

35. The General Assembly was the most representative and the most democratic organ of the United Nations, the forum for representatives of equal, free and independent countries. It was consequently called upon to resolve effectively and

without delay all problems which imperilled peace and jeopardized development and thus to create the necessary conditions for stable international relations. That did not imply an underestimation of other United Nations organs: they were parts of a whole and the sum total of the activities of all made the Organization effective, justified its existence and proved it was indispensable. The question of peace-keeping operations was therefore closely connected with the success of the work of the General Assembly in all matters contributing to the promotion of international co-operation.

36. The Security Council's primary duty was to eliminate hotbeds of conflict. It would be able to take effective action if all the obstacles which hindered and sometimes thwarted its activities were removed. Efforts should be made therefore to create understanding between large and small countries alike; in the meantime, various problems might require urgent solutions although the necessary conditions for the achievement of unity of action had not yet been created. If, in those circumstances, the Security Council was incapable of finding adequate solutions, the United Nations as a whole, and the General Assembly in particular, could not abrogate their responsibility to preserve peace, eliminate new threats, promote respect for the principles of the Charter and ensure peaceful coexistence.

37. The question of the General Assembly's competence could not be viewed statically. The General Assembly had changed a great deal in two decades, as had also the responsibilities of the great Powers. Through the democratization of international relations, the responsibility for world peace and security, and for the promotion of co-operation between peoples had been extended to an ever increasing number of countries represented in the General Assembly. It was in the interest of all to develop the role of the General Assembly so as to extend its effectiveness and its competence in regard to all the major problems of the present-day world. In that way the Organization would consolidate its influence and would establish itself even more firmly as an effective and irreplaceable instrument for the preservation of peace. Co-operation between peoples and States at all levels was more necessary than ever. But it would only be feasible when the situation in the United Nations was normalized. If the Committee immediately took a stand in favour of the earliest possible normalization of the work of the United Nations it would make it possible to overcome the difficulties which had arisen in international relations and to find a solution to the problem of peace-keeping operations.

38. Mr. MATSUI (Japan) said he was pleased to note the constructive way in which the Committee's discussions had proceeded, particularly since time was short and the Committee's report was to be ready by 15 June. The discussions at the previous meeting had dealt with questions of procedure and with matters of substance.

39. On the question of procedure, in order to expedite the work, public debate should be combined with the consultations referred to in paragraph 1 of General Assembly resolution 2006 (XIX). He therefore suggested that the convening of future meetings of the Committee should be left in the hands of the Chairman. He agreed with the representative of Ethiopia that the past and present aspects of the problem were no less important than the future ones, since those various aspects could not be divorced from one another. During the past few weeks, however, various delegations, and in particular those of France, the United Kingdom and the Soviet Union, had devoted their attention mainly to the question of the future, and proposals had been put forward on the subject of the organization and financing of future peace-keeping operations. Such efforts should not be discouraged. If agreement was reached on the course to be followed in the future, that would certainly facilitate the settlement of the financial problems of the past. The Committee might therefore place more emphasis on the future aspects of the problem, at least until 15 June, with a view to drawing up, by that time, general principles to be applied to any future operations.

40. With regard to the substance of the problem, the position of the Japanese delegation could be defined quite simply. While recognizing that the Charter conferred upon the Security Council the main responsibility for the maintenance of international peace and security, his delegation also recognized that if the Security Council was unable to act in the exercise of that responsibility, the General Assembly was competent to consider the question at issue immediately and to make recommendations. In other words, although decisions concerning any peace-keeping operation were primarily the responsibility of the Security Council, the General Assembly was not exempt from all responsibility in that regard, nor was it precluded from taking appropriate steps if the need arose. In that connexion, some thought should be given to the meaning of the term "peace-keeping operations". There had been several types of such operations in the past and there would doubtless be a still greater variety in the future, if the United Nations continued—as it was to be hoped it would continue—to be able to perform its peace-keeping functions as provided for in the Charter. As the representative of Italy had stated at the previous meeting, such operations should be classified according to their various types. There were, on the one hand, those operations which were directly related to threats to the peace, breaches of the peace and acts of aggression and therefore involved enforcement action. On the other hand, there were operations which might be regarded as a means for the peaceful settlement of disputes likely to endanger international peace and security, or of situations capable of impairing the general welfare or friendly relations between States. Such distinctions would certainly make it easier to reach agreement concerning the competence of the Security Council and that of the General Assembly

41. Earlier in the meeting, the representative of Sweden had made a very interesting suggestion regarding the type of operation to which the Committee should give special attention. The Japanese delegation suggested that the Secretariat might draw up a list of the various questions, detailing their various aspects, such as initiation, implementation and financing, based on past United Nations experience, and that list could be used as a basis for discussion.

42. With respect to the financing of future peace-keeping operations, his delegation still held the view that, when an operation was initiated, either by the Security Council or by the General Assembly, the responsibility for dealing with the financial implications of the decision rested with the General Assembly, since that followed from the provisions of the Charter. In recent cases, however, special arrangements had been made for financing peace-keeping operations without reference to the General Assembly, the method of financing being determined by the Security Council, either on the basis of voluntary contributions, or by agreement between the parties directly concerned. Apart from the question of the propriety of such methods of financing, his delegation considered that, at least when the expenses of an operation had to be borne by all Members of the United Nations, the cost should be apportioned by the General Assembly and all Member States should then assume the resulting financial obligations. Without departing from the views it had expressed, the Japanese delegation was prepared to examine carefully all suggestions which might be put forward in the light of their feasibility and their conformity with the provisions of the Charter; it was anxious that the United Nations should remain capable of performing effectively the most important of its functions, namely, the maintenance of international peace and security. He pledged his delegation's whole-hearted co-operation to that end.

43. Mr. HAJEK (Czechoslovakia) said he believed that while the consultations conducted by the Secretary-General and the Chairman of the Committee were useful, they could not be a substitute for the normal work of the plenary Committee. The fears that the general discussion might become simply a repetition of earlier positions had been dispelled by the statements made at the present meeting and at the previous one. Many members of the Committee had not only clarified their position but had also endeavoured to understand that of other members and to find a solution based on the principles of the Charter.

44. In his delegation's view, it was on the basis of the Charter, and on that basis only, that a solution must be sought.

He suggested that those who were inclined to declare certain provisions of the Charter obsolete or unworkable should think the matter over carefully. If certain parts of the Charter had become inoperative in the first decade of the Organization's history, it was because that had been the wish of certain Powers which, controlling a majority of votes at the time, had tried to make the United Nations an instrument of their policy. When upon the admission of a large number of non-aligned States, the United Nations had sought a return to the basic principle of peaceful coexistence, it had been faced with the legacy of cold-war practices. That was the root of the present crisis. If that legacy was to disappear, therefore, there must be a consistent implementation of the Charter.

45. It was in that context that his delegation envisaged the problem of peace-keeping operations. It had indicated its general position in a statement dated 26 November 1964 (A/5821) and now wished to explain that position, taking into account the comments of certain representatives. In his delegation's view, the Committee was concerned with a specific kind of operation, namely, the use of armed forces by the United Nations, which was dealt with in Articles 41 to 47 of the Charter. In those Articles the Charter provided not only for combat operations but also for police operations, such as the demonstrations and blockade provided for in Article 42, and it was illogical to say that police operations could not be regarded as enforcement actions. It was also a fact that military forces, even when armed with conventional weapons, were a formidable political instrument, especially when operating in a small or not heavily armed country. It was logical, therefore, that such an instrument should be created and utilized by that organ of the United Nations which had the exclusive competence for authorizing the use of armed force in accordance with Chapter VII of the Charter. By reason of its structure and its special voting procedure, the Security Council was the organ which could guarantee the maintenance of the necessary coexistence and co-operation in all decisions concerning peace and security. Its present composition did not, of course, give full satisfaction to Asian and African nations or to the socialist States. The prompt ratification of amendments increasing the number of non-permanent members of the Council was therefore desirable. The problem of the restoration of the rights of the People's Republic of China as a permanent member of the Security Council should also be settled. That was a necessary step if the United Nations was to be in accord with the realities of the present-day world and capable of undertaking peace-keeping operations, notably in Asia.

46. While the General Assembly could, by virtue of Articles 10 and 11 of the Charter, influence the Security Council, it could not replace the Council and, above all, could not act in the cases referred to in Chapter VII. As the representative of Mexico had said at the previous meeting, the functions of those two organs were complementary and not contradictory.

47. Instead of searching for some artificial machinery outside the framework of the Charter, the Members of the United Nations should try to make the most complete use of the possibilities which the Charter offered. Those possibilities were broad indeed. With regard to the provision of the material and technical requirements for peace-keeping operations requiring the use of armed forces, the Charter had wisely not included the cost of providing those requirements among the regular expenses of the Organization, covered by Article 17. In defining the implementation of the principle of the collective responsibility of all Members of the United Nations for the maintenance of international peace and security, Article 43 of the Charter did not envisage a responsibility which was automatically identical for all Members. The burden of peace-keeping operations could be borne in various ways, and that problem could not be assimilated with the question of contributions to the regular budget. In conformity with Article 43 of the Charter, the forms of participation should, rather, be defined on an individual and contractual basis. It was in that spirit that his Government had, in the statement he had mentioned, declared its readiness to make a contingent of armed forces available to the Security Council and to conclude, in compliance with the provisions of Article 43, an appropriate agreement with the Security Council.

48. At the previous meeting the representative of the Soviet Union had proposed that the Military Staff Committee should, in consultation with all the Member States concerned, prepare a draft containing the basic provisions for such agreements. That was a very constructive proposal. In his delegation's view, such agreements should stipulate that armed forces placed at the Security Council's disposal by Member States could be employed only for the maintenance or restoration of international peace and security in cases of a threat to the peace, breach of the peace or act of aggression, should the Security Council consider such employment necessary. Such armed forces should be adequate for carrying out effective actions to maintain or restore international peace and security. Their employment should be decided by the Security Council, in agreement with the Member State furnishing the contingent in question. Such employment should be in full conformity with the decision of the Security Council and strictly limited to the period necessary for the fulfilment of the tasks laid down by that decision. The agreement between the Security Council and the Member State concerned should determine the size and composition of the military contingent. The concept of a peace-keeping force required that Member States belonging to different social and economic systems should contribute by equal shares to the total of the armed forces placed at the disposal of the Security Council and that their employment should also be proportional. The Security Council should secure for the armed forces the necessary assistance and facilities, including rights of passage. The agreement should also settle the question of national command, jurisdiction and discipline and the question of strategic direction by the Military Staff Committee under the authority of the Security Council. It seemed appropriate that the commander-in-chief for every operation, appointed by the Security Council on the recommendation of the Military Staff Committee, should be chosen from among nationals of countries not belonging to military blocs and that the staff of the armed forces should be composed of representatives of the countries furnishing the military contingents. The agreement should also determine the degree of readiness of the armed contingent, the logistical support, the health services to be provided and the procedure for relief of the contingent. The problem of costs should be settled by the Security Council in agreement with the State furnishing the contingent.

Mr. Quaison-Sackey (Ghana) resumed the Chair.

The meeting rose at 12.40 p.m.

Fourth meeting

held on Tuesday, 27 April 1965, at 3.15 p.m.

[A/AC.121/SR.4]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

1. Mr. CHAKRAVARTY (India) said that although there was scope for improvement in the Charter, the Committee's terms of reference did not include the amendment of that instrument. The Committee must therefore find a solution to the problem before it within the provisions of the Charter. Experience had shown clearly that a General Assembly resolution which did not conform to those provisions could not solve a problem, even if such a resolution were supported by all the great Powers.

2. The need for a comprehensive review of the question of peace-keeping operations had arisen because of a conflict in the interpretation of certain provisions of the Charter. Although that conflict was not new, much of the difficulty had been caused by attempts to extend the provisions of the Charter through General Assembly resolutions. A case in point was the resolution entitled "Uniting for peace" (General Assembly resolution 377 (V) of 3 November 1950), which had sought to substitute a two-thirds majority in the General Assembly for the great-Power unanimity in the Security Council and to empower the Assembly to take all action, including enforce-

ment action, when the Security Council was unable to act. That attempt at substitution had been unrealistic if not also improper. The International Court of Justice had since made it clear in its advisory opinion of 20 July 1962[k] that enforcement action, as provided for in Chapter VII of the Charter, was the exclusive responsibility of the Security Council. Moreover, it was generally agreed that, notwithstanding the "Uniting for peace" resolution, the General Assembly was not competent to take any enforcement action.

3. The Committee had to consider two questions. It had to find ways and means of meeting the deficit with which the Organization was faced and to consider the political and constitutional problem of which the so-called arrears problem was merely an off-shoot.

4. The financial problem had two aspects: the question of so-called arrears and the question of financing peace-keeping operations in the future. With regard to the second aspect, it was obvious that the method of financing in the future would have to be related to a decision as to which authority was competent to initiate and conduct peace-keeping operations. This Committee had to consider and indicate what the constitutional basis should be for the initiation, authorization, control, conduct and financing of future peace-keeping operations. With regard to the first aspect, his delegation saw no practical alternative to voluntary contributions.

5. Under resolution 377 (V) the General Assembly had set up a Collective Measures Committee to report to the Security Council and the Assembly on methods which might be used to maintain and strengthen international peace and security. That Committee had recognized[l] that Member States could not be compelled to contribute to peace-keeping operations against their will and that negotiations would be needed to persuade each State to make equitable contributions. If some States refused to contribute, the burden would have to be shared among the co-operating States. It was clear that the "Uniting for peace" resolution did not contemplate forcing unwilling countries to pay an equitable share of the cost of peace-keeping operations. The cost of peace-keeping operations in Korea had been borne by the participating countries and new methods of financing had been adopted in regard to West Irian, Yemen and Cyprus. Past practice indicated that even when an operation was sanctioned by the Security Council its cost was not always or necessarily shared by all Member States. Nor had the Assembly, except in the case of UNEF and ONUC, ever attempted to force unwilling States to contribute to peace-keeping operations.

6. His Government accepted the principle of collective responsibility and had always paid its contributions and supported peace-keeping operations with men, material and money. It had tried to persuade others over to its point of view, but had been unable to do so. His delegation therefore supported the Ethiopian representative's suggestion (2nd meeting) that a solution to the problem of the present financial deficit should be considered along with the broader question of the future. His delegation wholeheartedly agreed that parallel negotiations should be held on both those questions. It must be remembered that operations such as those in the Congo or Gaza were unlikely to be repeated in the future without the prior adoption of acceptable financing arrangements. The principle of voluntary payments suggested in the African-Asian proposals of 30 December 1964, to provide a basis for restoring the solvency of the Organization which his delegation had always supported, were in accord with the recommendations of the Collective Measures Committee.

7. With regard to the authority for the initiation, control, conduct and financing of peace-keeping operations, it was now recognized that all enforcement actions or actions of a coercive nature were the exclusive prerogatives of the Security Council. It was also generally agreed that action falling short of enforcement action and which was taken with the consent of the parties concerned was primarily the Council's responsibility. The General Assembly had also been given considerable powers under Articles 10, 11, 14 and 35 of the Charter. However, its powers were limited to the discussion of questions relating to the maintenance of international peace and security and to the making of recommendations. The duties of the Security Council and the General Assembly were therefore specific and well-defined under the Charter and were intended to be complementary. There was still a dispute as to the interpretation of the word "action" in Article 11, paragraph 2, of the Charter. It was perhaps not necessary to arrive at a precise definition of the word "action". What was now necessary was to arrive at an agreement as to where "measures" that could be recommended by the General Assembly under Article 14 ended and "actions" which could be taken only by the Security Council began.

8. The Soviet, French and Czechoslovak delegations seemed to hold the view that only the Security Council could approve the use of armed forces by the United Nations. The assumption of any authority by the General Assembly to adopt measures which lay within the specific powers of the Security Council was not permissible without an amendment of the Charter. They considered that the General Assembly had the power to discuss questions relating to the maintenance of peace and to formulate recommendations that did not infringe upon the Council's prerogatives. The representatives of Italy and Sweden had expressed the view that although the responsibilities of the Security Council and the General Assembly were clearly defined in the Charter, the General Assembly could undertake essentially voluntary operations, which required an invitation from or the consent of the country in whose territory the operations were to take place, as well as the agreement of all interested parties. If armed personnel were to be involved in such operations, there should be an absolute prohibition of the use of force except in self-defense. The case of Cyprus might perhaps suggest a possible compromise between those two differing views. Without deciding which interpretation of the Charter was the correct one, it might be possible to reach an agreement to the effect that the dispatch of armed personnel otherwise than for the purpose of observation or investigation should be within the exclusive power of the Security Council. A convention might then be established that where the parties primarily concerned concurred the great Powers might agree, save in exceptional circumstances or for special reasons, not to vote against a proposal involving the dispatch of armed personnel. That was what had happened in the case of Cyprus when it had been considered in the Security Council, and such a possibility might be explored further, with modifications if necessary. The responsibilities of the Security Council and the General Assembly in that field would be even more clearly defined, without any violence to the Charter.

9. With regard to future financing, when the Security Council made arrangements for a peace-keeping operation in accordance with Article 43, the General Assembly did not come into the picture at all with regard to the financing of that operation. When, however, the Council considered that the arrangements made under Article 43 might involve payments by the entire membership of the United Nations, it should ask the Assembly to apportion the costs among all Members. Once the Security Council took a decision on any peace-keeping operation and failed to make any financial arrangements under Article 43 or otherwise, it should be the responsibility of the General Assembly to find the means for financing that operation and to apportion the costs involved among Members. Those Member States which were not members of the Security Council would be reluctant to accept an assessment in which they had had no say. In making the assessment, the General Assembly would keep in view the principles laid down in document A/AC.113/18.[m] He wished to emphasize that the funds for any given operation should be obtained either through voluntary contributions or through an assessment which would be compulsory in nature. It would be impracticable to combine

[k] *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

[l] See *Official Records of the General Assembly, Seventh Session, Supplement No. 17,* paras. 82, 83 and 86.

[m] *Ibid., Fourth Special Session, Annexes,* agenda item 7.

the two methods for any particular operation by giving option to only a few Members not to make any payment and expecting at the same time the rest must all pay.

10. The CHAIRMAN suggested that members might comment in their statements on the United States working paper contained in document A/AC.121/3 and the Soviet memorandum contained in document A/AC.121/2.

11. Mr. DE PINIES (Spain) recalled that on 6 December 1956, in connexion with the question of financing the United Nations Emergency Force, his delegation had said[n] that the issue involved was unprecedented and could not be settled on the basis of the criteria used in financing the normal activities of the United Nations. It had emphasized the principle of collective responsibility, discussed the need for financial participation by the countries most closely related to the origin and development of the conflict and said that a predominant role should be played by the permanent members of the Security Council. The last of those criteria, although not accepted by many delegations at the time, appeared today to have won general acceptance.

12. Two of the most important problems confronting the United Nations were the integration of under-developed and developing countries in a world-wide economic structure and the search for stable solutions to the series of problems raised by United Nations peace-keeping operations. Although the Special Committee was concerned particularly with the second problem, both problems involved the basic concept of the Organization and its very existence. Of the two prevailing views concerning the nature of the United Nations, one regarded the Organization as a diplomatic arena for international political struggle, that was to say, an instrument serving the interests of individual States; the other view, favoured by his delegation, was that the United Nations was an instrument of international co-operation. Infused with the vigour of many new States, the Organization had had to adopt measures which had enabled it to deal with the problems that arose and which had sometimes involved structural changes in the Organization itself; in his delegation's view, that had been due to a failure to comply with the provisions of Chapter XVIII of the Charter, specifically those of Article 109. Although the modifications that had been made had enabled the Organization to create the necessary means for the fulfilment of its functions, nevertheless *de facto* changes gave rise to profound uncertainty regarding their constitutional legality.

13. The operations carried out by international forces under the auspices of the United Nations could be divided into two main categories: first, enforcement actions in connexion with threats to the peace, breaches of the peace or acts of aggression, which were fully covered by Chapter VII of the Charter; second, peace-keeping operations, resulting from a series of efforts by the United Nations to deal with situations which were not, in principle, contemplated in the Charter. In connexion with UNFICYP, for example, the Secretary-General had said, in a statement made in the Canadian Parliament, on 26 May 1964 that the operation was not a repressive military action, undertaken under Chapter VII of the Charter, but was far nearer to a preventive and protective police action which could be of the greatest value as a precedent for the future.

14. Peace-keeping operations, on which he proposed to concentrate, could be classified in four main categories: first, observation groups to supervise armistice lines or neutral zones: such groups had been sent to Lebanon in 1958, to West New Guinea in 1962-1963 and to Yemen in 1963-1964; second, military forces intervening between two fighting armies: that had been the case of the United Nations Emergency Force in the Middle East; third, military forces entrusted with putting an end to an armed conflict and helping to maintain internal order: the United Nations operation in the Congo had been a case in point; fourth, the presence of military forces to prevent the expansion of a conflict and avert the outbreak of open civil war with possible international participation: UNFICYP was such a force.

15. Unable to apply the system of collective security provided for in the Charter, the United Nations had gradually developed a number of forms of executive action designed to keep the peace, which were of a preventive and protective rather than a coercive nature and were based more on persuasion and lateral pressure than on compulsion and enforcement from above. The legal basis for these measures was to be found, not in Chapter VII on action with respect to threats to the peace, breaches of the peace, and acts of aggression, or Chapter VI on the pacific settlement of disputes, but in Chapter I, more specifically in Article 1, paragraphs 1 and 4, and Article 2, paragraph 5.

16. It was urgent, therefore, to determine the most practical method for finding a formula, which would, as the Secretary-General had said, enable the United Nations to receive the financial support which alone could restore its strength and solvency, be consistent with the letter and spirit of the Charter and not prejudice or compromise basic principles or policies to which any Member felt irrevocably committed (A/AC.113/29).

17. The new peace-keeping system was a *de facto* modification of the Charter which was far removed from the provisions of the Charter and from the General Assembly's intentions in 1950 and had not won the unanimous consent of all Members. That had given rise to profound uncertainty, since a minority of States had challenged the constitutionality of the present United Nations peace-keeping system on two different grounds. On the one hand it was argued, with the USSR as the principal spokesman, that peace-keeping operations were always enforcement actions of the types provided for in Chapter VII of the Charter and hence that the General Assembly had acted *ultra vires* in assuming competence in the matter of peace-keeping. On the other hand it was argued, principally by France, that where the actions concerned were not enforcement actions, the General Assembly had the power only to make recommendations; it could not, therefore, impose the decisions taken by a majority of its Members upon States unwilling to accept them and could not, by giving its resolutions a financial content, acquire competence not conferred upon it by the Charter.

18. That divergence of views had brought about the present situation, for which a solution acceptable to all must urgently be found if the very existence of the United Nations was not to be endangered. If the Organization was to be a dynamic instrument of constructive international co-operation, and not a mere debating society, it must be adapted to the needs of the present and the demands of the future in a world in which interdependence and solidarity were the prerequisites for a peaceful order. The legal principles on which future United Nations actions should be based could be found in the Charter itself.

19. The organs competent to take decisions or make recommendations concerning peace-keeping operations were the Security Council and the General Assembly. However, the Security Council had primary, though not exclusive, responsibility in the matter; that principle was expressly stated in Article 24, paragraph 1, of the Charter and had been recognized in the working paper submitted in September 1964 by the United States to the Working Group on the Examination of the Administrative and Budgetary Procedures of the United Nations (A/AC.113/30). The Assembly could recommend peace-keeping operations only if the Security Council was unable to act. In his delegation's view, that principle could serve as an acceptable basis for compromise.

20. The Secretary-General exercised an important function in connexion with the development and execution of United Nations peace-keeping operations. Nevertheless, he remained subject to the discretional limits which were determined for every executive function, by the political organs of the United Nations and by the Member States.

21. There remained the problem of finding formulas for financing peace-keeping operations in regard to which the Committee could discuss contributions to be made by the States most directly concerned, voluntary contributions and compulsory contributions by all States. It could also take into account the principles stated in General Assembly resolution

[n] *Ibid., Eleventh Session, Fifth Committee*, 545th and 546th meetings.

1874 (S-IV). All those points could, however, be better discussed at a later stage.

22. Mr. SETTE CAMARA (Brazil) said that his Government continued to adhere to the principle that the General Assembly was competent to initiate peace-keeping operations whenever the Security Council was unable to do so. It also considered that the General Assembly must of necessity intervene in the financing of peace-keeping operations whenever collective responsibility was involved. His delegation would continue to fight for the application of the principles set forth in resolution 1874 (S-IV) concerning the apportionment of peace-keeping costs among Member States. Lastly, a distinction should be drawn between peace-keeping operations undertaken under Chapter VI of the Charter and the enforcement action provided for under Chapter VII.

23. The fundamental issue involved was the legal power under the Charter to establish peace-keeping operations. For more than a year, efforts had been made to work out a formula acceptable to all parties concerned. In his opinion, those efforts had been unsuccessful mainly because the heart of the matter had not been tackled—the political and legal necessity of amending the Charter in order to adapt it to the realities of the day. Peace-keeping operations had been and were likely to continue to be one of the most important political devices employed by the Organization to maintain international peace in many troubled areas. In his view, the Organization would not be fulfilling its duties and obligations if it failed to amend the Charter in order to settle the problem of peace-keeping operations.

24. He recalled the proposal made by the Foreign Minister of Brazil during the general debate at the nineteenth session of the General Assembly[o] that the Charter should be amended to include a new chapter, entitled "Peace-keeping Operations", between the present Chapters VI and VII. That chapter would set out the conditions under which peace-keeping operations would be undertaken and would provide in more precise terms for a method of financing such operations.

25. Although, as representatives had said, the Committee had not been convened to amend the Charter, there was nothing in the Committee's terms of reference to prevent it from recommending to the General Assembly the constitutional revision of certain provisions of the Charter. In that connexion, he recalled that in the course of the eighteenth session of the General Assembly the African-Asian and Latin American delegations had sponsored a draft resolution, almost unanimously adopted by the General Assembly (resolution 1991 (XVIII), providing for a more adequate representation of the new nations of Africa and Asia in the Security Council and the Economic and Social Council. What had seemed unattainable would soon, he hoped, become a reality. No better solution could be found to the problem under consideration than a revision of these provisions of the Charter that gave rise to controversy.

26. Concurrently with the debate in the Committee, members should proceed with their consultations, which might pave the way for an agreement on principles.

27. Mr. McCARTHY (Australia) said that his delegation had tried to address itself not to a definition of its position on individual points but to certain practical realities, the first of which was the need to enable the General Assembly to function fully again in September 1965. The consultations arranged by the Chairman and the Secretary-General were a most important part of the machinery established by the United Nations for finding a solution for many of its existing difficulties. At the same time, the general discussions in the Special Committee about the broad problems of peace-keeping had also contributed to progress towards an eventual measure of understanding.

28. While he agreed with those representatives who had emphasized the necessity and desirability for the broad membership of the Organization to be involved at appropriate stages, political realities nevertheless required that the permanent members of the Security Council should occupy the primary position and carry a prime responsibility in the common effort to resolve the Organization's difficulties. On the further realities which were involved, he wished to refer to some of the observations made before the General Assembly on 11 December 1964 by the Foreign Minister of Australia.[p] The Foreign Minister had said that whatever faults might be seen in the collective security system of the United Nations and whatever might be said about the Security Council and the General Assembly, the chief danger had been created by the failure of Members to honour their own obligations. To talk about improving peace-keeping machinery before each Member individually faced up to the basic fact would be to avoid the central issue. Moreover, perfect fulfilment of their obligations by all Members would be impossible in a situation in which those who honoured their obligations suffered disadvantage at the hands of those who did not.

29. It had always been recognized, the Foreign Minister had said, that the collective security system of the United Nations could not stop a war between the great Powers themselves if one of the great Powers was bent on war; the uneasy peace between those Powers had been maintained by old-fashioned methods of power politics which were not likely to be soon replaced. The special position of the great Powers was part of the political reality of the world today, and therefore Australia could not respond readily to any proposal that ignored the reality of the existence of the great Powers or limited them in the exercise of their primary responsibility. While moral lectures to the great Powers were not needed, the Foreign Minister wondered whether there were methods whereby the General Assembly could, under Article 11, assist the great Powers to remember at all times that the primary responsibility of the Security Council referred to in Article 24 had been conferred on the Council by the Members and that the Council acted on their behalf.

30. In actual fact, there had been a practical emphasis on the primary responsibility of the Security Council over the past two years as a direct outgrowth of relations between the great Powers. The Council had exercised that responsibility for the maintenance of peace on a number of occasions, most notably in relation to Cyprus. That was heartening as a recognition of the United Nations response to hard political facts. The General Assembly, as well as the Security Council, could work only within the confines of those facts. The Foreign Minister of Australia had said that the same political conflicts which could cause inaction in the Security Council would also be carried into the General Assembly; yet matters of life and death could not be left where they were if the Security Council was incapable of handling them. Thus, a further problem to be resolved concerned the conditions under which a matter which the Security Council had failed to handle could be handled by the General Assembly and what methods were to be used by the General Assembly.

31. Many delegations had urged that when the Council was unable to act, the General Assembly itself ought to be able to make appropriate recommendations. If a sufficient number of the Members of the General Assembly were concerned that peace should be maintained, they would no doubt themselves take the initiative in trying to deal with the situation. That capacity of the Assembly now existed, but it must be exercised with a great sense of responsibility and realism.

32. It was the financial consequences of decisions or recommendations which had given rise to the greatest division of opinion. The ideal to which all Members aspired was the principle of collective financial responsibility; however, there were undeniably important differences of opinion regarding the appropriate manner of implementing collective financial responsibility for peace-keeping operations. Practical realities might well require consideration of a wide variety of possibilities. The methods that had been adopted in the past with the agreement of Member States had varied widely. In the case of the United Nations Temporary Executive Authority and the United Nations Observation Mission in Yemen, the parties directly

[o] *Ibid., Nineteenth Session, Plenary Meetings,* 1289th meeting, paras. 26 and 27.

[p] *Ibid.,* 1299th meeting.

concerned had been responsible for the financing; on other occasions, as in the case of UNFICYP, operations had been financed wholly by voluntary contributions. That element of flexibility had been and would continue to be most valuable in enabling the United Nations actually to perform its principal task of maintaining the peace. In that context, his delegation was interested to note the United States suggestion (2nd meeting) that account might be taken of any strong political objections raised by a permanent member of the Security Council to a proposed major peace-keeping operation, if others felt that a modification of that sort would serve a useful purpose. The Committee could consider that idea also—or perhaps some offshoots of it—in addressing itself to practical possibilities.

33. His delegation strongly shared the belief that the United Nations should be made more effective in the maintenance and restoration of international peace, but it must be borne in mind during the Committee's deliberations and the informal consultations arranged by the Chairman and the Secretary-General that such aspirations could be founded only on a thorough awareness of practical considerations, for the United Nations, the Security Council and the General Assembly were not things in themselves but bodies composed of the Member States.

34. Mr. PACHARIYANGKUN (Thailand) said his delegation considered that in order for the Committee's discussions to be fruitful there had to be parallel efforts both on a consultative basis and in open meetings. It therefore hoped that the consultations between the President and the Secretary-General and the members and non-members of the Committee would go hand in hand with the formal meetings of the Committee itself.

35. With regard to the question of the financial difficulties of the United Nations, his delegation believed that it could be resolved amicably if Members, without prejudice to their basic positions, would make voluntary contributions to the Organization.

36. On the question of future peace-keeping operations, his delegation considered that the maintenance of international peace and security was one of the Organization's most vital responsibilities and that every Member shared in the responsibility for peace-keeping operations, as well as in the financing of them. However, special interests of certain Members and capacity to pay should also be taken into consideration when the General Assembly apportioned the expenses of such operations.

37. The Security Council had a primary responsibility for the maintenance of peace and security. While his delegation recognized the special status of both the permanent and non-permanent members of the Security Council, it felt that it would not be in keeping with the spirit and letter of the Charter if the permanent members were to feel free and unrestricted in exercising their veto power to frustrate the attempts of Members to preserve peace and tranquillity. It interpreted the wording of Article 24 to mean that the primary responsibility of the Security Council for the maintenance of peace and security arose only by virtue of the power entrusted to it by the General Assembly. The purpose of the transfer of that power was "to ensure prompt and effective action by the United Nations". He therefore believed that neither the Charter nor the Member States had ever intended to give the Council extraordinary power to impede peace-keeping actions decided upon by the majority of the Members. The residual responsibility of the Assembly must surely be brought into full play if and when the Council for some reason failed to take positive action.

38. Mr. PAZHWAK (Afghanistan) said that at that stage he would confine himself to a few preliminary remarks and general observations. As had been said, the Committee was perhaps one of the most important bodies ever established by the General Assembly. Its task was to make an effort not only to overcome the grave difficulties which had confronted the United Nations at the beginning of the nineteenth session of the Assembly but also to seek constructive and practical ways and means by which the Organization could fulfil its basic purpose, namely, the maintenance of international peace and security.

39. Since the establishment of the Committee, the negotiations by the Chairman and the Secretary-General had been very useful, and the general debate in the Committee itself had been encouraging. The Committee's main objectives were, first, the normalization of the functions of the General Assembly and, second, the strengthening of the United Nations as an effective Organization. The experience of the past left no doubt that the most fundamental basis for achieving such objectives was agreement. However, real agreement could be reached only by finding a common denominator recognized as such by the entire membership of the Organization and using that common denominator in the interests of the Organization as a whole and not in the special interests of individual States. That common denominator existed: it was the Charter of the United Nations.

40. The Charter, however, was open to interpretation—a fact that was neither new nor accidental. The drafters of the Charter had deliberately omitted provisions that would have vested the ultimate power of interpretation in a particular organ. It was important not to forget the logical and ever-present inference that strict adherence to the Charter did not exclude adherence only to such interpretations as would be in the interest of preserving and strengthening the Organization. Perhaps that had been a factor in enabling the United Nations to cope with many situations not clearly foreseen when the Charter was adopted.

41. His delegation continued to agree with those who considered the difficulties confronting the Organization as being of a political nature, and it therefore favoured a political solution.

42. The urgency of the Committee's task and the shortage of time at its disposal had been rightly stressed. While he agreed with the Japanese representative that the question of future peace-keeping operations deserved the fullest consideration and that the Committee's creation constituted a momentum of vital importance that should not be lost, it seemed to him that agreement would first have to be reached on a number of preliminary points, such as the definition of peace-keeping operations, the classification of the various types of peace-keeping operations, and the planning of operations before they reached the organization and financing stage.

43. The Committee would also have to consider what kind of report it would submit to the General Assembly having regard to the time at its disposal. While bearing in mind the Committee's terms of reference, his delegation did not think it desirable to undertake to prepare concrete recommendations on all aspects of its work by 15 June, for example, or by some other early time-limit. He had some doubts about a procedure that might confront the Committee with hasty decisions on all aspects of the problem—including details of future peace-keeping operations.

44. He hoped that the Chairman and the Secretary-General would take that point of view into account in their consultations and negotiations. However, he could say that his delegation would agree with the majority of the members when the wish of the majority was determined. It was a good thing at that stage to see that all members of the Committee agreed on the desirability of the United Nations being able to undertake peace-keeping operations. There was also unanimous agreement that the Security Council had primary responsibility for the maintenance of international peace and security and that the General Assembly also had responsibilities and certain functions and powers under the Charter. In that connexion the primary obligations of the permanent members of the Security Council should be kept in mind. It should be recalled that when the permanent members had been given their privileged position, it had been considered inconceivable that the Council would in practice act, or that the permanent members would take a position contrary to the wishes of the entire membership of the Organization. It could not be denied, then, that the principle of the primary responsibility of the Security Council presupposed the acceptance of a special responsibility by the major Powers to respect the view of the general membership.

45. Without contesting the relevance of the arguments advanced on the question of increased membership of the Security Council, his delegation agreed with those members of the Committee who had stated that the enlargement of the

Council still left the majority of the nations outside the Council, and that their rights in matters affecting all Members should be recognized. It was therefore important to reach agreement on a better definition of the recommendatory powers of the General Assembly with a view to enhancing the Assembly's pacific settlement functions in harmony with the Security Council, as provided for by the Charter. In principle, there was no alarming difference of opinion on those points. It had been correctly stated that the Security Council and the General Assembly were complementary organs of the United Nations.

46. The principal issue that remained was how to deal with a given situation when the Security Council failed to act. The only element that could be used constructively in that respect was the element of flexibility which existed in the process of interpretation of the Charter. If the principle of collective responsibility was accepted, it could guide the use of that element of flexibility in the interests of all Members of the Organization. The acceptance of collective responsibility depended in turn on the degree of general consensus prevailing among the entire membership. Adherence to strictly legal criteria might make it difficult to expect solid progress to be made, but a realistic political understanding could produce a solution if all were determined to help the cause of peace and international co-operation.

47. As one of the measures which might contribute to developing a closer relationship between the Security Council and the General Assembly, he suggested a modification in the procedure relating to the annual and special reports received by the General Assembly from the Security Council. In the case of disapproval of any measure which the Assembly had the power to disapprove, the Assembly should be able to make new recommendations. That could help to reduce the rigid separation of functions between the Council and the Assembly.

48. In conformity with the principle of collective responsibility of all Member States, the rights of the Assembly should be respected in matters of assessments and approval of financial burdens deriving from peace-keeping operations. He hoped that the Committee would give full consideration to the views expressed by the representative of India earlier in the meeting, which he fully endorsed. Although he agreed with other representatives that great changes had taken place since 1945, he had as yet not been convinced that the nature of those changes was really such as to require the inclusion of definite provisions in the Charter on which the entire membership could agree.

49. Mr. FEDORENKO (Union of Soviet Socialist Republics) noted with satisfaction the important statements that had already been made in the Committee by the representatives of various groups of countries, including some representatives who had been skeptical concerning the possibility of the Committee's doing useful work. That was all to the good, for the General Assembly had arranged for the present membership of the Committee precisely in order to ensure that a large number of States would be able to play an effective part in the consideration of all questions relating to the maintenance of international peace and security. His delegation therefore wished to stress again that the consideration of those questions should take place in the Committee itself and that it was inadmissible to substitute any other body for that purpose.

50. He agreed with the many representatives who had said that the Committee's efforts should be devoted first and foremost to the consideration of the problem of future United Nations peace-keeping operations. Such consideration would unquestionably have to be continued for, as everyone knew, the very future of the United Nations was directly linked to that problem.

51. As to ways and means of overcoming the Organization's present financial difficulties, a basis for their solution already existed. At the 2nd meeting of the Committee, the representative of Ethiopia had recalled that during the nineteenth session of the General Assembly the Afro-Asian group had submitted a proposal which had been almost unanimously accepted.

52. On that occasion the Soviet Union had demonstrated its friendly attitude towards the African and Asian countries and its sincere desire to strengthen the United Nations by accepting the proposal of the Afro-Asian group, although from the point of view of the Soviet delegation, some of the provisions were contradictory and not all by any means were satisfactory. However, the Soviet delegation had accepted the proposal as a compromise, basing itself on the main consideration, namely, that it would create a situation which would guarantee that Article 19 of the Charter would not be used for provocative purposes and that the General Assembly would no longer be hampered in its normal work in accordance with its normal procedure. So that there could be no misunderstanding, he read out the text of the Afro-Asian proposal of 30 December 1964, emphasizing the provision which stated without ambiguity that the "question of applicability of Article 19 should not be raised".

53. Unfortunately, the United States had rejected the compromise plan of the African and Asian countries and had thereby made it impossible to reach a settlement of the financial difficulties of the United Nations at the first part of the nineteenth session. The Soviet delegation wished to reiterate that a solution of that problem was possible on the basis to which the overwhelming majority of Member States had already agreed, namely the proposal of 30 December 1964. In that connexion, he regretted to have to note that the draft resolution submitted by the representative of Ethiopia (A/AC.121/L.1) did not include in so many words the key provision of the proposal which he had emphasized. Without that provision, it would be impossible to find a solution that would prevent a repetition of attempts to disorganize the normal work of the United Nations.

54. The Soviet Union was ready for the solution of the problem. It based itself, in particular, on the assumption that a voluntary contribution by the Soviet Union, whose amount would be determined by the USSR Government itself, would completely do away with the artificially created question of so-called arrears and prevent any future provocative attempts to apply Article 19 of the Charter. If the United States reviewed its negative attitude and showed readiness to accept the Afro-Asian proposal of 30 December 1964, the road to agreement would be open.

55. Mr. GEBRE-EGZY (Ethiopia) said he wished to repeat what he had said in introducing the Ethiopian draft resolution, namely, that its object was to present the Afro-Asian plan. He would examine the documents to see whether there was indeed the discrepancy to which the Soviet representative had alluded.

56. The CHAIRMAN said that he had it in mind to begin another phase of informal consultations as soon as all the members of the Committee had spoken and had stated their position on the various ideas and suggestions. So far, twenty-one members had spoken, and he hoped that the others would make their statements as soon as possible since it might be difficult to schedule meetings in the following weeks.

The meeting rose at 5.30 p.m.

Fifth meeting

held on Thursday, 29 April 1965, at 3.15 p.m.

[A/AC.121/SR.5]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

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1. Mr. ADEBO (Nigeria) recalled that his delegation was, in its position, guided by three objectives: to remove the possibility of a future paralysis of the General Assembly, to resolve the financial crisis of the United Nations and to settle the question of future peace-keeping operations. That position had already been stated in the Working Group of Twenty-one, of which his country was a member. It was a fairly flexible position, since his delegation knew that in international relations it was essential to show a spirit of conciliation; it also knew that the future of the United Nations was at stake. His delegation was glad that the statements made by many representatives on the subject of future peace-keeping operations showed the same spirit of conciliation and the same concern to reach agreement.

2. It was now admitted that the problem which faced the Organization was political rather than financial in nature. That problem had to be analysed in order for the right solution to be found. To that end the Special Committee must take into account the experience acquired by the Organization in the field of peace-keeping operations, including the failures and resistance it had occasionally encountered, and must draw lessons from that experience. The first lesson was the need to define what was meant by "peace-keeping operations"—wording which did not appear in the Charter. The keeping of the peace was the subject of Chapters VI and VII of that document. Chapter VI dealt with the pacific settlement of disputes. Chapter VII was concerned with measures to maintain or restore international peace and security. Those measures were of two kinds: those which did not involve the use of armed force (Article 41), and those which did involve the use of such force (Article 42). All States, it seemed, agreed that such measures might be authorized under Chapter VII. The contentious area, therefore, was Chapter VI. The question arising was what, if any, peace-keeping operations might be authorized under Chapter VI.

3. The answer to that question seemed to be contained in the heading of the Chapter, "Pacific Settlement of Disputes"; but in the body of the Chapter itself the term "pacific settlement" was not really defined. Article 33 set out some of the ways in which the parties to a dispute could, between themselves, work out a pacific settlement. If they failed, however, the Security Council, under Article 36, might "recommend appropriate procedures or methods of adjustment". As for the powers of the General Assembly under Chapter VI, they were regulated by Article 35, paragraph 3, of the Charter which should be read in conjunction with Articles 11 and 12. In effect, the role of the Assembly was to make recommendations to the States parties to the dispute, and to the Security Council. The Charter did not, therefore, define clearly the sort of measures that might or might not be recommended, either by the Security Council or by the General Assembly, under Chapter VI. The Committee should attempt to define those measures, within the meaning of the expression "pacific settlement of disputes".

4. The important question, obviously, was whether one should rule out all use of force, in any form, in the implementing of measures for the pacific settlement of a dispute. His delegation would answer that question in the negative. The use of "incidental" force might be unavoidable in certain circumstances. Clearly, much must depend on the type of force contemplated. In his own country, a police force was regarded as a peace force, since Nigerian policemen bore arms only in an emergency and were in that case authorized to use them only in order to prevent a felonious breach of peace and to the extent justified by the circumstances. The use of policemen to patrol a cease-fire line or to help a country to maintain internal law and order in an emergency could, and should, be regarded as legitimate action under the Charter's Chapter VI. Since, however, that Chapter only provided for the formulation of recommendations, such a force could be dispatched only at the request, or with the consent, of the countries concerned. Such a police force should not bear arms unless the circumstances patently so required, and it should not be authorized to use those arms except in self-defence or with a view to preventing a felonious breach of law and order. Finally, the United Nations should exercise the utmost caution in acceding to a request for assistance in the maintenance of internal law and order, and should grant such assistance only on terms which ensured that the Organization's aid would not be abused in the interest of maintaining a *status quo* unacceptable to the majority of the population. The Committee should attempt to define clearly the circumstances and conditions in which such aid might be given.

5. Another question facing the Committee was the division of jurisdiction between the Security Council and the General Assembly in the peace-keeping field. The primacy of the Council was not in dispute. The Security Council should be the first body to consider any proposal for a peace-keeping operation; but if the Security Council failed to reach a decision agreeable to all Members of the United Nations and the question was thereupon referred to the General Assembly, the Assembly could express its opinion in the form of a recommendation addressed to the Security Council and request the latter to reconsider the case. What should be done if the Security Council failed a second time? Some countries felt that the matter should then rest there. Nigeria did not think that that would be a good solution, given the relations between the permanent members of the Security Council and the existence of the veto. The enlargement of the Security Council, with a view to giving more adequate representation to Africa and Asia, in no way helped to avoid a deadlock. His country thought that in such cases the General Assembly should be able to make "appropriate recommendations" to the parties in dispute.

6. With regard to the problem of financial responsibility for the operations, the Nigerian delegation thought that the Security Council, when it decided to undertake an operation under Chapter VII of the Charter, could apply the provisions of Article 43. His delegation was prepared to concede that the Security Council might include, in the special agreements authorized, provision for the supplying State to meet all or some of the cost of the assistance provided. Where the supplying States were all in a position to meet all of the costs, the financing of the operation gave rise to no problem. When, however, there were residual costs not covered in the agreements, was the Security Council entitled to assess those costs upon the general membership of the Organization? In the opinion of his delegation, the Security Council could not take such a decision without consulting, in one way or another, the States Members of the United Nations. Under Article 17 of the Charter, it was for the General Assembly, and for the Assembly alone, to establish the amount of financial contributions. It might however be possible to work out a compromise solution, and his delegation had already submitted that suggestion to the Working Group of Twenty-one. The solution would involve delegating the power of making the assessments to a committee consisting partly of members of the Security Council and partly of countries nominated by the General Assembly from among non-members of the Council. The terms of reference of that committee would be determined by both the Security Council and the General Assembly, and could include an indication of the considerations which should govern the making of the assessments. Such a solution would be in line with the principles of General Assembly resolution 1874 (S-IV).

7. While it was agreed that the financing of peace-keeping operations undertaken under Chapter VII of the Charter involved the collective responsibility of all Member States, subject to the question of the assessment being settled, it was much more difficult to determine whether such collective financial responsibility likewise applied to operations undertaken under Chapter VI, particularly when they were undertaken as the result of a recommendation by the General Assembly. The Nigerian delegation favoured collective financial responsibility in that contingency, but had so far failed in its efforts to secure acceptance of that view. Some had proposed that the problem be solved by exempting from all financial responsibility any permanent member of the Security Council which did not support the operation in the Security Council and maintained its objection to the operation. The Nigerian delegation was unable to support that proposal, since the special status conferred by the Charter on permanent members of the Security Council was in no way intended to exempt those members from a responsibility incumbent on the other Members of the Organization. If the financial responsibility was optional, it should be optional for all Member States, without distinction.

8. On the subject of the composition of United Nations forces, the Nigerian delegation had a fairly open mind. For most of the operations which could reasonably be envisaged in the future, it did not think that the inclusion of contingents from any of the permanent members of the Security Council was advisable. Nevertheless, the prevailing tension between the great Powers might end and it might not be wise to prohibit the use of such contingents in all cases and for all time. The normal rule of fair geographical distribution should

be maintained, and when the operation was undertaken at the request or with the consent of the parties to the dispute—which was almost always the case—it would naturally be necessary for those parties to concur in the composition of the force. With regard to the control of United Nations forces, the Nigerian delegation would like the Military Staff Committee to play a role in future peace-keeping operations, and it supported the Soviet Union delegation's suggestion (2nd meeting) that that Committee be enlarged, from time to time, through the inclusion of representatives of countries which supplied contingents for a given operation. The position of the Military Staff Committee vis-à-vis the Commanding Officer of the particular United Nations force involved, and vis-à-vis the Secretary-General, should be very carefully considered.

9. Finally, it should not be forgotten that the Special Committee also had to settle the problem of the past, as the Ethiopian representative had stressed. If the Nigerian delegation had merely touched upon that question, it was because the general lines of the settlement had already emerged from the long negotiations which had taken place during the first part of the General Assembly's nineteenth session The best solution, for the moment, would be to leave study of that particular aspect of the Committee's work to the Secretary-General and the Chairman. He hoped that the great Powers, profiting from the lesson of the nineteenth session, would co-operate with the Secretary-General and the Chairman of the Committee, with a view to a consensus proving possible.

10. Mr. YOST (United States of America), referring to the Ethiopian draft resolution (A/AC.121/L.1), noted that while the text was by no means identical with what his delegation would have drafted, the Ethiopian representative had performed a valuable service by bringing to the fore the urgent need for a solution of the Organization's financial difficulties. As the draft indicated, there was a consensus that a solution should be found as quickly as possible, that Members should put aside their differences in the interests of the Organization, and that the Organization should be brought to solvency by voluntary contributions. Those ideas had had their origin in the suggestions first presented informally by the representatives of Afghanistan, Nigeria, Norway and Venezuela in November 1964 and later developed in a proposal made by the Chairman of the Committee. The proposal had appeared to have the support of virtually all members and would have been adopted had the Soviet delegation not felt obliged to reject it.

11. With reference to operative paragraph 1 of the Ethiopian draft resolution, he pointed out that the applicability of Article 19 of the Charter was a matter for the General Assembly and not for the Special Committee to determine.

12. The problem facing the Committee was twofold: to restore solvency to the Organization, and to discuss procedures for future peace-keeping. With respect to the future, the United States delegation had already stated its position and was prepared to enter into negotiations aimed at reaching a consensus. With respect to solvency, it believed that it should be restored through voluntary contributions. An attempt to reproduce the exact wording of previous proposals could only revive past difficulties. He therefore suggested that, far from adding to the draft further paragraphs relating to Article 19, the best course would be to delete from the text any reference to that Article. He expressed the hope that the United Nations would receive, before very long, such voluntary contributions as would restore its solvency. The Committee should put aside unnecessary controversy and instead concentrate on achieving solvency and reaching a reasonable understanding about future obligations relating to peace-keeping. If that could be accomplished, the membership could look forward to a constructive session of the General Assembly in the fall and an increasingly effective Organization.

13. Mr. SOSA-RODRIGUEZ (Venezuela) said that the present serious crisis, the extension of which had already gravely impaired the effectiveness and prestige of the United Nations, was a threat to the Organization's very existence. It was absolutely essential to find a way out of the impasse. The Committee therefore bore a very heavy responsibility.

14. The crisis was in fact not a financial but a constitutional one, arising out of differing interpretations and conflicting points of view which had developed concerning the powers of the Security Council and of the General Assembly, respectively, with regard to the maintenance of international peace and security.

15. The Venezuelan delegation was grateful to the Chairman and to the Secretary-General for the efforts which they had already put forth in applying the provisions of General Assembly resolution 2006 (XIX), and was prepared to supply its support and co-operation in all consultations and negotiations which might still have to be held for the purpose of implementing that resolution.

16. It was doubtless not to be expected that the Committee could, in the short time available to it, solve all the difficulties which had arisen in connexion with peace-keeping operations; but it should be possible to identify the main lines on which to arrive at solutions. The essential requirement was to find means whereby the General Assembly could resume its normal work in September 1965—leaving until later, if need be, the final and detailed settlement of the problems connected with peace-keeping and security operations.

17. His delegation wished to state at the outset that its position was flexible and that it was prepared to collaborate in the search for any solution which was in conformity with the principles of the Charter and would satisfactorily resolve the present crisis.

18. The respective functions of the Security Council and the General Assembly with regard to the initiating of operations for the maintenance of international peace and security were defined in Articles 10, 11, 14, 24, and 25 of the Charter. That division of functions, however, had given rise to three different interpretations: first, the thesis maintained, in particular, by the Soviet Union, that the Council had the exclusive responsibility for initiating the operations in question; secondly, the thesis on which resolution 377 (V) entitled "Uniting for peace" had been based, that the General Assembly could recommend peace-keeping operations, including operations requiring the use of armed force, in cases where the Security Council did not exercise its responsibilities in the matter; lastly, the thesis which acknowledged the Security Council's exclusive responsibility only with respect to the operations contemplated in Chapter VII of the Charter, the General Assembly having competence to make recommendations concerning all other types of operations for the maintenance of international peace and security. That last thesis was in accord with the advisory opinion of the International Court of Justice of 20 July 1962,[q] accepted by the General Assembly in its resolution 1854 (XVII).

19. His delegation's own view was that the powers of the Security Council and the General Assembly in the matter of peace-keeping were complementary; moreover, it had always been, and was now, of the opinion that it was necessary for the Assembly to take the initiative with regard to operations for the maintenance of international peace and security, whenever Security Council action was blocked by the veto of any one of the great Powers. Even though cogent legal arguments could be invoked in support of the contrary thesis, it was preferable—and more in accord with the spirit and objectives of the United Nations—to choose a solution which would help the Organization to exercise the very important function vested in it by Article 1 of the Charter.

20. The same divergence of views which had emerged concerning the initiation of peace-keeping operations of course existed with respect to the execution of those operations, for the two aspects of the problem were linked; he would therefore not dwell on that point.

21. On the matter of financing peace-keeping operations, the same disagreements again appeared with respect to the

[q] *Certain expenses of the United Nations (Article 17, paragraph 22, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

organ competent to decide the financial aspects of such operations. But the problem was complicated, for, even assuming that question of competence to be settled, there were some who contended that decisions on the financing of peace-keeping operations were not compulsory and that contributions should be optional and voluntary.

22. His own delegation considered that the Security Council alone had the right to conclude the special agreements provided for in Article 43 of the Charter, but that the power to levy a general contribution on all the Members of the Organization belonged exclusively to the General Assembly, under the provisions of Article 17 and in accordance with the principle of "no taxation without representation".

23. Article 17 of the Charter, however, was itself the subject of different interpretations: France and the Soviet Union contended that the expenses of the Organization included only the expenses provided for in the regular budget and excluded extraordinary expenses arising out of peace-keeping operations, whereas the majority of Member States argued, in accordance with the advisory opinion of the International Court of Justice, that the expenses incurred for peace-keeping operations ordered by the General Assembly came under the provisions of Article 17, paragraph 2, and were consequently obligatory for all the Members of the Organization. Respectful of the Court's opinion, Venezuela for its part had paid all the contributions for which it had been assessed for the Middle East and Congo operations.

24. In summary, his delegation's views on the questions before the Committee were the following: first, the primary —but not the exclusive—responsibility for the maintenance of international peace and security belonged to the Security Council; secondly, while Venezuela at the time had supported General Assembly resolution 377 (V) on "Uniting for peace", it would henceforth support the opinion of the International Court of Justice, to the effect that peace-keeping operations requiring enforcement action against a State, under the provisions of Chapter VII of the Charter, fell within the exclusive competence of the Security Council; thirdly, the General Assembly had the power to recommend operations for the maintenance of peace and security in all other cases; fourthly, when it made a recommendation of that kind, the General Assembly was also authorized to decide as to the financing of the operation and to apportion the cost of that operation among all the Members of the Organization; on the other hand, the Security Council did not have that power, for it could only act in that matter by means of the special agreements provided for in Article 43 of the Charter; fifthly and finally, to apportion the expenses relating to peace-keeping operations, the General Assembly should adopt a special scale of assessments, different from the scale used for contributions to the regular budget, as it had done previously in the resolutions concerning the financing of the Middle East and Congo operations. That special scale should take into account the following factors: (*a*) the special responsibility of the permanent members of the Security Council; (*b*) the relationship between the State to be assessed and the proposed peace-keeping operation; and (*c*) the economic resources of the Member States. In that connexion, his delegation supported the principles laid down in resolution 1874 (S-IV) adopted by the General Assembly at its fourth special session.

25. In order to arrive at a compromise, each party must renounce rigid positions. The point of departure should be the multilateral treaty signed at San Francisco on 26 June 1945, i.e. the United Nations Charter. The Charter was in fact a treaty which could be revised only by the procedure, set out in Chapter XVIII which had been accepted by all its signatories. However, it did not specify either the procedure to be followed or the organ competent to decide in the last instance questions relating to interpretation of its terms. Accordingly, where there was a fundamental divergence of views, only a unanimous consensus would make it possible to arrive at a final solution of a problem of that type. Obviously, rigid application of the legal principles to which he had referred would lead to a static concept of the Charter, preventing the latter from being adapted to the rapid political and economic changes that were taking place in the world. Venezuela, for its part, favoured a dynamic concept of the Charter; but in existing circumstances it seemed that, as the Brazilian representative had emphasized, the only solution lay either in a revision of the Charter in accordance with the provisions of Chapter XVIII or in a unanimous consensus with regard to the interpretation of the Articles involved.

26. Although the General Assembly had adopted resolutions, like resolutions 377 (V) and 1514 (XV), which reflected a dynamic concept of the Charter's interpretation, it could not from that fact be concluded that the Assembly could legally, through resolutions, alter the Charter or impose interpretations which would in fact be tantamount to a revision of it.

27. The Venezuelan delegation thought that there would be no violation of the Charter if, without prejudice to the questions of principle under discussion, it were decided that consideration of the question of applying Article 19 to the States which for constitutional reasons had refused to contribute to the cost of peace-keeping operations in the Middle East and the Congo should be postponed until the legal questions concerning interpretation of the relevant Articles of the Charter had been settled, either through the adoption, within the Charter's existing framework, of a peace-keeping operations procedure acceptable to all Members of the Organization, or through a revision of the Charter undertaken in accordance with the provisions of its Chapter XVIII.

28. It should be repeated that the main task of the Committee, given the short time available to it, should be to remove the obstacle which had prevented the General Assembly's nineteenth session from proceeding normally. Thereafter the Assembly could gradually work out an adequate procedure, unanimously accepted, for the purpose of future peace-keeping and security operations. In the interval, it would be necessary to continue to fall back on *ad hoc* solutions, which—as in the case of Cyprus—had proved their value.

29. The Organization's financial difficulties could be solved by the creation of a special fund designed to cove the deficit; such a fund would be formed from voluntary contributions made by all Member States, the contributions being paid without any prejudice whatever to any questions of principle.

30. But since the objective should continue to be the evolving of a procedure for future peace-keeping operations, the Committee, its Chairman and the Secretary-General should continue to work unremittingly on the task specifically entrusted to them by the General Assembly.

31. The Venezuelan delegation would comment on the draft resolution submitted by Ethiopia as soon as it was in possession of the final text of that draft.

32. Mr. HASEGANU (Romania) noted with satisfaction that constructive suggestions had been made to the Special Committee. In those circumstances, it seemed that continuation of the debate should prove fruitful.

33. He would, for the moment, confine himself to a few general and preliminary observations. The Committee's task was to ensure as soon as possible the normalization of the General Assembly's work. But time was running out, for the Organization was in the presence of events which each day were increasingly threatening the maintenance of international peace and security. Normalization of the Assembly's work should therefore take priority over all other problems and, to that end, all Member States should be enabled to express their views. Those conditions were essential to any consideration and solution of the question of how to prevent the recurrence of a crisis such as that which the Organization was now facing.

34. In the Romanian delegation's view, it was only in respect for the principles of the Charter that a solution could be found. Those principles, which had been enriched by the experience gained over the past twenty years, retained all their worth and were the basis of relations between all States Members of the Organization. Experience had shown that each time those principles had been violated a state of tension prejudicial to good international relationships had resulted. Those relationships, and relations between the United Nations

and the Member States, must be based on respect for the sovereignty, independence and juridical equality of States, on non-interference in their domestic affairs, and on the right of all peoples to self-determination. Any United Nations machinery established for the maintenance of international peace and security must therefore conform to those principles. The opportunities offered by the Charter for the United Nations to play its proper role in the creation of an atmosphere of peace and understanding in the world were far from being exhausted. He did not doubt that, thanks to the patient and resolute efforts of all its members, the Special Committee would be able to submit to the General Assembly realistic and acceptable solutions.

The meeting rose at 4.45 p.m.

Sixth meeting

held on Thursday, 6 May 1965, at 3.30 p.m.

[A/AC.121/SR.6]*

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

1. Mr. Amjad ALI (Pakistan) said that since, for the purposes of its comprehensive review of the question of peace-keeping operations, the Committee must take into account the consultations undertaken by its Chairman and the Secretary-General in accordance with the method envisaged in General Assembly resolution 2006 (XIX) for the solution of the current crisis of the United Nations, any statement of his delegation's standpoint could be only tentative. It was heartening to note, however, that all the statements thus far made in the Committee were constructive, and it could be stated, without being over-optimistic, that the elements of an eventual agreement had already come into view. That agreement must be given time to grow, and there was reason to hope that during the next phase of consultations the area of agreement would be more precisely defined.

2. That being so, his delegation considered it unnecessary to express its views on the two sets of proposals which had been submitted (A/AC.121/2 and A/AC.121/3) and which, while containing constructive elements, were based on premises whose mutual opposition had brought the Organization to its current impasse. His delegation was convinced that the Organization could subsist only if it achieved a synthesis of those two different interpretations of its functions.

3. It was obvious that the root of the problem lay in the fact that there was a large field for the maintenance of international peace and security which was covered neither by the enforcement action which, under Chapter VII of the United Nations Charter, was within the exclusive jurisdiction of the Security Council nor by the recommendations which the General Assembly was empowered to make under Article 11, paragraph 2, of the Charter. One might ask why that field had been left uncovered by the provisions of the Charter, with the result that the General Assembly had had to fill the vacuum in a manner which had not been anticipated in the Charter and which had given rise to controversy. It had been pointed out that the atrophy of the Security Council's powers and authority had been caused by the absence of unanimity among its permanent members. His delegation welcomed the proposals made by the representative of the Soviet Union for the reactivation of the Military Staff Committee and the association with it of Member States which would supply contingents for a United Nations force. It also believed that the Security Council would be restored to its full authority if the permanent members undertook to refrain from using the veto in the case of disputes in which they were not directly involved or on which the General Assembly had made recommendations under Article 10 of the Charter. However, the dissension among the permanent members of the Council was not the sole reason for the failure of its deliberations. An even larger reason for that failure was, perhaps, the adoption of an approach which placed emphasis on interim cease-fire measures, rather than on the definitive settlement of international disputes. Thus far, such provisions as those of Articles 33 and 34 of the Charter had not been fully exploited. The problem would be greatly simplified if the Security Council called upon the parties to a dispute not merely to negotiate, but to settle the dispute by other peaceful means, such as inquiry, mediation, arbitration and judicial settlement which were mentioned in Article 33, and if the Council carried out the investigative functions laid down in Article 34 of the Charter. It was the disuse of those provisions of the Charter which had necessitated the employment of the palliatives known since 1956 as "peace-keeping operations". It was a rather loose term which might have caused some confusion. It led one to overlook the fact that those operations were different from the dispatch of a military force with a coercive mission and that United Nations intervention in a situation likely to lead to a breach of the peace might constitute nothing more than either the employment of the peaceful means envisaged in Article 33, at the parties' own choice, or the taking of measures for the peaceful adjustment of the situation in accordance with recommendations under Article 14. It had been repeatedly pointed out that the scope of those operations was strictly limited because of their peaceful and voluntary nature; they were undertaken at the request or with the consent of the country involved; the use of force was barred, except in self-defence; and they placed no obligation on Member States to contribute to them in either personnel or matériel.

4. Nevertheless, although those operations fell within the context of the pacific settlement of disputes, it must be recognized that they were not conducted in isolation from the realities of international politics and that when they extended beyond the stationing of a group of observers, the surveillance of a cease-fire line or the patrolling of a frontier, they were capable of decisively influencing the political outcome of both a domestic and an international situation and might therefore arouse grave suspicions on the part of a major Power whose interests were involved. That was a political consideration which could be ignored only at the Organization's peril.

5. His delegation was happy to note that it was increasingly being conceded that no operation of the kind must be initiated without prior consideration of the matter by the Security Council. The Soviet representative's statement that, in the event of the Security Council's being unable to act, nothing prevented the General Assembly from considering the question anew, in order to adopt new recommendations within its competence, gave hope of some progress towards agreement concerning the sequence of consideration of such questions by the Security Council and the General Assembly. The only imprecise element which appeared to remain related to the effect of a second deadlock in the Security Council. In that connexion, the representative of Mexico had very rightly said that the powers of the Security Council and those of the General Assembly were to be considered complementary. That conception was also embedded in the Charter, particularly in Articles 10, 11, paragraphs 2 and 3, 12, paragraph 2 and 15. If it was kept in mind, it might be that too much emphasis would not have to be placed on what were called the residual powers of the General Assembly, since the question was not of the respective jurisdictions of the two organs of the United Nations but of the functions of the Organization as a whole. Where such functions could be discharged only by the Security Council—in other words, when they involved the suppression of an act of aggression or breach of the peace—the lack of a decision by the Security Council became conclusive. Where, however, under Articles 33, paragraph 1, 35, paragraph 1, and 36, paragraphs 1 and 2, read in conjunction with Article 14, the United Nations was capable of bringing about by peaceful means a settlement of an international dispute, the lack of a decision by the Security Council was not conclusive for the United Nations as a whole.

6. The problem of financing on which the current controversy had focused did not seem insoluble in that fresh perspective. It might be that, during the polemic on the question, certain legal contentions had been inflated; for example, the principle of "no taxation without representation" had been

* Incorporating document A/AC.121/SR.6/Corr.1.

invoked. It was inconceivable that the permanent members of the Security Council, having unanimously decided to take action with respect to a threat to the peace or an act of aggression, would initiate the action without making provision for its financing, either from their own resources or under the special agreements contemplated in Article 43 of the Charter and, ignoring the spirit of Article 15, would try to impose a financial burden on other Member States. Nobody could fail to recognize that the total intent of Articles 24, 25, 43, 48 and 49 was to impose an obligation on Member States to carry out the measures adopted by the Security Council and to ensure that the membership of the United Nations was effectively represented in the Council. In addition, under Article 24, the Security Council acted on behalf of all the Members of the United Nations. The issue involved was not of the respective powers of assessment of the Security Council and the General Assembly. When an action was initiated by the Security Council, it would seem that there should be no problem about financing it. Where necessary, the provisions of Article 15 would become operative and the General Assembly would exercise powers of assessment in accordance with the recommendations of the Security Council. It was only when action was taken by the General Assembly that the difficulty arose. If there was no reason to suspect the General Assembly of intending to encroach on the authority of the Security Council, there was no need to consider Article 17 as enlarging the powers of the Assembly. His delegation felt, however, that too much attention should not be given to the question of collective responsibility. That principle did not preclude recourse to voluntary contributions in order to overcome the current financial difficulties of the Organization, as envisaged in the Afro-Asian proposals of 30 December 1964, which had been reintroduced by the representative of Ethiopia. There seemed to be no other viable solution.

7. Similarly, as far as the future was concerned, his delegation felt that it was not the rigid application of the principle of collective responsibility which would enhance the effectiveness of the Organization. It had been glad to hear the United States representative say that his Government would be willing to consider any modifications in the application of that principle which were thought necessary. It now seemed to be generally conceded that collective responsibility did not mean a proportional equality of financial burden and it seemed more realistic to base special schedules of assessments on criteria such as the position of the permanent members of the Security Council, the economic capacity of the other Member countries and the nature of their involvement in the situation necessitating a peace-keeping operation. Admittedly it was dangerous to belittle the importance of the presumptive principle of collective responsibility; it was easy to foresee that, if it were conceded that the permanent members of the Security Council which opposed a specific operation should be exempted from contributing to its costs, small countries with less capacity to pay would also ask for exemption. It was also possible that a small country might vote against an expensive operation solely in order to secure such exemption. Situations of that kind would not arise if a fund was created with voluntary contributions from Member States which would exist in advance of specific operations and which would be used to finance expenditures approved by the General Assembly. The method of assessed contributions was not the only one available. The financing of peace-keeping operations could be placed on firmer ground by a mutual example of voluntary co-operation rather than by the determination of legal obligations.

8. His delegation reserved the right to make further remarks on other aspects of the question but thought that the comprehensive review of the whole question of peace-keeping operations could not be accomplished within the next five weeks. The immediate objective was to settle the financial crisis of the United Nations and normalize the work of the General Assembly. It would be hazardous, however, hastily to evolve a rigid formula which would diminish the effectiveness of the Organization by entangling it in cumbersome procedures relating to the maintenance of international peace and security. As the representative of Brazil had pointed out, it might be necessary to amend the Charter to provide for peace-keeping operations and their control and financing. His delegation, therefore, saw no reason why the report which the Committee was to submit by 15 June 1965 should be its final report. It hoped, however, that that report would record tangible progress towards the solution of the Organization's immediate difficulties.

9. Mr. WALDHEIM (Austria) noted that there seemed to be a general consensus about the primary responsibility of the Security Council for peace-keeping operations and the exclusive power conferred upon it by the Charter to decide on measures called "enforcement action" under Chapter VII. In that connexion, the Soviet representative's suggestion to reactivate the Military Staff Committee deserved further consideration.

10. With regard to the much more complex problem of the competence of the General Assembly in the matter of peace-keeping operations, it was clear that the General Assembly had the power to make recommendations on such operations. In his delegation's view, Articles 10, 11 and 14 of the Charter were quite clear on that score.

11. He agreed, however, with the representatives of Sweden and India that the problem was not only juridical and constitutional but also political. His delegation agreed with those delegations which thought that the responsibility of the Security Council and of the General Assembly should be complementary. The recommendations which the General Assembly made to the Security Council on the subject of peace-keeping operations could have a great moral impact on the members of the Security Council and help them to make the right decisions under difficult circumstances. Moreover, that interpretation was in the spirit of the Charter and would best serve the interests of the Organization.

12. The discussion had revealed some basic characteristics of peace-keeping operations, which were essentially voluntary and could be undertaken only at the request or at least with the consent of the countries concerned, with no general obligation to participate, since force should be used only in self-defence.

13. The Brazilian representative's suggestion (4th meeting) that a new chapter on peace-keeping operations should be added to the Charter certainly deserved further consideration since, if it was accepted by all Member States, it would clarify the matter for the future. However, in view of the very limited time at the Committee's disposal, an effort should be made to find a pragmatical solution within the framework of the Charter in its existing form. Although it realized that the shuttle system between the Security Council and the General Assembly, recommended by some delegations, would result in a loss of precious time when peace was at stake, his delegation thought that such an approach was reasonable. Such a procedure would be in full conformity with Article 14 of the Charter, which provided that the General Assembly might recommend measures for the peaceful adjustment of any situation which it deemed likely to impair friendly relations among nations.

14. So far as the financing of peace-keeping operations was concerned, the Austrian Government thought that the principle of collective financial responsibility should be maintained and applied as far as possible. When the financing of such operations was not covered by special arrangements, it should be within the competence of the General Assembly, under the terms of Article 17, to make assessments. His delegation did not object, however, to a special scale of assessment being worked out and accepted in advance as part of a general settlement. Such a scale would be a realistic basis for financing future peace-keeping operations and would also make it possible to reduce the contributions from the developing countries.

15. In connexion with the draft resolution submitted by Ethiopia (A/AC.121/L.1), which was a valuable effort to help solve the financial crisis of the United Nations, there seemed to be agreement among Member States about the urgency of restoring the solvency of the United Nations and an understanding that that could best be achieved by voluntary

contributions. His delegation saw no other solution and hoped that the consultations undertaken in pursuance of General Assembly resolution 2006 (XIX) and the efforts of the Committee would make it possible for it to be adopted.

16. Mr. GARCIA DEL SOLAR (Argentina) noted with satisfaction that the debate had clearly shown a general desire to contribute constructive ideas.

17. The fact that the discussion had proceeded at a highly technical level would facilitate the Committee's future work. It was true that the views on the future organization of peace-keeping operations did not always coincide, but the Committee should concentrate on those points on which there was agreement in order to bring out a number of basic ideas for inclusion in the Chairman's report.

18. As the Nigerian representative had pointed out, the powers of the Special Committee were broader and more sweeping than those of the Working Group of Twenty-one, of which Argentina had also been a member. It was impossible to establish definitive criteria for the financing of peace-keeping operations without seeking broad solutions to the basic problem which, while apparently financial, was in fact constitutional in substance and political in nature.

19. The Committee's task was to find an approach towards common ground in order to avoid, in the future, confrontations which paralysed the normal functioning of the Organization. Argentina, faithful to Latin American tradition and in agreement with Mexico and Venezuela, believed that the Special Committee would reach a solution more easily by basing itself on legal criteria.

20. The Brazilian delegation had proposed a revision of the Charter, and that should be the objective. The provisions contained in Chapter XVIII envisaged the possibility of a revision of the Charter in the light of changed circumstances, and it should be possible to reach common agreement on some provisional rules of operation that might later, when shown to be effective, be incorporated in the Charter in accordance with Articles 108 and 109.

21. The balance between the powers of the Security Council and those of the General Assembly established by the Charter must not be upset in order to satisfy political requirements. Legal criteria should not be applied too rigidly, of course, but constitutional controversies such as those now affecting the Organization would be avoided if politics were subordinated to law. Some countries had felt that the strengthening of the powers of the Assembly with respect to peace-keeping activities was in conformity with the principle of the legal equality of States, but obviously the present difficulties were the result of too broad an interpretation of the provisions of the Charter.

22. The Latin American countries had always objected to the privileges granted to the five great Powers under Chapter V of the Charter, but had accepted them because of the particularly heavy responsibility incumbent upon those Powers in respect of the maintenance of peace and in the hope that those Powers would co-operate in the manner envisaged in Article 106, which unfortunately was now a dead letter.

23. According to the system established at San Francisco in 1945, primary responsibility for the maintenance of peace was vested in the Security Council and a complementary responsibility in the General Assembly. That approach should always have prevailed and it was realistic enough to enable the General Assembly to adopt recommendations under the terms of Chapters IV and I of the Charter in cases where the exercise of the veto prevented the Security Council from acting. The current crisis, which had not affected the Security Council but was paralysing the General Assembly, resulted from the excessive flexibility with which the Charter had been interpreted during the past twenty years, the flexibility of which the "Uniting for peace" resolution of the General Assembly—in which Argentina had abstained—was an extreme example. Accordingly, the Argentine delegation felt that it was in the interest of all Members of the Organization to adhere strictly to the legal provisions of the Charter when discussing the problems relating to peace-keeping operations.

24. Article 24 of the Charter conferred on the Security Council the power to decide on any peace-keeping operation, and the Argentine delegation regarded the Council's responsibility as exclusive in cases where the action taken involved enforcement measures. Consequently, the Council had special competence with regard to the financial provisions of Article 43, and the permanent members of the Council bore special responsibilities in exchange for the privileges and responsibilities attributed to them under Chapters V and XVIII of the Charter. That argument had been asserted at the fourth Special Session of the General Assembly in the memorandum contained in document A/AC.113/18.[r] The Argentine delegation therefore felt that to exempt permanent members of the Security Council which had abstained during a vote on a peace-keeping operation from participation in its financing would be to violate the principle of collective responsibility laid down in Article 17 of the Charter and would be unfair to any non-permanent members of the Council which had voted against the same operation or had abstained.

25. With regard to the role of the General Assembly, the question was, firstly, whether it had the power to recommend any peace-keeping operation when the Security Council was paralysed by the veto and, secondly, whether it had the power to recommend, on its own initiative, certain minor peace-keeping operations in implementation of the procedures dealt with under Chapter VI of the Charter.

26. Several delegations had suggested that the different types of peace-keeping operations should be classified, in order to determine in the future those which could be the subject of recommendations for action by the General Assembly and those which would fall exclusively within the competence of the Security Council. That was an exercise worth attempting, but extreme caution would be necessary when the time came to draw a distinction between actions involving or not involving enforcement. If the sanctions envisaged in Article 41 or the military action envisaged in Article 42 of the Charter were construed as enforcement measures, the distinction was easily established, but it was not impossible that some enforcement action might occur in the case of other operations decided upon by the General Assembly and requiring the presence of police forces, observers or special officials in the territory of a sovereign State.

27. Argentina recognized that in the case of a dispute threatening the peace the United Nations could, by way of exception and in the interest of the international community, suspend during a peace-keeping operation the sovereign rights recognized in Article 2 of the Charter. However, such an action might introduce an element of moral coercion, and it was desirable to avoid any interference which might prejudice the right of the people affected by the peace-keeping operation to exercise their political destiny, even in the case of operations requested by the Member State concerned. It might therefore be preferable, whenever a peace-keeping operation involved the adoption of measures of that kind, that they should, as far as possible, be authorized by the Security Council which had primary responsibility in the matter.

28. With regard to the apportionment of expenses, it was clear from Article 17 of the Charter that, if the Assembly decided upon a peace-keeping operation under the terms of Chapter IV or because the Council was paralysed, the principle of collective responsibility should take effect. That principle implied the acceptance by the minority of budgetary decisions adopted by the majority.

29. It was also the responsibility of the Assembly to express its views on financing when an operation decided upon by the Council required the co-operation of all States to meet expenses which could not be financed under the terms of Article 43. The Argentine delegation felt that it would be advantageous if any peace-keeping operation decided upon by the Security Council without intervention by the General Assembly were financed under the special agreements provided for in Article 43.

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[r] See *Official Records of the General Assembly, Fourth Special Session, Annexes,* agenda item 7.

30. Thus, the principle of collective financial responsibility took effect as soon as the Assembly was called upon to intervene, if only partially, at any stage of a peace-keeping operation. In that connexion, Argentina still favoured the application of special scales of contributions which took into account the capacity to pay of the developing countries, the special responsibility of the permanent members of the Security Council, the special interest which certain countries had in the proposed operation, and the situation of the State which was the victim in the dispute. Such special scales were justified, firstly, by the difficulties experienced by the developing countries in paying the increase in their annual contributions and, secondly, by the provisions of resolution 1854 (XVII), by which the Assembly had recognized that, in order to meet the expenditures caused by peace-keeping operations, a different procedure was required from that applied to the regular budget.

31. The Argentine delegation supported the constructive proposal made by the representative of the Soviet Union concerning the application of the provisions of Article 47 of the Charter. It also supported the proposal concerning the implementation of the provisions of Article 47, paragraph 4 relating to consultation with regional agencies on the constitution of peace-keeping forces. The Organization of American States, for example, had the necessary machinery to play a useful role in that respect.

32. His delegation also supported the suggestion that contingents participating in peace-keeping operations should preferably be provided by countries which were not permanent members of the Security Council. If the operation was undertaken at the request of a Member State, the latter should be allowed to accept or refuse the contingents proposed, and the Security Council, after consultation with the Military Staff Committee, should endeavour to send contingents drawn from countries offering the greatest guarantee of impartiality in the dispute in question.

33. With regard to the restoration of the normal functioning of the General Assembly, his delegation hoped that no obstacle would hinder the negotiations to be undertaken, by agreement with the Secretary-General and the Chairman, during the Committee's recess. His own optimism on that point stemmed from the statements made in the Committee by the representative of the Soviet Union, France and the United States, which had shown evidence of sincere efforts by the Governments concerned.

34. The idea of resolving the financial problem by means of voluntary contributions seemed to be universally accepted. His delegation agreed with the representative of Ethiopia that the solution of the financial problem should have priority. The suggestions made by the group of African and Asian countries offered the basis for a solution.

35. The representative of Venezuela had suggested that Article 19 should not be applied until the questions relating to the legal interpretation of the relevant articles of the Charter had been properly studied. Such a decision would be desirable, if it could contribute towards an agreement between the parties and if the latter agreed to it. Document A/AC.113/3,[8] which three Latin American delegations, including the delegation of Argentina, had submitted to the fourth Special Session of the General Assembly on 7 February 1963, had recommended, admittedly in somewhat different circumstances, that the application of Article 19 should be temporarily suspended as an exceptional measure.

36. In order that the General Assembly might resume its normal activity, a universally acceptable solution must be found and, above all, the errors of the past must not be repeated. The suggestion made by the Ethiopian representative should therefore be incorporated in a statement by the Chairman reflecting the unanimous feeling of the members of the Committee and worded in such a way as to lead to unanimity. Moreover, a statement of that kind by the Chairman would be better than a resolution in that it could be transmitted to all Members on 15 June, thus gaining valuable time for the payment of voluntary contributions. A decision by the Committee, on the other hand, would be in the nature of a recommendation to the Assembly and would have to be approved by the latter in September before it became a resolution.

37. Lastly, his delegation agreed with others which had stressed the need for Member States, and in particular the permanent members of the Security Council, to ratify the amendments to the Charter which provided for an increase in the membership of the Security Council and the Economic and Social Council (see General Assembly resolution 1991 (XVIII)), in order to give the States of Africa and Asia the representation to which they were entitled. The Argentine Congress would be giving the matter priority when it reconvened after its annual recess. His delegation had learnt from press reports that France would be the fourth permanent member of the Security Council to ratify the Charter amendments and that the French Government had transmitted the required message to the National Assembly.

38. Mr. COLLIER (Sierra Leone) noted with satisfaction the conciliatory approach which had marked the preliminary discussion in the Special Committee. He hoped that the next session of the General Assembly would be able to proceed normally.

39. A prolonged discussion would serve little purpose at the present stage, and his delegation was very hopeful of the private consultations which the Secretary-General and the Chairman would hold. It was obviously important that all Members of the Organization should participate in the search for a solution, and consultations of that kind were very useful if representatives of all shades of opinion were called upon to give their views.

40. His delegation noted that many delegations recognized that the problem facing the Organization was not merely financial, but also political and constitutional. Attempts had been made to define what was really meant by "peace-keeping" within the context of the United Nations Charter, and there had been general agreement on the urgency of restoring the Organization to solvency, if necessary by voluntary contributions. His delegation reserved the right to speak again on that point, if it deemed it necessary. It hoped that the spirit of conciliation which had characterized the discussions would continue to prevail and that the Committee would achieve a solution to the peace-keeping problems of the United Nations.

41. Mr. GEBRE-EGZY (Ethiopia) said that he would first like to explain the draft resolution which he had submitted to the Committee on 23 April 1965. Irrespective of the source and origins of the ideas contained in the draft resolution or in the plan before the Committee, it was an irrefutable fact that those ideas were sound and were supported by the great majority of the Members of the Organization.

42. It was precisely the part of the problem with which the Committee was at present concerned which had compelled the postponement of the nineteenth regular session of the General Assembly to 1 December 1964. A number of representatives of the Afro-Asian community had been asked to study the question and, as a result of their report, the African and Asian countries had set up a group of twelve members which had produced the Afro-Asian plan. That plan had been adopted unanimously, with one modification relating to the contribution of the highly-developed countries.

43. The main ideas of the original plan had been as follows: All Members should agree that the question of the applicability of Article 19 of the Charter should not be raised, that a comprehensive review of the whole question of peace-keeping operations should be undertaken, that financial solvency should be restored by means of voluntary contributions by the entire membership of the Organization and, lastly, that those provisions should not be construed as any change in the basic positions of any Member State, but as a co-operative effort by all Member States. The second plan incorporated the essential ideas of the first; it added that the provisions contained in the plan should serve as a basis for settlement, and expressed the hope that the voluntary contributions would be made as early as possible and that Members,

[8] *Ibid.*

particularly the highly developed countries, would make such substantial contributions as would result in the solution of the financial situation of the Organization of the United Nations.

44. The draft resolution which had been prepared during January had been based essentially on the Afro-Asian plan. The draft had received the attention of the group of twelve members which had stated that, if the Secretary-General or the President of the Assembly could obtain the agreement of the parties concerned, the group of twelve members would be happy to accept such a conclusion. It was from that first draft resolution that he had taken the draft which he had submitted to the Committee (A/AC.121/L.1) and which he would like to explain.

45. First, the plan which he had submitted to the Committee in the draft was a very sincere attempt to bring about a compromise solution. Secondly, its aim was to restore the financial solvency of the Organization and to solve its financial difficulties. Thirdly, it was devised to avoid a "confrontation", or, in other words, a clash between or among the permanent members of the Security Council. Fourthly, it did not aim to set aside an Article of the Charter, but rather to avoid the invocation of an Article which would not solve the financial difficulties of the Organization but would make it even more difficult to obtain the help of all concerned. The universal fear was that the Organization itself would be in danger of dissolution if Article 19 of the Charter were to be invoked. That was why the Afro-Asian plan stipulated that Article 19 should not be invoked and that the financial difficulties should be settled by co-operation and compromise.

46. He emphasized that the plan had been submitted as a basis for negotiation and not as a final draft resolution worded in exact terms. What mattered above all was the substance and he would be grateful to the representatives who had participated directly in preparing the plan, particularly the representatives of Afghanistan, Algeria and Burma, if they would point out any errors he might have committed in his interpretation of the plan or of the essential ideas it embodied.

47. Turning to the suggestion made by the representative of the United States, at the 5th meeting, he said that he could not accept it because it ran counter to one of the central ideas of the Afro-Asian plan. The deletion of the paragraph in question might very well jeopardize the payment of voluntary contributions by States. Moreover, it was not correct to say that, since the Assembly was not in session, the Committee could not deal with the question of Article 19. The Committee had been established to find, *inter alia*, a solution to the financial problem of the United Nations and, if Article 19 was an obstacle to the solution of that problem, then the Committee must consider ways of overcoming that obstacle. The Afro-Asian compromise did not propose that an Article of the Charter should be ignored or deleted; it simply recommended that it should not be made an issue, so that the financial solvency of the United Nations might be restored.

48. The statement of the representative of the Soviet Union at the 4th meeting to the effect that operative paragraph 1 of the Ethiopian draft resolution materially altered the plan seemed to be rather far-fetched. It was clear that the different texts expressed but a single idea, namely, that in order to avoid a confrontation the question of Article 19 should not be raised. There was no substantive difference. It was the desire of the great majority of the members of the Committee and of the General Assembly that Article 19 should not stand in the way of a settlement of the financial crisis of the United Nations, and it was difficult to believe that the mere wording of a paragraph would be a valid reason for rejecting the whole plan. It could hardly be maintained that there was any fundamental difference between saying "Article 19 should not be raised" and saying "a confrontation should be avoided on the applicability of Article 19"; in fact, "a confrontation should be avoided" meant precisely that Article 19 should not be raised, for only in a confrontation would that Article be raised. In other words, the question of the applicability of Article 19 could not be raised because there was to be no confrontation. He appealed to the representative of the Soviet Union not to insist on the choice of a particular vocabulary and stressed that the draft resolution before the Committee provided him with all the necessary safeguards.

49. It should also be noted that the Afro-Asian plan had been presented, not in the form of a resolution, but in the form of a statement containing elements as a basis for negotiation. Since all the elements of the compromise plan had been included in the draft resolution, he appealed to the Soviet Union delegation not to nullify the generous and commendable gesture it had made in accepting the plan by insisting at that juncture on the particular wording of a sentence or a paragraph.

50. With regard to the other aspect of the Committee's mandate, it was encouraging to note that, while there remained a divergence of views on certain aspects of the future peace-keeping operations, there was a clear tendency towards agreement. The statements which had been made so far seemed to make it clear that an operation similar to that of the Congo could not be undertaken without at least the acquiescence of the permanent members of the Security Council. In the circumstances, it would perhaps be wise to wait until all Member States could take part in the consideration of that vital question. If, however, it was the desire of the majority of the Committee to evolve guidelines and general principles, his delegation would study closely any suggestions or proposals made. The reason it was hesitant to express its views on the provisions of the Charter at that juncture was that the experience of the United Nations with regard to peace-keeping operations was very limited. Moreover, such a vital matter required time for a proper analysis and an appreciation of the positions of the permanent members of the Security Council. Such an analysis would make it possible to determine whether it was preferable to deal with the questions on an *ad hoc* basis or to use the principles and guidelines which the Committee intended to formulate. At any rate, whichever might be the better approach, his delegation would give careful consideration to all the proposals. For the moment, time was needed to determine whether the purely *ad hoc* arrangement at present obtaining was preferable or whether guiding principles and certain agreements would be necessary.

51. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he did not think that it was the appropriate moment to analyse in detail the various statements which had been made. His delegation reserved the right to revert later to certain statements made in the Committee with which it disagreed and which it could not accept because they represented an attempt to interpret the Charter in an arbitrary manner.

52. The appeal that the Ethiopian representative had made to his delegation was somewhat contradictory in the light of the analysis which that representative himself had offered. The appeal might be justified if it were a question of amending operative paragraph 1 of the draft, in accordance with a proposal put forward by the USSR delegation. The fact was, however, that it was not his delegation which was responsible for the attempt to amend the Afro-Asian draft of 30 December 1964 and the Ethiopian representative himself had proved that when he had compared the texts.

53. Nevertheless, he noted with great satisfaction that the Ethiopian representative had repeated several times that there was no substantive difference between the main ideas in his draft resolution and those in the plan of 30 December 1964. If all showed the same patience as did the Ethiopian representative, the misunderstanding which had arisen would undoubtedly be cleared up once and for all. The representative of Ethiopia had said that the proposed text of operative paragraph 1 of his draft resolution and the corresponding part of the Afro-Asian plan of 30 December 1964 were identical. That being so, it would be easy to settle the matter by agreeing to adopt a text which had already been adopted, which expressed the same idea as the draft resolution and which apparently contained no controversial element. He could not see why it had been necessary to amend the

text appearing in the plan of 30 December 1964. Much evidence had been put forward to demonstrate that what was proposed in operative paragraph 1 of the draft corresponded to the provisions of the plan of 30 December 1964, but nothing had been said to explain why it had been necessary to amend the wording. His delegation was not pressing for an amendment of the provisions of the Afro-Asian plan; it merely urged that those provisions, which were clear and understood by all, should be retained. If any additional evidence was submitted in support of the text which now appeared in paragraph 1 of the Ethiopian draft resolution, his delegation was prepared to make a further investigation and to show that the assertions made by the Soviet representative at the meeting of the Committee on 27 April (4th meeting) were justified and that what was involved was a material alteration in the text as compared with what had been proposed in the document of 30 December 1964. Before presenting any evidence in support of that opinion, however, he would wait until he had heard the reasons why a different wording had been proposed in document A/AC.121/L.1.

54. For the moment, the main task was to retain the key element of the Afro-Asian plan, namely, that the adoption of the provisions laid down in that plan would constitute a guarantee against the repetition of the unlawful and "provocative" attempts to apply Article 19 of the Charter to the Soviet Union and to other countries in respect of a situation which was not covered by that Article. His delegation was prepared to listen to any additional explanations in that regard, but the remarks of the Ethiopian representative in no way altered the position taken by his delegation at the 4th meeting.

55. Mr. FINGER (United States of America) said that his delegation would not reply forthwith to the appeal from the representative of Ethiopia because it wished first to study his statement very carefully.

56. Mr. GEBRE-EGZY (Ethiopia) assured the representative of the Soviet Union that he had not made any amendment to the Afro-Asian plan. He maintained that it was possible to express an idea in several different ways. There was nothing reprehensible about not formulating an idea in the exact way in which it had originally been conceived. The Ethiopian draft resolution had not been drawn up word for word by his delegation; the words had been taken from the plan and from another draft resolution. Moreover, he had invited those who were most closely concerned with the question to correct him. He considered that, in the course of the Committee's work, it was possible for representatives to use different expressions and, in his opinion, the central idea of the paragraph was exactly the same as in the original plan.

57. The CHAIRMAN said that the Committee was about to enter into another series of consultations, but that that need not prevent its meeting. He was leaving for Europe on 11 May and would be back by the end of May. In the meantime, the Argentine representative would take the Chair to begin with, and if there were further meetings the alphabetical order would be followed. The Secretary-General would be present and the consultations would continue. It was to be hoped that those consultations would bring the different points of view closer together and thus make it possible, during the next series of formal meetings, to speak precisely on what kind of agreement, whether interim or permanent, the Committee would reach. He assured the Committee that, even during his journey, he would pursue the work of the Committee in accordance with paragraph 1 of General Assembly resolution 2006 (XIX).

The meeting rose at 5.25 p.m.

Seventh meeting

held on Monday, 17 May 1965, at 3.50 p.m.

[A/AC.121/SR.7]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. Garcia del Solar (Argentina) took the Chair.

1. Mr. SEYDOUX (France), elaborating on his preliminary statement of 26 April (3rd meeting), welcomed the fact that the great majority of the speakers had concentrated on a detailed analysis of the relevant provisions of the United Nations Charter, thus recognizing that it was by complying with the provisions of that international treaty that a solution to the present difficulties might be found. The distinction that certain delegations had sought to make between a "static" conception based on a strict interpretation of international treaties and a "dynamic" interpretation which would adapt the United Nations to supposedly changing circumstances implied a value judgement based on criteria which, to say the least, were questionable and he, in common with other members, doubted whether such a distinction had any real value.

2. In that connexion, his delegation fully supported the point of view of the representative of Venezuela, who, at the 5th meeting, had stated that the Charter of the United Nations was a multilateral treaty which could be revised only by the procedure set out in the Charter itself and accepted by all its signatories.

3. In point of fact, the system of the Charter was realistically suited to present international circumstances, which, just as in 1945, justified and required the existence of an organ such as the General Assembly, in which States met on a completely equal footing and worked together to give expression to world public opinion. But when a decision had to be made on steps to be taken in the cause of peace, the capacity of the different States to contribute to international security had to be taken into account, today as much as in 1945. The powers vested in the Security Council by the Charter were a recognition of that fact.

4. His Government considered that, taking into account the present structure of international relations, the system laid down in the Charter achieved a prudent balance. The present crisis showed, moreover, what happened when attempts were made to circumvent one of the basic principles underlying the Charter.

5. Turning once again to the problem of the division of powers between the Security Council and the General Assembly, he said that in his delegation's view it was essential to define as precisely as possible the word "action" as it was used in the last sentence of Article 11, paragraph 2 of the Charter. Some delegations, basing themselves on the advisory opinion of the International Court of Justice of 20 July 1962,[t] limited the exclusive power of the Security Council merely to the so-called enforcement actions provided for under Chapter VII of the Charter. According to those same delegations, an action would not be an enforcement action when the proposed operation had the following characteristics: Firstly, when it was organized at the request, or at least with the consent, of the States concerned and in particular of the State on whose territory the operation was to take place; secondly, when the forces used, though consisting of military units, had the right to use their weapons only in very specific cases (for example, self-defence, "in the last resort" or "for a limited period of time and in given circumstances"); thirdly, *a fortiori*, when the object of the operation was to help maintain internal order, particularly by interposing its forces between certain parties, groups or factions, and not to prevent action by a third State. What would thus be involved were police operations of a special kind which, since they could not have been foreseen by the drafters of the Charter, would not be covered by Article 11 (paragraph 2). Lying outside the scope of Chapter VII, they would come under either Chapter VI or a yet unwritten chapter VI A. According

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[t] *Certain expenses of the United Nations (Article 17, paragraph 22, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

to the proponents of that thesis, the General Assembly was competent to deal with operations of that type.

6. His delegation could not subscribe to such a concept, which did not take the following considerations into account. In the first place, to define, implicitly or explicitly, enforcement actions as only those operations directed against a State was to establish a distinction which was not justified either by the Charter or by experience. Recent history, indeed, showed that internal conflicts easily degenerated into international conflicts, even when in theory they remained internal conflicts. The phenomenon of "volunteers" showed how arbitrary such a distinction could be, and the fact that the official Government of the country principally concerned agreed to the presence of a United Nations "force" on its territory did not suffice to make internal upheavals out of conflicts which for practical purposes were international in character. Furthermore, it was not enough to say that the United Nations force would be authorized to use its weapons only in exceptional circumstances for the action in question not to be an enforcement action. The history of United Nations operations showed that the concept of self-defence could be interpreted in a very broad manner. Moreover, the possibility could not be excluded that a peace-keeping force might itself be tempted to create conditions for its own self-defence or, above all, that there might be risks inherent in a concatenation of uncontrollable circumstances. In more general terms, the scope of the force's mandate, and sometimes its very nature, were subject to change in the course of the operation. An operation which did not "in principle" involve the use of force could in fact become an enforcement measure, as had been the case in the Congo when the "Blue Helmets" had put down the secession of Katanga. It was therefore wiser to recognize that enforcement action occurred whenever the use of force was provided for, even where it was restricted to certain hypothetical circumstances. Finally, if the concept of enforcement action was to be taken as a criterion for Security Council jurisdiction, the Security Council and the General Assembly might become involved in serious conflicts of jurisdiction. When the establishment of a United Nations force was contemplated, there could be some doubt at the outset concerning the nature of its mandate, some countries for example considering that an act of aggression had been committed, while others might consider the situation as calling merely for a simple police operation, and lengthy discussions might be necessary to determine the precise nature of the action to be taken.

7. For all those reasons, his delegation believed that the action referred to in Article 11, paragraph 2, included not only the measures provided for in Articles 41 and 42 of Chapter VII of the Charter but also any measure for the establishment of a force, whether military or not, to intervene against a State or within a State, even where the latter consented to the intervention and the effective use of arms was theoretically limited to restricted or exceptional circumstances. That definition did not include operations for the purpose of observation, supervision or inquiry, even if the participants in them were military personnel and even if there were large numbers of them, provided, however, that they were not constituted into units under military command and that they were not responsible for their own security, which was a matter for the local forces. In short, his delegation could support the suggestion made by the representative of India at the fourth meeting that the dispatch of armed personnel otherwise than for the purpose of observation or investigation should be within the exclusive power of the Security Council.

8. Turning to the question of the residual power of the General Assembly and of the meaning to be given to the provisions of Article 11, paragraph 2, and particularly of Article 14 of the Charter, he emphasized that Article 14 expressly recognized that the General Assembly might "recommend measures for the peaceful adjustment of any situation". The definition given by the Indian representative, at the 4th meeting, which he had already quoted, brought out the importance of the area in which the General Assembly could take initiatives that were far from being merely what the International Court of Justice called hortatory. There was perhaps too great a tendency to lay stress on the so-called peace-keeping operations. In its desire to play an important role, the General Assembly should not overlook the fruitful procedures which it was entitled to recommend in order to consider only undertakings of greater scope, which, moreover, might become necessary only if, at the time when a dispute was just emerging, no effort was made to put into effect the measures provided for under Article 14 of the Charter —measures which could make it unnecessary for the United Nations to have to resort to much more difficult means of implementation.

9. In that connexion, his delegation considered that the measures cited by the Swedish representative, at the 3rd meeting (observation missions along a frontier, supervision of a truce or armistice, missions of mediation or conciliation, inquiries and fact-finding missions), were peace-keeping operations which the General Assembly was entitled to recommend to the parties concerned, either directly or through the Security Council. It was true that there were many intermediary stages between action on the one hand and observation, supervision or inquiry on the other, but it should not be impossible to define, at least *a contrario*, what was meant by "measures for the peaceful adjustment of any situation".

10. Moreover, as the representative of the Soviet Union had pointed out at the 1st meeting, there was nothing to prevent the General Assembly from reconsidering a question and making recommendations to the Security Council, within the limits of its powers, if the Council was unable to take a decision. In the opinion of his delegation, the General Assembly could in fact make recommendations not only before but also after the Security Council had itself discussed the question without being able to reach a conclusion. In doing so, the Assembly should not of course exceed the powers conferred upon it by the Charter, and Articles 11, 14 and 35 did not give it the right to take the Security Council's place.

11. The representative of Mexico, describing the relationship between the powers of the Security Council and those of the General Assembly as laid down in the Charter, said (2nd meeting) that the powers of the two organs should be considered as complementing and not contradicting each other. For its part, his delegation interpreted that principle as meaning that the Assembly could not arrogate to itself powers which the Charter reserved for the Security Council, since both organs had distinct and not overlapping powers.

12. As for the financing of peace-keeping operations, his delegation considered that it was the Security Council's responsibility to specify how the operation it had decided to recommend should be financed, either in accordance with a scale to be decided upon when the expenses were apportioned among all the Member States, or in accordance with a system of voluntary contributions. It would be expedient to establish specific rules and procedures in that regard at a later stage.

13. Under Article 29 of the Charter, the Security Council had the right to establish such subsidiary organs as it deemed necessary for the performance of its functions. There was thus no reason why the Council should not establish a committee to assist it in the performance of its financial function. Since the membership of the Security Council would soon be increased to fifteen and since the composition of the proposed committee could be fixed on a broader basis than that of the Security Council, it should be possible to find a solution which, while preserving the Council's power of decision intact, would in practice permit a dialogue between the Council and the most representative and interested elements within the General Assembly.

14. With regard to the idea put forward by certain delegations, that a permanent member of the Council could be excused from participating in the financing of a peace-keeping operation on which it had abstained, his delegation considered that once the financing of an operation had been decided by the Council it was inconceivable that the permanent members should enjoy such a privilege. For if the Council deemed it

necessary to provide for compulsory financing, that presupposed that no permanent member was opposed to such a formula, and it would be difficult to imagine how a Member State which agreed to impose a financial burden on all the other Members of the United Nations could at the same time be excused from contributing. In any event, it was only after agreement had been reached on which organ was competent to rule on the question of financing that any useful examination could be undertaken of the rules and procedures to be established. It was questionable, indeed, in view of the crisis now facing the United Nations and particularly the reasons for that crisis, whether political situations could really arise in the future, except for the cases provided for under Chapter VII, in which the Security Council, whatever the positions of principle might be, would choose a universal method of financing in preference to financing by the parties concerned or by means of voluntary contributions.

15. So far as the military aspect of peace-keeping operations was concerned, his Government considered that there was no solution other than the implementation of the relevant articles of the Charter, in other words, Article 43 and the following articles. It was in that spirit that it would examine the proposals put forward by the Soviet representative at the 2nd meeting.

16. His delegation had considered it necessary to present its point of view as fully as possible, by advancing not only the legal arguments on which its position was based but also by the political considerations which justified a strict observance of the provisions of the Charter, because it believed that peace-keeping operations should not be viewed in a context which did not take into account the limits which the drafters of the Charter had set on the United Nations and which merely reflected the realities of international life. To regard the development of an increasingly efficient system of United Nations intervention as a panacea would be to over-simplify the problem. Harmony in the international community was of course dependent upon the development of international co-operation, but it also required observance of the principle of non-intervention in the internal affairs of States. If it was the duty of States to base their mutual relations on that principle, the same was true of the United Nations, which could not, without destroying the hopes that had been placed in it, allow itself to be drawn into undertakings which disregarded the rights of its Members.

The meeting rose at 4.20 p.m.

Eighth meeting

held on Tuesday, 25 May 1965, at 11.25 a.m.

[A/AC.121/SR.8]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. McCarthy (Australia) took the Chair.

1. Mr. FEDORENKO (Union of Soviet Socialist Republics) said that at the present stage of the Committee's work he wished to make some comments in connexion with the discussion on the question of increasing the effectiveness of the United Nations in maintaining international peace and security.

2. First, he welcomed the fact that, as the Argentine representative had pointed out, the Committee's discussions were being held in the light of day. Those who based their positions on the United Nations Charter had no reason to be afraid of expressing their views openly. The discussion must remain open, with an exchange of views of which all Members of the United Nations should learn, because only in that way could the problems before the Committee be solved.

3. The first stages of the discussions had yielded some positive results. That was because the aim of certain Western countries, headed by the United States, to undermine and circumvent the Security Council, which held primary responsibility for the maintenance of international peace and security, had met with growing resistance from those genuinely interested in strengthening the United Nations. More and more representatives were stressing the need, in the present situation, for strict compliance with the Charter as the only means of strengthening the effectiveness of the United Nations in the maintenance of international peace and security.

4. His delegation had been gratified by the convincing statements of the representatives of Romania, Poland, Czechoslovakia and Hungary, and was sympathetic to many of the points made by the representatives of Yugoslavia, India, Afghanistan, Mexico and others. The statement by the French representative at the previous meeting, stressing the firm and inescapable nature of the provisions of the Charter, deserved the most careful consideration. That was particularly necessary in the light of suggestions that the Charter required revision and of the attacks on the rule of unanimity between the permanent members of the Security Council. His delegation opposed and would continue to oppose any rupturing of the Charter, such as that desired by the imperialist Powers in their attempts to convert the United Nations into a tool of their policies. The Soviet Union, along with other States, had become a Member of the United Nations under the specific conditions stated in the Charter; it had unswervingly adhered to those conditions during the twenty years of the Organization's existence, and any attempt to impose new conditions on it would fail. However, it was not only the founder Members of the United Nations which were obliged to abide by the Charter. The newer Members had also given a solemn promise to respect it. The trouble was, not that the Charter was imperfect, but that its possibilities had not always been utilized and implemented. Moreover, its principles were often flagrantly flouted by the imperialist Powers, principally the United States, and the United Nations flag had been used as a cover for the actions of colonizers and aggressors. The United States was now openly, in flagrant violation of the Charter, committing aggression in Viet-Nam, the Congo, the Dominican Republic and elsewhere.

5. Under the Charter, all Members were obliged to refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of any State. Yet the United States continued its barbaric bombing of a sovereign country, the Democratic Republic of Viet-Nam. It daily extended its dirty war in South Viet-Nam. The Charter prohibited interference in the domestic affairs of other countries; and the people of South Viet-Nam clearly had a right to settle its fate itself, in accordance with the programme of the National Liberation Front, its only authentic representative. However, the United States was interfering in its internal affairs, thus violating the 1954 Geneva Agreements on Indo-China. Despite those Agreements, the United States had turned South Viet-Nam into a United States military base, occupying it, blocking the democratic elections in Viet-Nam which should have led to the country's unification, and setting up its own puppets and dictators who were hated by the people but were faithful lackeys of United States imperialism.

6. By no manœuvres or tricks could the United States avoid responsibility for the dangerous course of events in Indo-China and for its crimes in Viet-Nam. The Soviet Union sympathized deeply with the South Viet-Namese people in its struggle for liberation, and would continue to give the necessary aid to the Democratic Republic of Viet-Nam.

7. It was precisely in actions taken in violation of the Charter that the reasons for the inability of the United Nations to carry out its duties, and for its present difficulties, should be sought.

8. The Soviet Union would spare no effort to increase the effectiveness of the United Nations, which it regarded as an important instrument for international co-operation and for the maintenance of international peace and security. That had been stressed by A. N. Kosygin, the Chairman of the Council of Ministers of the USSR, speaking in the Supreme Soviet. The Soviet Minister for Foreign Affairs, A. A. Gromyko, had said, during the nineteenth session of the General Assembly, that there would be no lack of

readiness on his country's part to utilize the United Nations for the maintenance of peace and the relaxation of international tension, for the struggle against the remnants of colonialism and racism, for international co-operation and for the development of relations between States with different social systems, on the basis of peaceful coexistence.

9. His country had shown the greatest possible goodwill in the efforts to settle the present financial difficulties of the United Nations. It had accepted the proposal of the Afro-Asian countries of 30 December 1964, thus making a very important contribution towards a reasonable solution in the interest of the overwhelming majority of Member States. In so doing, it had given evidence of its friendly attitude towards the countries of Asia and Africa and of its sincere desire to strengthen the United Nations. For the Soviet delegation, that proposal was a compromise which did not wholly satisfy it. Nevertheless, the important point was to ensure beyond all doubt that Article 19 of the Charter would not be invoked for provocative purposes and that the General Assembly could resume its normal activities. Firm guarantees to that effect appeared in the provision, in the Afro-Asian plan, that "the question of the applicability of Article 19 should not be raised". A repetition of what had happened at the nineteenth session of the General Assembly could thereby be prevented. Accordingly, he could not agree that the provision in question should be replaced by the formula proposed by the Ethiopian representative in his draft resolution (A/AC.121/L.1), and he confirmed his delegation's previous comments on that subject (4th and 6th meetings).

10. The United States representative had attempted to convey the impression that it was not the United States but the Soviet Union which had opposed a proposal having the support of the majority of Member States. However, at the nineteenth session of the General Assembly there had been only one such proposal, that of the African and Asian countries of 30 December 1964; and unfortunately the United States had rejected it. That was why the General Assembly had failed to settle the financial difficulties of the United Nations at its nineteenth session.

11. There were two aspects to the problems facing the United Nations: the narrow aspect of its present financial difficulties, and the broader aspect of the competence of particular United Nations bodies in taking decisions. He need hardly repeat that the first aspect had been artificially inflated by the United States, and that his country was in no way bound to pay expenses in respect of illegal operations undertaken in flagrant violation of the Charter. His Government conscientiously fulfilled all its obligations under the Charter, financial or otherwise, and owed no "arrears". It could not accept as legitimate the so-called financial obligations arising from the cost of the United Nations operations in the Congo and the Middle East. Nevertheless, bearing in mind the present financial difficulties, his country had been and still was willing to accept the proposal of the Afro-Asian countries of 30 December 1964. The payment by the Soviet Union of a voluntary contribution—the size of which the Soviet Government would itself determine—in accordance with the Afro-Asian proposal of 30 December 1964 must, of course, entirely do away with the artificial question of the so-called "arrears" and the provocative application of Article 19 of the Charter to countries to which it was being sought illegally to allocate those "arrears".

12. As had been repeatedly stressed, his Government would not accept any advice concerning the amount of its voluntary contribution. If the United States and other Western Powers attempted to turn the issue into a political plaything and prevent a settlement in line with the proposal of the Afro-Asian countries of 30 December 1964, the Soviet Union would return to its earlier position and make no contribution whatsoever. The Afro-Asian proposal had the agreement of the overwhelming majority of Member States, and if the United States would accept it, the way to an understanding would be open.

13. He would again stress that an essential condition for such an extreme measure as the use of United Nations armed forces should always be strict compliance with all provisions of the Charter concerning the use of force for the maintenance or restoration of international peace. On that question, the Charter drew a clear line between the competence of the Security Council and that of the General Assembly. Under Article 24, the Security Council had "primary responsibility for the maintenance of international peace and security", and under Article 25 Member States agreed to accept and carry out its decisions. The essence of that primary responsibility was that the Security Council had sole power, under the Charter, to decide all questions concerned with taking action for the maintenance of international peace and security, which included operations using United Nations armed forces. As Article 39 stated, it was the Security Council which determined the existence of any threat to the peace, breach of the peace, or act of aggression and should make recommendations or decide what measures should be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security. All the subsequent articles in Chapter VII confirmed those provisions. For example, Article 48 provided that the action required to carry out the decisions of the Security Council for the maintenance of international peace and security should be taken by all the Members of the United Nations or by some of them, "as the Security Council may determine". Articles 5 and 50 both referred to "preventive or enforcement" action to be taken by the Security Council and by no other body.

14. The Charter was equally categorical with regard to action at the regional level. Under Article 53, the Security Council could utilize regional arrangements or agencies for enforcement action "under its authority". The Article specifically provided that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council" (with the exception of measures against former enemy States). Article 54 stated that the Council "shall at all times be kept fully informed" of activities at the regional level undertaken or contemplated for the maintenance of international peace and security. Thus the Council was supreme with regard to regional measures also, and its rights in that respect were interpreted by the Charter as being inalienable and exclusive. In that connexion, the attempt to set up, at the behest of the United States, a so-called "inter-American force" to carry out enforcement action against the Dominican Republic, a sovereign State Member of the United Nations, was not only a screen for United States armed intervention in that small country, but was fraught with the most serious consequences for the future of the United Nations. It represented a flagrant violation of the Charter, unprecedented lawlessness, and a challenge to the Security Council, without whose permission, according to Article 53, regional organizations had no right to undertake enforcement action. The unlawful actions of the United States could lead to arbitrariness, to the complete collapse of United Nations responsibility for the maintenance of international peace and security under the Charter, and to the destruction of the United Nations.

15. As for the General Assembly, his delegation had pointed out on many occasions that, under Article 11 of the Charter, the Assembly was empowered to discuss any questions relating to the maintenance of international peace and security and to make recommendations with regard to any such questions, but any such question on which action was necessary should be referred to the Security Council by the General Assembly either before or after discussion. Obviously, any enforcement measures within the meaning of the Charter constituted "action". The Soviet Union was not attempting, as the United States representative had tried to suggest, to deny any rights to the General Assembly with regard to the maintenance of international peace and security. On the contrary, it favoured full use of those rights, as provided, in particular, by Articles 11, 12, 14 and 35 of the Charter. Any question on which it was necessary to take action had, however, to be referred to the Security Council; and if the Council was for any reason unable to take a decision, there was nothing to prevent the General Assembly from recon-

sidering the question and making new recommendations. It was therefore quite clear that, under the Charter, the only organ empowered to take action for the maintenance or restoration of international peace and security was the Security Council. In that connexion, the Council's competence included the taking of decisions on all questions dealing with the creation of United Nations armed forces, the determination of their tasks, the membership and number of such forces, the command of the operations, the structure of the command, the length of the forces' stay in the area of operations, and the financing of the expenses involved.

16. It was sometimes alleged that the provisions granting the Security Council the exclusive right to act in such cases were undemocratic; but it should be remembered that, in signing the Charter, all Members of the United Nations had agreed, as stated in Article 24, that in carrying out its duties the Security Council should act on their behalf. Attacks had also been levelled against one of the basic principles of the Charter—the principle of unanimity between the permanent members of the Security Council. That principle in fact provided the only basis which could ensure that United Nations forces were not used in a narrow, unilateral fashion in the interests of any individual country or group of countries—a procedure which could not strengthen peace but could lead only to increased tension. That basis was the agreement of all the permanent members of the Security Council on all basic issues relating to the creation, use and financing, in each individual case, of United Nations armed forces. The Soviet Union, as a permanent member of the Council, had stood firm in the defence of small countries against aggressive designs on the part of the imperialist Powers, and in the defence of the just cause of national freedom and independence as against colonizers and racists.

17. Certain delegations had tried to draw a distinction between operations for the maintenance of peace and enforcement actions proper. Such a distinction proceeded from the supposition that the United Nations could employ or dispatch armed forces for actions not falling within the scope of Chapter VII of the Charter. The representative of Brazil had in fact proposed (4th meeting) that the Charter should be supplemented by a further chapter dealing with that type of operation, and that such a chapter should be placed between Chapter VI and Chapter VII. It was possible to agree or to disagree with such a proposal, but at least it was a direct proposal to change the Charter and not an attempt to include in it concepts which were alien to it. The very making of such a proposal further confirmed that assertions to the effect that there might be some operations, connected with the use of United Nations armed forces, which would come under Chapter VI were incompatible with the Charter. Any use whatsoever of United Nations armed forces constituted enforcement action and had therefore to be governed by the relevant provisions of Chapter VII of the Charter. None of the provisions of Chapter VI gave any indication that the measures to be used for the pacific settlement of disputes could include any action by the United Nations which might involve the use of armed forces. The agreement, or otherwise, of the countries concerned to the presence of United Nations armed forces on their territory could not change the nature of the operations themselves—the use of armed forces on behalf of the United Nations. The governing criterion was, according to the Charter, that armed forces should be used only where it was necessary to avert or halt an act of armed aggression against the territorial independence, integrity and sovereignty of the country concerned.

18. Experience had shown that so far, whenever United Nations armed forces had proceeded to a country with the agreement or at the request of its Government, such action had been caused by the aggressive acts of imperialist Powers and was due to the desire of the country concerned to defend its sovereignty and territorial and political independence against foreign aggression and intervention.

19. The political nature of the attempts to assert that United Nations armed forces could be dispatched on the basis of Chapter VI was very clear. The United States and some of its allies had tried and were trying to use United Nations armed forces in the fight against national liberation movements, and for interference in the internal affairs of other countries under the cover of so-called agreement by puppet régimes, frequently set up, to the presence of United Nations forces on their territories.

20. For further clarification, it should be recalled that reference was often openly made to so-called police actions, or the dispatch of United Nations police forces to various countries. It was the function of a police force to maintain internal order; but such a function was not, and never had been, that of the United Nations. The maintenance of internal order in a country fell within the exclusive competence of the sovereign State concerned, and recognition of the principle of State sovereignty was one of the basic provisions of the Charter. His delegation therefore fully and categorically rejected any suggestion that it was possible, on the basis of Chapter VI of the Charter, to take any decisions involving the use of armed forces on behalf of the United Nations.

21. The Soviet delegation had given to the Committee a series of explanations concerning the Soviet proposal, included in document A/AC.121/2, for the use of the Military Staff Committee. The Soviet Government considered that that Committee should include a large number of States—not merely the non-permanent members of the Security Council, but also those Members of the United Nations which, although not members of the Council, might supply troops and other facilities for United Nations operations. The representatives of such countries should be associated not only in the general strategic leadership but also in the command of United Nations forces. His delegation had pointed out that the Military Staff Committee, pursuant to Article 47 of the Charter, could also establish its own regional sub-committees, with the participation of the countries concerned, for various regions of the world, after consultation with appropriate regional agencies—in the case of Africa, for example, with the Organization of African Unity. The Soviet Union proposed that the Military Staff Committee, without awaiting the conclusion of the work of the Special Committee on Peace-keeping Operations, should embark, in consultation with all Members of the United Nations concerned, on the preparation of a draft of the basic provisions of the special agreements to be negotiated between Member States and the Security Council, in accordance with Article 43 of the Charter, for presentation to the Council. His delegation noted with satisfaction that those proposals had received a favourable response from many members of the Committee. The representative of Czechoslovakia had also, at the 3rd meeting, put forward certain ideas and proposals regarding the principles upon which such agreements should be based; and those constructive proposals, which were in line with the Charter, merited full support.

22. With regard to the Committee's discussion of the question of the command of United Nations armed forces, his Government favoured a procedure whereby one commanding officer was appointed for each specific operation. The officer should be appointed by the Security Council on the recommendation of the Military Staff Committee, following consultations with the Governments of the countries directly concerned, including those Governments which were providing troops and other facilities for the operation. Should contingents from the socialist countries participate in United Nations armed forces, their representatives would have to be given responsible posts on the commanding officer's staff.

23. He also wished to point out that the Soviet Union's position with regard to the financing of United Nations operations for the maintenance of international peace and security—i.e., that all such questions should be decided by the Security Council—made it possible for the most appropriate method of financing to be selected in each particular case. Those methods could include the charging of the expenses to the aggressor, the distribution of expenses among States Members of the United Nations, voluntary contributions, and payment of the expenses by the countries directly concerned. Such broad possibilities would make it less likely that the

Security Council would be unable to take decisions with regard to operations for the maintenance of international peace and security simply because some members of the Security Council, for political or other reasons, did not find it possible to take part in the financing of the operations, even though they might have no objection to the operations themselves.

24. The views expressed by his delegation during the Committee's work had clearly taken into account the wishes of the peace-loving countries of Asia, Africa and Latin America, which had legitimately brought up the question of their more extensive participation in decisions connected with the mounting of United Nations operations for the maintenance of international peace and security. It was well known that his Government supported the demands of the Asian and African countries for an expansion in the membership of the Security Council so as to give them greater opportunities for taking a direct part in the Council's work for the maintenance of international peace. If that question were settled in accordance with General Assembly resolutions, the countries of Asia, Africa and Latin America would occupy seven of the Council's fifteen seats. It was naturally a welcome development that already, in the Council, the voices of the young States were being raised, ever more firmly and clearly, on behalf of the strengthening of peace, against colonialism, and in favour of a relaxation of international tension. The Soviet Union had been the first permanent member of the Security Council to ratify the relevant amendments to the Charter, and expected its example to be followed very shortly by other permanent members of the Council. If, as he was convinced would happen, the Council were shortly joined by new young States, defending the cause of peace and speaking out against imperialists and aggressors, against colonialism and racism, that would strengthen the Council and the United Nations as a whole and increase the Council's effectiveness as an instrument for the maintenance of peace throughout the world.

25. Mr. PLIMPTON (United States of America), speaking in exercise of the right of reply, expressed regret that the Soviet representative had seen fit to use the Committee as a forum for further propaganda attacks on the United States. He had hoped that discussions could and would be confined to the serious problems before the Committee. He would not reply to the propaganda attacks, but would point out that the aggression in Viet-Nam was aggression from North Viet-Nam, and that as to the Dominican Republic, the voicing of the views of the Soviet representative had resulted in one vote—his own—for his draft resolution.

26. As to the past, just before the Assembly had convened, the suggestion for a voluntary fund by the representatives of Nigeria, Afghanistan, Venezuela and Norway had been rejected by the Soviet Union.

27. Later, the suggestion of the President of the Assembly for voluntary contributions before the Assembly reconvened had been rejected by the Soviet Union.

28. The suggestion of the Secretary-General on 29 December 1964 for voluntary contributions had been rejected by the Soviet Union.

29. The suggestion of the Algerian representative on 30 December 1964, referred to by the Soviet representative, had foundered because the Soviet Union had refused to tell the Secretary-General, in confidence, what voluntary contribution it was willing to make.

30. The Soviet Union was refusing to contribute to the costs of UNEF and ONUC.

31. As to UNEF, when the Security Council had been unable to act in the Suez crisis because of vetoes, the Soviet Union had supported the Security Council resolution, introduced by Yugoslavia, referring the crisis to the General Assembly, and had abstained from voting on the Assembly resolution requesting the Secretary-General to establish UNEF. There had been no votes against that resolution; the Soviet Union had abstained.

32. As to ONUC, the Congo operation had been authorized by the Security Council on 14 July 1960, by a resolution [143 (1960)] for which the Soviet Union had voted. The resolution authorized the Secretary-General to determine the composition of ONUC, and 22 July 1960, the Council commended him for what he had done by a resolution [145 (1960)] voted for by the Soviet Union in favour. And on 9 August 1960, the Council confirmed the Secretary-General's authority, and requested him to continue, by a resolution [146 (1960)] for which the Soviet Union voted. On 21 February 1961, the Council adopted a further resolution [161 (1961)] broadening the mandate of ONUC and reaffirming the three prior resolutions; the Soviet Union did not vote against it—it abstained. Finally on 24 November 1961 the Council, recalling the earlier Council resolutions and intervening Assembly resolutions, broadened ONUC's mandate by a resolution [161 (1961)] for which the Soviet Union voted. At no meeting of the Security Council had the USSR contended that the financing of the Congo operation should have been determined by the Security Council; by general agreement that question had been left to the General Assembly.

33. The Soviet representative had advanced a number of arguments about the powers of the General Assembly and the Security Council, but they were mainly theoretical, for both UNEF and ONUC had in effect been authorized by the Security Council. The Council had itself referred the Suez crisis to the General Assembly for its recommendations and had itself authorized the Congo operation and shown no interest in its financing. The Soviet arguments thus had no applicability to the two operations which the USSR had refused to pay for—a failure which had brought the United Nations to its present difficult situation.

34. The core of the USSR argument was that the Security Council alone was competent to decide upon the use of military forces by the United Nations—no matter how pacific their mission, or if only observers—and to decide how they were to be financed. It was clear that what the Soviet Union wanted was to have a veto over any involvement of any military forces at all.

35. The United States could not agree with the USSR theoretical arguments. All of them had been presented to the International Court of Justice and rejected by it in its advisory opinion of 20 July 1962 regarding certain expenses of the Organization, an opinion overwhelmingly accepted by the General Assembly in its resolution 1854 (XVII).

36. As to the arguments themselves, all agreed that, as provided in Article 24, the Council had primary responsibility for the maintenance of international peace and security. But the Soviet representative was trying to amend "primary" to "exclusive"—an amendment which no one interested in the powers of the membership at large would agree to.

37. The Soviet representative had said that there was nothing in the Charter authorizing the Assembly to act in that area. But Article 11, paragraph 2, did authorize the Assembly to discuss questions relating to the maintenance of peace and make recommendations in the area unless the Security Council was handling the matter and except that "any . . . question on which action is necessary shall be referred to the Security Council". "Action" had been held by the International Court of Justice to mean the sort of enforcement action contemplated by Chapter VII of the Charter, and not, as the Soviets claimed, the use of any sort of military forces for any purpose whatsoever.

38. Was it to be said that, if there were a veto in the Council, the Assembly was powerless to do, for example, what had been done in the case of UNEF, where, with the consent of the United Arab Republic, uniformed forces were patrolling a cease-fire line and keeping the peace? Was that forbidden by the Charter? The Soviet position did not have the support of Members who were really interested in peace more than in the veto.

39. The United States was interested in strengthening the United Nations, including the Security Council, which had recently proved its ability to handle certain matters satis-

factorily; but if the Council was tied up by a veto the United States could not believe that it was the intention of the Charter that the United Nations should be helpless.

40. Mr. FEDORENKO (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said it was understandable that the United States representative did not find the Soviet comments about United States action in Viet-Nam and the Dominican Republic very palatable; but it was obvious that, in a statement dealing with violations of the Charter, the USSR delegation could not omit all reference to the most recent United States actions which were contrary to the Charter. The facts were perfectly clear. The Soviet delegation regretted that the United States represntative had not seen his way to commenting constructively on the proposals which it had put forward earlier in the meeting.

41. The United States representative had attempted to justify his country's position, in a way that was now familiar in the United Nations; but he could not conceal the fact that the proposal made by the Afro-Asian group on 30 December 1964—which had been supported by the great majority of Member States—had come to nothing purely because of United States opposition. Intent upon imposing its own will, the United States had refused to accept a compromise satisfactory to most other Member States. The United States representative had given no explanation of his country's obstructionist attitude, and had merely presented recent events in a distorted manner.

42. That representative's references to the advisory opinion of the International Court of Justice were a case in point. The Soviet delegation did not wish to take up the Committee's time with a rebuttal of those arguments: the USSR had set out its position very clearly in document A/5777. In any event, it was futile to argue that, because the International Court of Justice had given its advisory opinion, the case of principle was settled. Its decisions were not binding on Member States, and General Assembly resolution 1854 (XVII) could not make them so. It had been recognized at the San Francisco Conference that no United Nations organ could enunciate binding interpretations of the Charter, and that, if differences arose regarding its interpretation, they must be overcome by amendments to the Charter itself—in other words, through negotiation and compromise. The United States representative, in referring to the advisory opinion, could have had only one aim in mind—to confuse the issue and to justify his own country's violations of the Charter.

43. The United States was not even consistent in its argument. It now maintained that the cost of peace-keeping operations must be shared by all Member States, in accordance with the advisory opinion of the International Court of Justice; but when it had used the United Nations flag as a cover for its own intervention in Korea in 1950, it had made not the slightest attempt to force other Member States to bear the cost of the operation. The United States memorandum of 8 October 1964 (A/5739) entirely ignored the main issue—namely, the circumstances in which the United Nations operations in the Congo and the Middle East had been undertaken. It was obvious that the United States really had no case at all.

44. Mr. AZZOUT (Algeria) pointed out that by resolution 2006 (XIX) the General Assembly had given the Special Committee two separate tasks: to help to find ways of overcoming the financial difficulties of the Organization, and to undertake a review of the whole question of peace-keeping operations. Although the two tasks were closely linked, there had been more progress with one than with the other. The position with regard to the former had changed since the adoption of the General Assembly resolution, for the Afro-Asian group, the President of the General Assembly and the Secretary-General had put forward proposals which should pave the way for the resumption of the nineteenth session on 1 September 1965. It was essential that the Assembly should resume its work, for its adjournment had been a serious blow to the prestige of the United Nations.

45. His delegation welcomed the fact that its views on that point were shared by the great majority of the Committee's members. The Committee would be able to congratulate itself on the resumption of the nineteenth session when that took place, and the adoption of the Afro-Asian plan for voluntary contributions would be a further step in the right direction.

46. The root cause of the Organization's present difficulties must be looked for in the difficulty it had in adapting itself to changing circumstances. As the representative of Algeria had pointed out at the 1322nd plenary meeting of the General Assembly on 26 January 1965, the Organization was faced with a political problem which went beyond all juridical and financial considerations—namely, the problem of whether the United Nations, as conceived in 1945, still met the needs of a world that had greatly changed. Any solution to its problems must be envisaged against the background of the situation in the world of today. It was obvious that it would not be easy to find an acceptable solution to the problems, but the Committee must face its task with determination and courage. In reviewing the whole question of peace-keeping operations, it must strive to define guiding principles which would make future decisions easier. That the Organization must return to normal operation was generally admitted; the point had also been clearly made in the communiqué published by President Tito and President Ben Bella at the conclusion of the Yugoslav President's recent visit to Algeria. The Committee's principal aim must be to enable the Organization to follow that course.

The meeting rose at 1.5 p.m.

Ninth meeting

held on Wednesday, 2 June 1965, at 3 p.m.
[A/AC.121/SR.9]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. Waldheim (Austria) took the Chair.

1. The CHAIRMAN drew attention to two new documents which had just been circulated, the report of the Secretary-General and the President of the General Assembly (A/AC.121/4) and a Mexican draft resolution (A/AC.121/L.2).

2. The SECRETARY-GENERAL conveyed to the Special Committee the regrets of the President of the General Assembly, who was absent from Headquarters, at his inability to preside over the meeting. On behalf of both the President and himself, he would like to make a few observations on their report. In accordance with the mandate entrusted to them by operative paragraph 1 of General Assembly resolution 2006 (XIX), they had undertaken extensive consultations on the question of peace-keeping operations and he wished to take the opportunity to express their appreciation of the courtesy and co-operation extended to them by Members in that connexion. They felt that those consultations had been helpful and that they had also benefited substantially from the formal meetings of the Committee. In the report, they had tried to present as complete a picture as possible of their understanding of the differing views expressed with regard to the various aspects of the problem rather than submit a mere factual account of those views. While they had not tried to suggest answers to all the questions or solutions to all the problems involved in the Committee's work, they had made certain observations in the final section of the report which they hoped the Committee would find useful.

3. Mr. CUEVAS CANCINO (Mexico) expressed his delegation's appreciation of the way in which the Secretary-General and the President of the Assembly had carried out their mandate under paragraph 1 of General Assembly resolution 2006 (XIX). Their report was an excellent synthesis of the views expressed with regard to the problem of peace-keeping operations. He also wished in that connexion to express his delegation's thanks to the Secretary of the Committee for his part in the preparation of the report. The Mexican draft resolution simply summarized some of the suggestions contained in that document.

4. Throughout the Committee's discussions attention had been focused on the idea of enabling the General Assembly to return to normality, as exemplified by the work of the first

eighteen sessions. His delegation, however, questioned whether the work of those first eighteen sessions could be considered to represent normality. Certain speakers had already expressed the view that the current crisis had its origin in the manner in which the principal organs of the United Nations had functioned. His delegation understood normality to mean a closer approach to the idea of the General Assembly which the founders of the United Nations had had in mind, as indicated in the Charter. It was dangerous to think that the current crisis would be overcome merely by finding a way to proceed at the twentieth session as though the nineteenth had never existed. The General Assembly of the future must of necessity be different from that of the past. The experience of the Assembly in being unable to take action when faced with the exercise of a political power not envisaged in the Charter had changed matters to such an extent that it would be impossible to revert to the previously existing situation.

5. Under the terms of General Assembly resolution 2006 (XIX), the Committee was required to report to the General Assembly not later than 15 June. It would not be moving in the direction of normality if it failed to submit a resolution of any kind together with its report. If the report did not contain the basis for even a partial solution of the current problem grave doubts would arise concerning the very future of the United Nations. It would seem to be impossible to achieve a solution to the entire problem in so short a time, but his delegation thought that if the Committee redoubled its efforts and concentrated its attention on the Organization's financial difficulties, some progress could be made. One after another, the preceding speakers had expressed the view that the only means of solving those difficulties lay in voluntary contributions by Members. In the light of the general acceptance of that view, the Committee should try once more to arrive at a formula which would give it concrete expression.

6. Yet agreement on the methods to be applied in overcoming those difficulties implied certain conditions. Some States had serious reservations concerning the application, intended by others, of Article 19 of the Charter and accordingly would agree to help break the present deadlock only if what they called the artificial question of so-called arrears and of the provocative application of Article 19 to those countries which were allegedly in arrears was eliminated. The general agreement on the method of solving the financial problem, i.e., by voluntary contributions, and the expressed willingness of certain countries to contribute if conditions which they deemed unconstitutional were removed constituted two new and important elements which had not been present during the nineteenth session. If those common denominators could be applied, if the constitutional scruples of both sides could be accommodated, the Assembly would be on the way towards a solution. The Ethiopian draft resolution (A/AC.121/L.1) sought that objective but it had certain drawbacks. It was based on the draft which had been submitted by the African and Asian countries during the nineteenth session, at a time when it had seemed that any formula which would permit the Assembly to take action was better than allowing it to continue in a state of paralysis. In the present circumstances that consideration did not apply. The concept of normality, as he had stated, must change, and in any case it made little sense to speak of avoiding a confrontation which in reality had already occurred. In other words, his delegation objected to the fact that what had been acceptable as a transitory solution was being offered as a fundamental one. In order to accommodate the views of certain States the Ethiopian representative had introduced certain changes in the wording circulated in January but the resulting text was still unsatisfactory to some Members. His delegation had accordingly drawn up an alternative text (A/AC.121/L.2) which represented a fresh approach to the problem. The text was based on the unquestioned power of the Assembly to alter a situation which was disrupting the United Nations. The present crisis had been originated by a series of resolutions adopted by the General Assembly, which had also been the subject of an advisory opinion from the International Court of Justice on 20 July 1962, culminating in the adoption of resolution 1876 (S-IV). The Assembly was fundamentally a political body which could and should take remedial action to correct a wrong course of action when it found that it had disregarded a position of principle held by a minority. Among the 2,000 resolutions which it had adopted in the past there were many examples which showed that in so doing it would not be setting a precedent.

7. He recognized that the preamble to the Mexican draft resolution was lengthy, but the crisis to which it related was of major importance; and that was why it had deemed it appropriate to include the points dealt with in the first and second preambular paragraphs, which expressed the lofty ideals that had inspired Member States when they had ratified the Charter, as well as the value of the United Nations as a basic instrument for international coexistence and for the economic and social development of under-developed countries. The purpose of the third preambular paragraph was to bring the universality of the United Nations to bear on the current situation. The fourth preambular paragraph stressed the importance of the strict observance of the provisions of the Charter, which had frequently been reiterated during the general debate. He noted in that connexion the statement by Judge Spender of the International Court in his separate opinion on the financial problems of the Organization that the Charter, as a multilateral treaty, "cannot be altered at the will of the majority of the Member States, no matter how often that will is expressed or asserted against a protesting minority and no matter how large be the majority of Member States which assert its will in this manner or how small the minority".[u] The fifth preambular paragraph in effect expressed his delegation's conviction that a financial matter should not be allowed to destroy the United Nations. The sum which the Secretary-General had said was required to solve the current difficulties was insignificant in terms of the budgets of modern industrialized States and certainly very small as compared with their expenditures on the armaments race. In the matter of finances it was essential that those States which were calling for the literal application of a particular article of the Charter should take world opinion into account. His delegation appealed to the great Powers to realize that the position they were taking was profoundly unpopular among the peoples which were still waging a struggle against poverty; that, indeed, was the true confrontation of the twentieth century. It was difficult for those peoples to understand how certain States could be ready to destroy the United Nations rather than accept the idea of negotiating the unanimous interpretation of certain articles of the Charter. The seventh preambular paragraph referred to the authority of the Assembly under Article 17 (paragraph 2), which had sometimes been cited for the purpose of dividing Member States. His delegation had in mind that the Assembly should exercise that authority for the purpose of strengthening the Organization and bringing its Members together.

8. The most delicate paragraph in the preamble was unquestionably the eighth, which mentioned the advisory opinion of the International Court of Justice of 20 July 1962. His delegation had maintained from the outset that that opinion was an imperfect legal action, in other words, an action which required interpretation to be applied. The interpretation which the Assembly had given it during its fourth special session was only one of the various possibilities which the Court itself had indicated. Judge Spender had rightly expressed the view that the Court should confine itself to an interpretation of one article of the Charter; it was not concerned with the political consequences which might derive from its opinion, consequences which were the concern of the General Assembly. The same authority which had enabled the Assembly to adopt a resolution of far-reaching importance which had lacked the assent of an important minority could enable it now to take steps to save the Organization with the agreement of all. The Court had noted three possible questions deriving from the interpretation of Article 17 (paragraph 2): the identification of the expenses of the Organization, the apportionment of those expenses by the Assembly, and the way in which Members were to defray them. The Court had made it clear that its opinion related exclusively to the question of identification. On that basis it

[u] *Ibid.*, p. 197.

had deduced that there was a difference between the obligation of Member States to contribute to the budget and the procedures for making such contributions. In the latter connexion, it had noted that there were various methods which could be applied, including voluntary contributions. For the Court, the fact that the operations in the Middle East and the Congo formed part of the expenses of the Organization did not imply that compulsory contribution could be levied. Neither Article 17 (paragraph 2) nor the advisory opinion prevented recognizing that those expenses were of the Organization, even though they might be covered exclusively by voluntary contributions.

9. The Committee must work out a procedure for peace-keeping operations which would command the support of all Members. In the meantime, as a political body it could recommend to the General Assembly that the expenses for past operations should be defrayed in some manner other than by declaring them obligatory. The immediate consequence of such a step would be to prevent the emergence of conditions in which Article 19 would be applicable. All the various methods to which the General Assembly had resorted in financing its peace-keeping operations could be converted, by a resolution of the Assembly, to the voluntary financing method. The Committee would have to concern itself with each of those methods but for the moment his delegation was proposing only the conversion to the voluntary financing method of expenses for the operations in the Congo and the Middle East. If those contributions were made voluntary, there could then be no question of arrears.

10. With that explanation of the preamble, he thought it should be easy for Members to understand the thinking underlying the operative part of the draft resolution. The Assembly, exercising its authority under Article 17 (paragraph 2), as recognized by the International Court of Justice, would decide to solve the current difficulties by means of voluntary contributions. At the same time, departing from certain of its earlier resolutions, it would decide that the peace-keeping operations already undertaken should be covered by means of such voluntary contributions. Thus operative paragraph 2 would constitutionally eliminate the question of arrears and with it the question of the application of Article 19. A question would then arise as to how to interpret the contributions already made or pledged by Member States which had considered such contributions obligatory. To place all Member States on equal footing, all past and future contributions acquired a voluntary character. Operative paragraph 3 was based upon the generosity of the States which had already contributed and appealed to a subsequent acceptance of sacrifices. Operative paragraph 4 called upon all Member States, especially the industrialized countries, to show that spirit of international solidarity envisaged in the Charter, and to offer those contributions which could ensure the future of the United Nations.

11. Mr. MATSUI (Japan) expressed his delegation's appreciation of the efforts made by the Secretary-General and the President of the General Assembly in preparing the report now before the Committee (A/AC.121/4). Theirs had been no easy task, for the subject was one of the most complicated and difficult that the United Nations had to deal with. He was sure that the report, which was the result of careful analysis of the various statements made in the Committee and painstaking research of past experience and of the relevant provisions of the Charter, would meet with general approval and would be of great assistance to the Committee in carrying out its mandate. Under the terms of reference given to it by General Assembly resolution 2006 (XIX), the Committee was required to submit a report to the General Assembly not later than 15 June 1965. The document now before it would provide an excellent basis for that report.

12. His delegation felt that it might need some time in order to give the Mexican draft resolution (A/AC.121/L.2) adequate consideration, and possibly to consult its Government, and it therefore suggested that the Committee might recess until Monday, 7 June, on the understanding that informal consultations would continue in the meantime.

13. Mr. HAJEK (Czechoslovakia) said that his delegation, too, was most appreciative of the work done by the Secretary-General and the President of the General Assembly. Their report dealt in an objective and constructive way with most of the problems that had been raised during the Committee's debates. His delegation would give its detailed comments on the report in due course; it would be glad to be allowed some time to study the report thoroughly and to confer with other delegations on the subject. It would also study carefully the admirable statement just made by the representative of Mexico.

14. Meanwhile he wished to refer to one point only, which was not mentioned in the report but which had become a matter of great urgency: namely, the problem of the primary responsibility of the Security Council to maintain international peace and security, not only in relation to other United Nations organs but, and with greater emphasis, in relation to the organs of regional arrangements or agencies. Article 53 of the Charter stipulated that: "The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council. . . ". That stipulation had been and was still being flagrantly violated by the intervention of the United States in the Dominican Republic.

15. On 29 April 1965, the United States had started a unilateral military intervention in the Dominican Republic, an independent State Member of the United Nations. Although its avowed object had been to save the lives of United States citizens—which had been in no danger—its real aim had been to support the militarist guerrilla clique against the partisans of a popular movement which had polled more than 60 per cent of the popular vote in recent elections. In so doing it had brought about the death of hundreds, and perhaps thousands, of Dominican people, both fighters and civilians. That armed intervention of a large imperialist Power, designed to force its will upon the Dominican people and to prevent them from choosing a Government which the United States might dislike, had, by the exertion of pressure and the votes of some States members of the Organization of American States (OAS), been declared to be a collective action of the OAS; the United States interventionist force had accordingly been transformed into a so-called inter-American armed force, on the basis of a decision taken by the Tenth Meeting of Consultation of Ministers of Foreign Affairs of the OAS on 6 May—one week after the United States intervention had been launched.

16. It was, of course, for the States members of the OAS to decide how that OAS cover for United States intervention against a Latin American State could be reconciled with articles 15 and 17 of the charter of the OAS. What was of concern to the Special Committee was the fact that an attempt was being made to transform the unilateral intervention of one Power against a small independent nation into something called a peace-keeping operation on a regional scale. There was no basis for any such transformation either in the charter of the OAS or in the United Nations Charter. No one could claim that the United States intervention was not an enforcement measure, in violation of paragraphs 4 and 7 of Article 2 of the United Nations Charter, which must be judged in the light of Article 53 of the Charter. Under that Article, it was only on the basis of an authorization by the Security Council that the OAS could legalize the United States intervention. Even with its present composition, i.e. with the East European socialist States not represented, with China represented by a United States puppet, and with Asia and Africa not fully represented, the Security Council could not give such authorization. Thus the attempt to transform the United States intervention in the Dominican Republic into a so-called peace-keeping operation of the OAS was illegal and the continuance of the intervention was a violation of the basic obligation of States Members of the United Nations and of the basic provisions concerning the jurisdiction and competence of the main United Nations organs. It was all the more dangerous in that certain parties were trying to glorify the intervention as a new phenomenon in international relations.

17. In the opinion of his delegation, the Committee could not disregard that gross distortion and fraud. To condone such

action on the part of a great Power and a permanent member of the Security Council would be to run the risk of bringing about serious consequences for the small nations, in the first place, and for the whole system of law and order based on the Charter.

18. His delegation had accordingly thought it necessary to draw the attention of the Committee to the grave events which were casting a shadow over the work of the Committee.

19. Mr. PAZHWAK (Afghanistan) said that his delegation would give its views on the report of the Secretary-General and the President of the General Assembly and on the draft resolution submitted by Mexico at a later stage, when it had had time to give them further consideration.

20. For the time being he would like to take up one particular question: namely, the appropriate course for the Committee to take in fulfilling the task assigned to it by the General Assembly. In order to determine that course it was necessary to consider the purpose for which the General Assembly had set up the Committee and hence what should be the objectives of the Committee. Its first aim should be to find a way whereby the General Assembly would be able to function normally when it resumed its meetings. Secondly, it must find a way of overcoming the financial difficulties of the Organization. Thirdly, it must make recommendations concerning future peace-keeping operations, so that the United Nations might not find itself again confronted with the difficulties that had done so much to impair its prestige.

21. None of those aims could be accomplished without the agreement of all Members of the United Nations. Hence the essential requirement was to obtain such agreement, and since there was obviously no agreement on the basic positions, legal or political, such agreement might have to be in the form of a gentleman's agreement that the question of the applicability of Article 19 would not be raised, so that the General Assembly might once again function normally.

22. With regard to the second aim of the Committee, agreement should be reached on some simple recommendation, devoid of technicalities, for raising the funds which the Organization needed.

23. On the third point—future peace-keeping operations—there was no time to make a comprehensive report to the General Assembly. He therefore supported the idea that certain guidelines should be suggested, with a recommendation that they should be submitted to all Members of the United Nations and that the views of their Governments on the subject should be sought. The Committee should also recommend to the General Assembly that the Committee itself, or any other body the General Assembly might decide to establish, should make a comprehensive study of the question, in the light of the discussions and the consultations that had already taken place and in the light of the views obtained from all Member States, and should make final recommendations on the matter of future peace-keeping operations.

24. With regard to the form the Committee's immediate recommendations to the General Assembly should take, he did not think that a resolution would be desirable or practicable. A resolution had to be voted upon: if it was not adopted unanimously it could not solve any of the problems before the Committee. He therefore appealed to the sponsors of the draft resolutions to consider that point and he hoped that the Committee would agree to submit its report in some other form.

25. Mr. PLIMPTON (United States of America), speaking in exercise of the right of reply, said that he was sure nearly all the members of the Committee would regret, as he did, the propaganda attacks on the United States, the Organization of American States, and indeed the Security Council, which had been made by the Czechoslovak representative and which did nothing to help the Committee to solve the difficult problems before it.

26. He did not propose to reply to the various allegations: all of them had already been made in the Security Council, which had effectively rejected them. Indeed, the point of view just put forward by the Czechoslovakia representative had received exactly one vote when it had been embodied in a draft resolution.

27. The Organization of American States did not need his defence: in accordance with Article 53 of the Charter it had reported all its actions to the Security Council and nothing that it had done could remotely be regarded as enforcement action. Efforts to mediate and to prevent armed conflict between contending factions could by no stretch of the imagination be considered to be enforcement action and the Security Council had not attempted to describe the peaceful efforts made in the Dominican Republic as such.

28. He appealed to all delegations to strive to work constructively in the Committee, in a spirit not of hostility one towards another but of co-operation in the search for a solution of the problems before the Committee.

29. Mr. HAJEK (Czechoslovakia) declared that nothing that the United States representative had said had in any way disproved the basic point which his delegation had made: namely that the Committee was trying to do its best but that its work and its endeavours were threatened and might be reduced to nought if it continued to be presented with such *faits accomplis* as the United States intervention in the Dominican Republic, which the United States was trying to pass off as a peace-keeping operation.

The meeting rose at 4.35 p.m.

Tenth meeting

held on Wednesday, 9 June 1965, at 3.20 p.m.

[A/AC.121/SR.10]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. Sette Camara (Brazil) took the Chair.

1. Mr. GEBRE-EGZY (Ethiopia), introducing the revised draft resolution (A/AC.121/L.1/Rev.1), said that it gave priority to the normalization of the General Assembly's work. The original draft resolution had not mentioned that point since his delegation had taken it for granted that all Members agreed that the General Assembly should function normally.

2. In the revised draft resolution operative paragraph 2 had been made more explicit so as to apply solely to the Organization's financial difficulties arising out of peace-keeping operations. The general support which many delegations had expressed for the original draft resolution confirmed his delegation's belief that the Organization's financial difficulties could be overcome only by an acceptance of the provisions which that draft contained.

3. While he could understand the USSR representative's concern that operative paragraph 2 of the revised draft did not reproduce the wording of the corresponding paragraph in the Afro-Asian plan, he stressed that the paragraph did not provide any opportunity for further problems to arise. Its intent was to prevent that possibility. Moreover, the revised Afro-Asian plan of 30 December 1964 had not attempted to provide definitive wording. It had merely stated that "this proposal should serve as a basis for settlement". Operative paragraph 3 of the revised draft was identical in substance to the corresponding paragraph in the plan. It had been suggested that, since the wording was not identical, there must be some difference in intent, but he failed to see any justification for that suggestion. If it could be shown how a confrontation would be possible on the issue without a vote on the application of Article 19 of the Charter, his delegation would be quite willing to consider changing that paragraph.

4. His delegation had given serious consideration to the request made by the representative of Afghanistan that it should not insist on a vote on the draft resolution and that the matter should be settled by agreement in the form of a report or a statement by the Chairman. His delegation could endorse the view that a vote was unnecessary if such an agreement was reached. However, if such agreement was not forth-

coming, the Committee must take a formal vote on the draft resolution.

5. With regard to the report of the Secretary-General and the President of the General Assembly (A/AC.121/4), paragraph 41 appeared to refer in part to the draft resolution sponsored by his delegation. His delegation had always maintained that there was no difference between the two formulae cited in that paragraph and he accordingly requested that the fact should be mentioned in the report.

6. Mr. PAZHWAK (Afghanistan) said that when he had made his appeal to the representatives of Mexico and Ethiopia he had not had in mind that they should withdraw their draft resolutions but that the Committee should attempt to reach agreement on a form of decision that would be unanimous rather than on a draft resolution. However, if there was no unanimous agreement, the Committee could not conclude its work without taking some kind of decision.

7. Mr. Amjad ALI (Pakistan) commended the representatives of Ethiopia, Mexico and Afghanistan for their specific suggestions. In view of the limited time remaining, he hoped that the major Powers would give careful consideration to those suggestions and to others that had been made and would be able to reach an agreement, either by amending those suggestions or by producing their own formula. Only when such an agreement was reached would the Secretary-General be able to appeal for contributions.

The meeting rose at 3.40 p.m.

Eleventh meeting

held on Friday, 11 June 1965, at 3.25 p.m.

[A/AC.121/SR.11]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

1. Lord CARADON (United Kingdom) said that the general debate, which no one had imagined would produce final conclusions, had made clear the questions at issue and the general aims of all concerned and had pointed the way to the next stage of the Committee's work. Without underestimating the difficulties ahead, due to the fact that there were fundamental differences unresolved, he believed that the following three points appeared to be widely accepted: firstly, all members wished to see a resumption of the General Assembly's work; secondly, all were agreed that the Committee must succeed in saving the United Nations from the financial crisis which threatened to restrict and might eventually paralyse its activities; thirdly, all were agreed that, in order to achieve that purpose, voluntary contributions were necessary and justified. To all the decisions adopted by the Committee the United Kingdom would apply the same test: whether the Committee's actions would support and strengthen the United Nations so that it could undertake greater responsibilities in the future. The hasty improvisations of the past, however effective they might have been, should be replaced by accepted procedures and methods and by defined responsibility and improved organization in the whole field of authorization, control and financing of peace-keeping. His delegation recognized the primary responsibility of the Security Council and thought that enforcement action was an exclusive prerogative of that Council. It believed that there was a vital distinction between enforcement measures undertaken under the authority of Chapter VII of the Charter, and other valuable operations conducted by the United Nations which were not covered by that chapter. It also maintained that for those other operations the complementary responsibility of the General Assembly must be recognized and respected.

2. As to financing peace-keeping operations, his delegation maintained that it was for the General Assembly to make assessments in accordance with Article 17 of the Charter, but it also agreed that several alternatives were permissible in deciding what method of financing was most appropriate: compulsory assessment on the principle of collective responsibility, voluntary contributions, or payments by States directly interested. It attached great importance to the guide-lines, however general they might be, set forth in paragraph 52 of the report of the Secretary-General and the President of the General Assembly (A/AC.121/4). As a permanent member of the Security Council, the United Kingdom delegation wished to state, with reference to sub-paragraph (*f*), that it would, as it was its responsibility to do, give great weight to the views expressed by the constitutional majority in the General Assembly when considering in the Council a question which had previously been discussed in the Assembly.

3. Finally, he hoped that the members of the Committee would approach the next stage of its work with a determination to overcome the existing difficulties; however, at the current stage, it would be a grave mistake to do anything that might divide the Committee and thus prejudice the joint effort to arrive at a final conclusion on which the future of the United Nations depended.

4. Mr. PLIMPTON (United States of America), referring to the statement he had made at the eighth meeting, at which he had recalled that the Congo peace-keeping operation had been specifically authorized by the Security Council in its resolutions of 14 July 1960, 22 July 1960 and 9 August 1960 [143 (1960), 145 (1960), and 146 (1960)], stressed that nowhere in the Security Council's proceedings was there any indication that it was entitled to determine the method of financing the operation or that it had any right to do so; it had been assumed, on the contrary, that the General Assembly would provide therefor. The only mention of the problem was in fact the statement by the representative of France, to the Security Council on 15 September 1960,[v] that the matter should be examined in detail by the appropriate organs of the General Assembly, which was qualified to take decisions of that nature. In other words, the Security Council itself, when authorizing the Congo peace-keeping operation, had emphasized that the financing of the operation was not its proper function but that of the General Assembly.

5. Mr. PAZHWAK (Afghanistan) agreed that some progress had been made, at least in the sense that the Committee's work had clarified the positions of the different States, but he feared that the Committee, which was soon to report to the General Assembly, was not in a position to adopt unanimously either of the two draft resolutions before it or any draft which might be prepared on the basis of those two texts. The main point was precisely to reach a consensus of opinion which could alone enable the United Nations to settle its current difficulties. If, therefore, the Chairman and the Secretary-General, who were in the best position to know the status of the question, saw no way of arriving at a unanimous resolution he would propose that the Committee should submit a report to the General Assembly. The report should be, in the first place, a factual one and should include the reasons for the Committee's establishment, the date of its establishment, the number of meetings, the views expressed, the draft resolutions submitted, etc. It should then emphasize the real causes of the failure of the first part of the Committee's work, i.e., the controversial issues raised in connexion with the applicability of Article 19 of the Charter, and refer to the formal and informal consultations and negotiations that had taken place It should then indicate the points on which there was a consensus, especially the fact that no one wished a recurrence of the situation which had prevented the General Assembly from proceeding normally with its work, and that all were agreed that the Organization's financial difficulties should be solved by means of voluntary contributions. If that indeed was the consensus, the Committee could recommend in its report to the General Assembly that the latter should authorize the Secretary-General to appeal, as soon as possible if not immediately, to Member States to make voluntary contributions in order to solve the current difficulties of the United Nations, since the Members who heeded the appeal would do so without prejudice to their legal and political positions and putting aside any differences they might have among themselves in that connexion.

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[v] See *Official Records of the Security Council, Fifteenth Year*, 903rd meeting, para. 41.

6. So far as future peace-keeping operations were concerned, the Committee could recommend in its report that it should continue its work on the basis of the guide-lines set forth in the report of the Secretary-General and the President of the General Assembly, and that any suggestion put forward by a member of the Committee should be submitted to all Member States and that prior to the resumption of the Committee's work, the Secretary-General should call upon all Member States to inform him of their views on the matter.

7. It might be possible to ask the Secretariat forthwith to prepare a draft report—the recommendations therein should be agreed upon by the Committee without the need for a vote—so that it could be submitted as early as possible to the General Assembly.

8. Mr. PACHACHI (Iraq) said that he found the proposal just made by the representative of Afghanistan well taken and timely, and reserved the right to revert to it after studying it more carefully. The report of the Secretary-General and the President of the General Assembly (A/AC.121/4), to which he would like to pay a tribute, had the advantage of being clear and concise while at the same time enumerating all the basic problems confronting the Committee and reviewing the different views put forward and the interpretations given by various members regarding certain articles of the Charter, its ambiguities, and the exclusive and the common domains of the various organs of the United Nations. It was clear, as stated in paragraph 52, that the comprehensive review that the Committee had been asked to undertake could not be completed by 15 June. However, there were two urgent problems for which a solution must be found as soon as possible. The first was pointed out in paragraph 50, and in order to meet the Afghan representative's wishes, which he shared, that paragraph should be made more explicit by stressing the necessity of ensuring the normal functioning of the General Assembly when it resumed in September. To achieve that, Article 19 of the Charter must under no circumstances be raised. There he shared the view of the representative of Ethiopia reflected in his draft resolution (A/AC.121/L.1/Rev.1), that the avoidance of Article 19 should not depend on the solution of the financial problems facing the United Nations. In other words, if there was general agreement that there should be an effort in the interest of the United Nations to avoid raising the question of Article 19 when the General Assembly reconvened in September, the second question—that of the Organization's financial difficulties—should be relatively simple. If therefore all were agreed that the financial difficulties could be overcome through voluntary contributions, the Secretary-General might be authorized, as suggested in the report mentioned, to take appropriate steps to solicit funds for that purpose in accordance with a method he would decide upon after consultation with Member States. That, he believed, was the view that the representative of Afghanistan wished to see expressed unambiguously in the Committee's report to the General Assembly.

9. The CHAIRMAN said that he was gratified at the good reception given to the report which he had submitted with the Secretary-General in accordance with paragraph 1 of General Assembly resolution 2006 (XIX) and which indicated the consensus among members of the Committee. The Committee might use it as a basis in enumerating the views of members in its own report.

10. On the other hand, if, as proposed by the representative of Afghanistan with the support of the representative of Iraq, the Secretary-General and the Chairman must themselves produce a report or help the Committee to produce a report, then as many members as possible should speak in order to indicate what they considered were the basic principles which should appear in the document to be drawn up by the Committee.

11. Furthermore, he had been given to understand that a small group had been working on a report and that consultations had taken place. It would be helpful, if that group would take up the comments of the representatives of Afghanistan and Iraq and draw up a final text quickly with Secretariat assistance. The representative of Afghanistan had in fact underlined how important it was that a report should issue from the Committee by 15 June. That report was to be submitted to the General Assembly, and it was essential for the Committee to put forward its general ideas on the past and the present, as well as the future, before that date.

12. Mr. WALDHEIM (Austria) thanked the Chairman and the Secretary-General for the excellent report which they had submitted in accordance with General Assembly resolution 2006 (XIX). That report was all the more useful because it was not a mere enumeration of divergent opinions, but also contained some broad conclusions and helpful observations.

13. With regard to the procedure to be followed by the Committee, some members considered that the Committee should submit a conclusive report by 15 June with certain recommendations to the General Assembly; others would prefer an interim report. In his delegation's view, it was of the utmost importance for members of the Committee, and particularly those mainly concerned, to reach an informal agreement on the proposals or recommendations which were to be made; if such agreement was secured, there would be no reason why the Committee should not submit a formal report to the General Assembly containing not only an enumeration of the proceedings in the Committee, but also concrete recommendations. However, in view of the short time at the Committee's disposal, should it not be possible to come to an agreement on certain recommendations, his delegation would prefer the Committee to submit an interim report to the General Assembly.

14. The Ethiopian and Mexican draft resolutions were an important contribution to the Committee's work. However, he had understood from the statements by their sponsors that those two documents would be put to the vote only if the Committee failed to reach unanimous agreement on a report to the General Assembly.

15. Mr. PLIMPTON (United States of America) expressed his delegation's appreciation for the useful and constructive approach of the representative of Afghanistan. However, that representative had referred to the applicability of Article 19 of the Charter. In fact, the real issue was whether or not certain countries were in arrears with regard to assessments for ONUC and UNEF. The countries concerned did not contend that Article 19 did not apply to countries which were in arrears in the requisite amount but rather that they were not in arrears, so that the issue, properly speaking, came not under Article 19, but under Article 17. His delegation hoped that the Committee would agree that that was really the issue that had been dividing it for many months.

16. With regard to normalization, he wanted to make it clear that so far as his delegation was concerned that meant that the General Assembly would return to normal procedures at its twentieth session and would abandon the abnormal procedures adopted at the nineteenth session, in other words, that normalization had a normal meaning.

17. Mr. CUEVAS CANCINO (Mexico) said that the formal proposal by the representative of Afghanistan could provide a possible solution at the present stage of the Committee's work. However, the report proposed, which the representative of Afghanistan had outlined, was not necessarily the only or the best solution, and it depended, like any other solution, on the unanimity of members of the Special Committee. The Mexican delegation would like to give more detailed consideration to the proposal by the representative of Afghanistan, and it reserved the right to speak again on the point at a subsequent meeting.

18. When a Government authorized its delegation formally to submit a draft resolution, it was because it believed, firstly, that the time was ripe, and, secondly, that the draft resolution might, for political and legal reasons, provide the basis for a solution. Perhaps the solution proposed by his country was not acceptable at the present time but would become so later; in any case, it represented a political judgement, and his delegation would in due course request instruction from its Government. On that point too it reserved the right to speak again.

19. Mr. PLIMPTON (United States of America) said that the excellent report by the Secretary-General and the Chairman should be circulated to all members of the General Assembly. He hoped that that document would be attached to the report

proposed by the representative of Afghanistan, either as part of it or as an annex.

20. Mr. PAZHWAK (Afghanistan) said that the report which he had in mind would contain the reasons for the constitution of the Special Committee and its terms of reference; it would also give an account of the debate and of the views expressed on the various aspects of the issues examined and the proposals submitted to the Committee. Annexed to it would be the report by the Secretary-General and the Chairman and all other documents transmitted to the Committee.

21. The report he envisaged would similarly emphasize the reasons which had prevented the General Assembly from achieving anything during the first part of its nineteenth session. That part of the report might be prepared by the Secretary of the Committee; on the other hand, the recommendations to the General Assembly should be drawn up in consultation with the Chairman and the Secretary-General in order to ensure that they properly represented the consensus that had emerged and that their phraseology would be acceptable to all members of the Committee.

22. In connexion with the observation by the Mexican representative, he explained that if agreement was impossible on the text of a resolution, the Committee would have to submit a report. As the Austrian representative had said, that report would have to contain recommendations to the General Assembly and the full history of the problems that had prevented the Committee from achieving anything. In that way the Committee would be able to function normally in the future and a recurrence of what had happened at the nineteenth session of the General Assembly would be avoided. What was wanted was for the General Assembly to be able to deal only with the agenda which had been prepared and to take immediate steps to authorize the Secretary-General to appeal for contributions without prejudice to positions taken by Members.

23. His delegation had always emphasized that the guidelines given in the report by the Chairman and the Secretary-General should be circulated to the entire membership of the United Nations and its views obtained, in case the General Assembly should decide that the Committee should pursue its work in the light of the views expressed by the entire membership and not simply those of the members of the Committee.

24. He believed that the Committee would achieve unanimity more easily on a report; however, he would have no objection to the adoption of a resolution if there was unanimity on it.

25. Mr. PACHACHI (Iraq) said he understood that the representative of Afghanistan was in fact proposing that the text of the report of the Secretary-General and the Chairman should be kept more or less intact, with the exception of chapter V, and particularly paragraphs 50 and 51, which would be redrafted in such a way as to give a clear indication of the general consensus of the Committee and the desire of the members of the Committee for the normalization of the Assembly's work.

26. In the view of his delegation, the normal functioning of the General Assembly meant that it would vote in its usual way, elect its officers in its usual way, and set up committees and debate and adopt resolutions in the usual way. The reason why it had been unable to do so at the nineteenth session had been the desire to avoid a confrontation over the applicability of Article 19. That was the real problem, and the sooner it was faced, the better.

27. So far as Article 17 and its applicability to expenses incurred in respect of UNEF and ONUC were concerned, the view held by many delegations was that all Members should make an effort to avoid raising the question of the applicability of Article 19. In fact, to his delegation, normalization simply meant the non-raising of the question of the applicability of Article 19.

28. Mr. PAZHWAK (Afghanistan) explained, in reply to the representative of Iraq, that one part of the report which he had in mind would contain an account of the Committee's work. With regard to the recommendations, which should be concrete ones, the Secretary-General and the Chairman had both participated in the consultations and knew the consensus that had emerged; they might, therefore, help the Committee.

29. The report would contain an account of the difficulties which had prevented the General Assembly from functioning normally at its nineteenth session, including the question of the applicability of Article 19 and some other Articles; in the recommendations, the Committee would merely emphasize the need for the normal functioning of the General Assembly when it reconvened and state that a recurrence of the situation which had prevented the United Nations from functioning normally should be avoided. Then, if members agreed, the Committee could recommend that all Members of the Organization should help to restore the financial situation of the United Nations through voluntary contributions, with the understanding that the payment of contributions would not be construed as changing the position adopted by the country making the payment. In the light of that reservation, the Secretary-General might make an appeal to the Members of the United Nations. The Committee could also express the hope, on behalf of the General Assembly, that the developed countries would make substantial contributions. The Secretary-General would, of course, be authorized to give an account of the financial difficulties, so that all Members of the Organization would know exactly how much was needed in contributions in order to solve them.

30. If the General Assembly were to decide that the Committee should continue its work on peace-keeping operations, he believed that the guidelines which were included in the report of the Secretary-General and the President and which would be annexed to the Committee's report should be submitted to the various Governments for comment. The Committee would then be able resume its work with a knowledge of the replies received.

31. Mr. GEBRE-EGZY (Ethiopia) said that his delegation needed time to reply to the United States representative's statement, which might very seriously affect the resolution submitted by Ethiopia since his delegation was unable to accept certain interpretations which had been given.

32. With respect to the report prepared by the Chairman and the Secretary-General, he wondered whether it would be submitted as the collective views of the Committee or simply as those of the Chairman and the Secretary-General. Members of the Committee needed time to form an opinion; it might be that they did not agree with the views expressed, and they would have to reflect on the question of the authority under which the report would be transmitted to Member States.

33. The Committee must also reflect on the report to be issued, if agreement was reached in the Committee, by 15 June. The Chairman and the Secretary-General had the authority to consult with a view to coming to an agreement, but if their efforts were not successful the Committee would have to make a pronouncement on the draft resolution submitted by Ethiopia. His delegation would decide at the appropriate time when it should ask for such a pronouncement.

34. The CHAIRMAN suggested that the observations made by the representative of Afghanistan, which had been supported by a number of speakers, should be taken up by the small group to which reference had been made; the Secretary-General and he himself would be prepared to help the group and, if the Special Committee so agreed, a report would be prepared in due course.

35. Mr. GEBRE-EGZY (Ethiopia) pointed out that the group in question was an informal one. In order to make the situation clear, its membership should be announced so that the Committee could endorse it. Otherwise, the Chairman and the Secretary-General would be able, under General Assembly resolution 2006 (XIX), to work along the lines proposed by the representative of Afghanistan and then, if they wished, to consult the members of the group. The question was one of form, and it would be best if the Chairman made the point clear.

36. Mr. PAZHWAK (Afghanistan) said he thought that the Secretary of the Committee could draft the first part of the report. When it came to the recommendations, the Chairman and the Secretary-General could be requested to assist him,

which they might do in consultation with the group which had been mentioned and with all the members of the Committee; thus, there would not be consultation with only a single group of countries. That was what he had had in mind when making his proposal.

The meeting rose at 4.50 p.m.

Twelfth meeting

held on Monday, 14 June 1965, at 11.25 a.m.

[A/AC.121/SR.12]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

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1. The CHAIRMAN said that he and the Secretary-General, in accordance with a proposal by the representative of Afghanistan which appeared to have had the general agreement of members of the Committee at the previous meeting had produced a draft report (Conference Room Paper No. 1) for the Committee's consideration. To that text, which was almost entirely factual, he and the Secretary-General had suggested annexing the report which they had submitted to the Committee in document A/AC.121/4 and the summary records of the Committee's meetings. Regrettably, they had been unable to include complete recommendations to the General Assembly in the draft report, as requested by the representative of Afghanistan, as they had been forced to concede that no agreement had been reached among the members of the Committee on such recommendations. Two points only were indicated in paragraph 12 on which there appeared to have been substantial agreement in the Committee. After all, the Committee was only at the first stage of its work, and would clearly need more time and another series of meetings before September to be able to draw up a final report to the General Assembly

2. Mr. AZNAR (Spain) stressed that the Committee's work had been very thorough and that constructive ideas had been expressed by various speakers that would perhaps make it possible to solve the serious problem which threatened the very existence of the United Nations, for if that problem was not solved the United Nations might well become futile, because it would be unable to fulfil its essential purpose, which was to maintain international peace and security.

3. Nevertheless the fact that the Committee had not yet been able to find a formula for the future structure of so-called peace-keeping operations—and even on that notion there was no unanimity—the Committee's position was that its report could include only a summary of the views expressed by the different delegations, an account of those very few points on which there was agreement, and an expression of hope that a solution would finally be found. Whether the peace-keeping operations had been well- or ill-conceived, it had to be acknowledged that because no agreement could be reached on ways of financing them, they had brought about the financial crisis with which the United Nations was struggling.

4. Leaving aside the arguments that the Security Council was the only, or at least the principal, body responsible for peace-keeping operations, it had to be recognized that the majority of countries had accepted in good faith, particularly[w] after the International Court of Justice had handed down its advisory opinion of 20 July 1962, the view that it was for the General Assembly to apportion the costs of peace-keeping operations.

5. It was equally clear that other countries had upheld their position that because the provisions of the Charter had not been respected, the United Nations had resorted to a method of financing which they could in no way accept. Thus the United Nations had reached a point where the General Assembly had been completely paralysed.

6. The Special Committee now had three proposals before it: the plan put forward by the representative of Afghanistan, and the Ethiopian and Mexican draft resolutions. The first two of those proposals took up the idea that the application of Article 19 of the Charter should be temporarily suspended, without in any way affecting the positions of the various delegations, while the Mexican representative proposed that contributions already paid should be considered as voluntary contributions. The aim of those three proposals was to solve the present financial crisis by means of voluntary contributions and to avoid any confrontation. But it was obvious that they did not satisfy the permanent members of the Security Council; moreover, while they could even so command substantial support, equally substantial support had been given to the resolutions providing for the apportionment of the costs of peace-keeping operations among all Member States.

7. As the Afghan representative had rightly said, it was not a question of putting one or other draft resolution to the vote, but of contriving to reconcile the various points of view so as to reach an agreement enabling the present deadlock to be broken. The Committee could not follow in the footsteps of the General Assembly, which had brought about the present crisis through its failure to achieve unanimity among its members, and it must obviously avoid a confrontation with all its dangers and possible consequences. The reason that such a confrontation had not taken place on 1 December 1964 was surely that all States had wanted to find a formula whereby they could break that dangerous deadlock.

8. Members of the Committee were evidently all agreed at least on one point, that it was not possible to find a formula for the future structure of peace-keeping operations by 15 June

9. Summing up the position, he stressed that the many Member States which had agreed to implement the General Assembly resolutions and to pay their contributions to the special accounts were bound to oppose the idea of considering those contributions as voluntary; furthermore, it was the lack of unanimity on the implementation of those resolutions which had provoked conflicts in important sectors of the United Nations and created the present financial crisis; lastly, the present deficit amounted to $108 million.

10. He then recalled that at the 995th plenary meeting on 21 April 1961, during its fifteenth session, the General Assembly had initially rejected the draft resolution providing for the apportionment among Member States of the costs of peace-keeping operations as expenses of the United Nations in accordance with the scale of assessment for the regular budget subject to certain reductions. Towards the end of the meeting, however, after long negotiations, the General Assembly had revoked that decision and approved an amendment raising the reductions for some Member States from 75 to 80 per cent.

11. From that succession of events the following conclusions could evidently be drawn: clearly, if the General Assembly had adopted a decision which seriously jeopardized the United Nations, that decision must be revoked; such revocation, however, must not be prejudicial to those countries which had paid their contributions in good faith.

12. He therefore proposed that contributions already paid in to the special accounts should be considered as advances, since the apportionment of expenses by the General Assembly must be considered provisional until the basic problem, which was that of the future structure of peace-keeping operations, had been solved and the method of financing such operations had been decided.

13. That proposal did not of course solve the problem but at least it would have the merit of restoring the situation to normality. The first step to take was to reconstitute the fund of $108 million which the Secretary-General had referred to, and the second was to examine the question of the future structure of peace-keeping operations. By considering contributions already paid as advances, the problem of the applicability of Article 19 would be avoided, because no one could logically demand the application of sanctions with respect to measures taken on a provisional basis for the financing of peace-keeping operations. When the question of the structure of future peace-keeping operations had been settled, the necessary accounting adjustments could be made with respect to such advances as had been or would be paid and were not voluntary contributions.

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[w] *Certain expenses of the United Nations (Article 17, paragraph 22, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151.*

14. If members of the Special Committee could accept that arrangement, they might submit such a plan to the General Assembly on 1 September next, in the form of a declaration, a resolution or even an amendment to the plan drawn up by the Mexican representative.

15. Mr. ALVAREZ VIDAURRE (El Salvador) considered that the Spanish representative's suggestion that contributions already made should be regarded as advances might help the Special Committee to break the present deadlock and should be incorporated, in the form of an addendum or an amendment, in the proposal submitted by the representative of Mexico.

16. Mr. VINCI (Italy) extended his warmest congratulations to the Chairman, Mr. Quaison-Sackey, upon his appointment to the high office of Foreign Minister of Ghana, and said he was gratified to see him continuing to preside over the Committee's deliberations.

17. He was convinced that the valuable report of the Secretary-General and the President of the General Assembly (A/AC.121/4) would prove extremely useful for the discussions to be held subsequently in the Committee, the General Assembly or any other body that might be established for the conduct of future negotiations on the subject of United Nations peace-keeping operations. The report, which did not—and could not—propose any ready-made solution to the complicated and vital problem entrusted to the Committee by the General Assembly, had the twofold merit of presenting clearly the issues and the views expressed during the Committee's meetings and of indicating some fundamental elements and broad guidelines on which a certain measure of consensus had been reached.

18. While reserving his right to comment later on the proposal made at the previous meeting by the representative of Afghanistan, he could say at once that, in his view, the proposed report would be more useful and constructive if it placed the ideas and proposals of Member States in their true perspective by giving greater prominence to those supported by the majority, without, however, minimizing the views held by the minority. It would perhaps be useful to group under the same heading the various proposals which, although differing in details, expressed a similar philosophy, so that the two schools of thought would be clearly distinguishable. It would also be clearer if, in deciding what method of financing would be more appropriate to any particular operation, compulsory assessment, which was based on the principle of collective responsibility, were given first choice as far as possible. In his delegation's opinion, it was of the greatest importance that the principle of collective responsibility, which was one of the main pillars on which the Organization rested, should not in any way be weakened. If it should ever be admitted that the United Nations was unable to unite in the maintenance of peace, that would be tantamount to admitting that the United Nations was unable to fulfil the main task for which it had been founded. The recognition of that principle did not in any way diminish the responsibility of the permanent members of the Security Council nor that of the greater contributors to all activities of the United Nations.

19. He subscribed to the observation made by the Secretary-General and the President of the General Assembly in their report that "Much of the controversy seems to be at times academic in nature and one is led to wonder if there are in fact such serious differences in interpreting the Charter" (A/AC.121/4, para. 49). An examination of the practical developments of the past years showed, indeed, that in spite of difficulties, a common ground had always been found, and the right solution had almost invariably emerged. There were in fact many outstanding examples of close and useful co-operation between the principal bodies of the United Nations towards the same end. Even when a peace-keeping operation had been established by a resolution of the General Assembly, as in the case of UNEF, the Assembly had been convened by an almost unanimous request from the Security Council. UNEF had proved to be one of the most effective operations of the United Nations and if the Organization had been forced to renounce any initiative in November 1956 because the Security Council was paralysed and if the General Assembly had not been convened, world peace would have been in jeopardy. In other words, experience had shown that the spirit of the Charter, assigning to the Security Council the primary responsibility for the maintenance of peace and security, had constantly been respected and that the General Assembly had acted with utmost restraint and responsibility in very exceptional circumstances. That was why his delegation was convinced that the gap between the various positions was not as wide as it appeared to be.

20. The Italian delegation shared the views expressed by many delegations that the Committee did not have sufficient time to make a comprehensive report on the various aspects of future peace-keeping operations by 15 June, and that it could not do much more than agree on some very broad guidelines, such as those indicated in the conclusions of the report of the Secretary-General and the President of the General Assembly. The Committee must therefore apply itself to the twofold task, in which it could not afford to fail, of ensuring the solvency of the Organization and the normalization of the work of the General Assembly. In that connexion, the Italian delegation felt that paragraph 50 of the report defined the problem in terms which should be acceptable to all the members of the Committee. While paying a tribute to the sponsors of the two draft resolutions before the Committee, he thought, like almost all members, that the Committee should redouble its efforts in order to find, without undue haste, as he had already suggested at the 1st meeting, a formula acceptable to all. There appeared to be general agreement that the only way to solve the Organization's financial difficulties was through voluntary contributions and that the highly developed countries should make substantial contributions, it being understood that that arrangement should not be construed as changing in any way the basic position of any Member State. He appealed urgently to all the members of the Committee to agree to the principle that solvency should be achieved through pledges of payments to be made before the opening of the twentieth session of the General Assembly. Should the Committee be unable to reach an agreement before the dead-line of 15 June, the consultations provided for in General Assembly resolution 2006 (XIX) should be intensified and should be focused mainly on the financial difficulties of the Organization and the normalization of the work of the Assembly. Recalling the statement made by the Chairman of the Italian delegation at the 1321st plenary meeting of the General Assembly on 25 January 1965, he said that the choice, essentially a political one, remained the same—either liquidate the $150 million deficit or witness the end of the United Nations—but that the urgency of a solution had become even greater. That was why he wholeheartedly subscribed to the appeal made by the representative of Afghanistan at the previous meeting. If the Committee did nothing to solve the problems before it before September, that failure might deal a serious blow to the United Nations, and world public opinion would conclude that the maintenance of peace and security no longer rested upon the principles and purposes of the United Nations but depended upon the imperfect and dangerous machinery of the international balance of power.

21. Mr. PAZHWAK (Afghanistan) thanked the Secretary-General, the Chairman and the Secretary of the Committee for having prepared a draft report on the basis of the suggestions he had made at the previous meeting. He would like to see the report also mention that the members of the Committee had agreed—or at least that one member had suggested—that the guidelines and proposals for future peace-keeping operations, as contained in the report of the Chairman and the Secretary-General, should be submitted to all Member States and that the Secretary-General should request those States to inform him of their views before the resumption of the Committee's work, so that it could have a clear picture of the situation.

22. The CHAIRMAN thanked his colleagues for the congratulations they had extended him on his appointment as Foreign Minister of Ghana and assured them that he would continue to serve the Committee until a final solution was found to the problem under consideration. In view of the fact that there seemed to be substantial agreement that the solvency

of the Organization should be restored by voluntary contributions, there was no call for despair.

The meeting rose at 12.35 p.m.

Thirteenth meeting

held on Monday, 14 June 1965, at 3.20 p.m.

[A/AC.121/SR.13]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

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1. Mr. SEYDOUX (France) said that at the Committee's 11th meeting the United States representative had quoted extracts from a statement made by the French representative to the Security Council at its 903rd meeting on 15 September 1960, in an attempt to demonstrate that at that time the French delegation had considered that the problem of financing ONUC was one which should be dealt with by the General Assembly. The United States representative had, however, quoted those extracts out of context, thus giving a distorted impression of what the French representative had meant. A reading of paragraphs 39, 40 and 41 *in fine* of the record of the meeting in question would show that the French representative had been referring essentially to the programme of financial assistance to the Congolese State, and not to the cost of maintaining ONUC.

2. Mr. FEDORENKO (Union of Soviet Socialist Republics) said that his delegation's position with regard to the problem before the Committee remained unchanged. That position was in line with the compromise plan put forward by the African and Asian countries on 30 December 1964, the major provision of which was that the question of the applicability of Article 19 of the Charter should not be raised. He noted in that connexion that the draft report as such (Conference Room Paper No. 1) made no mention of that most important provision of the Afro-Asian plan. Yet it was clear, from the United States representative's most recent statement, that the latter's Government had not abandoned its intention to raise that issue again for provocative purposes and thus further disrupt the work of the General Assembly.

3. The reasons why the United States, having created artificially the so-called financial crisis, had deliberately prevented the normal functioning of the Assembly at its nineteenth session, and apparently intended to maintain that position, were clearly revealed by developments in Viet-Nam and the Dominican Republic. The aggressive designs of the ruling circles in the United States, which were incompatible with the Charter and the normal functioning of the United Nations, were the main reason for their negative position regarding a normalization of the work of the General Assembly. The Soviet delegation for its part would reject any proposal which was not in accordance with the fundamental principles of the Charter and the basic provisions of the Afro-Asian plan.

4. Mr. PLIMPTON (United States of America) said it was regrettable that the Soviet representative had seen fit to repeat baseless "cold war" propaganda instead of concentrating on the real business before the Committee. The only reason why the Assembly had been unable to function normally at its nineteenth session had been the refusal of the Soviet Union and certain other Members to pay their fair share of the two peace-keeping operations in question: UNEF, which had been referred to the General Assembly by the Security Council in a resolution supported by the Soviet delegation and had been authorized by the General Assembly without a single negative vote; and ONUC, authorized by the Security Council in no less than three decisions which the Soviet delegation, with its vote, had supported. When the nineteenth session had convened, it had been apparent that all Members had been anxious to avoid raising the issue and had accordingly wished to give the Soviet Union and the other countries concerned an opportunity to arrive at a compromise. If the Assembly had been unable to conduct its business in the normal way, that had been due solely and entirely to the attitude of the countries which had refused to pay what they owed.

5. With regard to the Afro-Asian plan, he would remind the Committee of two points. First, the period during which the plan had envisaged that the question of the applicability of Article 19 should not be raised had been limited to the nineteenth session. Secondly, the only reason why the plan had foundered was that the Soviet Union had refused to let even the Secretary-General know what it had had in mind in the way of a contribution. If the Soviet Government had been willing to disclose that figure in confidence to the Secretary-General, the problem could assuredly have been solved.

6. At the present late hour the Committee should be concentrating on the task of reaching agreement on recommendations to the General Assembly. If such agreement was not possible, the Committee should submit a report and then reconvene in order to continue its work in a more pronounced spirit of compromise.

7. The CHAIRMAN said that he thought the Committee's next step should be to submit, as in interim report, the draft which it now had before it and which reflected the agreement reached on certain issues. It could then plan to meet again some time before 1 September 1965 in an endeavour to solve the problem once and for all.

8. Mr. GEBRE-EGZY (Ethiopia), recalling the suggestion put forward at the 11th meeting, said that if a small group were appointed to work with the Chairman on the draft report it might be possible to find a solution on the basis of the points made in paragraph 12 of the draft.

9. The CHAIRMAN thought that, before such a working group met, it would be useful to hear the reactions of members of the Committee to paragraph 12.

10. Mr. PAZHWAK (Afghanistan) said that he would be in favour of setting up a working group to consider the draft report. The Soviet representative had observed that that text did not go into the question of the applicability of Article 19 of the Charter. His delegation agreed that Article 19 could not simply be ignored, since it was, after all, an existing provision of the Charter and the question of its applicability had been the cause of the situation prevailing during the Assembly's nineteenth session. The problem was how to include a mention of Article 19 but to do so in such a way as to avoid prejudging the position of any particular Member or, indeed, the provisions of the Charter itself. He therefore suggested that the text of the draft report might be expanded so as to include two paragraphs between what were now paragraphs 11 and 12. In the first, the Special Committee would note that the situation which had prevented the General Assembly from functioning normally had been the result of disagreement on the question of the applicability of Article 19; that was an incontrovertible statement of fact. In the second, the Committee, borrowing from the text of the Ethiopian draft resolution (A/AC.121/L.1/Rev.1), would note further that all Member States were agreed that, in the interests of the Organization, the question of the applicability of Article 19 should not be raised when the General Assembly reconvened so that a recurrence of the situation which had paralysed the nineteenth session, and a confrontation on the issue, could be avoided. The word "however", in paragraph 12, would accordingly be replaced by "therefore". The members who were dissatisfied with the text of the draft report should be appointed to the working group, in order that they might iron out their differences.

11. Mr. GEBRE-EGZY (Ethiopia) said that it was not too late for a small group of representatives to reconcile the differences of opinion on the wording of the draft report. His delegation believed that the words "general concern" and "substantial support", in paragraph 12, did not adequately reflect the unanimous feelings of Member States. He suggested that the beginning of sub-paragraph (*a*) should be amended to read: "There is agreement among all Members of the Organization . . ." and the beginning of sub-paragraph (*b*) to read: "There is agreement among all Members to solve the financial difficulties of the Organization only by voluntary contributions . . ."; the unanimous agreement that Member States which were highly developed would make substantial contributions should also be mentioned. So far as the vexatious

problem of Article 19 of the Charter was concerned, the form of words used in the report was immaterial, for he believed that one one could raise the question at the forthcoming session of the General Assembly and hope to have Article 19 applied. Nevertheless, he appreciated the concern of some delegations on that score; and it should be possible to include, in either paragraph 11 or paragraph 12 of the draft report, a reference acceptable to all.

12. If the Committee failed to reach an agreement of any kind, the effect on public opinion would be disastrous to the United Nations; and he reserved the right to request a vote on his delegation's revised draft resolution (A/AC.121/L.1/Rev.1) at any time, should he consider it necessary to do so.

13. Mr. SETTE CAMARA (Brazil) said that his delegation was in agreement with the draft report, which was excellently formulated. As some disagreement still existed, however, he supported the Ethiopian suggestion, in the hope that the differences might be resolved through a redrafting of the text. His only suggestion was that the word "entire", in paragraph 12 (*b*), be deleted; contributions would not be truly voluntary if all Members were expected to pay them, and the existing wording excluded the possibility that a Member State which had paid its contributions in the normal way might not wish to make a further payment.

14. Mr. PACHACHI (Iraq) agreed that yet another effort should be made to find a wording acceptable to all members of the Committee—a task which should present no great difficulty if all were agreed on the objectives of ensuring the normal functioning of the General Assembly and of solving the financial crisis through voluntary contributions. In view of the deadline facing the Committee, however, the proposed working group should consider whether, in the event of failure to agree on a wording, the two draft resolutions submitted (A/AC.121/L.1/Rev.1 and A/AC.121/L.2) should be put to the vote, and, if not, what form the report to the General Assembly was to take. If it was decided to postpone a substantive decision until later meetings, it might be better not to give the impression that the Committee's final views on the two specific issues mentioned in paragraph 12 of the draft report were in the terms of sub-paragraphs (*a*) and (*b*). His delegation could agree to the texts suggested by the representatives of Afghanistan and Ethiopia, and it could also support the earlier Afghan proposal that the Secretary-General should be asked to transmit to all Member States, for their comments, the general guidelines enumerated in document A/AC.121/4.

15. At the current meeting, the representatives of two great Powers had accused each other of responsibility for the abnormal functioning of the General Assembly at its nineteenth session. In fact, the smaller countries, including his own, had been responsible for that situation, because they had wished to spare the great Powers the necessity of a confrontation which would have wrecked the United Nations.

16. Mr. WALDHEIM (Austria) said that the draft report was a well-formulated and balanced paper; while he would have wished that the Committee might be able to report an agreed solution of the problem referred to it, the text as it stood reflected the wide range of views expressed and emphasized the two specific issues on which there was substantial agreement. Since, however, the draft report was not unanimously acceptable, he fully supported the Ethiopian suggestion for the establishment of a small working group; if the latter failed to produce a generally acceptable text, the Committee should present to the Assembly an interim report which might, for instance, simply take note of the report of the Secretary-General and the President of the Assembly (A/AC.121/4). The Afghan proposal that the guidelines for future peace-keeping operations should be forwarded to all Member States for comment deserved full attention, for he believed that the views of all Members should be taken into account by the Committee in its final report to the Assembly.

17. Mr. SOSA-RODRIGUEZ (Venezuela) welcomed the draft report as a clear, concise and skilful account of the work done by the Committee under its terms of reference; if no agreement was reached on the substance of the problem, that text should be submitted as the Committee's report to the General Assembly. The dispute on the substance could have been settled only by an emphatic declaration to the effect either that States which were unwilling to contribute to the expenses incurred in the Middle East and Congo operations should be required to do so, or that Article 19 of the Charter did not apply to those expenses; but neither of those alternatives was feasible. As there had been no agreement on the two compromise proposals put forward by Ethiopia and Mexico, the only course was to submit a factual report to the Assembly.

18. Mr. ASTROM (Sweden) considered that the Committee, with so little time remaining to it, had three possibilities. In the first place, it might present a purely factual report, enumerating the number of meetings and attaching the report of the Secretary-General and the President of the General Assembly (A/AC.121/4) together with the summary records. Secondly, it might add to the factual report some conclusions of a tentative and general character, as set out in the draft report now under consideration, but without taking a final position; the two objections to that type of compromise text were that some delegations might have difficulty in agreeing to an expression of substantial support for only some of the ideas discussed in the Committee, and that the announcement of substantial agreement on two specific issues, which in fact covered only a small part of the area in dispute, might raise unjustified hopes among the public. Thirdly, attempts to reach some agreement on the substance might be continued; negotiations were always worth while, however short the time available. Nevertheless, the difficulties were enormous, and no one should delude himself that the only problem remaining was to find a wording for paragraph 12 of the draft report. If no agreement was possible on the applicability of Article 19 of the Charter, which had been the cause of the abnormal functioning of the Assembly at its nineteenth session, it might be better to opt for a purely factual report; even so, the time remaining should be used in an attempt to reach agreement, which in any event might have some influence on later discussions up to the date when the Assembly resumed its session.

19. Mr. FEDORENKO (Union of Soviet Socialist Republics), commenting on the Ethiopian suggestion, said that the question of resolving the present financial difficulties of the Organization should be settled in strict accordance with the Afro-Asian proposals of 30 December 1964. His country insisted that the recommendation of the suggested group of representatives should clearly provide that the question of the applicability of Article 19 should not be raised. It was clear that in this case the question of the applicability of Article 19 was being raised for provocative purposes. The Soviet Union had never denied the existence of Article 19 of the Charter but it applied only to those countries which were in arrears in their payments to the regular budget for two years, and there were no countries in that category at the present time. Consequently, if the Charter was to be the guide, there was no reason for raising the question of the applicability of Article 19. It was incorrect, therefore, to give the impression that the main point at issue was voluntary contributions and that there was general agreement on the making of such contributions independently of other considerations. His country had agreed to a resolving of the present financial difficulties on the basis of voluntary contributions only as part of the Afro-Asian plan. That condition must not be overlooked.

20. The United States representative, in his statement, had attempted to tell the USSR how and when to make a voluntary contribution. But the USSR, in accepting the Afro-Asian proposals, had agreed to make a voluntary contribution only on the condition of complete normalization of the work of the General Assembly and firm guarantees against any provocations with regard to Article 19. Determination of the amount and ultimate purpose of such a contribution was, of course, exclusively within the competence of the Soviet Government.

21. The United States representative had failed to mention the fact that the United States, by its rejection of the Afro-Asian proposals, had nullified the attempts to find a solution to the financial difficulties and disrupted the work of the nineteenth session. But it was futile for the United States representative to seek to shift the blame for those failures. In the

light of that representative's most recent statement, he wondered whether the United States had revised its position of opposition to the Afro-Asian plan. The Committee would welcome a clear statement on that point. If, however, the United States continued to try to exploit the situation for its own selfish ends, the USSR would be obliged to revert to its initial position and would not consider itself bound by any commitments arising from the Afro-Asian plan.

22. Mr. PLIMPTON (United States of America) agreed with the USSR representative that the issue was whether or not there were arrears. That issue was the very question dealt with by the International Court of Justice, in an opinion which had been accepted by the General Assembly and which—he believed—had received the affirmative vote of every Asian and African State. As the representative of Afghanistan had pointed out, an article of the Charter could not be set aside without amendment to the Charter. The proposals of 30 December 1964 had simply recommended that the question of the applicability of Article 19 should not be raised during the nineteenth session of the General Assembly. The Committee would therefore do better to concentrate on a point regarding which there was agreement—namely, that the nineteenth and twentieth sessions of the General Assembly should be conducted in accordance with normal procedures. The draft report before the Committee seemed to be a balanced and fair compromise and was acceptable to his delegation. While his delegation would be glad to co-operate with any working group which the Chairman might appoint, he thought that there might be difficulty in securing agreement to changes in the draft report. If the USSR representative wished to include in the report a reference to Article 19, the factual statement of the different views on that Article contained in document A/AC.121/4, paragraph 41, might be incorporated in the report.

23. Mr. CHAKRAVARTY (India) said that the deliberations of the Committee had made it clear, first that the long-term issue of the respective powers of the General Assembly and the Security Council with respect to peace-keeping operations would require some time for solution, and secondly that there was an overwhelming desire that the present financial difficulties should be solved and normality restored to the nineteenth and twentieth sessions of the General Assembly. The issues on which there was disagreement were how to ensure that result and how to word the report. At the present stage, the Committee should do nothing to make attitudes more rigid or to cause a worsening of the situation.

24. It was certainly true that the situation created in the earlier part of the nineteenth session was the result of a disagreement concerning the applicability of Article 19 of the Charter; his delegation could therefore accept the insertion of new paragraphs before paragraph 12 of the draft report, as suggested by the Afghan delegation, if that was acceptable to other members. The same ideas might be expressed more concisely, however, by inserting in sub-paragraph 12 (*a*), between the words "that" and "prevented", the words "was created as a result of the disagreement on the question of the applicability of Article 19 of the Charter and that". With such an addition, the draft report would not give the public a false impression by drawing too bright a picture of the situation. If agreement could not be reached on some such wording, it might be best to delete paragraph 12 entirely.

25. Mr. MATSUI (Japan) found the draft report quite satisfactory. It represented the most and the best that the Committee could do under existing circumstances. His delegation supported the Afghan delegation's earlier proposal for the addition of a new paragraph which would provide an opportunity for all Members of the United Nations to comment on the guidelines contained in document A/AC.121/4. That addition would follow logically from General Assembly resolution 2006 (XIX), operative paragraph 1, which implied that consultations should extend to the whole membership of the Organization. The Afghan proposal, therefore, did not change the substance of the draft report and should be adopted. He pointed out that the USSR delegation's views were made part of the report through the memorandum of 10 July 1964 (A/5721), to which it referred, and the summary records of the Committee's meetings. By direction of the General Assembly in resolution 2006 (XIX), the Committee must submit a report not later than 15 June 1965. His delegation did not object to the Ethiopian proposal for the appointment of a working group, provided that the group would not raise controversial issues but would discuss the presentation of factual matters.

26. The CHAIRMAN noted that there was substantial agreement to the appointment of the working group. He regretted that the representative of Afghanistan would be unable to serve as a member of the group, because of other commitments; and he announced that the working group would be composed of Ethiopia, Hungary, Iraq, Japan, Mexico and Sweden.

27. Mr. ASTROM (Sweden) said it was his understanding that the delegations of the countries named would assist the Chairman and the Secretary in their work, but in no way to the exclusion of full consultations with other members of the Committee.

28. The CHAIRMAN confirmed that understanding.

The meeting rose at 5.35 p.m.

Fourteenth meeting

held on Tuesday, 15 June 1965, at 11 a.m.

[A/AC.121/SR.14]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

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1. The CHAIRMAN invited the Committee to consider the draft report contained in Conference Room Paper No. 2, which had been prepared on the basis of Conference Room Paper No. 1 by the working group of seven members appointed at the preceding meeting, taking into account the suggestions and observations made by the members of the Committee.

2. Furthermore, the representative of Afghanistan had proposed the following addition to paragraph 8 of Conference Room Paper No. 2:

"The Special Committee agreed that the guidelines in regard to future peace-keeping operations, indicated in paragraph 52 of this report, be referred to all Member States of the Organization with a request that they should submit their views thereupon not later than 1 August 1965, so that the Special Committee could take these views into consideration in its further deliberations."

3. Mr. CSATORDAY (Hungary) congratulated the Chairman on his appointment as Minister for Foreign Affairs of Ghana and wished him every success in his new post.

4. As a member of the working group, he felt it necessary to make some comments on the draft report before the Committee and more particularly on the passages altered by the working group. At the preceding meeting, almost all the members of the Committee had recognized that the document prepared by the working group would be only a draft interim report which could subsequently be sent to the General Assembly and that it would contain merely a factual account of the principal activities of the Committee. It should be borne in mind, however, that the primary objective was a return to a normal situation in which the General Assembly and the entire Organization could function normally. The principal obstacle to the achievement of that objective was the fact that some countries were threatening to insist on application of Article 19 of the Charter. That attitude was the origin of the current crisis and was motivated by the desire of those concerned to safeguard the privileges they had so far enjoyed and paralyse the Organization at the very moment when their aggressive policies were becoming more obvious every day.

5. From the beginning, his delegation had felt that the Afro-Asian proposal of December 1964 was the compromise which would solve the problem currently faced by the United Nations. The suggestion made by the representative of Afghanistan at the preceding meeting had come very near to that proposal but it had not been accepted unanimously and

had been only partly incorporated in the document before the Committee. For example, paragraph 11 (*a*) did not indicate clearly enough the need for a return to a normal situation. What the Committee should do was to state clearly in its report that the question of the application of Article 19 would not be raised again, which would guarantee that the difficulties encountered by the General Assembly at its nineteenth session would not recur.

6. His delegation was not able to support the text proposed in Conference Room Paper No. 2 but, as a compromise, it would be prepared to accept the second paragraph proposed the day before by the representative of Afghanistan.

7. In its most recent statements, the United States delegation had given a distorted version of the facts by taking a one-sided view of the statements and positions of some Governments. The Committee should take an over-all view of the situation.

8. The Hungarian delegation was prepared to co-operate fully with the Chairman and would be glad if a suitable solution were found.

9. Mr. LEKIC (Yugoslavia), speaking on behalf of his delegation and on his own behalf, warmly congratulated the Chairman on his appointment to the post of Minister for Foreign Affairs of his country, with which Yugoslavia had the most friendly relations.

10. His delegation was deeply concerned about the situation in which the Organization found itself and most disappointed with the lack of success of the Committee's work. When the vast majority of the Members of the Organization had agreed to suspend the nineteenth session of the General Assembly, they had done so in order to enable the Special Committee to tackle its basic task: the creation of the necessary conditions for the General Assembly to resume normal work. Unfortunately, since that date, the positions of the principals had not changed, as could be gathered from the statements heard at the last two meetings of the Committee and prospects for agreement on a settlement of the United Nations finances were dimmer than at first. Consequently, despite a small measure of success, the crisis had deepened. His delegation thought that the Committee should face the facts: its failure was a new blow to the prestige of the Organization and would certainly make it more difficult to find a solution to the current problems of the United Nations.

11. As the Yugoslav delegation had emphasized in the general debate at the nineteenth session of the General Assembly, the crisis experienced by the United Nations was caused by the policy of some circles that were resisting all that was new and progressive in international relations. Never during the most severe cold war tensions had the General Assembly been so paralysed. The deficit was nothing new and it had never obstructed the normal functioning of the Organization in the past.

12. Also at the nineteenth session of the Assembly, the Yugoslav delegation had stressed that the present crisis reflected the unwillingness or inability of some countries to relinquish obsolete conceptions and approach international problems and their relations with other countries in a constructive manner, in the interests of peace and in the light of contemporary developments. Actually, such a stand benefited those who were opposed to the strengthening of the United Nations, and to the development and democratization of the Organization.

13. His delegation had also said that the prevention of the normal work of the General Assembly was harming the interests of all Member States, threatening the future of the Organization and preventing the improvement of international relations. It was therefore the duty of each according to his ability to contribute to a settlement of the crisis and normalization of the situation, while those who had a greater potential capacity to contribute to a solution bore a larger responsibility for doing so.

14. In that connexion, he recalled the statements he had made in the Special Committee on 26 March 1965 and 23 April 1965 (1st and 3rd meetings).

15. In the opinion of the Yugoslav delegation, the chain of events from the beginning of the nineteenth session of the General Assembly to the present had confirmed the fear that behind the alleged financial crisis of the United Nations lay an attempt to incapacitate the Organization, to prevent it from playing its role as an instrument for the maintenance of peace and security and to turn it into a mere debating club.

16. The vast majority of Member States had exercised great patience at the nineteenth session, accepting several successive suspensions and agreeing to abnormal voting procedures in the hope that a way might be found of overcoming the crisis in the Organization. The majority of States had finally accepted the establishment of the Special Committee hoping that it would find the means of enabling the Assembly to resume its normal work.

17. The development of the world situation had not facilitated the work of the Committee. The pursuit of a policy of force based on principles contrary to the spirit of the United Nations Charter was incompatible with participation in the work of a body whose purpose was to enable the world Organization to resume normal activity. The Powers which in practice ignored the principles of the Charter were those that had the least need of the Organization. Those were the main reasons why the Committee had not been able to reach agreement on any but secondary matters. The only matter of importance before it, however, was that of securing the normalization of the General Assembly's work.

18. At the nineteenth session of the General Assembly, the Afro-Asian group, in an attempt to resolve the crisis, had proposed a plan which the Yugoslav delegation had wholeheartedly supported. It was grateful to the delegations of non-aligned and other countries, and particularly to the Ethiopian, Mexican and Afghan delegations, which had endeavoured to find a suitable solution. It was thankful also to the Chairman of the Committee and to the Secretary-General, for their excellent report (A/AC.121/4) which summed up the views expressed during the Committee's debate. That document might well serve as a basis for further work should the Committtee be given a renewed mandate at the twentieth session.

19. The Afro-Asian plan had proposed that the financial deficit should be met by voluntary contributions. The later demand that countries should state in advance the amount of their contributions—which was incompatible with the principle of strictly voluntary contributions—had rendered that otherwise widely acceptable plan inapplicable. There was reason to fear that the pretexts employed at the previous session would be used again in 1965, and his delegation would not be reassured unless positive steps were taken to enable the Assembly to function normally at its twentieth session.

20. The crisis of the United Nations was to a great extent a reflection of the present state of international affairs. The Organization was immobilized at the very time when mankind needed it most desperately, yet there seemed to be no possibility of reaching an agreement on future peace-keeping operations while the General Assembly was blocked as it was at present. As regards the financial problem, it should be settled through methods similar to those applied to the political problem.

21. The Yugoslav delegation firmly believed that the Committee should take a stand in favour of a return to normalcy. Whether it be through a resolution, a report or a recommendation to the General Assembly, the Committee should: firstly, state that it was absolutely essential that the General Assembly should resume its normal work and that the question of Article 19 should not be raised in connexion with ONUC and UNEF expenditures; secondly, declare that the Organization's deficit should be met through voluntary contributions by Member States, it being understood that that arrangement would not be construed as meaning any change in the basic position of any individual Member and should be accepted as a co-operative effort by all Member States aimed at strengthening the Organization with a view to creating a climate in which the future might be harmoniously planned; and thirdly, authorize the Secretary-General to undertake, after appropriate

consultations with Member States, any steps necessary for the achievement of that end.

22. Although those measures might not command the support of all members of the Committee, his delegation believed that they could not only save the Organization but even increase its effectiveness. While there were those who had tried in every conceivable way to render the United Nations ineffective, the overwhelming majority of States had acted and would continue to act to counter the public and private efforts of those who wished to harm the Organization. The Committee had now exhausted all the means at its disposal without achieving the normalization of the work of the General Assembly. It was therefore obvious that other measures should be contemplated.

23. Mr. FEDORENKO (Union of Soviet Socialist Republics) recalled that a number of delegations had expressed themselves in favour of deleting paragraph 12 of the Special Committee's draft report to the General Assembly in the version circulated on 14 June. Since paragraph 12 of the revised draft report (Conference Room Paper No. 2) circulated that morning provided for the continuation of the Committee's work beyond 15 June, it seemed pointless to determine in advance, in paragraph 11, the conditions in which the question of the Organization's financial difficulties would be settled. His delegation accordingly proposed that paragraph 11 of the Conference Room Paper should be deleted.

24. With respect to the report of the Secretary-General and the President of the General Assembly (A/AC.121/4), he considered that certain aspects of the document should be more closely examined if only because several delegations had stated in the course of the Committee's deliberations that it was unnecessary for the draft resolutions to reflect all positions since they were to be presented in the report. The latter contained a series of positive considerations which deserved emphasis. It was rightly stressed in paragraphs 46, 47 and 49 that, if the United Nations was to be developed as a really effective instrument for the preservation and maintenance of international peace and security, it was necessary to observe strict compliance with the provisions of the Charter, and that an acceptable formula for overcoming the difficulties which faced the Organization must fall within the terms of the Charter. The report, particularly sections I and IV, provided useful information on the various positions expressed by members of the Committee regarding the execution and financing of peace-keeping operations, and United Nations practice in that sphere. It should be noted, however, that the generalizations adduced were not always objective and represented one-sided expressions of view. At the same time, the report contained assertions which the Soviet delegation could not accept, particularly in the paragraphs dealing with the settlement of current financial difficulties. His delegation had repeatedly stressed that the solution of that question should be sought on the basis of the proposal formulated by the Afro-Asian countries on 30 December 1964. He wished to emphasize once again that his delegation could agree only to a solution which precluded the possibility of fresh provocations with respect to the application of Article 19 of the Charter. Moreover, certain passages in the report dealing with future peace-keeping operations were unacceptable. For example, there was no point in defining the term "peace-keeping operations", as suggested in paragraph 52. The only text binding on all Member States was the Charter of the United Nations, and it was that instrument, and not the practice which had been followed in the past—which, it should be noted in passing, was contrary to the provisions of the Charter—which should constitute the basis for all discussions in that regard. In that connexion his country could not accept the argument expressed in paragraph 48 that it was necessary "to face up to the realities of the situation" because it was impossible to accept the practice of violating the Charter. Sub-paragraph (*c*) of paragraph 52 also gave rise to objection. The definition of the functions and powers of the Security Council and of the General Assembly as complementary, might lead to an incorrect interpretation of the provisions of the Charter, which were perfectly clear. Furthermore, it was impossible to agree to the proposition contained in sub-paragraph (*g*) that the General Assembly and the Security Council should co-operate on the financing of peace-keeping operations. Under the Charter, decisions regarding the costs of peace-keeping operations were the exclusive responsibility of the Security Council. Lastly, the Soviet delegation could not accept the reference in sub-paragraph (*j*) to regulation 13.1 of the Financial Regulations of the United Nations, which dealt with expenditure under the regular budget, the amount of which was fixed by the General Assembly, and did not cover peace-keeping expenditures, which were the exclusive responsibility of the Security Council.

25. Mr. PLIMPTON (United States of America) said that one of the most interesting questions discussed by the Committee had been that of the difference between the peace-keeping operations conducted by the United Nations up to the present and the enforcement action provided for under Article 42 of the Charter. That important distinction had been explained clearly by the Secretary-General in his speech to the Harvard Alumni Association on 13 June 1963. The Secretary-General had stressed that a more realistic idea of peace-keeping had been tacitly substituted for that of collective security as defined in Chapter VII of the Charter. The idea that conventional military means could be employed by or on behalf of the United Nations to combat aggression and to maintain peace appeared to be impractical at the present time. Peace-keeping forces were in fact very different from the forces envisaged under Chapter VII, although that did not mean that their existence contravened the provisions of that Chapter. They were essentially peace-keeping forces and not combat forces, and they acted only with the assent of the parties directly concerned. The Secretary-General had observed in that address that there had been a long history of peace-keeping actions which had involved the use of military forces but were not enforcement actions; such peace-keeping actions had been carried out in Greece, in 1947; in Kashmir, starting in 1948; by the United Nations Truce Supervision Organization in Palestine starting in 1949; by the United Nations Emergency Force (UNEF), starting in 1956; in Lebanon, in 1958; in the Congo, starting in 1960; in West Irian, in 1962-1963; and in Yemen, in 1963-1964.

26. The Secretary-General and the President of the General Assembly had noted in their report (A/AC.121/4) that all United Nations peace-keeping operations, except in the cases of UNEF and the United Nations Temporary Executive Authority (UNTEA), had been authorized by the Security Council. In the case of UNEF, voted for by the Soviet Union, the Security Council had placed the matter before the General Assembly so that the latter might make recommendations. As for UNTEA, the Soviet Union had itself voted in favour of the General Assembly resolution authorizing the operation. That was the procedure to follow, and the Security Council should, as it had normally done in the past, authorize future peace-keeping operations. However, the General Assembly should assume that responsibility in appropriate cases whenever enforcement measures were not involved. As Dag Hammarskjöld had stated in 1957,[x] enforcement action by the United Nations under Chapter VII of the Charter continued to be reserved to the Security Council; and the relative role and significance of the Assembly and the Council reflected in practice general political conditions playing within the constitutional framework which, thus, was maintained in line with the basic concept of the Charter. Furthermore, Chapter VII did not deal exclusively with enforcement action, but envisaged other types of peace-keeping operations.

27. Article 50, for instance, referred to "preventive or enforcement measures" and Article 40 mentioned the provisional measures which could be taken to prevent a situation from being aggravated and becoming a threat to peace. Non-enforcement measures of that kind taken under Chapter VII of the Charter belonged to an area in which the primary responsibilities were assumed by the Security Council, but in which the General Assembly had in the past exercised residual responsibilities. In the best interests of encouraging the development of a world of peace and order, the General Assembly

[x] See *Official Records of the General Assembly, Twelfth Session, Supplement No. 1A*, p. 3.

should continue to exercise its recommendatory authority in this area.

28. To maintain that the General Assembly had no authority in the matter and the Security Council a monopoly amounted to saying that a permanent member of the Security Council could block any action or measure intended to maintain peace or to prevent the development of a situation which might threaten peace. Arguments against that proposition had been eloquently expressed at the Committee's 5th meeting by the representative of Venezuela, who, like many other representatives, had also referred to the advisory opinion of the International Court of Justice approving the organization by the General Assembly of peace-keeping operations not constituting enforcement measures. It should also be noted that seventy-six delegations, including the overwhelming majority of African, Asian and Latin American delegations, had accepted the opinion of the International Court of Justice. The inescapable conclusion to which all those facts led was that the present Secretary-General and his predecessor, as well as the overwhelming majority of delegations, had clearly decided in favour of the following propositions: firstly, the peace-keeping operations conducted by the United Nations up to the present had not constituted enforcement measures: secondly, the primary responsibilities in that field rested with the Security Council; thirdly, the General Assembly possessed the residual authority to recommend operations of that kind. That also was the opinion of almost all the Member States.

29. The United States delegation was gratified to note that, in spite of the stubborn opposition of a small minority, the prevailing trend in the Committee was against any limitation of the Assembly's right to recommend peace-keeping operations. The United Nations had already on many occasions encountered the opposition of one great Power. It had encountered that opposition when it had been a question of launching the Expanded Programme of Technical Assistance in 1950, establishing the United Nations Special Fund in 1957, and amending the Charter to expand the membership of the Security Council and the Economic and Social Council. That opposition had not prevented the United Nations from going ahead, and the great Power in question had finally come to share the views of the majority. He believed that if those delegations which were convinced of the General Assembly's right to recommend peace-keeping operations held firm, the opposing minority would realize that it was mistaken and that it was in the interest of the United Nations and of all Member States to preserve that right of the General Assembly, which had in the past proved to be an effective instrument for the maintenance of peace.

30. Mr. GEBRE-EGZY (Ethiopia) said that the working group had tried, in paragraph 11 of the draft report, to give a true picture of the situation which might help the Committee in its future work. However, if the Committee felt that that paragraph simply repeated what was already clearly stated in the Committee's terms of reference, his delegation would not oppose its deletion.

31. Mr. PAZHWAK (Afghanistan) requested the representatives of the USSR and the United States to indicate very clearly their positions concerning paragraph 11 of the draft report. He himself believed that if paragraph 11 was deleted paragraph 12 became meaningless, since it might give the erroneous impression that all the Committee had to do in order to ""complete" its work was to consider the matters relating to future peace-keeping operations, whereas in fact no agreement had yet been reached on any specific point.

32. His delegation also wished to point out that, while the two largest Powers were entitled to maintain their own proposals, the small Powers were also concerned for the future of the United Nations and would like to have time for consultations in order to express their common views.

33. Mr. Amjad ALI (Pakistan) said he wished to add to what had been said by the representative of Afghanistan that, if paragraph 11 was deleted, the draft report would no longer contain any mention of the strong desire of all Members of the Organization to ensure the normal functioning of the General Assembly. As that was a vital point, his delegation considered it essential to mention it in the draft report. It therefore proposed the following text which could, it necessary, replace paragraph 11:

"The Special Committee would like to bring to the attention of the General Assembly that there exists a unanimous desire among the Members of the Organization to ensure the normal functioning of the General Assembly when it reconvenes in September."

34. Mr. PACHACHI (Iraq) said that he could not accept the solution, advocated by the USSR, and not objected to by the United States representative, of mentioning only concrete facts in the report. He agreed with the representatives of Afghanistan and Pakistan that it was essential to emphasize the strong desire of all Members of the Organization to ensure the normal functioning of the General Assembly when it reconvened in September. The Committee could, however, postpone until a later date its consideration of the methods to be employed in order to solve the difficulties encountered. Consequently, his delegation, although it would have preferred to retain the two sub-paragraphs of paragraph 11, proposed that the report should state simply that the Committee strongly desired to ensure the normalization of the work of the General Assembly, omitting any mention of solutions which might cause some members of the Committee to fear that the methods to be employed in order to achieve that end were being prejudged.

35. Mr. FEDORENKO (Union of Soviet Socialist Republics) said, in reply to the question put by the representative of Afghanistan, that he was prepared to clarify his delegation's position further. In the first place, the Soviet Union had always favoured, and continued to favour, a resumption of the normal functioning of the General Assembly. The Soviet Union and the other socialist countries were in no way responsible for the fact that it had been impossible to achieve that goal and to consider the many items on the agenda of the nineteenth session. The USSR had pointed out, and continued to point out, that the abnormal situation was the result of the provocative policy pursued by the United States delegation. It was precisely the United States which, for selfish reasons, had artificially created a financial crisis, thus paralysing the work of the Assembly. Many countries had exerted great efforts to find a solution to those difficulties. Mention must be made, first and foremost, of the Afro-Asian countries' draft of 30 December 1964. The Soviet delegation, bearing in mind the interests of the United Nations and wishing to ensure a return to normality as soon as possible, had endorsed that draft despite its weaknesses and its inadequacies. Thus, there was on the one hand the vast majority of countries, which had approved the Afro-Asian plan of 30 December 1964, and on the other hand a group of States which had rejected the plan and which persisted in blocking and sabotaging the work of the General Assembly.

36. It was impossible, therefore, to separate the Soviet Union from the great majority of countries which had supported the Afro-Asian plan. The United States had not abandoned its provocative policy and it refused to accept the plan, which was a compromise and which stated that the question of the applicability of Article 19 to peace-keeping operations would not be raised. If the United States really wanted the normalization of the work of the General Assembly, it would accept that proposal and that plan which had been supported by the majority of the Member States. It was regrettable that the United States representative had still not given a positive reply to that question. To rely on interpretation or flights of fancy and to trust in the goodwill of the United States would, in the circumstances, be unduly hazardous. It was quite clear that the Committee had not reached a consensus concerning the recommendations, and his delegation therefore agreed that paragraph 11 should be deleted from the draft report.

37. The United States representative had distorted the true reasons for the disorganization of the General Assembly. There was no need, at that hour, to go into details. It sufficed to thank the United States representative for having in fact admitted that

past peace-keeping operations had little in common with the measures prescribed in the United Nations Charter, and particularly in Article 42. Thus the United States representative had himself acknowledged that past United Nations peace-keeping operations, especially in the Congo and the Middle East, had been illegal. The United States could not, therefore, deny that those operations were not in conformity with the Charter and, consequently, it could not but admit the artificial and provocative nature of the question of arrears. In the light of those admissions by the United States representative, his assertion that there was no country which respected the United Nations and its Charter more than the United States seemed completely hypocritical. The United States representative might be asked on what provisions of the Charter the ruling circles at Washington had based their armed intervention in the Dominican Republic. He might be asked who, then, had trampled underfoot the national sovereignty and independence of the Dominican people, and on what provisions of the Charter the White House had based its occupation of that small Latin American country. He might be asked on what principles of the Charter Washington based its continued flouting of the elementary rights of the Dominican people, who had risen against the injustice and cruelty of the régime in power and against its foreign oppressors. As for the United States representative's attempts to insinuate that the Soviet Union contested the rights of the General Assembly with respect to the maintenance of international peace and security, the Soviet delegation had many times pointed out how absurd and demagogic they were. The Soviet Union, while favouring scrupulous respect for the prerogatives of the Security Council, believed that the General Assembly too fulfilled an important function in that sphere.

38. Mr. PLIMPTON (United States of America) said that although it regarded paragraph 11 as acceptable despite a few shortcomings, his delegation would not object to its deletion. In any event, since the records of the Committee's meetings would be annexed to the report, the General Assembly would know that the Committee had expressed a strong desire to see the Assembly resume its work under normal conditions.

39. In the course of his statement, the USSR representative had used the word "provocation" on several occasions. While he was certain that the Soviet Union regarded as provocations the very existence of Article 19, the advisory opinion which the International Court of Justice had given in the matter on 20 July 1962 and the fact that the General Assembly had accepted that opinion, he nevertheless hoped that when the Committee resumed its work a harmonious atmosphere free from any provocation would prevail at its meetings.

40. Mr. SEYDOUX (France) said that the suggestion to delete paragraph 11 of the report seemed very reasonable to the French delegation. As it was an interim report, nobody would be surprised that the Committee had confined itself to transmitting to the General Assembly, without any conclusions, the documents containing an account of the proposals which had been made and the ideas which had been put forward during the first stage of its work. However, in order to take into account the view expressed in particular by Afghanistan, Yugoslavia and Iraq, the French delegation proposed the replacement of the paragraph in question by a single sentence to read:

"The members of the Special Committee unanimously considered that the General Assembly, when it reconvenes, must conduct its work according to the normal procedure established by its rules of procedure."

41. Mr. AZZOUT (Algeria) considered that, whatever wording might be used to replace the present text of paragraph 11, it was essential to stress the need for the normalization of the work of the General Assembly and to take into account the solution proposed in December 1964 by the Afro-Asian group, i.e. to restore the Organization's solvency by means of voluntary contributions by its Members. It might perhaps be appropriate, as the representative of Afghanistan had suggested, to allow the representatives of small nations time to consult together.

42. Mr. PAZHWAK (Afghanistan) thanked the representatives of the United States, France and the USSR for their answers to his question. Although regarding the Pakistan delegation's text as unsatisfactory, he would prefer a clearer and more precise wording; he therefore proposed that paragraph 11 should be replaced by the following sentence:

"All members of the Special Committee expressed their unanimous desire to ensure the normal functioning of the Assembly, when it reconvenes, through a co-operative effort by all Member States aimed at the strengthening of the United Nations."

43. World public opinion must not be given the impression that the members of the Committee did not agree on the need to strengthen the Organization.

44. Mr. GEBRE-EGZY (Ethiopia) said that his delegation was prepared to accept any one of the texts proposed by Pakistan, France and Afghanistan.

45. Mr. Amjad ALI (Pakistan) preferred the text proposed by the French representative, which had the merit of being brief and of stating clearly the view of the members of the Committee regarding the normalization of the work of the General Assembly.

46. Mr. VINCI (Italy) considered it pointless to repeat views which were already known and to introduce into the discussion matters which had nothing to do with the problem before the Committee.

47. He noted that, in spite of repeated appeals, delegations representing a minority maintained an absolutely rigid position; they could not, however, hope to win acceptance for their view over that of the majority, which had already demonstrated its flexibility.

48. The USSR representative had proposed the deletion of paragraph 11 of the draft report, a suggestion which the United States representative had accepted in a spirit of compromise. Other representatives felt that the paragraph should be replaced by a new text. The Italian delegation reserved its right to revert to that matter later on.

49. As he had said at the previous meeting, he was convinced that if an agreement was not reached before the deadline set for the conclusion of the Committee's work, the consultations provided for in paragraph 1 of General Assembly resolution 2006 (XIX) should be continued until the solvency of the Organization was restored and the General Assembly had resumed its work under normal conditions.

50. Mr. PLIMPTON (United States of America) supported the Afghan representative's extremely constructive proposal for an addition to paragraph 8 of the draft report.

51. With regard to paragraph 11, he would be prepared to accept either the suggestions of the French representative or those of the Afghan representative. The latter's text seemed more satisfactory to him, however, because it not only provided for a return to normality but also stressed the desire of Member States to co-operate with a view to the strengthening of the Organization.

52. He did not see why sub-paragraph (*b*) of paragraph 11 should not be retained; the Afghan representative's text might replace sub-paragraph (*a*) of the proposed text.

53. Mr. FEDORENKO (Union of Soviet Socialist Republics) said that, with regard to substance, he was in agreement with the ideas expressed in the texts submitted by Afghanistan, France and Pakistan. So far as form was concerned, he would prefer the text which the French delegation had proposed to replace paragraph 11.

54. The CHAIRMAN suggested that the Special Committee should decide to replace paragraph 11 by the following text, which incorporated the proposals of the representatives of the aforementioned three countries:

"The members of the Special Committee agreed that the United Nations should be strengthened through a co-operative effort and that the General Assembly, when it reconvenes, should conduct its work according to the normal procedure established by its rules of procedure."

It was so decided.

55. The CHAIRMAN further proposed that the Committee should adopt the draft report to the General Assembly, as amended, as a whole.

The report, as amended, was adopted as a whole.[y]

56. The CHAIRMAN thought that there were no grounds for pessimism regarding the future. The Committee had done excellent work and, when the General Assembly met again in September, it would of necessity consider it impossible not to resume its normal work. He thanked the members of the Committee for the co-operation they had given him, and announced that unless some unforeseen circumstance arose, the Committee would not meet again until August.

The meeting rose at 1.30 p.m.

ANNEX II

Report of the Secretary-General and the President of the General Assembly[a]

[*Original text: English*]

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Introduction

1. On 18 February 1965, the General Assembly, during the course of its nineteenth session, adopted resolution 2006 (XIX) on the subject of a comprehensive review of the whole question of peace-keeping operations in all their aspects. The resolution reads as follows:

[*For the text, see "Action taken by the General Assembly", page 97 below.*]

In accordance with operative paragraph 1 of the resolution, the Secretary-General and the President of the General Assembly undertook extensive consultations with a large number of Member States. The Secretary-General and the President of the Assembly wish to place on record their deep appreciation of the unfailing courtesy and the unstinted co-operation extended by Member States, without which the consultations would not have been so helpful and constructive as they have turned out to be.

2. In the preparation of the present report which, it is hoped, will assist the Special Committee in carrying out the important task entrusted to it by the General Assembly, the Secretary-General and the President of the Assembly have, apart from the valuable consultations referred to in paragraph 1 above, also benefited considerably from the formal meetings of the Special Committee which were conducted in a constructive and co-operative manner and during which many helpful ideas and positive suggestions were submitted by the members.

3. The Secretary-General and the President of the General Assembly have attempted in sections I to IV of the report to place before the members of the Special Committee an account of the views and suggestions made both during the informal consultations and the formal meetings of the Special Committee on the different aspects of the matter covered by General Assembly resolution 2006 (XIX). In section I, there is also a short account of the experience of the United Nations in the field of peace-keeping operations. It is hoped that this will help to ensure a proper perspective in dealing with the problem.

4. In section V, the Secretary-General and the President have indicated some broad conclusions that can be drawn from the views expressed by the members and made certain observations which, it is hoped, will contribute in some measure towards the normalization of the work of the General Assembly and in solving the problems that confront the Organization.

I. General

5. The term "peace-keeping operations" which, according to the decision taken by the General Assembly on 18 February 1965, is to be reviewed in all its aspects by the Special Committee, is not defined as such in the Charter, nor has any effort been made in any United Nations body at any time in the past to attempt a clear and precise definition of this term. It is therefore not surprising that there does not appear to exist among the States Members of the United Nations even a general consensus as to what constitutes a "peace-keeping operation" as that term is referred to in General Assembly resolution 2006 (XIX). Some include under this term all measures taken by the Organization in the maintenance of international peace and security, either for the peaceful adjustment of a situation likely to impair the general welfare or friendly relations among States, or for the pacific settlement of disputes or for initiating action with respect to threats to the peace, breaches of peace and acts of aggression. Others give the term a more restricted interpretation.

6. Some of the views bearing on this question and which were expressed during the informal consultations and the formal meetings of the Committee are indicated below:

(*a*) Peace-keeping operations are operations of a military, para-military or non-military character which are to be conducted by the United Nations for the maintenance of international peace and security, with the exception of those which fall under the category of enforcement action under Chapter VII of the Charter. According to this view, such operations are of a non-mandatory and non-coercive nature and require an invitation from or at least the consent of the country on whose territory an operation is to take place and do not place any obligations on Member States as to contributions in the form of personnel and logistical support. Such operations should not be allowed to constitute or be a pretext for any type of foreign intervention or to infringe on the national sovereignty of any country. If armed personnel is involved, the use of force should be limited strictly to the requirements of self-defence. These operations could take different forms, such as:

(i) Observation of conditions on one side or on both sides of a frontier;

(ii) Fact-finding and observation in regard to alleged interference from outside in the domestic affairs of a Member State;

(iii) Observation or supervision of a cease-fire line;

(iv) Missions of mediation and conciliation;

(v) Missions connected with investigation or observation to clarify the factual situation;

(vi) Assistance to a country to maintain law and order where requested by that country and in conditions in which international peace and security might otherwise be disturbed.

(*b*) Another view is that the term "peace-keeping operation" connotes an operation of an executive nature which interposes a United Nations presence in a situation likely to lead to a breach of the peace, but the activity involved may constitute nothing more than either the employment of peaceful means which is of the parties' own choice, within the meaning of Article 33 of the Charter, or a measure for the peaceful adjustment of a situation which the General Assembly can recommend under Article 14. These operations are qualitatively different from the expedition of a military force with a clearly coercive mission.

(*c*) Yet another view is that the concept of peace-keeping operations is a new one that should be incorporated into the Charter as soon as possible by the inclusion of a new chapter which could be placed between the present Chapters

[y] Subsequently issued as document A/5915.

[a] Circulated as document A/AC.121/4 of the Special Committee, dated 31 May 1965.

VI and VII. Peace-keeping operations are conducted on the territory of one or more States, Members of the United Nations or not, at their request or with their consent, and undertaken by military contingents supplied chiefly by medium and small Powers. The only objective of these operations would be to preserve peaceful conditions but it does not exclude, during the operations, recourse to coercive action in given circumstances and for a limited period of time.

(*d*) It has been observed that it is unnecessary to decide each and every one of the characteristic features of these operations, that it may suffice to spell out that these operations can be carried out only with the consent of the State or States which are parties to the dispute and that it is a question of military operations in which the Member States participate in a manner which is fundamentally different from that provided under Chapter VII of the Charter.

(*e*) Some members feel that any operations which involve the use of armed force, whatever the reasons for initiating such operations might be, are "actions" within the meaning of Chapter VII and fall entirely within the exclusive prerogatives of the Security Council.

(*f*) Another view is that the exclusive competence of the Security Council covers all operations that involve the establishment of a force, military or otherwise, except for the mere purpose of observation and investigation, whether or not the action is initiated under the provisions of Chapter VII of the Charter.

7. It will be obvious from the preceding paragraphs that the concept of "peace-keeping" is capable of widely differing interpretations and, as such, incapable of being accurately and clearly defined to the satisfaction of all Member States. It might be useful in this connexion if an attempt were to be made to outline the experience of the United Nations in this undefined and broad field—an experience which indicates very clearly the varied nature of such activities.

8. What are called the peace-keeping operations of the United Nations have varied greatly in size, nature and objective. There have also been wide variations in methods of financing. United Nations peace-keeping operations of various types and sizes have been organized in response to critical situations in Greece, Palestine, Kashmir, Suez and Gaza, Lebanon, Jordan, the Congo, West Irian, Yemen and Cyprus. It may be noted that only in the cases of the United Nations Emergency Force (UNEF) and the United Nations Temporary Executive Authority (UNTEA) did the initiative for setting up these peace-keeping missions come from the General Assembly.

9. There is great diversity both as regards the situations dealt with by United Nations peace-keeping efforts and the type of operation set up to deal with those situations. In some of the situations, for example in Kashmir, Palestine, Lebanon and Cyprus, fighting was actually going on when the United Nations action was taken. In most of them, outbreaks of violence have been a continuous possibility, and actual incidents involving the use of armed force have been regular occurrences throughout the existence of the United Nations Truce Supervision Organization in Palestine (UNTSO) and the United Nations Military Observers Group in India and Pakistan (UNMOGIP). Some situations, notably the Congo, Lebanon and Cyprus, have been made more difficult by threats of external interference and the fears and suspicions which such threats inevitably arouse.

10. Broadly speaking, United Nations peace-keeping operations may be divided into two main categories, namely, observer operations (UNTSO, UNMOGIP, United Nations Observation Group in Lebanon (UNOGIL) and United Nations Yemen Observation Mission (UNYOM)) and operations involving the deployment of armed forces (UNEF, United Nations Operation in the Congo (ONUC), UNTEA and United Nations Peace-keeping Force in Cyprus (UNFICYP)). In three cases (Palestine, India-Pakistan and Cyprus) a mediator has also been appointed, at one stage or another, while in the cases of Palestine and the Congo, conciliation commissions were also set up.

11. The mandates of the various observer operations have varied widely, ranging from the observation and maintenance of a truce agreement (UNTSO and UNMOGIP) to a much more limited task of reporting, as in the cases of UNOGIL and UNYOM, and most lately in the Dominican Republic. The mandates of the various forces have also varied greatly. UNEF operates on the Armistice Demarcation Line in Gaza and on the International Frontier, covering a distance of about 450 kilometres. ONUC, with its more complex mandate, including assistance to the Government of the Congo, was far more involved with events of all kinds within the boundaries of the Congo. UNTEA had a very limited and transitional task, while UNFICYP is of necessity involved by its mandate in the intricacies of the Cyprus problem and the relations between the Greek Cypriot and Turkish Cypriot communities.

12. The national make-up of the armed forces involved in peace-keeping operations has also varied widely according to their role and location. The troops of UNTEA came from a single country, while thirty-six countries provided military personnel for ONUC. The different characteristics and demands of each operation have meant that troops of a nationality which was entirely acceptable in a previous peace-keeping mission did not prove to be acceptable in another mission. The organization and type of military personnel required also vary according to the task to be performed.

13. The conduct of these operations, whatever their size or nature, involves constant thought, direction and frequent decisions both in the field and at United Nations Headquarters. The decisions required of both the Secretary-General and the senior military and civilian officials in the field are often urgent ones which involve lives and the possibility of quick and serious deterioration of a situation. Both speed and wisdom are essential in such decisions and a great responsibility therefore rests upon the Secretary-General and his representatives in the field, for the urgency of the situation sometimes makes full consultation with the representative organs of the United Nations or with national representatives impossible. These decisions relate, for example, to such complex matters as the interposing of United Nations forces, to directives which may put United Nations troops in a position where they have to use minimum force in exercising their legitimate right of self-defence, and where emergency measures have to be taken to prevent a breakdown of law and order. In observer operations, urgent decisions are also required in emergencies where a rapid and firm intervention by the peace-keeping mission is required.

14. Involving as they do by their very nature the most delicate political considerations as well as, more often than not, a very sensitive military situation, both main types of peace-keeping operations have to be conducted with the utmost care and with constant supervision at all levels. The difference in the relative importance of various aspects of the problems concerned as seen at United Nations Headquarters and in the areas of operation themselves also requires a constant interchange of information and directives between United Nations Headquarters and the field.

15. The Secretary-General and the Secretariat at Headquarters require from the chief military and civilian officials in the field regular and immediate information as to developments on the spot, for the information of the Security Council and of Member States, as well as for their own needs. Advice on the position of the peace-keeping operation and on its potential capacity to deal with probable future situations is also essential. The military and civilian heads of operations in the field also normally require constant advice and direction from Headquarters so that their activities may conform to wider political considerations, to the mandate laid down by the Security Council or General Assembly, and to the Secretary-General's concept of that mandate.

16. The logistic support of these operations, especially those involving sizable bodies of troops, is also a large and continuing responsibility both at Headquarters and in the field, a responsibility which is often complicated by the diverse make-up of

the peace-keeping operations and by the uncertain and short-term nature of financing arrangements, as in UNFICYP.

17. Although the General Assembly has usually been responsible for the financial arrangements for peace-keeping operations, the methods of financing have varied widely. Some are charged to the regular budget (UNTSO and UNMOGIP, UNOGIL and the Mediator on Cyprus). Others, such as UNEF and ONUC, function on a more complicated basis—on a special account outside the regular budget, on *ad hoc* financing and a combination of assessed and voluntary contributions. A third category, notably UNTEA and UNYOM, have been financed on the basis of a sharing of costs by the Governments principally concerned, while UNFICYP is financed by voluntary contributions. In the case of the small United Nations operation in the Dominican Republic, in the absence of any specific provision for the financing of the operation, the Secretary-General is acting under the provisions of paragraph 1 (*a*) of General Assembly resolution 1985 (XVIII) of 17 December 1963 and paragraph 3 of resolution 2004 (XIX) of 18 February 1965.

II. CONSTITUTIONAL

18. The conflicting views enumerated in the preceding section regarding the concept of peace-keeping operations are based largely on conflicting interpretations of the relevant provisions of the Charter and, in particular, on the provisions relating to the respective functions and powers of the Security Council and the General Assembly. The consultations which the Secretary-General and the President of the General Assembly held with Member States and the debates in the formal meetings of the Special Committee have helped to some extent to crystallize the views concerning this aspect of the problem. An attempt has been made in the following paragraphs to deal with the main points that were brought up.

19. There appears to be general agreement that the functions and powers of the Security Council and the General Assembly should be understood as complementary and not as contradictory. Article 24, paragraph 1, of the Charter states:

"In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf."

Further, Article 25 of the Charter states:

"The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."

The specific powers granted to the Security Council for the discharge of the duties referred to in Article 24, paragraph 1, are laid down in Chapters VI, VII, VIII and XII of the Charter. The General Assembly also bears its responsibility in maintaining international peace and security. The general functions and powers of the General Assembly relating to the maintenance of international peace and security are defined in Articles 10, 11, 12, 14, 15 and 35 of the Charter.

20. It is frequently stated that all enforcement actions are the exclusive prerogatives of the Security Council under the provisions of the Charter. However, a serious difference of view exists as to what constitutes enforcement action. Many Members hold that enforcement action is action covered by Articles 41 and 42 of Chapter VII of the Charter which is exclusively within the competence of the Security Council. According to this view, action taken at the request or at least with the concurrence of a party or parties and which is of a non-mandatory and non-coercive nature is not enforcement action and as such does not fall within the exclusive competence of the Security Council.

21. The opposite view is that, according to the Charter, it is only the Security Council that can take decisions on any questions connected with the adoption of measures for the maintenance of international peace and security, which include operations involving armed forces of the United Nations. The utilization of United Nations armed forces in any instance, without any exception whatsoever, is an enforcement action and must therefore be governed by the corresponding provisions of Chapter VII of the Charter. In other words, the establishment of United Nations armed forces aimed at maintaining or restoring international peace and security is by agreement of the permanent members of the Security Council on all fundamental matters relating to their authorization, utilization and financing. According to this view, the broader participation in decisions on matters relating to the practical implementation of the operations of the United Nations aimed at the maintenance of international peace and security must be ensured by expediting the enlargement of the composition of the Security Council. The responsibility of the General Assembly consists of the consideration of any questions related to the maintenance of international peace and security and the adoption of suitable recommendations on such questions, taking into account the terms of reference of the General Assembly as laid down in the Charter. Furthermore, any question on which action becomes necessary is transferred by the General Assembly to the Security Council, but if the Council is unable to adopt a decision on any given concrete question related to the maintenance of international peace, nothing can prevent the General Assembly from considering the whole question anew in order to adopt new recommendations based on the terms of reference of the Assembly.

22. Another view is that enforcement action includes not only measures provided for in Articles 41 and 42 but all measures the purpose of which is the establishment of a force, military or otherwise, charged with the task of intervening against a State or inside a State, even when the latter consents and where the effective use of arms is theoretically limited to restricted or exceptional circumstances. This would exclude operations the purpose of which is to conduct observations, surveillance or enquiry, even when military personnel are used and even when such personnel are numerous, provided that such military personnel do not constitute units under a military commander and provided that they are not charged with their own security, since the latter is a task for the local forces. In other words, whenever an operation involves the use of armed personnel other than for the mere purpose of observation and investigation, such operation is enforcement action within the sole competence of the Security Council.

23. In connexion with the functions and powers of the Security Council, considerable importance is attached to General Assembly resolution 1991 A (XVIII) of 17 December 1963 on the question of equitable representation on the Security Council. In that resolution, the General Assembly recognized that it was necessary to enlarge the membership of the Security Council to provide for a more adequate geographical representation of non-permanent members and to make it a more effective organ for carrying out its functions under the Charter. The Charter amendment to this effect, decided upon by the General Assembly in the aforementioned resolution, will come into force when it has been ratified by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council. As at 31 May 1965, seventy-two Member States, including one permanent member of the Security Council, have ratified this Charter amendment and there is every reason to hope that the amendment will come into force before long.

24. Although it is not explicitly stipulated in the Charter, it seems to be the general opinion that in view of the primary responsibility for the maintenance of international peace and security conferred upon the Security Council by Members of the United Nations for the purpose of ensuring prompt and effective action by the Organization, any question which involves or may involve peace-keeping operations should be examined in the first instance by the Security Council in order that an appropriate decision could be adopted as promptly as possible by that organ.

25. It seems equally acceptable that if the Security Council is unable for any reason whatever to adopt decisions in exercise of its primary responsibility for the maintenance of international peace and security, there is nothing to prevent

the General Assembly from considering the matter immediately and making appropriate recommendations in conformity with its responsibilities and the relevant provisions of the Charter. The General Assembly, if not in regular session, may be called into emergency session for the purpose referred to in the preceding paragraph upon the request of the Security Council or by a majority of the States Members of the United Nations. If the General Assembly is called upon to deal with a situation in these circumstances, it may under the relevant provisions of the Charter make recommendations to the Members of the United Nations or to the Security Council or to both, but there appears to be considerable support for the view that the Assembly should, in the first instance, address its recommendations back to the Council.

26. It was evident during the consultations that Members agree that if the General Assembly resolved by the required two-thirds majority to make recommendations to the Security Council, the weight of such recommendations, supported by a substantial majority of the membership of the United Nations, would have a very significant effect upon the subsequent action by the Security Council. It is likewise to be expected that the General Assembly will duly take into account and give the most serious weight to the views expressed and positions taken in the Council, including those by the permanent members, when the Council was previously seized of the matter at issue.

27. During the consultations, it was apparent that there was a difference of opinion concerning the scope and nature of the recommendations the General Assembly is authorized to make under the provisions of the Charter relating to the maintenance of international peace and security. This has understandably given rise to conflicting positions and has even led some to conclude that the position can be rectified only by an early revision of the Charter through the inclusion of provisions to deal with situations not adequately covered in the present Charter.

28. Article 11, paragraph 2, concerning the competence of the General Assembly to deal with questions relating to the maintenance of international peace and security, reads as follows:

> "The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a State which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such question to the State or States concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion."

The difference in interpretation has arisen largely on the exact meaning of the word "action" in the second sentence of the above quoted provision of the Charter. Some Members relate this word to the enforcement action covered by Chapter VII of the Charter which, in their view, is action directed against a State. They admit that such action is beyond the competence of the General Assembly. They do, however, make a distinction between such action and action taken with the consent or concurrence of the party concerned and not against that party. In regard to action of the latter type, they hold that the General Assembly is not obligated under Article 11, paragraph 2, to refer the question to the Council for decision. Another view is that, when implicitly or explicitly describing as coercive actions only those operations directed against a State, to the exclusion of those which have as their object action against disturbers of the peace, communities or provinces, a distinction is established which is not justified either by the Charter or by experience, and that enforcement action occurs whenever the use of force is provided for in an operation authorized with or without the consent or concurrence of the parties. According to this view, the action covered by Article 11, paragraph 2, includes not only the measures provided for in Chapter VII of the Charter, in Articles 41 and 42, but also measures the purpose of which is the establishment of a force, military or otherwise, charged with the task of intervening against a State or inside a State even when the latter consents and where the effective use of arms is theoretically limited to restricted or exceptional circumstances. This would leave aside the operations the purpose of which is to conduct observation, surveillance or enquiry, even when military personnel are used and even when such personnel are numerous, provided that such military personnel do not constitute units under a military commander and provided that they are not charged with their own security since the latter is a task for the local forces. Yet another view is that "action" covers any decision on matters relating to the practical implementation of the operations of the United Nations aimed at the maintenance of international peace and security.

29. Mention was also made by many members in this connexion of Article 14 which, in their view, gives the General Assembly the competence to "recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations". However, there does not appear to be any clear consensus regarding the scope of the term "measures".

30. Although, in terms of the provisions of the Charter, the General Assembly, if called upon to consider a question relating to the maintenance of international peace and security, is empowered to make recommendations to the Members of the United Nations or to the Security Council or to both, it appears to be widely accepted that if the Assembly is considering a question that involves or might involve a peace-keeping operation, it should make appropriate recommendations to the Council in the first instance in view of the latter's primary responsibility in such matters.

31. Apart from the difficulty in defining the precise scope of the General Assembly's recommendations, there is a very wide difference of views regarding the steps to be followed in the event of the Security Council being unable to act promptly in conformity with the recommendations of the Assembly.

32. Some Members hold the view that if the Security Council is unable to act even on the second attempt and in spite of the strong recommendations of the General Assembly, it would be realistic to accept the inability of the Organization to intervene in the given situation and to seek help outside the United Nations framework. This view does not, however, appear to be supported by the majority of Member States. In fact, there are some who would like to see the General Assembly empowered, in such a situation, to authorize the peace-keeping operation. Others suggest a more flexible approach and would have the General Assembly, at that stage, make appropriate recommendations for measures possibly not involving the establishment of a peace-keeping operation to deal with the situation.

III. Financial

33. Operative paragraphs 1 and 3 of General Assembly resolution 2006 (XIX) make reference to the need for "overcoming the present financial difficulties of the Organization". It does not seem necessary to dwell at any great length on the history of this aspect of the problem with which the Members of the United Nations are very familiar.

34. The Special Committee is, needless to say, concerned with the whole question of the financing of peace-keeping operations. However, it is widely accepted that the immediate task is the restoration of the solvency of the Organization and that this should be achieved through voluntary contributions by Member States. It has been suggested, in this connexion, that the highly developed countries should make substantial contributions.

35. The question of the financing of future peace-keeping operations has received considerable attention. Views on this important question often differ widely, as shown in the paragraphs which follow:

(*a*) The view that appears to be shared by a substantial number of Member States is that, in case the financing of a

peace-keeping operation is not covered by special arrangements, it should fall under the competence of the General Assembly to make assessments according to Article 17 of the Charter. These special arrangements include those envisaged in Article 43 of the Charter, as well as other arrangements such as sharing the total costs between parties who desire the particular peace-keeping operation or financing wholly or in part through voluntary contributions. If the General Assembly is required to distribute the costs of a particular peace-keeping operation, the principle of the collective responsibility of all Member States shall apply, although the assessment may be made according to a special scale which would duly take into account the special responsibility of the permanent members of the Security Council, the degree to which a State is involved in the situation giving rise to a peace-keeping operation, and the economic capacity of Member States, particularly of the developing countries.

(*b*) Another view is that the question of the reimbursement of expenditure required for the execution of emergency measures adopted by the Security Council to deter or repel aggression through the United Nations armed forces should be decided in conformity with the principle that aggressor States bear political and material responsibility for the aggression they commit and for the material damage caused by that aggression. This does not, however, preclude the possibility that situations may arise where, in order to execute the above-mentioned emergency measures of the Security Council, it will be necessary for Member States to take part in defraying the expenditure involved in the maintenance and use of United Nations armed forces established in order to maintain international peace and security. According to this view, any question relating to the creation and use of armed forces, including the financing of such forces, is within the exclusive prerogative of the Security Council.

(*c*) A third view is that it is incumbent upon the Security Council to lay down the mode of financing of the operation which it has decided upon or recommended, either in accordance with a scale to be determined when the expenses are divided among the Members, or in accordance with the system of voluntary contributions.

(*d*) Another view is that the method of financing a peace-keeping operation through voluntary contributions is most unsatisfactory inasmuch as there is a large degree of uncertainty about what amounts will be actually available, and therefore the planning and advance arrangements essential to an efficient and economical operation are sorely hampered.

36. It is obvious from the preceding paragraphs that the question of financing future peace-keeping operations will need more detailed examination. In this connexion several suggestions of an organizational nature have been made:

(*a*) One proposal is for the establishment by the General Assembly of a standing finance committee made up of the permanent members of the Security Council and a relatively high percentage of those Member States in each geographical area that are large financial contributors to the United Nations. This committee would make suitable recommendations by a two-thirds majority to the General Assembly, on the basis of which the Assembly would apportion the expenses of the peace-keeping operation. In making its recommendations, the committee would consider various alternative methods of financing, including direct financing by countries involved in a dispute, voluntary contributions and assessed contributions.

(*b*) Another proposal is for the establishment by the Security Council, under Article 29 of the Charter, of a committee which would assist it in exercising its financial powers. The composition of the committee could be laid down on a broader footing than that of the Council itself, which would make it possible to initiate in practice a dialogue between the Council and the most representative and most interested elements within the General Assembly.

(*c*) A third proposal is for the establishment of a committee consisting partly of Security Council members and partly of States nominated by the General Assembly from among non-members of the Council, with terms of reference agreed by both the Council and the General Assembly.

(*d*) Another proposal aimed at giving an institutional form to voluntary contributions is for the creation of a fund, made up of voluntary contributions, from which appropriations would be made by the General Assembly to meet the costs of a given peace-keeping operation.

(*e*) A proposal that appears to have very considerable support is for a strict compliance with regulation 13.1 of the Financial Regulations of the United Nations which requires that "No council, commission or other competent body shall take a decision involving expenditure unless it has before it a report from the Secretary-General on the administrative and financial implications of the proposal". The provisional rules of procedure of the Security Council contain no provision giving effect to this regulation and in practice it has seldom been observed. It has been suggested further that any resolution involving expenditure on a peace-keeping operation should as far as possible include in it an indication as to how the required financing is to be provided or secured.

37. During the consultations, several members stressed the necessity of giving special attention to the problem of the continued financing of UNEF and the amortization of the bond issue.

IV. Organizational

38. The organization of the work entrusted to the Special Committee figured very much during the consultations which the Secretary-General and the President of the General Assembly held with the members.

39. It is accepted that the Committee has, in the main, two tasks to perform. One is to ensure the normalization of the work of the General Assembly and the overcoming of the present financial difficulties facing the Organization. The other is the wider task of the comprehensive review of peace-keeping operations in all their aspects, which must necessarily include as clear a definition as possible of what constitutes a peace-keeping operation.

40. It was clear from the beginning that there was a difference of opinion concerning the priorities to be accorded to the tasks referred to in the preceding paragraph. Most members felt that the immediate task of the Committee was to make certain that the General Assembly would function normally when it resumed and to recommend steps to restore the solvency of the Organization. They were of the view that the question of future peace-keeping operations was extremely complex and would require more detailed analysis and study. On the other hand, some members felt that the Committee should first concentrate on the future and formulate specific principles governing the future peace-keeping operations in conformity with the Charter. A third view was that the two questions should receive parallel attention. According to this view, while it would be difficult to find a settlement of past and present financial difficulties unless a clear decision was taken on the course which the United Nations should follow in the future, it would be equally difficult to agree upon specific principles to govern future peace-keeping operations without overcoming the existing difficulties.

41. In connexion with the normalization of the work of the General Assembly, the question of Article 19 was raised both during the informal consultations which the Secretary-General and the President of the General Assembly had with the members and the formal meetings of the Special Committee. It was pointed out that the normalization of the work of the General Assembly could only be ensured by avoiding the recurrence of the situation that prevented the General Assembly from functioning normally when it convened in December 1964. The view was expressed that the Special Committee should note that "all States Members of the United Nations are agreed that, in the best interests of the Organization, a confrontation should be avoided on the question of the applicability of Article 19 of the Charter of the United Nations". Another view was that the Special Committee

must ensure the creation of a situation in which there would be a firm set of guarantees against the utilization of Article 19 for provocative purposes and that this could be done by the Special Committee agreeing that the "question of the applicability of Article 19 should not be raised". Yet another view was that the applicability of Article 19 was a matter for the General Assembly and not for the Special Committee to determine and that the Special Committee should avoid any reference in its recommendations to Article 19 but instead, putting aside unfounded fears and unnecessary controversy, concentrate on achieving solvency through co-operative effort and on reaching a reasonable understanding about future financial obligations of the Organization related to peace-keeping.

42. During the consultations and discussions, certain other matters of an organizational nature were raised. These questions were not examined in detail. They are, however, of considerable importance to the work entrusted to the Special Committee and as such should find an appropriate place in this report.

43. One question referred to by several members was that the Security Council should take up the matter of negotiating agreement or agreements under Article 43 of the Charter in order that the requisite means might be available should the Security Council decide to act under Chapter VII of the Charter. It has been suggested that the Military Staff Committee should undertake, in consultation and without waiting for the completion of the work of the Special Committee, with all the interested Member States the preparation of a draft of the basic provisions for such agreements.

44. A related question is the role of the Military Staff Committee. Several members expressed the view that the Military Staff Committee should be activated and given a positive role in future peace-keeping operations. It was suggested in this connexion that the participation in the work of the Military Staff Committee should be broadened so as to associate with it those Member States that would participate in peace-keeping operations. Another suggestion was aimed at the implementation of Article 47, paragraph 4, which provides for consultation between the Military Staff Committee and appropriate regional agencies.

45. Reference was also made to the composition of peace-keeping forces. The following views were expressed in this connexion.

(*a*) In order to ensure that the utilization of force by the United Nations should be in keeping only and exclusively with the interest of peace and should not in any manner be related to unilateral aims or purposes of individual States or groups of States, it is necessary that in the contingents of armed forces and the command over those forces participation be ensured on behalf of "all three groups of Member States, namely, the Western Powers, the neutralist Powers and the socialist Powers".

(*b*) It would be inadvisable to include contingents from any States that are permanent members of the Security Council. A view was expressed that it might not however be wise to proscribe the use of such contingents altogether and for all time.

(*c*) Another suggestion was that the peace-keeping operations should consist of troops from States that are not members of the Security Council.

(*d*) The principle of fair geographical distribution should be adhered to.

(*e*) When the operation is being undertaken at the request of a Member State, the concurrence of that State regarding the composition of the forces should be obtained.

V. Observations and conclusions

46. The necessity for the development and strengthening of the United Nations as a really effective instrument for the preservation and maintenance of international peace and security is an accepted fact. Needless to say, in order to achieve this objective, it is necessary to observe strict compliance with the provisions of the Charter, which has been described as the starting point and the common denominator among all the Members of the Organization. It has been suggested that a complete solution, acceptable to all, of all the problems confronting the Organization in its main purpose of maintaining international peace and security might necessitate a revision of various provisions of the Charter. But it is evident that the vast majority of the Members of the Organization are confident that with goodwill and co-operation it should be possible to find some acceptable formula, within the terms of the Charter, to overcome the difficulties that face the Organization.

47. It would be correct to say that the problems that confront the United Nations have largely been due to the fact that the Organization has been, over the last decade or so, called upon to deal with situations in a manner not explicitly spelled out in the Charter. It is a fact that the concept of collective security, which is embedded in the Charter, has undergone significant changes over the last twenty years. This is not to deny the primary responsibility of the Security Council for maintaining international peace and security, nor is any attempt being made or contemplated to minimize the responsibilities of the permanent members of the Security Council.

48. What would appear to be necessary is for the Members of the United Nations, and particularly the permanent members of the Security Council which have a major responsibility in this regard, to face up to the realities of the situation and, in keeping with their obligations under the Charter and their common desire to enable the Organization to fulfil its objectives, take practical measures for overcoming the difficulties that confront the Organization.

49. The Charter of the United Nations contains numerous provisions aimed at dealing with situations involving the maintenance of international peace and security. It is contended by some that these provisions are incomplete and inadequate. At the same time it is a fact that the situations involving the restoration or maintenance of international peace and security vary so considerably that it would be very difficult to attempt to rewrite the Charter to include absolutely clear and precise provisions to deal with every given situation to the satisfaction of all Members. Much of the controversy seems to be at times somewhat academic in nature and one is led to wonder if there are in fact such serious differences in interpreting the Charter. In fact, there is a great deal of merit in the view that wider use of peaceful means of settling disputes, as provided for in the Charter, should be encouraged.

50. The circumstances that led to the establishment of the Special Committee and the general concern of the Members of the Organization to avoid a repetition of the unfortunate experience of the first part of the nineteenth session have understandably highlighted the need for ensuring the normal functioning of the General Assembly when it resumes its work in September. During the consultations undertaken by the Secretary-General and the President of the General Assembly, the view was repeatedly expressed that there should not be recurrence of the situation that prevented the General Assembly from functioning normally when it met last. This undoubtedly is one of the immediate tasks before the Committee and must necessarily deserve special attention.

51. Another equally important and pressing question relates to the present financial difficulties facing the Organization. There appears to be substantial support for the view that it is of prime importance to restore the solvency of the Organization by voluntary contributions by the entire membership of the Organization, it being understood that this arrangement shall not be construed as any change in the basic positions of any individual Members and should be accepted as a co-operative effort by all Member States, aimed at the strengthening of the United Nations with a view to creating a climate in which the future may be harmoniously planned. If this view is generally acceptable, it is expected that the members of the Special Committee may wish to authorize the Secretary-General to take appropriate steps, in consultation with Member States, towards this end.

52. There remains the wider question of the comprehensive review that the Special Committee has been asked to undertake of the whole question of peace-keeping operations in all

their aspects, including the authorization of operations, the composition of forces and their control, and the financing of such operations. It is accepted that such a review, the scope and importance of which are considerable, cannot be completed by 15 June, by which date the Special Committee is required to submit a report to the General Assembly. The comprehensive review must necessarily begin with a clear definition of the term "peace-keeping operations", at present interpreted in several different ways which cannot be reconciled to the satisfaction of everyone without further study. Undoubtedly, there has already been some noticeable progress in this matter, inasmuch as the views have become clearer and do not appear to be so far apart. It would, however, seem appropriate and advisable for the Special Committee to agree at this stage upon certain guidelines, within the terms of the Charter, which could apply to future peace-keeping operations. It must be borne in mind, in this connexion, that peace-keeping operations vary so much in so many ways that a considerable degree of flexibility will be required in dealing with each individual situation. However, the following broad guidelines may be found useful and practical:

(*a*) The Members of the United Nations have conferred on the Security Council primary responsibility for the maintenance of international peace and security.

(*b*) The General Assembly also bears its share of responsibility in maintaining international peace and security. The general functions and powers of the Assembly relating to the maintenance of international peace and security are contained in Articles 10, 11, 12, 14, 15 and 35 of the Charter.

(*c*) The functions and powers of the Security Council and of the General Assembly should be understood as complementary and not as contradictory.

(*d*) In view of the primary responsibility for the maintenance of international peace and security conferred upon the Security Council by the Members of the United Nations for the purpose of ensuring prompt and effective action by the Organization, any question which involves or may involve peace-keeping operations should be examined, in the first instance, by the Security Council in order that appropriate action may be taken as promptly as possible by that organ.

(*e*) If the Security Council is unable for any reason whatever to adopt decisions in the exercise of its primary responsibility for the maintenance of international peace and security, there is nothing to prevent the General Assembly from considering the matter immediately and making appropriate recommendations in conformity with its responsibilities and the relevant provisions of the Charter.

(*f*) According to Article 11, paragraph 2, of the Charter, the General Assembly may choose to refer the question back to the Security Council with appropriate recommendations. If the General Assembly resolves by the required two-thirds majority to make such recommendations, it is to be expected that the weight of such recommendations, supported by a substantial majority of the membership of the United Nations, will have a very significant effect upon the subsequent action by the Security Council. It is likewise to be expected that the General Assembly will duly take into account and give the most serious weight to the views expressed and positions taken in the Security Council when the Council was previously seized of the matter at issue.

(*g*) The financing of peace-keeping operations should be done in conformity with the provisions of the Charter, and the General Assembly and the Security Council should co-operate in this respect.

(*h*) In each case involving a peace-keeping operation by the United Nations, various methods of financing may be considered, such as special arrangements among the parties directly involved, voluntary contributions, apportionment to the entire membership of the Organization and any combination of these various methods.

(*i*) If the costs of a particular peace-keeping operation, involving heavy expenditure, are to be apportioned among all the Members of the Organization, this should be done according to a special scale, due account being taken of: first, the special responsibility of the permanent members of the Security Council; secondly, the degree to which particular States are involved in the events or actions leading to a peace-keeping operation; and, thirdly, the economic capacity of Member States, particularly of the developing countries.

(*j*) No decision involving heavy expenditure on a peace-keeping operation shall be taken without advice of the financial implications involved in the operation. The Secretary-General shall, in conformity with regulations 13.1 of the Financial Regulations of the United Nations, submit a report on the administrative and financial implications of the proposal.

53. It is obvious that the guidelines indicated above are neither comprehensive nor fully adequate to meet the varying needs that may arise. There is no doubt that these questions need more detailed study.

54. The Secretary-General and the President of the General Assembly sincerely hope that this report may help the members of the Special Committee in carrying out successfully the mandate given to them by the General Assembly.

DOCUMENTS A/5916 AND ADD.1

Second report of the Special Committee on Peace-keeping Operations

DOCUMENT A/5916

[*Original text: English*]
[*31 August 1965*]

1. At its fourteenth meeting, on 15 June 1965, the Special Committee on Peace-keeping Operations adopted a report (A/5915 and Add.1). Since then, the Special Committee has held four more meetings. The records of these meetings are annexed to the present report.[53]

2. At the conclusion of the 18th meeting, on 31 August 1965, the Chairman of the Special Committee made the following statement which represented the consensus of the Committee:

"In the light of the statements made in the Committee, without prejudice to the positions taken therein and on the basis of paragraph 11 of the Committee's report of 15 June, I take it that the consensus is:

"(*a*) That the General Assembly will carry on its work normally in accordance with its rules of procedure;

"(*b*) That the question of the applicability of Article 19 of the Charter will not be raised with regard to the United Nations Emergency Force and the United Nations Operation in the Congo;

"(*c*) That the financial difficulties of the Organization should be solved through voluntary contributions by Member States, with the highly developed countries making substantial contributions."

[53] This annex was subsequently circulated in document A/5916/Add.1.

DOCUMENT A/5916/ADD.1[54]

ANNEX

Special Committee on Peace-keeping Operations

Summary records of meetings held at Headquarters, New York, from 16 to 31 August 1965*

Fifteenth meeting

held on Monday, 16 August 1965, at 3.10 p.m.
[A/AC.121/SR.15**]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. Tremblay (Canada) took the Chair.

1. The CHAIRMAN, drawing attention to the Special Committee's report to the General Assembly adopted at the 14th meeting (A/5915 and Add.1), recalled that the Committee had come to the conclusion that more time was required to complete the consideration of the matters covered by its mandate and had decided to continue its work. As indicated in paragraph 8 of that report, it had further decided to request all Member States to submit their views on the guidelines in regard to future peace-keeping operations laid down by the Secretary-General and the President of the General Assembly (A/AC.121/4, para. 52). In response to that request, eighteen replies had been received by 1 August 1965 and a few more had arrived since that date (see A/AC.121/5 and Add.1).

2. It was the responsibility of the Committee to prepare the way for the resumption of the nineteenth session of the General Assembly on 1 September 1965 and for the deliberations of the twentieth session some two weeks later.

3. On behalf of the Committee, he welcomed the new Permanent Representative of the United States of America to the United Nations, Mr. Arthur Goldberg, and expressed confidence that his work at the United Nations would enhance his reputation as a master of the arts of conciliation and negotiation.

4. Mr. GOLDBERG (United States of America) thanked the Chairman for his welcoming remarks and assured the members of the Committee of the great sense of responsibility he felt upon assuming his new duties. As President Johnson had said of his assignment, he would speak for an entire nation responsibly committed to the strength and success of the United Nations in its endeavours to maintain peace throughout the world. He firmly believed that every part of the United Nations peace-keeping machinery must be in working order if the Organization was to perform its peace-keeping functions under the Charter. In paying a tribute to his predecessor, the late Adlai E. Stevenson, he observed that he too would have urged the United Nations to proceed with the task of making peace.

5. With regard to the specific question being dealt with by the Committee, he pointed out that the United States continued to believe that the concept of collective financial responsibility adopted by the United Nations in 1945 was a sound principle, that Article 17 of the Charter clearly empowered the General Assembly to assess and apportion among Member States "the expenses of the Organization", that the costs of peace-keeping operations, once assessed and apportioned by the Assembly, were expenses of the Organization within the meaning of Article 17—a proposition which had been upheld by the International Court of Justice and accepted by the General Assembly by an overwhelming vote (see resolution 1854 (XVII))—and, finally, that Article 19 was clear beyond question about the sanction to be applied to Member States two years in arrears in the payment of their contributions.

6. The views of the United States on those matters had been based not on narrow national interest, but on the clear language of the Charter and the clear interests of the United Nations. Its position had never been an issue in the cold war; it would be identical regardless of which Member State or States happened to be in arrears, of what assessed activity of the United Nations they refused to support financially or of why they refused to pay. The United States Government did not regard the issue as a "confrontation" between major Powers, and was not prepared to abandon positions which it believed to be constitutionally, legally, procedurally and administratively correct. Nor was it prepared to undo or revise the precedents established by the Assembly itself by overwhelming majorities. They included the Assembly resolutions levying assessments to finance the UNEF and ONUC, the 1961 decision to request the International Court's advisory opinion on whether those assessments constituted "expenses of the Organization" within the meaning of Article 17, the authorization in that same year of the United Nations bond issue, the acceptance in 1962 of the Court's advisory opinion, the reaffirmation of the collective financial responsibility of all Member States at the fourth special session in 1963 and the appeal to all delinquent States to pay their arrears.

7. On the other hand, on the basis of the entire history of the problem of the financing of peace-keeping operations, the United States had regretfully concluded that, at the present stage in the development of the United Nations, the General Assembly was not prepared to carry out the relevant provisions of the Charter, that is, to apply the loss-of-vote sanction provided in Article 19. The intransigence of a few Member States and their unwillingness to abide by the rule of law had created that state of affairs, and while the United States continued to maintain that Article 19 was applicable in present circumstances, it recognized that the consensus of opinion in the Assembly was against application of the Article and in favour of having the Assembly proceed normally. The United States would not seek to frustrate that consensus, since it was not in the interest of the world to have the Assembly's work immobilized, particularly in view of present world tensions. It agreed that the Assembly must proceed with its work. At the same time, if any Member State could make an exception to the principle of collective financial responsibility with respect to certain United Nations activities, the United States reserved the same option to make exceptions if, in its view, there were strong and compelling reasons to do so. There could be no double standard among the Members of the Organization.

8. The effect of failing to apply Article 19 was to impair the exercise by the Assembly of certain prerogatives granted to it under the Charter. Since the United States sought to strengthen the United Nations by adhering to the sound principles laid down in the Charter and the Assembly's attitude had developed contrary to the views which the United States still held to be valid, the United States disclaimed responsibility for the Assembly's attitude. It placed the responsibility where it properly belonged, namely, on those Member States which had flouted the Assembly's will and the Court's opinion.

9. Nevertheless, the United States looked forward to the time in the near future when the entire membership of the United Nations would once again assume the full range of collective responsibility for maintaining world peace. It urged all States to support in practice the principle of collective financial responsibility and to adopt equitable means by which those willing to share the responsibility for peace could act in concert to strengthen the United Nations peace-keeping capacity. The Security Council retained primary, but not sole, responsibility for the maintenance of international peace and security; the General Assembly retained its residual authority for that purpose, especially when the Council was unable to meet its responsibilities. The United States was not prepared to accept a situation in which the capacity of the United Nations to act for peace could be stopped by the negative vote of a single Member State. Nor should the effectiveness of the Organization be determined by the level of support forthcoming from its least co-operative Members. The overwhelming majority of Members, who were prepared to strengthen

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* For the list of delegations, see documents A/AC.121/INF.1 and Rev.1 and 2, p. 92 below.

** Incorporating document A/AC.121/SR.15/Corr.1.

[54] Circulated on 30 September 1965.

the Organization's peace-keeping capacity, must be in a position to do so with or without the support of the reluctant few until the latter learned that a workable system for preserving international peace was in the national interest of all Member States.

10. It was his profound conviction that the work of the United Nations, that is, the effort to bring the rule of law to govern the relations between sovereign States, was the greatest adventure in human history. That rule of law was not being furthered by the action of those Member States which refused to implement it. Nevertheless, despite temporary setbacks, the Organization must persevere in that essential task if world peace was to be achieved.

11. On behalf of his delegation and his Government, he pledged that the United States was prepared to exert new efforts to strengthen the United Nations until the rule of law was universally accepted and the purposes of the Charter fulfilled.

12. Lord CARADON (United Kingdom), after welcoming Mr. Goldberg to the Committee's deliberations, confirmed his Government's acceptance of the important and far-reaching decisions which had been unanimously agreed upon at the 14th meeting on 15 June 1965. The Committee had agreed that the United Nations should be strengthened through a co-operative effort and that the General Assembly, when it reconvened, should conduct its work according to the normal procedure established by its rules of procedure. Those decisions represented an important first step in the work of the Committee: it now remained for the Committee to take the second step and find ways of putting those decisions into practical effect.

13. It was the future that mattered, not the past. No dispute or cold-war animosity should be allowed to do lasting damage to the United Nations and the past should not be viewed in any spirit of defeatism, still less in a spirit of recrimination. His Government had declared that support for the United Nations was a corner-stone of its foreign policy and, at a time when it was facing many serious economic and financial problems of its own, had set itself to give a lead in strengthening, supporting and sustaining the United Nations. In addition to its regular contributions, the United Kingdom had increased its contributions to UNICEF, the Special Fund and the technical assistance and refugee programmes. It had made voluntary contributions for the successive mandates of the United Nations Peace-keeping Force in Cyprus and had provided a contingent of over a thousand men with full logistic support, entirely at British expense. It had also taken the important initiative of offering logistic support for up to six battalions of United Nations peace-keeping troops and, in the hope of contributing to a solution of the controversies which had delayed and frustrated the work of the General Assembly far too long, had pledged to help the United Nations rid itself of its financial difficulties.

14. At the same time, the United Kingdom had never underestimated the difficulties or the dangers of the present situation, nor denied the incalculable harm that had been done. Earlier in the year, three possible courses of action had been open to the United Nations. The first was the negative course of postponement: an admission of failure and despair to which his Government had been utterly opposed. It had likewise opposed the second course—that of a showdown or confrontation by vote of the General Assembly—because it recognized that whoever won the vote, the United Nations would lose. The course which it had advocated and in which it had taken the initiative was that of setting up a widely representative body to review the whole situation and make recommendations to the General Assembly on the action best designed to escape from the deadlock and open the way for settling future peace-keeping policy. It could not be claimed that the Committee had made substantial progress in shaping future policy but it had unanimously agreed on the action required to escape from the past deadlock. The Committee must not now fail to take the necessary action to achieve the joint and related purposes of a co-operative effort to end the financial crisis and of the resumption of the work of the General Assembly.

15. With regard to the first of those purposes, his country and others had taken the lead by making voluntary and unconditional contributions amounting to some $18 million. He was confident that that initiative would be followed and that those who had voted unanimously in favour of a co-operative effort would soon demonstrate that theirs was no empty vote.

16. Turning to the question of the resumption of the work of the General Assembly, he recalled that, when his country first undertook to contribute to a voluntary fund, he had said at the 1316th plenary meeting of the General Assembly, on 19 January 1965, that the United Kingdom was eager to find and support any compromise, any settlement, which could achieve agreement without inflicting lasting injury on the United Nations or the Charter. In supporting such a compromise, his country was not abandoning the principles which it believed were widely supported by the general membership of the United Nations. It did not believe that the primary responsibility of the Security Council precluded the General Assembly from playing a part in the peace-keeping role of the United Nations; it accepted the advisory opinion of the International Court of Justice of 20 July 1962; it respected General Assembly resolution 1854 (XVII), in which an overwhelming majority of the Members accepted that opinion; it maintained its belief in the principle of collective financial responsibility; it still believed that Articles 17 and 19 of the Charter should be retained; and it remained of the opinion that it was urgently necessary to replace the improvisations of the past with better procedures and provision for the authorization, administration, supply and command of United Nations peace-keeping operations. His country did not doubt that it was right to take the stand it did, because it was convinced, and remained convinced, that such a stand was in the best interests of the United Nations.

17. The United Kingdom had to recognize, however, that there were differences of views among Members about the assessments for the United Nations operations in the Congo and the Middle East. It also recognized that it was of overriding importance that the work of the General Assembly should continue. It was for those reasons that the United Kingdom had decided, with regard to assessments for the Congo and Middle East operations, that the General Assembly should resume its business in the normal manner without the United Kingdom insisting on the resolution of the controversy on that issue.

18. He recalled that, when he had announced to the General Assembly in January 1965 that his country was willing to make a voluntary contribution, he had appealed to the USSR to give a lead so that all countries could share in a common effort. That appeal had unfortunately gone unheeded, but there was now a new opportunity for all to join in such an effort. At the twentieth anniversary celebrations at San Francisco in June 1965, all delegations had without exception affirmed their faith in the United Nations and their determination to strengthen the Organization. Now was the time to translate those words into action, to put the past behind and turn with relief and hope to positive and forward moves to restore the solvency of the United Nations and to enable the twentieth session to begin its work at the appointed date.

19. Mr. MOROZOV (Union of Soviet Socialist Republics) said that as the United Nations entered upon its third debate, it was inadmissible that it should be any longer subject to the control of imperialistic circles. For almost two years the General Assembly had been prevented from performing its functions under the Charter and discussing the vital issues of the modern world. Such a situation had understandably aroused the concern of all States interested in strengthening the Organization. The majority of Member States, which had actively opposed the artificial obstacles raised in the General Assembly's path at the nineteenth session, now called for the removal of those obstacles and an unconditional return to normal procedures.

20. The Special Committee had already done considerable work in fulfilment of its mandate under General Assembly resolution 2006 (XIX). The USSR delegation's views on the

question under consideration had been presented in detail, and in its memorandum of 10 July 1964 (A/5721) the Soviet Government had put forward a constructive programme aimed at strengthening the effectiveness of the United Nations in its work of ensuring international peace and security.

21. His delegation, like any others, had repeatedly demonstrated the groundlessness of the notion that most of the Organization's difficulties could be ascribed to the fact that the Charter had become obsolete and that it accordingly needed substantial revision. As before, however, attempts were still being made to represent the situation as if the Security Council did not bear the sole responsibility for all questions relating to the initiation, direction and financing of military peace-keeping operations. But such a position was totally incompatible with the provisions of the Charter, the only document which was binding on States Members of the United Nations.

22. It was well to remember that if the Security Council had frequently been deadlocked when considering questions arising from colonial aggression against the peoples of Asia, Africa and Latin America, the fault lay with the colonial Powers. If the representatives of those Powers had been prepared to champion the interests of the third world in the Security Council, there need have been no deadlocks. It was the colonial Powers' stubborn pursuit of their own selfish interests which had brought the United Nations to its present pass, and all the eloquence in the world could not disguise that fact.

23. Attempts had once again been made at the present meeting to undermine the authority of the Security Council by referring to the so-called advisory opinion of the International Court of Justice and the so-called practice of the General Assembly. The Court, whose "opinion" had in any case been far from unanimous, was a consultative organ only and had no power to issue mandatory judgements. Still less was it empowered to hand down mandatory interpretations of the United Nations Charter; any questions relating to the interpretation or amendment of the Charter must, of course, be settled in accordance with the constitutional procedure provided for in the Charter itself. Furthermore, the General Assembly resolution "accepting" the advisory opinion (resolution 1854 (XVII)) could not be considered as legally binding upon Member States, for the Assembly's resolutions had the power of recommendations only. Thus, his delegation continued to base its position on the premise that the peace-keeping effectiveness of the United Nations could be ensured only by strict compliance with the provisions of the Charter.

24. As far as the principles governing future peace-keeping operations were concerned, the Soviet Government's views had been set forth in detail in its reply to the questionnaire on that subject sent out by the Committee (see A/AC.121/5).

25. Notwithstanding some rather heated debates, agreement had been reached on some important points, to everybody's satisfaction. It had been unanimously agreed that the General Assembly, when it reconvened for its twentieth session, should conduct its work in the normal manner laid down in its rules of procedure. His delegation firmly supported that decision and considered that it should be submitted to the Assembly as an important general recommendation. In the past three years, the membership of the Organization had been increased by many new States, and there was now a new majority of countries which wished to see the world strengthened against imperialism and colonialism. If such favourable possibilities were to bear fruit, the artificial obstacles to effective work in the General Assembly must be eliminated.

26. The Committee had carefully examined various possible ways of overcoming the financial difficulties of the United Nations. The discussions on that question had shown that one group of States, including the USSR, had steadfastly defended the basic provisions of the Charter, without which the United Nations could not exist as an independent organization of equal and sovereign States where no one State or group of States could impose its will, whereas another group of States held a position which was contrary to those same provisions. Thus, the financial difficulties were but a reflection of a political crisis, which had culminated in the proposal that Article 19 be applied to Member States which, like the USSR, had declined to participate in defraying the unlawful expenses arising from United Nations operations in the Congo and the Middle East, expenses which could not be considered as part of the regular budget of the Organization. It should also be recalled that scores of Member States had urged that the United Nations be maintained as an organ through which all could collaborate equally in the task of strengthening peace, combating the vestiges of colonialism and racism and developing international relations on the basis of the principles of peaceful coexistence.

27. It was in those circumstances that the Afro-Asian countries had proposed a compromise which, without detriment to the principles of the Charter, would maintain the Organization in existence. The Afro-Asian Plan of 30 December 1964 provided that the Organization's financial difficulties should be resolved by means of voluntary contributions from all Member States and set aside once and for all the question of whether Members were obliged to participate in defraying the unlawful expenses connected with the United Nations military operations in the Congo and the Middle East. The Afro-Asian Plan, therefore, ruled out the very possibility of the application of Article 19 in connexion with the said expenses; indeed, the inseparable link between the question of voluntary contributions and the non-applicability of Article 19 was its key feature.

28. The Soviet Union had thereupon demonstrated the maximum of goodwill by adopting the compromise plan as a basis for solving the Organization's financial difficulties and agreeing to make a substantial voluntary contribution, even though it bore no responsibility for those difficulties. However, it must not be expected that the USSR would make any voluntary contribution in the absence of a firm guarantee that the question of the application of Article 19 would not be raised again. All States genuinely concerned for their own interests and the future of the United Nations must take their stand on the direct link between the question of voluntary contributions and the non-applicability of Article 19. The USSR had made a genuine demonstration of its will to settle the financial problems of the United Nations and, indeed, to support the very existence of the Organization. But no compromise solution was possible in which only one of the two sides took a positive step.

29. Notwithstanding differences of opinion in the Committee, every effort must be made to carry out the Committee's unanimous decision that the work of the General Assembly must proceed normally at its forthcoming twentieth session. He was glad to note that the statements made at the present meeting indicated an important measure of agreement in that regard and his delegation, for its part, would spare no effort to contribute to the success of the Assembly's work. He invited all Governments which were genuinely interested in strengthening the United Nations to do the same.

30. Mr. PAZHWAK (Afghanistan), speaking as the representative of a small nation, expressed gratification that the representatives of three major Powers had reaffirmed their interest in the United Nations.

31. In view of the small number of replies from Member States to the Secretary-General's request for their views on the guidelines in regard to future peace-keeping operations (see A/AC.121/5 and Add.1), he suggested that the Committee, through its Chairman, should send an urgent reminder to those States which had not yet responded.

It was so agreed.

The meeting rose at 4.45 p.m.

Sixteenth meeting

held on Friday, 20 August 1965, at 3 p.m.

[A/AC.121/SR.16]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. Hájek (Czechoslovakia) took the Chair.

1. Mr. ADEBO (Nigeria) associated himself with the expressions of welcome which had been addressed to the new Permanent Representative of the United States of America to the United Nations. The statement made by Mr. Goldberg at the 15th meeting was a good omen for the future. While forcefully restating the United States position, he had shown a spirit of conciliation which had evoked a sympathetic response from all. However, he had done less than justice to those countries which had realized earlier than the United States that the application of the sanctions provided for in Article 19 of the Charter to Member States which did not pay their assessments in respect of peace-keeping operations might lead the United Nations to disaster. Nigeria had been one of the first countries to become aware of that danger. Faithful to the principle of collective responsibility for peace-keeping, his country had always honoured its financial obligations to the United Nations, but it had done everything it could to prevent a confrontation with regard to the application of the sanctions provided for in Article 19 to those States which did not share its point of view. It had done so not because it was less dedicated than any other country to the principle of collective responsibility or the principle of the rule of law, but because it did not feel that those principles would be best advanced by following a course likely to destroy the most effective, if not the only, instrument available for ensuring the application of those principles in the future.

2. His delegation was grateful to the United States Government for its decision to go along with the consensus in favour of a compromise solution in spite of its doubts on that score. To a member of the Press who had asked him at the end of the preceding meeting if he did not think that "this surrender by the United States" might have a harmful effect on the prestige of that country, he had replied that in the course of the discussion all the Member States had been called upon to relent, in one way or another, in respect of convictions to which they were strongly attached. For example, certain States which had sworn that they would contribute nothing to help settle the United Nations financial crisis were now saying that they were ready to make payment in certain circumstances. Countries like Nigeria, which had paid all their peace-keeping assessments, were now expected to make a further contribution. For the Nigerian Government at least, when a country, great or small, made that sort of "surrender" its prestige, far from diminishing, only increased.

3. He regretted that the United States should have felt it necessary to reserve the right to make exceptions to the principle of collective responsibility. It was to be hoped that, once the Committee had succeeded in defining more clearly the obligations of Member States, there would be no further question of reservations. The immediate task, therefore, was to solve the present financial crisis by means of voluntary contributions, after which the Committee should continue with the task which it had undertaken, i.e. to work out arrangements in respect of future peace-keeping which would clearly define the obligations of Member States so that no new controversy would arise.

4. He wished to pay a tribute to the countries which had taken the initiative in that connexion by announcing the contributions they were prepared to make. That example would doubtless have been followed more quickly but for the feeling on the part of a number of Member States that the basic problem would not be disposed of by those contributions alone, without a public undertaking by all Member States, and particularly the great Powers, to ensure that the work of the Assembly would proceed henceforth in the normal fashion. As the consensus, with which the United States had associated itself, was that the Assembly's future sessions should proceed normally, he wished to announce that his Government was prepared to make an unconditional voluntary contribution of $20,000 to help solve the Organization's financial difficulties.

5. With regard to the future, his delegation had made a comprehensive statement of its views at the Committee's 5th meeting and, in its reply to the Secretary-General's communication (see A/AC.121/5), it had supported the guidelines for future peace-keeping operations suggested in paragraph 52 of the report of the Secretary-General and the President of the Assembly (A/AC.121/4). He agreed with the representative of Afghanistan that it would be best to wait until replies from other Member States had been received before continuing the discussion of that question.

6. His delegation shared the hope that agreement would be reached on future peace-keeping operations. He believed, however, that it would be folly to act too hastily. Some still feared that the proposed compromise solution with regard to assessments for past operations did not augur well for the future of the United Nations but in the opinion of his delegation that future would depend rather on the arrangements that were agreed upon for future peace-keeping operations and those arrangements, in turn, would depend on the patience and spirit of accommodation shown by the Committee in examining the question.

7. Mr. TREMBLAY (Canada) said that when the Committee had met in April, Canada had hoped that informal negotiations would make it possible to solve the problem of arrears and lead to an agreement concerning the authorization and financing of future peace-keeping operations. As no progress had been made, Canada, together with the United Kingdom, Norway, Sweden, Denmark and Iceland, had announced on 21 June the decision to make voluntary unconditional contributions, which in Canada's case would amount to $4 million, to help the United Nations solve its financial difficulties. Jamaica had recently joined that group of countries and made a generous contribution and he thanked the Government of Nigeria for the decision which it had just taken in that connexion.

8. When announcing the decision of the Canadian Government on 21 June the Secretary of State for External Affairs had made it clear that the pledge was made without prejudice to that Government's support of the principle of collective financial responsibility for duly authorized peace-keeping operations. He had added that the time had come for as many States as possible to make a joint effort to restore the solvency of the United Nations, to create conditions which would make it possible for the Assembly to meet normally in September 1965, and to preserve the capacity of the United Nations to continue to perform its essential functions in the maintenance of international peace and security. Canada's hope that the largest possible number of States would participate in that voluntary effort had been strengthened by the statements made at the previous meeting by the representatives of three permanent members of the Security Council. In that connexion he thanked the representative of the United States for the very significant statement which he had made to the Committee.

9. The position taken by the United States should clear the way for all Member States to give their support, and it was on them that the success of the voluntary campaign to restore the financial position of the United Nations depended. His delegation believed that an appeal for funds should be launched as soon as possible. In order to underline the urgency of that appeal, one or two pledging conferences might perhaps be arranged, perhaps in September or October. Naturally, that would not prevent Member States from announcing their contributions before the first conference. Similar conferences in the past had proved fruitful and there was no reason why they should be less fruitful in the present instance. If the General Assembly were to convene such a conference, he proposed that it should urge all Member States to make generous contributions within a reasonable period.

10. His country had stated that it would not insist on the application of Article 19 of the Charter in respect of decisions taken by the General Assembly concerning assessment of contributions for UNEF and ONUC. Canada took that position, however, without prejudice to the future application of Article 19 with regard to the regular budget. Indeed, it would be desirable for all Governments to affirm their intention to maintain the integrity of the regular budget. Furthermore, while it recognized that the most urgent problem was to restore the United Nations to solvency, his delegation would consider the financial problem of the United Nations only partially solved if a formula acceptable to all Member States could not be found for the payment of interest and amortization charges on United Nations bonds.

11. The present situation in no way affected his delegation's view that collective financial responsibility remained the best principle for the financing of peace-keeping operations and that UNEF in particular should continue to be financed on the basis of that principle. It was to be hoped that there would be agreement on the need for an urgent study of the future financing of the Emergency Force, which played a vital part in the maintenance of peace and security and accordingly imposed a moral obligation on all Member States to share the costs involved. Some might assert that the maintenance of peace and security in the Middle East was not a matter of collective interest and that consequently there was no collective responsibility involved. Such a view overlooked the fact that the situation in the Middle East always carried with it the risk of a conflict which might spread to the whole world with fatal results.

12. He stressed that point because Canada had believed for many years that peace-keeping was a collective responsibility, and based its policies on that principle. It now agreed that a relevant article of the Charter should not be invoked against certain Governments which had not accepted what it regarded as financial obligations. Canada would support any authorized scheme of voluntary payments to settle the United Nations debts. However, if, as a consequence, the cost of UNEF was to be shouldered by an ever smaller group of States, while others refused to pay their contributions, his country would consider that a serious cause for concern.

13. With regard to future peace-keeping operations, his country welcomed the guidelines drawn up by the Secretary-General and the President of the General Assembly (A/AC.121/4, para. 52). However, there were three major principles which his delegation wished to stress. First, Canada considered that the apportionment of peace-keeping costs between all Member States, in accordance with the principles adopted by the General Assembly at its fourth special session, was the best method of financing peace-keeping operations authorized by the Security Council. However, the Council might recommend alternative methods if it was found after study that the collective contribution method was not acceptable. If the Council's recommendation favoured a system of collective or partial contributions, the General Assembly would apportion the costs. Secondly, all proposals for peace-keeping operations involving the use of military force would be first considered by the Security Council. If the Council were unable to act, the General Assembly might consider the question and make recommendations either to the Council, or to Member States. Lastly, the Secretary-General must retain the authority to administer peace-keeping operations, on the understanding that the Council might if necessary make periodic reviews unless there was general agreement that some other body, such as the Military Staff Committee, should perform that function.

14. Mr. MATSUI (Japan) said that the statement made by the United States representative at the previous meeting and the decision announced by him that the United States would no longer press for the application of Article 19 of the Charter had deeply impressed his delegation. The United States had taken a realistic stand without, however, giving way on the fundamental legal principles or seeking to evade its heavy international responsibilities.

15. He recalled that in December 1964 the group of twelve African and Asian countries, of which his delegation had been a member, had drawn up what had been called the Afro-Asian proposal. Since the suspension of the nineteenth session of the General Assembly, his delegation, as a member of the Special Committee, had continued with the Afro-Asian delegations to seek a solution acceptable to all. It had carefully studied the statement by the representative of the United States and had come to the conclusion that the position taken by that country was virtually identical in substance, if not in form, to the one advocated particularly by the nations in the Afro-Asian group. In some vital respects the new United States position even went beyond the Afro-Asian proposal of 30 December 1964, which would have been inconceivable only a short time ago. He did not look upon that as a "concession", since there was no question of bargaining but simply of recognizing a factual situation. By so acting, the United States had certainly accommodated itself to the fullest possible extent to the Afro-Asian position, and indeed to that of the overwhelming majority of the Members of the United Nations.

16. It was encouraging to know that the General Assembly would thus be able to resume its work normally. If the fact was that the General Assembly was unable to see that Article 19 was applied in the present case, it was equally important to recognize that the United Nations still suffered from an agonizing financial crisis and desperately needed help. The normal functioning of the General Assembly was the first prerequisite, but the United Nations could not be expected to be strengthened without the full financial support of its Members. It was therefore to be hoped that voluntary contributions, which were undoubtedly the only possible solution to the problem, would soon be forthcoming. His delegation had taken careful note of the concern of certain Member States, expressed, *inter alia,* by the USSR representative at the previous meeting, that firm guarantees should be given regarding the non-application of Article 19 and that a link should be established between the question of voluntary contributions and the application of that Article. Without wishing to go into detail, he would like to appeal to those Member States from which substantial voluntary contributions could be expected to accommodate themselves to realities and join in the common effort to resolve the present difficulties of the United Nations. The generosity of those States would certainly encourage others to follow their example.

17. He considered that the Committee should conclude its discussion on the question, with the understanding that it would continue to study the future aspects of the entire question of peace-keeping operations. Experience had shown the difficulty of drawing up a precisely worded draft resolution acceptable to all. In the present favourable climate, it ought to be possible to agree fairly rapidly on a flexible text embodying the consensus achieved. For example, a statement by the Chairman of the Committee might be recorded in the verbatim record of its debate, or certain passages might be included in the Committee's final report to the General Assembly. The important thing was to secure the unanimous consent of all parties concerned and to avoid challenging the basic legal principles of any of the great Powers. In view of the short time left to it before the resumption of the nineteenth session of the General Assembly, the Committee should concentrate its efforts on bringing its present work to a satisfactory conclusion.

18. The CHAIRMAN welcomed the new representative of India, Mr. Parthasarathi, who, he was sure, would make a most valuable contribution to the Committee's work. He also wished to thank his predecessor, Mr. Chakravarty, for the assistance which he had given to the Committee.

19. Mr. PARTHASARATHI (India) thanked the Chairman for his words of welcome. He looked forward to working in close co-operation with the members of the Committee.

20. The CHAIRMAN suggested that the next meeting of the Committee should be convened by the Chairman, in consultation with the Secretary-General, at a date which they considered suitable.

The meeting rose at 3.50 p.m.

Seventeenth meeting

held on Wednesday, 25 August 1965, at 3.15 p.m.

[A/AC.121/SR.17]

Chairman: Mr. Alex QUAISON-SACKEY (Ghana).

In the absence of the Chairman, Mr. Gebre-Egzy (Ethiopia) took the Chair.

1. Mr. CUEVAS CANCINO (Mexico) said that the discussion had entered into a new phase and the Committee was now in a position to propose measures that would make the problem of peace-keeping operations a less serious one, on the basis of the general agreement that the parliamentary procedure prescribed by the Charter would be applied. There

were three fundamental aspects of the problem: the legal question of the applicability of Article 19 of the Charter, the financial difficulties of the United Nations, and the question of future peace-keeping operations and their financing.

2. As regards the first point, the extremely grave crisis in the United Nations had had its origin in the clash of two opposing theses: that which held the sanction provided for in Article 19 to be obligatory in character, and that which regarded it as a parliamentary question open to discussion and negotiation within the appropriate bodies of the General Assembly. The latter thesis, which represented the majority position, had in the end become a consensus. The fact that an important group of States had agreed to modify their position of principle was a precedent of great importance for the future of the United Nations: the triumph of moderation and conciliation, in a spirit of genuine democracy, would enable the Assembly not only to resume its normal business but also to undertake its own renovation.

3. The Latin American States wished to emphasize, however, that the agreement reached on the question of the application of Article 19 in one particular instance should not be given general significance. The agreement was simply that the sanctions prescribed by that Article were deemed not to apply to debts arising out of emergency operations in the Middle East and the Congo. Like Canada, they considered that the agreement should not be allowed to undermine the indisputable obligation of all Member States to contribute to the regular budget approved by the General Assembly; they also considered that the agreement, far from constituting a limitation on future peace-keeping operations, merely established that, in the case of emergency operations which might create precedents, sanctions of an extremely delicate nature could not and should not be applied. Apart from the conditional exception made in the case of the Congo and Middle East expenses, the Latin American delegations were not prepared to prejudge in any way the inapplicability of Article 19. The importance of the unanimous agreement lay in the fact that it enabled the difficulties to be solved by parliamentary means appropriate to the General Assembly; the fact remained that the agreement had no bearing on the problem itself but only on the procedure for ending the deadlock. It now remained to consolidate the results achieved and move forward cautiously and without undue optimism.

4. The crisis through which the United Nations was passing was one of confidence. The agreement which had just been reached was the best omen to appear in a long time and it should not be compromised by a draft resolution that would define its limits too precisely; it was sufficient for the present that the General Assembly should be able to resume its work and the Special Committee would thus have succeeded in its most important task. Some would claim that that solution was superficial and would ask what had been done to make the United Nations solvent. The Latin American delegations believed that many difficulties had arisen from the fact that the financial problems had been linked with controversies of a constitutional nature. In point of fact, the United Nations had shown greater powers of resistance than its critics had expected; despite the difficulties of 1965, the United Nations had survived and had even managed to reduce its debt. The situation was at present no worse than it had been a year before and, clearly, financial wounds were not mortal.

5. The financial problems arose, firstly, from the non-payment of a number of the assessments for the operations in the Congo; secondly, from a similar percentage which some States had withheld with respect to the Middle East operations (the Middle East operation was continuing and a time-limit would therefore have to be established for a comprehensive solution; as no budget had been approved for UNEF in 1964, it appeared desirable to include the expenditures effected up to and including 1965); thirdly, from the debts to Member States which had bought United Nations bonds, the settlement of which had been placed in doubt; and, lastly, from the sums relating to earlier peace-keeping operations which had originally been included in the regular budget and to which some Member States had objected, from 1963 onwards, in the same way as they had objected to the first two categories. The Latin American delegations considered that the problem of the debts could perhaps be solved in a practical manner by establishing, for example, a special refinancing account which, through voluntary contributions, would settle any credits and debts still outstanding on 31 December 1965. They might in due course submit a plan on those lines to the Special Committee.

6. There remained the question of future peace-keeping operations and their financing. That was a question which could not be settled immediately. It had proved possible only to lay down broad guidelines and the next step was to develop some of them. Like the Canadian delegation, the Latin American delegations welcomed the similarity of views on certain aspects of future operations that had become apparent in the course of the discussions; they believed that the Committee, or any other body the General Assembly might set up, would be able to reach an agreement.

7. In conclusion, the Latin American delegations—on whose behalf he was speaking—believed that the Committee would have successfully completed its task if it was able to submit to the General Assembly a statement reflecting the unanimous desire of its members to strengthen the United Nations through a co-operative effort and enabling the General Assembly to resume its work as soon as possible, in accordance with the normal procedure laid down in its rules of procedure.

The meeting rose at 3.40 p.m.

Eighteenth meeting

held on Tuesday, 31 August 1965, at 10.30 a.m.

[A/AC.121/SR.18]

Chairman: Alex QUAISON-SACKEY (Ghana).

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1. Mr. SEYDOUX (France) referred to the explanation of his Government's position which had been given in the statements made at the 3rd and 7th meetings of the Committee on 23 April and 17 May 1965. He noted with satisfaction that the General Assembly would be able to begin its work on the scheduled date and that the question of Article 19 of the Charter would no longer be at issue. A major step forward had undoubtedly been taken since there was no longer any request that that Article should be applied in respect of the operations undertaken in the Middle East and the Congo. The Committee had been unable, however, to come to an agreement on the procedure to be followed with regard to possible future peace-keeping operations and had therefore accomplished only a part of its work. As far as the payments of voluntary contributions for the purpose of solving the Organization's financial difficulties were concerned, the French Government had as yet made no commitment, for it considered it necessary that the question should be studied in the broader context of the general financial policy of the United Nations and its specialized agencies and thought that a solution should be sought within the framework of an over-all reform. While his delegation did not object to the consensus formula which made possible the resumption of the Assembly's work, it wished to ensure that there was no misunderstanding regarding its position.

2. Mr. QUARLES VAN UFFORD (Netherlands) said that since his delegation wished to see the General Assembly's work return to normal, it was prepared to accept a statement of the consensus in the Special Committee. He wished to point out, however, that the Netherlands had faithfully discharged all its financial obligations as assessed by the General Assembly. It would continue to do so because it was convinced that the collective financial responsibility of all Members for the expenses of the United Nations was one of the corner-stones of the Charter. In addition to its mandatory contributions, the Netherlands had made substantial voluntary contributions in cases where it considered such contributions to be necessary and warranted. It therefore assumed that any appeal for voluntary contributions would be addressed primarily to those highly developed countries which, for whatever reason, were in

arrears in the payment of their financial contributions as assessed by the General Assembly in conformity with Article 17 of the Charter. His Government's acceptance of the consensus formula could not be interpreted as implying a commitment to make additional voluntary contributions at that stage.

3. The CHAIRMAN drew attention to the fact that under the terms of General Assembly resolution 2006 (XIX) the Committee had to report to the Assembly. On 15 June 1965 the Committee had submitted a report (A/5915). He was happy to note that, following extensive consultations during the past few days, and in the light of the statements made in the Committee, without prejudice to the positions taken therein and on the basis of paragraph 11 of the Committee's report of 15 June, the consensus was that the following text should be included in the Special Committee's second report to the General Assembly (A/5916):

"(*a*) That the General Assembly will carry on its work normally in accordance with its rules of procedure;

"(*b*) That the question of the applicability of Article 19 of the Charter will not be raised with regard to the United Nations Emergency Force and the United Nations Operation in the Congo;

"(*c*) That the financial difficulties of the Organization should be solved through voluntary contributions by Member States, with the highly developed countries making substantial contributions."

4. If there were no objections, he would consider that text approved.

It was so decided.

5. The CHAIRMAN paid tribute to the members of the Afro-Asian group for the initiative they had shown and to all the other members of the Committee for their willingness to compromise. If there were no objections, he would take it that the Committee approved its second report (A/5916) as a whole.

It was so decided.

6. The CHAIRMAN said that, since the Committee had accepted the consensus, the representative of Ethiopia did not press his draft resolution (A/AC.121/L.1/Rev.1).

7. Mr. PAZHWAK (Afghanistan), on behalf of the Afro-Asian delegations, thanked all the members of the Committee who had taken part in the negotiations.

8. Mr. MATSUI (Japan) welcomed the happy outcome of the Committee's labours and extended his congratulations in particular to the Committee's Chairman and to Mr. Pazhwak, Chairman of the Afro-Asian group's committee on peace-keeping. Although the Special Committee had concluded only the first phase of its task, its action enabled the General Assembly to resolve the present deadlock; the Committee could, if the General Assembly authorized it to do so, continue its work later.

9. The CHAIRMAN thanked the Secretary-General, his staff and all the members of the Committee for their untiring efforts which had helped the Committee to reach such a happy conclusion.

The meeting rose at 11.15 a.m.

DOCUMENTS A/AC.121/INF.1 AND REV.1 AND 2*

Special Committee on Peace-keeping Operations

List of delegations

[*Original text: English, French and Spanish*]

NOTE: The following list, giving the information contained in documents A/AC.121/INF.1, A/AC.121/INF.1/Rev.1 and A/AC.121/INF.1/Rev.2 of 20 April, 6 May and 24 August 1965, comprises the names of members of delegations accredited to the Special Committee on Peace-keeping Operations either for all or some of the eighteen meetings held by the Committee between 26 March and 31 August 1965.

AFGHANISTAN

Representative

H.E. Mr. Abdul Rahman, Pazhwak,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representatives

Mr. Mohammad Osman, Sidky,
Minister Counsellor,
Deputy Permanent Representative to the United Nations

Mr. Rahmatullah Mehr,
Attaché,
Permanent Mission

Mr. Farouk Farhang,
Attaché,
Permanent Mission

ALGERIA

Representative

H.E. Mr. Tewfik Bouattoura,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representative

Mr. Hadj Benabdelkader Azzout,
Counsellor,
Permanent Mission

Adviser

Mr. Kemal Hacène,
First Secretary,
Permanent Mission

ARGENTINA

Representative

H.E. Mr. Lucio García del Solar,
Ambassador Extraordinary and Plenipotentiary,
Deputy Permanent Representative to the United Nations
Chargé d'affaires, a.i.,
Permanent Mission

Alternate Representatives

Mr. Raúl A. J. Quijano,
Envoy Extraordinary and Minister Plenipotentiary,
Permanent Mission

Mr. Carlos Alberto Goñi Demarchi,
Counsellor,
Permanent Mission

* Incorporating document A/AC.121/INF.1/Rev.2/Corr.1, of 30 August 1965.

Adviser

Mr. Roberto Dalton,
Third Secretary,
Permanent Mission

AUSTRALIA

Representatives

H.E. Mr. Patrick Shaw, C.B.E.,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Mr. Dudley McCarthy, M.B.E.,
Minister,
Deputy Permanent Representative to the United Nations

Alternate Representative

Mr. E. R. Pocock,
Second Secretary,
Permanent Mission

AUSTRIA

Representative

H.E. Dr. Kurt Waldheim,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representative

Dr. W. R. Backes,
Counsellor of Embassy,
Deputy Permanent Representative to the United Nations

Adviser

Dr. Georg Hennig,
Attaché,
Permanent Mission

BRAZIL

Representative

H.E. Mr. José Sette Camara,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representative

Mr. Geraldo de Carvalho Silos,
Minister Plenipotentiary,
Deputy Permanent Representative to the United Nations

Advisers

Mr. Carlos Antonio Bettencourt Bueno,
Second Secretary of Embassy,
Permanent Mission

Mr. João Augusto de Médicis,
Second Secretary of Embassy,
Permanent Mission

CANADA

Representative

H.E. Mr. Paul Tremblay,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representative

Mr. Gordon E. Cox,
Minister,
Deputy Permanent Representative to the United Nations

Advisers

Mr. Peter C. Dobell,
Counsellor,
Permanent Mission

Mr. Vernon George Turner,
First Secretary of Embassy,
Permanent Mission

CZECHOSLOVAKIA

Representative

H.E. Professor Jiří Hájek,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representatives

Dr. Ladislav Smíd,
Minister Plenipotentiary,
Deputy Permanent Representative to the United Nations

Mr. Jan Mužík,
Counsellor of Embassy,
Deputy Permanent Representative to the United Nations

Advisers

Mr. Vladimír Pruša,
First Secretary,
Permanent Mission

Dr. Jaroslav Ríha,
Second Secretary,
Permanent Mission

Mr. Vladimír Gotmanov,
Second Secretary,
Permanent Mission

Mr. Vlastimil Štefel,
Second Secretary,
Permanent Mission

Mr. Miroslav Soukup,
Attaché,
Permanent Mission

EL SALVADOR

Representative

H.E. Dr. Antonio Alvarez Vidaurre,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative to the United Nations

Alternate Representatives

Dr. Carlos Alberto Liévano,
Minister Plenipotentiary,
Alternate Representative to the United Nations

Dr. Felipe Vega Gómez,
Minister Plenipotentiary,
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ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1330th plenary meeting, on 18 February 1965, the General Assembly adopted the draft resolution submitted by the President of the General Assembly (A/L.461/Rev.1). For the final text, see resolution 2006 (XIX) below.

At its 1331st plenary meeting, on 1 September 1965, the General Assembly adopted the reports of the Special Committee on Peace-keeping Operations (A/5915 and Add.1, A/5916 and Add.1).

At the same meeting, the General Assembly also decided that the modalities for the continuance of the work of the Special Committee should be determined at the twentieth session.

Resolution adopted by the General Assembly

2006 (XIX). COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACE-KEEPING OPERATIONS IN ALL THEIR ASPECTS

The General Assembly,

Concerned at the situation at its nineteenth session,

Deeply anxious to resolve urgently the problems which have arisen at that session, so as to enable the Organization to continue to fulfil its objectives,

Considering it necessary to ensure as soon as possible the normalization of its work,

1. *Invites* the Secretary-General and the President of the General Assembly, as a matter of urgency, to make arrangements for and to undertake appropriate consultations on the whole question of peace-keeping operations in all their aspects, including ways of overcoming the present financial difficulties of the Organization;

2. *Authorizes* the President of the General Assembly to establish a Special Committee on Peace-keeping

Operations, under the chairmanship of the President of the Assembly and with the collaboration of the Secretary-General, the composition of which will be announced by the President after appropriate consultations;

3. *Instructs* the Special Committee, taking into account the consultations envisaged in paragraph 1 above, to undertake as soon as possible a comprehensive review of the whole question of peace-keeping operations in all their aspects, including ways of overcoming the present financial difficulties of the Organization;

4. *Requests* the Special Committee to submit a report to the General Assembly as soon as possible and not later than 15 June 1965.

1330th plenary meeting,
18 February 1965.

*
* *

The President of the General Assembly, in pursuance of paragraph 2 of the above resolution, appointed the members of the Special Committee on Peace-keeping Operations.[55]

The Special Committee will be composed of the following Member States: AFGHANISTAN, ALGERIA, ARGENTINA, AUSTRALIA, AUSTRIA, BRAZIL, CANADA, CZECHOSLOVAKIA, EL SALVADOR, ETHIOPIA, FRANCE, HUNGARY, INDIA, IRAQ, ITALY, JAPAN, MAURITANIA, MEXICO, NETHERLANDS, NIGERIA, PAKISTAN, POLAND, ROMANIA, SIERRA LEONE, SPAIN, SWEDEN, THAILAND, UNION OF SOVIET SOCIALIST REPUBLICS, UNITED ARAB REPUBLIC, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, UNITED STATES OF AMERICA, VENEZUELA *and* YUGOSLAVIA.

[55] See A/5900.

CHECK LIST OF DOCUMENTS

Document No.	*Title*	*Observations and references*
A/5917	Estimated financial needs of the Organization: report of the Secretary-General	Mimeographed
A/L.461	Draft resolution submitted by the President of the General Assembly	Replaced by A/L.461/Rev.1
A/L.461/Rev.1	Revised draft resolution submitted by the President of the General Assembly	Adopted without change. See above "Action taken by the General Assembly", resolution 2006 (XIX). The text of the resolution appears also in *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15*
A/AC.113/29	Working Group on the Examination of the Administrative and Budgetary Procedures of the United Nations—Statement made by the Secretary-General at the 21st meeting of the Working Group on 9 September 1964	Mimeographed
A/AC.113/30	Working Group on the examination of the Administrative and Budgetary Procedures of the United Nations—Financing of United Nations peace-keeping operations: working paper submitted by the delegation of the United States of America	Ditto
A/AC.121/1	Special Committee on Peace-keeping Operations—Statement by the President of the General Assembly at the 1st meeting of the Special Committee held on 26 March 1965	Mimeographed; for a summary of the statement, see A/AC.121/SR.1, paras. 1-4
A/AC.121/2	Special Committee on Peace-keeping Operations—Letter dated 25 March 1965 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General, transmitting a "Memorandum of the Government of the Union of Soviet Socialist Republics regarding certain measures to strengthen the effectiveness of the United Nations in the safeguarding of international peace and security"	Mimeographed. For the text of the memorandum see A/5721
A/AC.121/3	Special Committee on Peace-keeping Operations—Financing of United Nations peace-keeping operations: working paper submitted by the delegation of the United States of America	Mimeographed
A/AC.121/4	Special Committee on Peace-keeping Operations—Report of the Secretary-General and the President of the General Assembly	Same text as A/5915 and Add.1, annex II
A/AC.121/5 and Add.1 and 2	Note by the Secretary-General transmitting replies by Governments to his communication of 23 June 1965	Mimeographed
A/AC.121/L.1	Special Committee on Peace-keeping Operations—Ethiopia: draft resolution	Replaced by A/AC.121/L.1/Rev.1
A/AC.121/L.1/Rev.1	Special Committee on Peace-keeping Operations—Ethiopia: revised draft resolution	Mimeographed. See A/5915, para. 7.
A/AC.121/L.2	Special Committee on Peace-keeping Operations—Mexico: draft resolution	*Idem*, para. 9
A/AC.121/SR.1-14	Summary records of the meetings held by the Special Committee on Peace-keeping Operations from 26 March to 15 June 1965	Same text as A/5915 and Add.1, annex I
A/AC.121/SR.15-18	Summary records of the meetings held by the Special Committee on Peace-keeping Operations from 16 to 31 August 1965	Same text as A/5916 and Add.1, annex

Printed in U.S.A. 4828—November 1965—2,150

United Nations

GENERAL ASSEMBLY

Official Records

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964-1965

Annex No. 22

Audit reports relating to expenditure by specialized agencies and the International Atomic Energy Agency:*

(*a*) Earmarkings and contingency authorizations from the Special Account of the Expanded Programme of Technical Assistance;

(*b*) Allocations and allotments from the Special Fund

CONTENTS

Document No.	*Title*
A/5831	Audit reports for the year ended 31 December 1963 relating to expenditure by specialized agencies and the International Atomic Energy Agency of technical assistance funds earmarked from the Special Account**
A/5832	Audit reports for the year ended 31 December 1963 relating to expenditure by executing agencies of funds allocated from the Special Fund***

* Item 72 of the provisional agenda.

** Printed separately as addendum 1 to item 72 of the provisional agenda.

*** Printed separately as addendum 2 to item 72 of the provisional agenda.

Printed in U.S.A.
4828—August 1965—2,150

United Nations
GENERAL ASSEMBLY
Official Records

Addendum 1 to item 72 of the provisional agenda
ANNEXES
NINETEENTH SESSION
NEW YORK, 1964

Audit reports relating to expenditure by specialized agencies and the International Atomic Energy Agency:

(*a*) Earmarkings and contingency authorizations from the Special Account of the Expanded Programme of Technical Assistance

DOCUMENT A/5831

Audit reports for the year ended 31 December 1963 relating to expenditure by specialized agencies and the International Atomic Energy Agency of technical assistance funds earmarked from the Special Account

[*Original text: English/French*]
[*15 December 1964*]

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Letter of transmittal

17 November 1964

Sir,

I have the honour to transmit to you the consolidated status of funds as at 31 December 1963 for the Expanded Programme of Technical Assistance, which was submitted by the Secretary-General. This document has been examined and certified by me on behalf of the Board of Auditors. Attached thereto is the combined statement showing the status of funds of the participating organizations as at the same date.

In addition to the above I have the honour to present the report of the Board with respect to the consolidated status of funds.

Accept, Sir, the assurance of my highest consideration.

(*Signed*) L. GÖTZEN
Chairman of the Board of Auditors

The President of the General Assembly
of the United Nations,
New York.

Note by the Secretary-General

1. I submit herewith the audited accounts showing the consolidated financial position of the Expanded Programme of Technical Assistance as at 31 December 1963 and the report of the Board of Auditors in accordance with General Assembly resolution 519 A (VI) and with article 31.3 of the Technical Assistance Board Manual of Financial Policies and Procedures.

2. Detailed supporting schedules furnished by the participating organizations are not included in the submission but are made available to the Advisory Committee on Administrative and Budgetary Questions.

3. The audit reports of the following participating organizations for the year 1963 have been approved:

International Atomic Energy Agency by its General Conference on 17 September 1964;

International Labour Organisation by its General Conference on 26 June 1964;

International Telecommunication Union by its Administrative Council on 24 April 1964;

World Meteorological Organization by its Executive Committee during its sixteenth session, 26 May to 12 June 1964.

The audit report of the Food and Agriculture Organization of the United Nations will be submitted to its Conference in 1965. The audit report of the International Civil Aviation Organization will be submitted to its Assembly in 1965. The audit report of the United Nations Educational, Scientific and Cultural Organization will be submitted to its General Conference in November 1964. The audit report of the World Health Organization will be submitted to the Eighteenth World Health Assembly in 1965. The audit report of the Universal Postal Union will be submitted to its Executive Council in May 1965.

4. The audit report of the Food and Agriculture Organization of the United Nations for the year 1961, which had not been approved by its Conference at the time of publication of documents A/5268 [1] and A/5581, [2] and the audit report for the year 1962, which had not been approved at the time of publication of document A/5581, [2] were approved by that body on 2 December 1963. The audit report of the International Civil Aviation Organization for the year 1962 will be submitted to its Assembly in 1965.

5. The audited financial statements of the United Nations as a participating organization in the Expanded Programme of Technical Assistance are presented in the financial report and accounts for the year ended 31 December 1963. Also included in the same document are financial statements in respect of the secretariat of the Technical Assistance Board as well as a statement showing the status of funds of the Special Account for the Expanded Programme of Technical Assistance as at 31 December 1963. [3]

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[1] *Official Records of the General Assembly, Seventeenth Session, Annexes*, agenda item 68, addendum 1.

[2] *Ibid., Eighteenth Session, Annexes*, agenda item 63, addendum 1.

[3] *Ibid., Nineteenth Session, Supplement No. 6* (A/5806, statements IV, VI and VII).

Consolidated status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962				5,828,581
Contributions pledged by Governments less exchange adjustments upon collection				49,375,367
Contributions of Governments towards local living costs of experts				3,431,025
Contributions of Governments towards operating costs of TAB offices				1,206,808
Miscellaneous income and exchange adjustments (*net*)				80,823
Savings in liquidating prior years' obligations				998,661
Subvention from Special Fund				1,504,100
				62,425,365
	Operating costs of projects	*Administrative and operational services costs*	*Total*	
Less:				
Obligations incurred:				
United Nations	9,084,684	936,600	10,021,284	
FAO	10,441,815	1,107,307	11,549,122	
IAEA	666,874	95,500	762,374	
ICAO	1,622,889	220,000	1,842,889	
ILO	3,770,363	453,357	4,223,720	
ITU	791,045	104,900	895,945	
UNESCO	5,953,294	738,760	6,692,054	
UPU	104.590	20,000	124,590	
WHO	7,062,948	756,990	7,819,938	
WMO	—	80,900	80,900	
	39,498,502	4,514,314	44,012,816	
TAB:				
Headquarters secretariat and other joint administrative costs		956,170		
Field offices:				
Chargeable to approved budget		4,470,872		
Chargeable to Governments		1,231,640	6,658,682	
Increase of Working Capital and Reserve Fund			1,500,000	52,171,498
				10,253,867

Represented by:	
Cash at Banks, on hand and in transit	24,248,884
Investments	5,751,910
Contributions pledged but not received at 31 December 1963	6,098,131
Contributions receivable from Governments towards local living costs of experts	1,349,198
Accounts receivable and sundry debit balances	5,832,084
	43,280,207
Carried forward:	43,280,207

Consolidated status of funds as at 31 December 1963 (continued)

(Expressed in United States dollars)

Brought forward:		43,280,207
Less:		
Unliquidated obligations, 1963	5,981,353	
Unliquidated obligations, prior years	4,333,145	
Working Capital and Reserve Fund	12,000,000	
Miscellaneous accounts payable and sundry credit balances	10,711,842	33,026,340
		10,253,867

CERTIFIED CORRECT:
(*Signed*) B. R. TURNER
Controller

APPROVED:
(*Signed*) U THANT
Secretary-General

AUDIT CERTIFICATE

The above statement showing the consolidated status of funds of the Expanded Programme of Technical Assistance as at 31 December 1964 has been examined in accordance with my directions. I have obtained all the information and explanations I have required, and I certify, as a result of the audit, that, in my opinion, the above statement is correct.

On behalf of the Board of Auditors,

(*Signed*) L. GÖTZEN, *Netherlands*
Chairman

17 November 1964

Report of the Board of Auditors to the General Assembly on the consolidated status of funds as at 31 December 1963 for the Expanded Programme of Technical Assistance

1. In accordance with the provisions of article 31.3 of the financial regulations of the Expanded Programme of Technical Assistance the Board of Auditors is required to audit, certify and report on the consolidated status of funds for this Programme.

2. The Secretary-General submitted to the Board the consolidated status of funds as at 31 December 1963, together with a combined statement showing separately the status of funds of the participating organizations as at that date.

3. As the audit reports relating to the 1963 accounts of all participating organizations stood not at the Board's disposal during its annual session in May 1964, the audit and certifying of the consolidated status of funds for the year 1963 was allocated to the Netherlands member (Chairman) of the Board, with the concurrence of the Advisory Committee on Administrative and Budgetary Questions.

4. The pertinent data for the consolidation are included in the status of funds as at 31 December 1963 of:

(*a*) The Special Account for the Expanded Programme of Technical Assistance (statement IV of the United Nations accounts for 1963);

(*b*) The Technical Assistance Board secretariat (statement VII of the United Nations accounts for 1963);

(*c*) The United Nations as participating organization (the relevant figures are included in statement VI of the United Nations accounts for 1963);

(*d*) The other participating organizations.

5. It may be observed that, as in previous years, the figures of statement VI of the United Nations accounts include, besides those for projects executed under the Expanded Programme, also items relating to the United Nations regular programmes as well as for other activities. However, the totals for income and expenditure of the regular programmes have been eliminated and the other items do not affect the outcome of the consolidated status of the Expanded Programme.

6. For observations by the external auditors on the various accounts of the other participating organizations, reference is made to their audit certificates and reports, if any.

7. The audit of the consolidation as such did not give rise to comments. Consequently, the consolidated status of funds for the Expanded Programme of Technical Assistance as at 31 December 1963 has been certified without observations.

On behalf of the Board of Auditors,

(*Signed*) L. GÖTZEN, *Netherlands*
Chairman

17 November 1964

ANNEX 1

Combined statement showing the status of funds of the participating organizations as at 31 December 1963

(Expressed in United States dollars)

	FAO	*IAEA*	*ICAO*	*ILO*	*ITU*	*UNESCO*	*United Nations*[a]	*UPU*	*WHO*	*WMO*[b]	*Total participating organizations*
Excess of earmarkings and other available funds over obligations incurred as at 31 December 1962	1,371,250	125,727	191,028	421,036	106,012	359,648	1,363,167	—	248,461	—	4,186,329
Unobligated balances of 1962 earmarkings, miscellaneous income and exchange adjustments (*net*) reverted to the Special Account	(1,371,250)	(125,727)	(191,028)	(421,036)	(106,012)	(359,648)	(1,363,167)	—	(248,461)	—	(4,186,329)
Funds earmarked during 1963	12,394,584	1,049,216	2,174,326	5,028,843	1,084,744	8,124,885	11,157,250	140,947	8,522,276	80,900	49,757,971
	12,394,584	1,049,216	2,174,326	5,028,843	1,084,744	8,124,885	11,157,250	140,947	8,522,276	80,900	49,757,971
Less:											
Obligations incurred:											
Projects costs	10,441,815	666,874	1,622,889	3,770,363	791,045	5,953,294	9,084,684	104,590	7,062,948	—	39,498,502
Administrative and operational services costs	1,107,307	95,500	220,000	453,357	104,900	738,760	936,000	20,000	756,990	80,900	4,514,314
	11,549,122	762,374	1,842,889	4,223,720	895,945	6,692,054	10,021,284	124,590	7,819,938	80,900	44,012,816
Unencumbered balance of earmarkings as at 31 December 1963	845,462	286,842	331,437	805,123	188,799	1,432,831	1,135,966	16,357	702,338	—	5,745,155
Add:											
Savings on liquidation of prior years' obligations	134,148	76,897	19,306	—	18,297	117,318	509,910	—	88,999	—	964,875
Miscellaneous income	81,100	1,105	7,381	12,456	610	10,170	82,452	—	32,107	—	227,381
Exchange adjustments (*net*)	(28,637)	(1,738)	(11,098)	(17,335)	(932)	(5,764)	(1,867)	—	(23,260)	—	(90,681)
	186,611	76,264	15,589	(4,879)	17,925	121,724	590,495	—	97,846	—	1,101,575
Balance as at 31 December 1963	1,032,073	363,106	347,026	800,244	206,724	1,554,555	1,726,461	16,357	800,184	—	6,846,730
Represented by:											
Cash at banks, on hand and in transit	1,583,483	355,404	569,881	1,590,176	228,192	1,116,773	3,613,906	2,342	760,163	—	9,820,320
Undrawn earmarkings	547,772	585,011	(89,297)	349,293	219,504	2,150,383	4,332,429	35,023	1,757,321	—	9,887,439

Accounts receivable and sundry debit balances	897,621	26,131	209,429	270,080	12,566	1,261,241	1,749,970	5,455	741,717	—	5,174,210
	3,028,876	966,546	690,019	2,209,549	460,262	4,528,397	9,696,305	42,820	3,259,201	—	24,881,969
Less:											
Unliquidated obligations, 1963	1,452,742	264,041	245,718	424,332	172,507	675,865	1,512,237	23,455	1,124,128	—	5,895,025
Unliquidated obligations, prior years	461,745	227,600	80,401	388,596	31,427	1,621,159	677,033	—	845,184	—	4,333,145
Accounts payable and sundry credit balances	82,316	111,799	16,868	596,377	49,604	676,818	5,780,574	3,008	489,705	—	7,807,069
	1,996,803	603,440	342,987	1,409,305	253,538	2,973,842	7,969,844	26,463	2,459,017	—	18,035,239
	1,032,073	363,106	347,026	800,244	206,724	1,554,555	1,726,461	16,357	800,184	—	6,846,730
The balance as at 31 December 1963 is made up as follows:											
Savings in liquidating prior years' obligations, miscellaneous income and exchange adjustments (*net*)	186,611	76,264	15,589	(4,879)	17,925	121,724	590,495	—	97,846	—	1,101,575
Unobligated balance of authorizations from the Working Capital and Reserve Fund	27,489	—	(3,360)	—	—	489	8,234	—	570	—	33,422
	214,100	76,264	12,229	(4,879)	17,925	122,213	598,729	—	98,416	—	1,134,997
Unobligated 1963 earmarkings retained by the participating organizations for the second year of the biennium	817,973	286,842	334,797	805,123	188,799	1,432,342	1,127,732	16,357	701,768	—	5,711,733
	1,032,073	363,106	347,026	800,244	206,724	1,554,555	1,726,461	16.357	800,184	—	6,846,730

[a] The United Nations administers funds earmarked for WMO project costs. Funds made available from the regular United Nations budget and funds held-in-trust have been eliminated from the consolidation.

[b] WMO administers funds earmarked for the administrative and operational services costs of WMO projects.

ANNEX 2

International Labour Organisation: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962			421,036
Less:			
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account			421,036
Balance, re-allocated in 1963			—
Earmarkings from contributions and other available funds in 1963			5,028,843
			5,028,843
Obligations incurred during 1963:			
Project costs		3,770,363	
Administrative and operational services costs		453,357	4,223,720
Excess of earmarkings and other available funds over obligations incurred			805,123
Add:			
Other income:			
Miscellaneous		12,456	
Exchange adjustments (*net*)		(17,335)	
Total of credits to revert to the Special Account			(4,879)
Balance as at 31 December 1963			800,244
Represented by:			
Cash at banks, on hand or in transit		1,590,176	
Undrawn earmarkings		349,293	
Accounts receivable, advances, deposits, etc.		270,080	2,209,549
Less:			
Unliquidated obligations, 1961		84,252	
Unliquidated obligations, 1962		304,344	
Unliquidated obligations, 1963		424,332	
Accounts payable		47,429	
Other credit balances:			
Trust Funds	300,615		
Associate experts	74,550		
Service benefit	173,783	548,948	1,409,305
			800,244

For the Director-General,
International Labour Office
(*Signed*) E. J. RICHES
Treasurer and Financial Comptroller

AUDIT CERTIFICATE

The above accounts have been examined in accordance with my instructions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that in my opinion, the above accounts are correct.

(*Signed*) Uno BRUNSKOG
External Auditor

REPORT ON THE AUDIT OF THE ACCOUNTS RELATING TO THE OPERATIONS OF THE INTERNATIONAL LABOUR ORGANISATION UNDER THE EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE FOR THE YEAR 1963

1. My examination of the accounts relating to the operations of the International Labour Organisation under the Expanded Programme of Technical Assistance for 1963 has been carried out in the same way as my audit of the accounts for the regular budget of the Organisation.

2. The balance as at 31 December 1963 amounted to $805,123 from which should be deducted $4,879 due to heavy losses on exchange. The net balance of $800,244 remains at the disposal of the Organisation and will be carried forward to 1964.

3. The unliquidated obligations relating to 1963 still show, in my opinion, too big an amount. Following the suggestions made in earlier reports on the audit of accounts, I think it might be useful if the calculation of the unliquidated obligations could be studied by the organizations operating this Programme in the light of the experience gained over the years.

4. Under the heading "Other credit balances" are shown Trust Funds at an amount of $375,165 and Service Benefit amounting to $173,783. The Trust Funds have no organic connexion with the Expanded Programme of Technical Assistance, but for practical reasons the cash and balances, etc., are administered in common with those of the Expanded Programme of Technical Assistance. This is why they appear in the statement in part IV of the accounts.

*

*   *

5. I record my appreciation of the assistance of the officials of the Organisation.

(*Signed*) Uno Brunskog
External Auditor

Geneva, 17 March 1964

ANNEX 3

Food and Agriculture Organization of the United Nations: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962		1,371,250
Less:		
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account		1,371,250
Balance, re-allocated in 1963		—
Earmarkings from contributions and other available funds in 1963		12,394,584
		12,394,584
Obligations incurred during 1963:		
Project costs	10,441,815	
Administrative and operational services costs	1,107,307	11,549,122
Excess of earmarkings and other available funds over obligations incurred		845,462
Less:		
Unobligated balance of authorizations from the Working Capital and Reserve Fund		27,489
Balance of earmarkings to be carried forward to 1964		817,973
Add:		
Other income:		
Savings on liquidation of prior year's obligations	134,148	
Miscellaneous	81,100	
Exchange adjustments (*net*)	(28,637)	
	186,611	
Surrender of unobligated balance of authorizations from the Working Capital and Reserve Fund	27,489	
Total of credits to revert to the Special Account		214,100
Balance as at 31 December 1963		1,032,073
Represented by:		
Cash at banks, on hand or in transit	1,583,483	
Undrawn earmarkings	547,772	
Accounts receivable, advances, deposits, etc.	897,621	3,028,876
Less:		
Unliquidated obligations, 1961/1962	461,745	
Unliquidated obligations, 1963	1,452,742	
Accounts payable and other credit balances	82,316	1,996,803
		1,032,073

(*Signed*) W. K. MUDIE
Director, Division of Finance

(*Signed*) B. R. SEN
Director-General

AUDIT CERTIFICATE

The financial statement showing the status of earmarkings made to the Food and Agriculture Organization in connexion with the Expanded Programme of Technical Assistance for economic development of under-developed countries, for the period 1 January to 31 December 1963, has been examined in accordance with the directions of the undersigned. All the information and explanations required have been obtained, and this is to certify, as a result of the audit, that, in the opinion of the undersigned, the above statement and the related schedule of projects costs are correct.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

REPORT OF THE EXTERNAL AUDITOR ON THE STATEMENTS SHOWING THE STATUS OF FUNDS EARMARKED TO THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS AS AT 31 DECEMBER 1963

1. The accounts relating to the participation of the Food and Agriculture Organization of the United Nations in the Expanded Programme of Technical Assistance for the year ended 31 December 1963 consist of (*a*) statement I showing the status as at 31 December 1963 of the technical assistance funds earmarked to the Organization, supported by the related schedule of project costs (schedule A), and (*b*) a statement (annex I) showing the status as at 31 December 1963 of funds, held in trust, relating to technical assistance to the Government of the Republic of Venezuela, together with the final account for a completed project. The statements and schedule A are in the form prescribed by the Technical Assistance Board.

2. My examination has been carried out in conjunction with my audit of the accounts of the regular programme of the Organization. I have also examined the reports of the Internal Auditor. In accordance with the arrangements made between the Technical Assistance Board and the Panel of Auditors of the United Nations, certified copies of this report have been sent to the Board.

Losses, write-offs and *ex gratia* payments

3. I have examined the losses, write-offs and *ex gratia* payments totalling $6,955 which are listed in the financial report of the Director-General. I have no comments to make upon them.

4. I wish to record my appreciation of the willing co-operation of the officers of the Organization during my examination.

(*Signed*) E. G. Compton
(*Comptroller and Auditor General, Great Britain*)
External Auditor

25 May 1964

ANNEX 4

United Nations Educational, Scientific and Cultural Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962		359,648
Less:		
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account		359,648
Balance, re-allocated in 1963		—
Earmarkings from contributions and other available funds in 1963		8,124,885
		8,124,885
Obligations incurred during 1963:		
Project costs	5,953,294	
Administrative and operational services costs	738,760	6,692,054
Excess of earmarkings and other available funds over obligations incurred		1,432,831
Less:		
Unobligated balance of authorizations from the Working Capital and Reserve Fund		489
Balance of earmarkings to be carried forward to 1964		1,432,342
Add:		
Other income:		
Savings on liquidation of prior years' obligations	117,318	
Miscellaneous	10,170	
Exchange adjustments (*net*)	(5,764)	
	121,724	
Surrender of unobligated balance of authorizations from the Working Capital and Reserve Fund	489	
Total of credits to revert to the Special Account		122,213
Balance as at 31 December 1963		1,554,555
Represented by:		
Cash at banks, on hand or in transit	1,116,773	
Undrawn earmarkings	2,150,383	
Accounts receivable, advances, deposits, etc.	1,261,241	4,528,397
Less:		
Unliquidated obligations, 1961	208,156	
Unliquidated obligations, 1962	1,413,003	
Unliquidated obligations, 1963	675,865	
Accounts payable and other credit balances	676,818	2,973,842
		1,554,555

CERTIFIED CORRECT:

(*Signed*) R. HARPER-SMITH
Comptroller

APPROVED:

(*Signed*) René MAHEU
Director-General

AUDIT CERTIFICATE

The financial statement showing the status of earmarkings made to UNESCO in connexion with the Expanded Programme of Technical Assistance for economic development of under-developed countries, for the period 1 January to 31 December 1963, has been examined in accordance with the directions of the undersigned. All the information and explanations required have been obtained, and this is to certify, as a result of the audit, that, in the opinion of the undersigned, the above statement and the related schedule of project costs are correct.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

REPORT OF THE EXTERNAL AUDITOR ON THE STATEMENT SHOWING THE STATUS OF FUNDS EARMARKED TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION AS AT 31 DECEMBER 1963

GENERAL

1. The statement and the related schedule of project costs (schedule A) are in the form prescribed by the Technical Assistance Board.

2. My examination has been carried out in conjunction with my audit of the accounts of the regular programme of the Organization. I have also examined the reports of the Internal Auditor. In accordance with the arrangements made between the Technical Assistance Board and the Panel of External Auditors of the United Nations, certified copies of the statement and schedule, and a copy of this Report, have been sent to the Board.

SUMMARY OF THE ACCOUNT

3. The balance ($359,648) at the end of 1962, being the amount of unobligated funds at the end of the second year of the 1961-1962 programme biennium, reverted to the Special Account in accordance with the financial regulations of the Expanded Programme of Technical Assistance. Available income for 1963, the first year of the 1963-1964 biennium, was therefore limited to earmarkings, which amounted to $8,124,885, and was 15 per cent lower than the available income for 1962 of $9,560,500. The statement shows that in 1963 there was an excess of $1,432,831 (17.8 per cent) of available income over obligations incurred ($6,692,054) and that, after deducting an unobligated balance of authorizations from the Working Capital and Reserve Fund amounting to $489, there remained a balance of $1,432,342 to be carried forward to 1964. During the year an amount of $738,760 was earmarked and paid to the regular programme as a contribution towards the costs of administrative and operational services.

EQUIPMENT INVENTORIES

4. In my report on the accounts for 1961 I drew attention to the fact that in some instances inventories of equipment issued to technical assistance projects had not been rendered to UNESCO by the holders in accordance with the Organization's regulations. I stated that, following my inquiries, the Organization proposed to establish a Field Equipment Inventories Unit, to be attached to the Internal Auditor, which would be responsible for ensuring that inventories were prepared promptly, checked and maintained up to date and the necessary action taken in connexion with the eventual transfer of equipment to the Governments concerned.

5. This Unit has been duly set up, and during their audit of the 1963 accounts my officers examined the results of its operations. At a recent date the Unit had established satisfactory inventories for about 70 per cent of the projects which had been supplied with equipment between 1958 and 31 December 1962 and which were still live at the latter date; action was being taken to complete and verify inventories for the remaining 30 per cent. The Unit had also prepared, from headquarters purchasing records, inventories of equipment supplied to projects during 1963 and these inventories were being sent to field officers for verification.

6. A test check by my officers indicated that the Organization was obtaining satisfactory evidence of the transfer of equipment to Governments following the completion of projects.

7. I wish to record my appreciation of the willing co-operation of the officers of the Organization during my audit.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

26 June 1964

ANNEX 5

International Civil Aviation Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962		191,028
Less:		
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account		191,028
Balance, re-allocated in 1963		—
Earmarkings from contributions and other available funds in 1963		2,174,326
		2,174,326
Obligations incurred during 1963:		
Project costs	1,622,889	
Administrative and operational services costs	220,000	1,842,889
Excess of earmarkings and other available funds over obligations incurred		331,437
Less:		
Unobligated balance of authorizations from the Working Capital and Reserve Fund		(3,360)
Balance of earmarkings to be carried forward to 1964		334,797
Add:		
Other income:		
Savings on liquidation of prior year's obligations	19,306	
Miscellaneous	7,381	
Exchange adjustments (*net*)	(11,098)	
	15,589	
Surrender of unobligated balance of authorizations from the Working Capital and Reserve Fund	(3,360)	
Total of credits to revert to the Special Account		12,229
Balance as at 31 December 1963		347,026
Represented by:		
Cash at banks, on hand or in transit	569,881	
Undrawn earmarkings	(89,297)	
Accounts receivable, advances, deposits, etc.	209,429	690,013
Less:		
Unliquidated obligations, 1962	80,401	
Unliquidated obligations, 1963	245,718	
Accounts payable and other credit balances	16,868	342,987
		347,026

CERTIFIED CORRECT:

(*Signed*) G. VAN GELDER
Chief, Finance Branch

APPROVED:

(*Signed*) R. M. MACDONNELL
Secretary-General

AUDIT CERTIFICATE

The above statement showing the status of funds from earmarkings made to the International Civil Aviation Organization in connexion with its participation in the Expanded Programme of Technical Assistance for the year ended 31 December 1963, has been examined. All the information and explanations required have been obtained and I certify that, in my opinion, the above statement and the related schedule of project costs are correct.

(*Signed*) A. M. HENDERSON
(*Auditor General of Canada*)
External Auditor

REPORT OF THE EXTERNAL AUDITOR TO THE ASSEMBLY ON THE AUDIT OF THE ACCOUNTS RESPECTING THE STATUS OF FUNDS OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION RELATING TO THE EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE FOR THE YEAR ENDED 31 DECEMBER 1963

1. The Technical Assistance Board Manual on Financial Policies and Procedures (art. 31.2) requires that "external audit relating to the Expanded Programme shall be reported separately from that of the regular programme activities of the Participating Organizations", and this is the report on the audit of the accounts for the year ended 31 December 1963.

2. The financial statement showing the status of funds earmarked for the International Civil Aviation Organization in connexion with the Expanded Programme of Technical Assistance as at 31 December 1963 was submitted by the Secretary-General for examination, along with the supporting schedule for obligations incurred during the year then ended—both in the form required by the Technical Assistance Board Finance Manual. The financial statement and the related schedule have been examined, and they have been certified as being in accordance with the accounts maintained by the Organization and being, in my opinion, correct.

3. The accounts were examined in accordance with generally accepted auditing standards and included a general review of the accounting procedures and of the system of internal control, together with such tests of accounting records and other supporting evidence as were considered appropriate in the circumstances.

4. Earmarkings from contributions and other available funds in 1963 were $2,174,326, as shown in the financial statement. The year 1962 being the end of the biennium, all unobligated funds reverted to the Special Account in accordance with article 14.1(1) of the Technical Assistance Board Manual.

5. The obligations incurred during the year ended 31 December 1963 amounted to $1,842,889. The following is an analysis of the amount, compared with corresponding figures for the two previous years:

	1961	*1962*	*1963*
		(In United States dollars)	
Project costs:			
Personnel services	1,063,188	1,194,200	1,107,340
Travel and transportation	160,678	149,853	194,344
Fellowships and scholarships	85,306	246,265	263,865
Property and equipment	82,535	44,943	40,730
Other	23,683	16,215	16,610
	1,415,390	1,651,476	1,622,889
Administrative and operational service costs	197,535	202,465	220,000
	1,612,925	1,853,941	1,842,889

6. It was noted that all the obligations charged in the year under review were in conformity with the following revised definition in article 16.2 of the Technical Assistance Board Manual effective 1 January 1963:

"(*a*) For personal services, the cost of salaries and related expenses . . . corresponding to services rendered within the financial year;

"(*b*) For fellowships, the full cost to completion of fellowships awarded prior to the end of the financial year—provided that the Fellow has been nominated by the requesting Government and accepted by the Organization concerned and that a formal letter of award has been issued to the requesting Government, the actual placement of the Fellow prior to 31 December in this sense not to be an essential consideration . . . ;

"(*c*) For operational supplies and equipment, the full cost of contracts or purchase orders entered into prior to the end of a biennium which resulted or will result in a legal liability for the payment of such operational supplies and equipment. . .".

Of the obligations incurred in 1963, a total of $245,718 (including the amount of $17,553 for equipment) remained unliquidated at the close of the year, of which $167,923 was with respect to fellowships and scholarships.

7. After adding "other income" (*net*) of $15,589 to the $331,437 excess of earmarkings and other funds available over obligations incurred, there was a balance of $347,026 to be accounted for as at 31 December 1963, and the financial statement shows how this balance was in fact accounted for. The cash at banks of $532,050 was verified by certificates received directly from the banks concerned and was reconciled to the balances in the accounts. The balances on imprest cash funds in the hands of heads of missions, totalling $37,831, were verified to cash statements and certificates received from the custodians.

8. The amount of $209,429 shown for "accounts receivable, advances, deposits, etc.", includes $84,799 advanced on behalf of the United Nations Congo Emergency Programme, the greater part of which has been recovered in 1964.

All the information and explanations required were readily provided to my officers and the audit was facilitated by the co-operation extended by officers of the Secretariat, for which I am glad to record my appreciation.

(*Signed*) A. M. HENDERSON
(*Auditor General of Canada*)
External Auditor

26 March 1964

ANNEX 6

World Health Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962		248,461
Less:		
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account		248,461
Balance, reallocated in 1963		—
Earmarkings from contributions and other available funds in 1963		8,522,276
		8,522,276
Obligations incurred during 1963:		
Project costs	7,062,948	
Administrative and operational services costs	756,990	7,819,938
Excess of earmarkings and other available funds over obligations incurred		702,338
Less:		
Unobligated balance of authorizations from the Working Capital and Reserve Fund		570
Balance of earmarkings to be carried forward to 1964		701,768
Add:		
Other income:		
Savings on liquidation of prior year's obligations	88,999	
Miscellaneous	32,107	
Exchange adjustments (*net*)	(23,260)	
	97,846	
Surrender of unobligated balance of authorizations from the Working Capital and Reserve Fund	570	
Total of credits to revert to the Special Account		98,416
Balance as at 31 December 1963		800,184
Represented by:		
Cash at banks, on hand or in transit	760,163	
Undrawn earmarkings	1,757,321	
Accounts receivable, advances, deposits, etc.	741,717	3,259,201
Less:		
Unliquidated obligations, 1963	1,124,128	
Unliquidated obligations, 1962	845,184	
Accounts payable and other credit balances	489,705	2,459,017
		800,184

CERTIFIED CORRECT:

(*Signed*) Ted L. SMITH
Chief, Finance

APPROVED:

(*Signed*) Eric RENLUND
Director, Budget and Finance

AUDIT CERTIFICATE

The financial statements relating to earmarkings made to the World Health Organization in connexion with the Expanded Programme of Technical Assistance for Economic Development of Underdeveloped Countries for the year ended 31 December 1963 have been examined in accordance with the directions of the undersigned. All the information and explanations required have been obtained, and this is to certify, as a result of the audit, that, in the opinion of the undersigned, the above statement and the related schedule of project costs are correct.

(*Signed*) Uno BRUNSKOG
External Auditor

REPORT ON THE AUDIT RELATING TO THE OPERATIONS OF THE WORLD HEALTH ORGANIZATION UNDER THE EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE FOR THE YEAR 1963

1. My examination of the accounts relating to the operations of the World Health Organization under the Expanded Programme of Technical Assistance for 1963 has been carried out in the same way as my audit of the accounts for the regular budget of the Organization.

2. The obligations for project costs showed a decrease of $271,894 compared with those of 1962, as can be seen from the following table:

	1962	1963	Increase (decrease)
	(In United States dollars)		
Personal services	3,979,327	4,287,435	308,108
Supplies and materials	313,280	173,797	(139,483)
Property and equipment	116,411	187,889	71,478
Travel and transportation	983,901	1,013,285	28,384
Fellowships	1,941,923	1,400,542	(541,381)
TOTAL	7,334,842	7,062,948	(271,894)

The decrease, especially for fellowships, is not particularly significant bearing in mind that 1963 is the first year of the biennial programme for 1963/1964. It is only in 1964 that a true comparison can be made with the obligations incurred in the previous biennium.

3. The unobligated balance of earmarkings amounting to $701,768 will be carried over to 1964, the second year of the biennium; miscellaneous income and unobligated balances of contingency projects amounting to $98,416 will revert to the Special Account of the Expanded Programme of Technical Assistance.

4. I record my appreciation of the assistance of the officers of the Organization.

(*Signed*) Uno BRUNSKOG
External Auditor

Geneva, 16 March 1964

ANNEX 7

International Telecommunication Union: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962		106,012.09
Less:		
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account		106,012.09
Balance, re-allocated in 1963		—
Earmarkings from contributions and other available funds in 1963		1,084,744.00
		1,084,744.00
Obligations incurred in 1963:		
Project costs	791,045.13	
Administrative and operational services costs	104,900.00	895,945.13
Excess of earmarkings and other available funds over obligations incurred		188,798.87
Add:		
Other income:		
Saving on liquidation of prior year's obligations	18,297.48	
Miscellaneous	610.50	
Exchange adjustments (*net*)	(982.43)	
Total of credits to revert to the Special Account		17,925.55
Balance as at 31 December 1963		206,724.42
Represented by:		
Cash at banks, on hand or in transit	228,192.43	
Undrawn earmarkings	219,503.97	
Accounts receivable, advances, deposits, etc.	12,565.63	460,262.03
Less:		
Unliquidated obligations, 1962	31,427.00	
Unliquidated obligations, 1963	172,506.96	
Accounts payable and other credit balances	49,603.65	253,537.61
		206,724.42

CERTIFIED CORRECT:

(*Signed*) R. C. CHATELAIN
Chief of the Finance Division

APPROVED:

(*Signed*) M. B. SARWATE
Deputy Secretary-General

AUDIT CERTIFICATE

I have examined the books and accounts of the International Telecommunication Union and I hereby certify that the above is a true extract therefrom and, to the best of my knowledge and belief, correct.

(*Signed*) Ch. POCHON
Chief of Section, Federal Audit Department
of the Swiss Confederation
External Auditor

REPORT ON THE STATEMENT AS AT 31 DECEMBER 1963 CONCERNING THE FUNDS MADE AVAILABLE TO THE INTERNATIONAL TELECOMMUNICATION UNION AT GENEVA UNDER THE UNITED NATIONS EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE

1. The International Telecommunication Union at Geneva, as an executing agent of projects of the United Nations Expanded Programme of Technical Assistance, maintains its accounts in United States dollars, and the statement of funds is also prepared in that currency.

2. We conducted a spot audit of operations during 1963 and of the statement of funds, following which, on 24 March 1964, we signed the prescribed certification of the "Statement of funds as at 31 December 1963".

3. Operations during the 1963 financial year can be summarized as follows:

	In United States dollars
Allocations in 1963	1,084,744.00
Less:	
Obligations incurred in 1963	895,945.13
Unobligated earmarkings and other available funds	188,798.87
Plus:	
Miscellaneous revenues to the Special Account	17,925.55
Balance as at 31 December 1963	206,724.42

4. With regard to the observation in our audit certification of 26 February 1963 concerning the status of a current account with the Banque extérieure du commerce de Guinée at Conakry, we wish to state that we have since received the statement of account which we had previously referred to as missing.

5. An audit of the liquid funds available at the various banks as at 31 December 1963 was conducted on the basis of statements of account issued by the banks concerned, due regard being had to certain year-end accounting overlaps.

6. Apart from the observations contained in this report, no comments are necessary concerning the statement on the funds allocated to the International Telecommunication Union at Geneva by the United Nations Expanded Programme of Technical Assistance.

(*Signed*) Ch. POCHON
Chief of Section, Federal Audit Department
of the Swiss Confederation

Berne, 25 March 1964

ANNEX 8

World Meteorological Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Allocation for Expanded Programme of Technical Assistance in 1963	80,900	Transferred to WMO Technical Assistance Fund	80,900
	80,900		80,900

(Signed) D. A. DAVIES
Secretary-General

(Signed) E. H. COOK
Chief, Budget and Finance Section

CERTIFIED CORRECT:

(Signed) E. G. COMPTON
(Comptroller and Auditor General, Great Britain)
External Auditor

ANNEX 9

Universal Postal Union: status of funds as at 31 December 1963

(Expressed in United States dollars)

Earmarkings from contributions and other available funds in 1963		140,947.00
Obligations incurred during 1963:		
Project costs	104,590.28	
Administrative and operational services costs	20,000,00	124,590.28
Balance as at 31 December 1963		16,356.72
Represented by:		
Cash at banks, on hand or in transit	2,341.96	
Undrawn earmarkings	35,023.12	
Accounts receivable, advances, deposits, etc.	5,455.20	42,820.28
Less:		
Unliquidated obligations, 1963	23,455.00	
Accounts payable and other credit balances	3,008.56	26,463.56
		16,356.72

APPROVED
(Signed) E. WEBER
Director

AUDIT CERTIFICATE

I have examined the books and the accounts of the Universal Postal Union and I certify that the above status of funds is an exact statement and, to my knowledge, correct.

(Signed) Ch. POCHON
Chief of Section, Federal Audit Department of the Swiss Confederation
External Auditor

REPORT ON THE STATEMENT AS AT 31 DECEMBER 1963 CONCERNING THE FUNDS MADE AVAILABLE TO THE UNIVERSAL POSTAL UNION AT BERNE UNDER THE UNITED NATIONS EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE

1. The statement of funds is prepared in United States dollars and the accounts maintained in other currencies have been converted at the official rate used by the United Nations.

2. We conducted a spot audit of operations during 1963 and of the statement of funds, following which, on 13 May 1964, we signed the prescribed certification of the "Statement of funds as at 31 December 1963".

3. Operations during the 1963 financial year can be summarized as follows:

	In United States dollars
Allocations in 1963	140,947.00
Less:	
Obligations incurred in 1963	124,590.28
Excess of earmarkings and other available funds over obligations incurred (balance as at 31 December 1963)	16,356.72

4. The total earmarkings given in the accounts of the Universal Postal Union ($140,947) do not agree with the document "EPTA—status of earmarkings in U.S. dollar equivalents", which gives a total of $136,937 as at 31 December 1963. The Postal Union has explained this difference of $4,010 by the fact that its accounts include the sum of $1,000 for project TAB/WCR 931 and another sum of $3,010 for project TAB/WCR 790. (See letter dated 10 March 1964 from the Universal Postal Union at Berne addressed to the Controller of the United Nations in New York.)

5. An audit of the liquid funds available at two banks as at 31 December 1963 was conducted on the basis of statements of account issued by these banks.

6. We found a discrepancy between the balance in the account of the Universal Postal Union as at 31 December 1963 on the books of the Controller of the United Nations and on the books of the Postal Union. The unobligated balance on the books of the Postal Union ($35,023.12) was communicated on 21 April 1964 to Mr. H. Munnikes, Chief External Auditor, at The Hague. This sum corresponds to the undrawn balance in the document "EPTA—status of earmarkings in U.S. dollar equivalents" ($31,013.12) plus the amount of $4,010 mentioned in paragraph 4 above. We have asked that everything should be done to make the figures agree as soon as possible, and in due course we shall check the documents attesting to such action.

7. Apart from the observations contained in this report, no comments are necessary concerning the statement on the funds allocated to the Universal Postal Union at Berne by the United Nations Expanded Programme of Technical Assistance.

(*Signed*) Ch. POCHON
Chief of Section, Federal Audit Department of the Swiss Confederation

Berne, 14 May 1964

ANNEX 10

International Atomic Energy Agency: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962		125,727
Less:		
Excess of 1962 earmarkings and other income over obligations incurred surrendered to the Special Account		125,727
Balance, re-allocated in 1963		—
Earmarkings from contributions and other available funds in 1963		1,049,216
Obligations incurred during 1963:		
Project costs	666,874	
Administrative and operational services costs	95,500	
	762,374	
Exchange adjustment (*net*)	1,738	764,112
Excess of earmarkings and other available funds over obligations incurred		285,104
Add:		
Other income:		
Savings on liquidation of prior years' obligations	76,897	
Miscellaneous	1,105	
Total of credits to revert to the Special Account		78,002
Balance as at 31 December 1963		363,106
Represented by:		
Cash at Banks, on hand or in transit	355,404	
Undrawn earmarkings	585,011	
Accounts receivable, advances, deposits, etc.	26,131	966,546
Less:		
Unliquidated obligations, 1962	227,600	
Unliquidated obligations, 1963	264,041	
Accounts payable and other credit balances	111,799	603,440
		363,106

(*Signed*) Howard R. ENNOR
Director
Division of Budget and Finance

(*Signed*) Sigvard EKLUND
Director-General

AUDIT CERTIFICATE

The financial statement showing the status of allocations made to the IAEA in connexion with the Expanded Programme of Technical Assistance for economic development of developing countries, for the period 1 January to 31 December 1963, has been examined in accordance with the directions of the undersigned. All the informations and explanations have been obtained, and this is to certify, as a result of the audit, that in the opinion of the undersigned, the above statement with the relevant statement of obligations incurred by project costs are correct.

(*Signed*) Dr. George BRETSCHNEIDER
(*Vice-President of the Court of Accounts,*
Federal Republic of Germany)
External Auditor

REPORT OF THE EXTERNAL AUDITOR OF THE INTERNATIONAL ATOMIC ENERGY AGENCY TO THE TECHNICAL ASSISTANCE BOARD ON THE ACCOUNTS OF THE EXPANDED PROGRAMME OF TECHNICAL ASSISTANCE—STATUS OF FUNDS AS AT 31 DECEMBER 1963

1. The Director-General of the International Atomic Energy Agency submitted the following financial statements for audit certification:

Expanded Programme of Technical Assistance

A. Status of funds of IAEA as at 31 December 1963;

B. Project costs for the period 1 January to 31 December 1963.

2. The above-mentioned statements are certified by me as being in accordance with the books and records; two copies each are attached.

3. I have examined the transactions, accounts and inventories to the extent deemed necessary to satisfy myself as to the general state of the accounts and the accuracy of the financial statements submitted for audit certificates, and to report thereon to the Technical Assistance Board. All information required was provided and I now record my appreciation of the co-operation and assistance extended by the Secretariat of the Agency.

(*Signed*) Dr. Georg BRETSCHNEIDER
(*Vice-President of the Court of Accounts, Federal Republic of Germany*)
External Auditor

Vienna, 20 March 1964

Printed in U.S.A. 27700—January 1965—3,575

United Nations

GENERAL ASSEMBLY

Official Records

Addendum 2 to item 72 of the provisional agenda

ANNEXES

NINETEENTH SESSION

NEW YORK, 1964

Audit reports relating to expenditure by specialized agencies and the International Atomic Energy Agency:

(*b*) Allocations and allotments from the Special Fund

DOCUMENT A/5832

Audit reports for the year ended 31 December 1963 relating to expenditure by executing agencies of funds allocated from the Special Fund

[*Original text: English/French*]
[*15 December 1964*]

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Letter of transmittal

17 November 1964

Sir,

I have the honour to transmit to you the consolidated status of funds as at 31 December 1963 of the Special Fund which was submitted by the Secretary-General. This document has been examined and certified by me on behalf of the Board of Auditors. Attached thereto were the following annexes:

Annex I: Combined statement showing the status of funds of the executing agencies as at 31 December 1963;

Annex II: Combined statement showing the status of funds from Governments' cash counterpart contributions as at 31 December 1963;

Annex III: Combined statement showing allocations and commitments of the executing agencies as at 31 December 1963.

In addition to the above I have the honour to present the report of the Board with respect to the consolidated status of funds mentioned above.

Accept, Sir, the assurance of my highest consideration.

(*Signed*) L. GÖTZEN
Chairman of the Board of Auditors

The President of the General Assembly
of the United Nations,
New York

Note by the Secretary-General

1. I submit herewith the audited accounts showing the consolidated financial position of the Special Fund as at 31 December 1963 and the report of the Board of Auditors in accordance with article 25.3 of the Financial Regulations of the Special Fund.

2. Detailed supporting schedules furnished by the executing agencies are not included in the submission but are made available to the Advisory Committee on Administrative and Budgetary Questions.

3. The audit reports of the following executing agencies for the year 1963 have been approved:

International Atomic Energy Agency by its General Conference on 17 September 1964;

International Labour Organisation by its General Conference on 26 June 1964;

International Telecommunication Union by its Administrative Council on 24 April 1964;

World Meteorological Organization by its Executive Committee during its sixteenth session, 26 May to 12 June 1964.

The audit report of the Food and Agriculture Organization of the United Nations will be submitted to its Conference in 1965. The audit report of the International Civil Aviation Organization will be submitted to its Assembly in 1965. The audit report of the United Nations Educational, Scientific and Cultural Organization will be submitted to its General Conference in November 1964. The audit report of the World Health Organization will be submitted to the Eighteenth World Health Assembly in 1965. The audit report of the International Bank for Reconstruction and Development requires no action by its Board of Governors.

4. The audit report of the Food and Agriculture Organization of the United Nations for the year 1961, which had not been approved by its Conference at the time of publication of documents A/5269[1] and A/5582,[2] and the audit report for the year 1962, which had not been approved at the time of publication of document A/5582, were approved by that body on 2 December 1963. The audit report of the International Civil Aviation Organization for the year 1962 will be submitted to its Assembly in 1965.

5. The audited financial statements of the United Nations as an executing agency of the Special Fund are presented in the financial report and accounts for the year ended 31 December 1963. Also included in the same document are financial statements in respect of the Administrative Budget of the Managing Director as well as a statement showing the status of income and allocations of the Special Fund as at 31 December 1963.[3]

[1] *Official Records of the General Assembly, Seventeenth Session, Annexes*, agenda item 68, addendum 2.

[2] *Ibid., Eighteenth Session, Annexes*, agenda item 63, addendum 2.

[3] *Ibid., Nineteenth Session, Supplement No. 6* (A/5806, statements V, VIII, IX and X).

STATEMENT I

Consolidated status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance as at 31 December 1962:			
Funds available for allocations			98,239,238
Funds available from cash counterpart contributions to executing agencies			1,089,211
			99,328,449
Contributions pledged by Governments, less exchange adjustments upon collection			80,773,341
Governments' obligations for local costs in respect of projects in operation			7,822,140
Governments' obligations to Special Fund for cash counterpart contributions in respect of projects in operation			4,170,675
Government cash counterpart contributions to executing agencies			1,447,617
Donations			1,781
Miscellaneous income and exchange adjustments (*net*)			3,830,912
Refund of prior years' expenditures and savings in liquidating prior year's obligations of the Managing Director's administrative budget			21,126
			197,396,041
Less:			
Commitments incurred in 1963:			
Against the Managing Director's administrative budget	2,815,577		
Against current and prior years' allocations for projects	43,383,692		
Against executing agencies' cash counterpart contributions	1,326,910	47,526,179	
Unencumbered allocations:			
Increase during 1963 of unencumbered allocations in executing agencies		47,853,084	95,379,263
			102,016,778
Represented by:			
Cash at banks, on hand and in transit			23,310,655
Non-interest bearing and non-negotiable Government bonds redeemable on demand			10,000,000
Investments			114,017,826
Accrued interest on investments			944,868
Contributions pledged but not received at 31 December 1963			115,506,435
Governments' local cost receivable in respect of projects in operation			12,392,786
		Carried forward:	276,172,570

STATEMENT I (*continued*)

Consolidated status of funds as at 31 December 1963 (continued)

			Brought forward:	276,172,570
Represented by (*continued*):				
Governments' cash counterpart contributions receivable in respect of projects in operation				8,884,416
Accounts receivable, deferred charges and sundry debit balances				4,595,956
				289,652,942
Less:				
Unliquidated obligations of the Managing Director's administrative budget		18,331		
Reserve for projects approved as at 31 December 1963:				
Unliquidated commitments	39,158,426			
Unencumbered allocations	145,846,816	185,005,242		
Contingency fund for preparatory allocations		33,859		
Funds in trust, accounts payable and sundry credit balances		2,578,732	187,636,164	
				102,016,778

CERTIFIED CORRECT
(*Signed*) B. R. TURNER
Controller

APPROVED
(*Signed*) U THANT
Secretary-General

AUDIT CERTIFICATE

The above statement showing the consolidated status of funds of the Special Fund as at 31 December 1963 has been examined in accordance with my directions. I have obtained all the information and explanations I have required and I certify, as a result of the audit, that, in my opinion, the above statement is correct.

On behalf of the Board of Auditors.
(*Signed*) L. GÖTZEN, *Netherlands*
Chairman

17 November 1964.

Report of the Board of Auditors to the General Assembly on the consolidated status of funds of the Special Fund as at 31 December 1963

1. Pursuant to article 25.3 of the Financial Regulations of the Special Fund, as adopted by the Governing Council at its twelfth session, the Board of Auditors shall audit, certify and report on the annual accounts showing the consolidated financial position of the Special Fund.

2. The Secretary-General submitted to the Board the following documents as at 31 December 1963:

(*a*) Statement. Consolidated status of funds;

(*b*) Annex 1. Combined statement showing the status of funds of the executing agencies;

(*c*) Annex 2. Combined statement showing the status of funds from Governments' cash counterpart contributions to the executing agencies;

(*d*) Annex 3. Combined statement showing allocations and commitments of the executing agencies.

3. Some observations made during the audit as regards the presentation of the consolidated status have been taken into account for the documents as at year-end 1963. Accordingly:

(*a*) The amount of commitments incurred in 1963 ($43,383,692) by the specialized agencies for projects, is shown as such in the consolidated status of funds;

(*b*) Income and expenditure from Governments' cash counterpart contributions paid directly to the executing agencies are incorporated in the consolidated status of funds.

4. The consolidation of the annual accounts includes the following documents as at 31 December 1963:

(*a*) Status of income and allocations of the Special Fund (statement V of the United Nations 1963 accounts);

(*b*) Status of funds of the administrative budget of the Managing Director (statement X of the United Nations 1963 accounts);

(*c*) Status of funds from allocations to the United Nations as executing agency of the Special Fund (statement VIII of the United Nations 1963 accounts);

(*d*) Certified status of funds from allocations to the other executing agencies of the Special Fund;

(*e*) Status of funds from Governments' cash counterpart contributions to the United Nations as executing agency of the Special Fund (statement IX of the United Nations 1963 accounts);

(*f*) Certified status of funds from Governments' cash counterpart contributions to the other executing agencies of the Special Fund.

5. As regards the composition of the consolidated status of funds it should be noted that, as distinct from 1962, for 1963 the unexpended balances of Governments' cash counterpart contributions paid directly to executing agencies as at the beginning and at the end of the year have been included in the total available balances. The balance as at 31 December 1963, *viz.*, $102,016,778, consequently consists of a balance of $100,806,860 available for allocation by the Managing Director and of $1,209,918 unspent balances of Governments' cash counterpart contributions.

6. Just as in previous years funds made available by Governments to be spent under control of these Governments are considered to be contributions in kind and as such are not included in the consolidation.

7. The following gives a summary of the turnover of the consolidated funds for the years 1962 and 1963:

		1962		*1963*
		(In United States dollars)		
Available for allocations at 1 January		87,859,831		98,239,238
Correction due to inclusion of the balance of Governments' cash counterpart contributions in the consolidated status of funds		—		1,089,211
		87,859,831		99,328,449
Income		91,846,413		98,067,592
		179,706,244		197,396,041
Commitments incurred	45,949,954		47,526,179	
Increase reserve	35,517,052	81,467,006	47,853,084	95,379,263
Balance available as at 31 December		98,239,238		102,016,778

8. For observations by the external auditors on the status of funds of the various executing agencies, reference is made to their certificates and audit reports, if any.

9. The audit of the consolidation as such did not give rise to comments. Consequently, the consolidated status of funds of the Special Fund as at 31 December 1963 has been certified not subject to observations.

On behalf of the Board of Auditors,
(*Signed*) L. GÖTZEN, *Netherlands*
Chairman

17 November 1964.

ANNE

Combined statement showing the status of fund

(Expressed

	United Nations[a]	*WMO*[b c]	*ILO*	*FAO*
Balance of allocations and other available funds as at 31 December 1962	17,760,116	23,699	10,725,472	31,712,025
Miscellaneous income and exchange adjustments (*net*) reverted to the central fund	(1,599)	(224)	3,203	6,110
Unliquidated commitments at 31 December 1962	11,763,704	—	3,196,896	10,194,163
Funds allocated during 1963	8,138,717	89,600	10,755,335	32,522,956
	37,660,938	113,075	24,680,906	74,435,254
Less:				
Commitments:				
Liquidated by disbursements	7,425,793	29,761	6,163,812	11,994,579
Unliquidated at 31 December 1963	6,461,614	503	4,147,409	13,948,564
	13,887,407	30,264	10,311,221	25,943,143
Unencumbered balance of allocations at 31 December 1963	23,773,531	82,811	14,369,685	48,492,111
Add:				
Miscellaneous income and exchange adjustments (*net*)	(12,718)	—	14,300	10,615
Balance at 31 December 1963	23,760,813	82,811	14,383,985	48,502,726
Represented by:				
Cash at banks, on hand and in transit	—	15,057	758,605	975,994
Undrawn allotments	6,072,351	19,742	2,656,318	12,264,796
Unallotted allocations	21,911,622	56,000	15,397,928	49,870,813
Accounts receivable and sundry debit balances	2,387,707	—	148,301	933,994
	30,371,680	90,799	18,961,152	64,045,597
Less:				
Unliquidated commitments as at 31 December 1963	6,461,614	503	4,147,409	13,948,564
Accounts payable and sundry credit balances	149,253	7,485	429,758	1,594,307
	6,610,867	7,988	4,577,167	15,542,871
	23,760,813	82,811	14,383,985	48,502,726

[a] Including WMO project costs and part of agency costs.

[b] Part of agency costs and preliminary investigation costs.

f the executing agencies as at 31 December 1963

'nited States dollars)

UNESCO	ICAO	WHO	IBRD	IAEA	ITU[c]	Total executing agencies
18,723,880	3,186,827	351,308	650,293	707	3,544,485	86,678,812
1,030	(982)	—	30,082	—	—	37,620
5,379,981	1,178,075	405,019	2,211,616	—	247,230	34,576,684
19,905,750	2,729,831	1,269,300	4,763,000	551,260	1,719,707	82,445,456
44,010,641	7,093,751	2,025,627	7,654,991	551,967	5,511,422	203,738,572
7,943,699	1,834,055	324,124	2,538,356	60,569	487,202	38,801,950
7,605,752	1,210,694	782,329	4,082,529	141,893	777,139	39,158,426
15,549,451	3,044,749	1,106,453	6,620,885	202,462	1,264,341	77,960,376
28,461,190	4,049,002	919,174	1,034,106	349,505	4,247,081	125,778,196
5,829	(349)	—	—	(238)	(72)	17,367
28,467,019	4,048,653	919,174	1,034,106	349,267	4,247,009	125,795,563
434,830	605,539	—	968,690	70,583	48,957	3,878,255
3,507,186	1,021,586	498,049	1,038,817	110,879	1,230,891	28,420,615
32,963,842	3,612,723	1,235,351	3,105,491	330,500	3,688,818	132,173,088
132,340	61,478	22,053	8,351	124	68,788	3,763,136
37,038,198	5,301,326	1,755,453	5,121,349	512,086	5,037,454	168,235,094
7,605,752	1,210,694	782,329	4,082,529	141,893	777,139	39,158,426
965,427	41,979	53,950	4,714	20,926	13,306	3,281,105
8,571,179	1,252,673	836,279	4,087,243	162,819	790,445	42,439,531
28,467,019	4,048,653	919,174	1,034,106	349,267	4,247,009	125,795,563

[c] Format of original accounts has been adjusted for inclusion in this statement.

ANNEX 2

Combined statement showing the status of funds from Governments' cash counterpart contributions to the executing agencies as at 31 December 1963

(Expressed in United States dollars)

	United Nations	*FAO*	*UNESCO*	*ICAO*	*Total*
Balance of available funds as at 31 December 1962	232,863	786,311	70,037	—	1,089,211
Cash counterpart contributions received during 1963	359,560	963,070	100,000	24,987	1,447,617
	592,423	1,749,381	170,037	24,987	2,536,828
Less:					
Expenditures	442,010	831,833	44,101	8,153	1,326,097
Exchange adjustments and miscellaneous income (*net*)	1,160	—	—	(347)	813
	443,170	831,833	44,101	7,806	1,326,910
	149,253	917,548	125,936	17,181	1,209,918
Represented by:					
Cash at banks, on hand and in transit	—	—	—	21,681	21,681
Accounts receivable and sundry debit balances	149,253	917,694	125,936	—	1,192,883
	149,253	917,694	125,936	21,681	1,214,564
Less:					
Accounts payable and sundry credit balances	—	146	—	4,500	4,646
	149,253	917,548	125,936	17,181	1,209,918

ANNEX 3 APPEARS OVERLEAF

ANNEX

Combined statement showing allocations and commitment

(Expressed i

Executing agency	Funds allocated						
	Allocations for approved projects			Preparatory allocations			
	Prior years	Current year	Total	Prior years	Current year	Total	Total allocations
United Nations	37,158,437	8,118,317	45,276,754	32,400	20,400	52,800	45,329,55
WMO	103,600	89,600	193,200	—	—	—	193,20
ILO	19,608,365	10,735,935	30,344,300	23,608	19,400	43,008	30,387,30
FAO	53,816,667	32,530,626	86,347,293	53,900	(7,670)	46,230	86,393,52
UNESCO	29,494,425	19,902,800	49,397,225	37,450	2,950	40,400	49,437,62
ICAO	5,855,841	2,738,781	8,594,622	8,950	(8,950)	—	8,594,62
WHO	849,100	1,269,300	2,118,400	—	—	—	2,118,40
IBRD	5,132,825	4,776,500	9,909,325	13,500	(13,500)	—	9,909,32
IAEA	1,000	551,260	552,260	—	—	—	552,26
ITU	4,045,193	1,682,932	5,728,125	—	5,500	5,500	5,733,62
	156,065,453	82,396,051	238,461,504	169,808	18,130	187,938	238,649,44
Allocations not issued pending authorization to commence operations, as at 31 December 1962	11,259,170	(11,259,170)	—	—	—	—	—
31 December 1963	—	20,099,895	20,099,895	—	—	—	20,099,89
	167,324,623	91,236,776	258,561,399	169,808	18,130	187,938	258,749,33

f the executing agencies as at 31 December 1963

Inited States dollars)

Commitments incurred							
Liquidated by disbursement			Unliquidated				
Prior years	Current year	Total	31 December 1962	Increase during 1963	31 December 1963	Total commitments	Unencumbered balance of allocations
7,668,616	7,425,793	15,094,409	11,763,764	(5,302,090)	6,461,614	21,556,023	23,773,531
80,125	29,761	109,886	—	503	503	110,389	82,811
5,706,402	6,163,812	11,870,214	3,196,856	950,513	4,147,409	16,017,623	14,369,685
1,958,269	11,994,579	23,952,848	10,194,163	3,754,401	13,948,564	37,901,412	48,492,111
5,426,984	7,943,699	13,370,683	5,379,981	2,225,771	7,605,752	20,976,435	28,461,190
1,500,871	1,834,055	3,334,926	1,178,075	32,619	1,210,694	4,545,620	4,049,002
92,773	324,124	416,897	405,019	377,310	782,329	1,199,226	919,174
2,254,334	2,538,356	4,792,690	2,211,616	1,870,913	4,082,529	8,875,219	1,034,106
293	60,569	60,862	—	141,893	141,893	202,755	349,505
253,478	487,202	740,680	247,230	529,909	777,139	1,517,819	4,215,806
4,942,145	38,801,950	73,744,095	34,576,684	4,581,742	39,158,426	112,902,521	125,746,921
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	20,099,895
4,942,145	38,801,950	73,744,095	34,576,684	4,581,742	39,158,426	112,902,521	145,846,816

ANNEX 4

International Labour Organisation: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at the end of prior year		10,725,472
Deduct:		
Surrendered to the Fund:		
Prior year's income		(3,203)
		10,728,675
Add:		
Funds allocated during current year including adjustments		10,755,335
Unliquidated commitments at end of prior year		3,196,896
Total available for disbursements		24,680,906
Deduct:		
Commitments:		
Liquidated by disbursements during current year	6,163,812	
Unliquidated at end of current year	4,147,409	10,311,221
Unencumbered balance of allocations at end of current year		14,369,685
Add:		
Other income:		
Miscellaneous income and exchange adjustments		14,300
Unencumbered balance of allocations and other income at end of current year		14,383,985
Represented by:		
Cash at banks, on hand and in transit	758,605	
Undrawn allotments	2,656,318	
Unallotted allocations	15,397,928	
Accounts receivable and sundry debit balances	148,301	18,961,152
Less:		
Unliquidated commitments	4,147,409	
Accounts payable and sundry credit balances	429,758	4,577,167
		14,383,985

CERTIFIED CORRECT

(*Signed*) P. M. C. DENBY
Chief of the Budget and Control Division

APPROVED

(*Signed*) E. J. RICHES
Treasurer and Financial Comptroller
For the Director-General, International Labour Office

AUDIT CERTIFICATE

The above accounts have been examined in accordance with my instructions. I have obtained all the information and explanations that I have required and I certify, as a result of this audit, that in my opinion the above accounts are correct.

(*Signed*) Uno BRUNSKOG
External Auditor

REPORT OF THE AUDIT RELATING TO THE OPERATIONS OF THE INTERNATIONAL LABOUR ORGANISATION UNDER THE UNITED NATIONS SPECIAL FUND

1. My examination of the accounts relating to the operations of the International Labour Organisation under the United Nations Special Fund for 1963 has been carried out in the same way as my audit of the accounts for the regular budget of the Organisation.

2. During 1963 there have been fifty different projects consisting of the following:

(*a*) Projects for which authorization to commence operations was received	34
(*b*) Projects for which advance credits were received for project costs	7
(*c*) Projects for which advance credits were received for agency costs only	1
(*d*) Projects for which preparatory allocations were received	8
TOTAL PROJECTS	50

3. Funds allocated for the projects mentioned in paragraph 2, including balances of earmarkings carried over from 1962, amounted to $30,387,308.

Of this total $16,017,623 were obligated and of that amount $4,147,409 were unliquidated obligations relating to commitments representing balances to be settled up to the end of the contracts.

* * *

4. I have no observations to make and I record my appreciation of the assistance of the officials of the Organisation.

(*Signed*) Uno BRUNSKOG
External Auditor

Geneva, 17 March 1964.

ANNEX 5 (*a*)

Food and Agriculture Organization of the United Nations: status of funds as at 31 December 1963

(*Expressed in United States dollars*)

Balance of allocations and other available funds at the end of prior year		31,712,025
Deduct:		
Surrendered to the Fund:		
Prior year's other income		(6,110)
		31,718,135
Add:		
Funds allocated during current year including adjustments		32,522,956
Unliquidated commitments at end of prior year		10,194,163
Total available for disbursements		74,435,254
Deduct:		
Commitments:		
Liquidated by disbursements during current year	11,994,579	
Unliquidated at end of current year	13,948,564	25,943,143
Unencumbered balance of allocations at end of current year		48,492,111
Add:		
Other income:		
Miscellaneous income and exchange adjustments		10,615
Unencumbered balance of allocations and other income at end of current year		46,502,726
Represented by:		
Cash at banks, on hand and in transit	975,994	
Undrawn allotments	12,264,796	
Unallotted allocations	49,870,813	
Accounts receivable and sundry debit balances	933,994	64,045,597
Less:		
Unliquidated commitments	13,948,564	
Accounts payable and sundry credit balances	1,594,307	15,542,871
		48,502,726

(*Signed*) W. K. MUDIE
Director, Division of Finance

(*Signed*) B. R. SEN
Director-General

AUDIT CERTIFICATE

The above statement has been examined in accordance with my directions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that, in my opinion, the above statement is correct.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

ANNEX 5 (*b*)

Food and Agriculture Organization of the United Nations: status of funds from Governments' counterpart contributions in cash as at 31 December 1963

(*Expressed in United States dollars*)

Balance of available funds at end of prior year	786,311
Add:	
Contributions received during the current year	963,070
	1,749,381
Deduct:	
Cash disbursements during current year	831,833
Balance of available funds at end of current year	917,548
Represented by:	
Accounts receivable and sundry debit balances	917,694
Less:	
Accounts payable and sundry credit balances	146
	917,548

(*Signed*) W. K. Mudie
Director, Division of Finance

(*Signed*) B. R. Sen
Director-General

AUDIT CERTIFICATE

The above statement has been examined in accordance with my directions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that, in my opinion, the above statement is correct.

(*Signed*) E. G. Compton
(*Comptroller and Auditor General, Great Britain*)
External Auditor

REPORT OF THE EXTERNAL AUDITOR ON THE STATEMENTS SHOWING AS AT 31 DECEMBER 1963:
(1) THE STATUS OF FUNDS ALLOCATED TO THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS BY THE UNITED NATIONS SPECIAL FUND;
(2) THE STATUS OF FUNDS FOR GOVERNMENT CASH CONTRIBUTIONS TO SPECIAL FUND PROJECTS

General

1. The accounts relating to the participation of the Food and Agriculture Organization of the United Nations in field projects of the United Nations Special Fund during the year ended 31 December 1963 consist of (I) the statement showing as at 31 December 1963 the status of funds allocated to the Organization by the United Nations Special Fund, together with the related schedules showing (*a*) the cumulative position in regard to allocations and other income and (*b*) details of allocations and commitments by projects; and (II) the statement showing the status of funds as at 31 December 1963 for Government counterpart cash contributions paid direct to the Organization, together with the related schedules giving details under projects. The statements and schedules are in the form prescribed by the Special Fund.

2. My examination has been carried out in conjunction with my audit of the accounts of the regular programme of the Organization. I have also examined the reports of the Internal Auditor.

Losses and write-offs

3. I have examined the losses and write-offs totalling $2,814 which are listed in the financial report of the Director-General. I have no comments to make upon them.

4. I wish to record my appreciation of the willing co-operation of the officers of the Organization during my audit.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

9 June 1964.

ANNEX 6 (*a*)

United Nations Educational, Scientific and Cultural Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at the end of prior year		18,723,880
Deduct:		
Surrendered to the Fund:		
Prior year's other income		(1,030)
		18,724,910
Add:		
Funds allocated during current year including adjustments		19,905,750
Unliquidated commitments at end of prior year		5,379,981
Total available for disbursements		44,010,641
Deduct:		
Commitments:		
Liquidated by disbursements during current year	7,943,699	
Unliquidated at end of current year	7,605,752	15,549,451
Unencumbered balance of allocations at end of current year		28,461,190
Add:		
Other income:		
Miscellaneous income and exchange adjustments		5,829
Unencumbered balance of allocations and other income at end of current year		28,467,019
Represented by:		
Cash at banks, on hand and in transit	434,830	
Undrawn allotments	3,507,186	
Unallotted allocations	32,963,842	
Accounts receivable and sundry debit balances	132,340	37,038,198
Less:		
Unliquidated commitments	7,605,752	
Accounts payable and sundry credit balances	965,427	8,571,179
		28,467,019

CERTIFIED CORRECT

(*Signed*) R. HARPER-SMITH
Comptroller

APPROVED

(*Signed*) René MAHEU
Director-General

AUDIT CERTIFICATE

The above statement has been examined in accordance with my directions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that, in my opinion, the above statement is correct.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

ANNEX 6 (*b*)

United Nations Educational, Scientific and Cultural Organization: status of funds from Governments' counterpart contributions in cash as at 31 December 1963

(Expressed in United States dollars)

Balance of available funds at end of prior year	70,037
Add:	
Contributions received during the current year	100,000
	170,037
Deduct:	
Cash disbursements during current year	44,101
Balance of available funds at end of current year	125,936
Represented by:	
Accounts receivable and sundry debit balances	125,936

CERTIFIED CORRECT

(*Signed*) R. HARPER-SMITH
Comptroller

APPROVED

(*Signed*) René MAHEU
Director-General

AUDIT CERTIFICATE

The above statement has been examined in accordance with my directions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that, in my opinion, the above statement is correct.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

REPORT OF THE EXTERNAL AUDITOR ON THE STATEMENTS SHOWING AS AT 31 DECEMBER 1963:
(1) THE STATUS OF FUNDS ALLOCATED TO UNESCO BY THE UNITED NATIONS SPECIAL FUND;
(2) THE STATUS OF FUNDS FOR GOVERNMENTS' COUNTERPART CASH CONTRIBUTIONS TO SPECIAL FUND PROJECTS

1. The statements and the related schedules and annexes are in the form prescribed by the Special Fund.

2. My examination has been carried out in conjunction with my audit of the accounts of the regular programme of the Organization, and the reports of the Internal Auditor have been made available to me. I have no observations to make upon the statements.

3. I wish to record my appreciation of the willing co-operation of the officers of the Organization during my audit.

(*Signed*) E. G. COMPTON
(*Comptroller and Auditor General, Great Britain*)
External Auditor

26 June 1964.

ANNEX 7 (*a*)

International Civil Aviation Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at the end of prior year		3,186,827
Deduct:		
Surrendered to the Fund:		
Prior year's other income		982
		3,185,845
Add:		
Funds allocated during current year including adjustments		2.729,831
Unliquidated commitments at end of prior year		1,178,075
Total available for disbursements		7,093,751
Deduct:		
Commitments:		
Liquidated by disbursements during current year	1,834,055	
Unliquidated at end of curent year	1,210,694	3,044,749
Unencumbered balance of allocations at end of current year		4,049,002
Add:		
Other income:		
Miscellaneous income and exchange adjustments		(349)
Unencumbered balance of allocations and other income at end of current year		4,048,653
Represented by:		
Cash at banks, on hand and in transit	605,539	
Undrawn allotments	1,021,586	
Unallotted allocations	3,612,723	
Accounts receivable and sundry debit balances	61,478	5,301,326
Less:		
Unliquidated commitments	1,210,694	
Accounts payable and sundry credit balances	41,979	1,252,673
		4,048,653

CERTIFIED CORRECT
(*Signed*) G. van GELDER
Chief, Finance Branch

APPROVED
(*Signed*) R. M. MACDONNELL
Secretary-General

AUDIT CERTIFICATE

The above statement showing the status of funds from allocations made to the International Civil Aviation Organization in connexion with the United Nations Special Fund projects for the year ended 31 December 1963, has been examined. All the information and explanations required have been obtained and I certify that, in my opinion, the above statement and the related schedule of Special Fund projects are correct.

(*Signed*) A. M. HENDERSON
(Auditor General of Canada)
External Auditor

ANNEX 7 (*b*)

International Civil Aviation Organization: status of funds from Governments' counterpart contributions in cash as at 31 December 1963

(Expressed in United States dollars)

Balance of available funds at end of prior year		—
Add:		
Contributions received during the current year	24,987	
Miscellaneous income and exchange adjustments	347	25,334
		25,334
Deduct:		
Cash disbursements during current year		8,153
Balance of available funds at end of current year		17,181
Represented by:		
Cash at banks, on hand and in transit		21,681
Less:		
Accounts payable and sundry credit balances		4,500
		17,181

CERTIFIED CORRECT
(*Signed*) G. van GELDER
Chief, Finance Branch

APPROVED
(*Signed*) R. M. MACDONNELL
Secretary-General

AUDIT CERTIFICATE

The above statement showing the status of funds from Governments' cash counterpart contributions to the International Civil Aviation Organization in connexion with the United Nations Special Fund projects for the year ended 31 December 1963, has been examined. All the information and explanations required have been obtained and I certify that, in my opinion, the above statement is correct.

(*Signed*) A. M. HENDERSON
(*Auditor General of Canada*)
External Auditor

REPORT OF THE EXTERNAL AUDITOR TO THE GENERAL ASSEMBLY ON THE AUDIT OF THE ACCOUNTS RESPECTING THE STATUS OF FUNDS OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION RELATING TO THE UNITED NATIONS SPECIAL FUND FOR THE YEAR ENDED 31 DECEMBER 1963

1. The Provisional Financial Regulations of the Special Fund require that the executing agencies shall transmit to the Managing Director for submission to the Governing Council and to the United Nations General Assembly annual accounts showing the status of all funds either allocated to them by the Managing Director for the execution of projects or made available to them by governments as counterpart contributions in cash in accordance with project plans of operations. Such accounts shall bear audit certificates from the executing agency's external auditors and shall be accompanied by their reports. This is the report on the examination of the accounts maintained by the International Civil Aviation Organization for the year ended 31 December 1963.

2. Statements I and II submitted by the Secretary-General showing the status of funds as at 31 December 1963, prepared in the forms required by the Managing Director of the Special Fund, have been examined and have been certified as being in accordance with the accounts maintained by the Organization and being, in my opinion, correct.

3. The total commitments liquidated by disbursements during the year ended 31 December 1963, out of the funds allocated to the Organization by the Managing Director of the Special Fund, amounted to $1,834,055, comprising $86,981 for "executing agency's overhead costs" and $1,747,074 for project field costs. In addition, there were unliquidated commitments of $1,210,694 as shown on the statement.

4. The unencumbered balance of allocations and other income available at the year-end was $4,048,653, consisting of cash at banks and other assets, less unliquidated commitments and other liabilities. The cash at banks of $605,539 was verified by certificates received directly from the banks concerned.

5. From the Governments' counterpart contributions in cash received during the year amounting to $24,987, and miscellaneous income of $347, disbursements were made amounting to $8,153, leaving a balance of funds available at the year-end of $17,181.

All the information and explanations required were readily provided to my officers, and the audit was facilitated by the co-operation extended by officers of the Secretariat, for which I am glad to record my appreciation.

(*Signed*) A. M. Henderson
(*Auditor General of Canada*)
External Auditor

26 March 1964.

ANNEX 8

World Health Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at the end of prior year		351,308
Add:		
Funds allocated during current year including adjustments		1,269,300
Unliquidated commitments at end of prior year		405,019
Total available for disbursements		2,025,627
Deduct:		
Commitments:		
Liquidated by disbursements during current year	324,124	
Unliquidated at end of current year	782,329	1,106,453
Unencumbered balance of allocations and other income at end of current year		919,174
Represented by:		
Undrawn allotments	498,049	
Unallotted allocations	1,235,351	
Accounts receivable and sundry debit balances	22,053,	1,755,453
Less:		
Unliquidated commitments	782,329	
Accounts payable and sundry credit balances	53,950	836,279
		919,174

CERTIFIED CORRECT
(*Signed*) Ted L. SMITH
Chief, Finance

APPROVED
(*Signed*) Eric RENLUND
Director, Budget and Finance

AUDIT CERTIFICATE

The above accounts have been examined in accordance with my instructions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that in my opinion the above account is correct.

(*Signed*) Uno BRUNSKOG
External Auditor

REPORT ON THE AUDIT RELATING TO THE OPERATIONS OF THE WORLD HEALTH ORGANIZATION UNDER THE UNITED NATIONS SPECIAL FUND

1. The audit of the transactions of the World Health Organization under the United Nations Special Fund has been carried out in the same way as that under the regular budget and taking account of the procedures of the Special Fund.

2. The operations of the Organization under the Special Fund were limited during 1963 to four projects: two in India, one in Chile and one in Ghana. The total disbursements in 1963 amounted to $324,124, increasing the disbursements since the inception of these operations to $416,897. The unliquidated commitments as at 31 December 1963 were $782,329.

3. The explanatory notes to the financial report provide additional information and I have no special audit observations to make.

(*Signed*) Uno BRUNSKOG
External Auditor

Geneva, 16 March 1964.

ANNEX 9

International Bank for Reconstruction and Development: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at the end of prior year		650,293.44
Add:		
Credited by the Fund amount equal to exchange adjustment recorded in 1962		30,081.66
		680,375.10
Add:		
Funds allocated during current year including adjustments		4,763,000.00
Unliquidated commitments at end of prior year		2,211,615.47
Total available for disbursements		7,654,990.57
Deduct:		
Commitments:		
Liquidated by disbursements during current year	2,538,355.31	
Unliquidated at end of current year	4,082,529.65	6,620,884.96
Unencumbered balance of allocations and other income at end of current year		1,034,105.61
Represented by:		
Cash at banks, on hand and in transit	968,690.58	
Undrawn allotments	1,038,816.78	
Unallotted allocations	3,105,491.00	
Accounts receivable and sundry debit balances	8,350.90	5,121,349.26
Less:		
Unliquidated commitments	4,082,529.65	
Accounts receivable and sundry debit balances	4,714.00	4,087,243.65
		1,034,105.61

APPROVED
(*Signed*) Robert W. CAVANAUGH

AUDIT CERTIFICATE

The above statement showing the status of funds held by International Bank for Reconstruction and Development as executing agency of United Nations Special Fund projects as at 31 December 1963 has been examined in accordance with the directions of the undersigned. All of the information and explanations required have been obtained, and this is to certify, as a result of the audit, that, subject to the observations in the report, in the opinion of the undersigned, the above statement is correct.

(*Signed*) PRICE WATERHOUSE & Co.
by Theodore HERZ, *a partner*

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AS EXECUTING AGENCY FOR CERTAIN UNITED NATIONS SPECIAL FUND PROJECTS: REPORT AND COMMENTS OF INDEPENDENT AUDITOR ON STATUS OF FUNDS AND INDEPENDENT AUDITOR'S OPINION FOR THE YEAR ENDED 31 DECEMBER 1963

1. The accounts and records of the International Bank for Reconstruction and Development as executing agency for the United Nations Special Fund are maintained, and the financial statement is presented, in terms of United States dollars.

On May 2, 1962 the par of exchange between the Canadian dollar and the United States dollar was changed to 1.08 Canadian dollars to one United States dollar. As executing agency for the Special Fund, the Bank adjusted the exchange rates used in accounting for Canadian dollars to 1.08 and recorded as an "exchange adjustment" a loss on revaluation relating to the Canadian dollars held on May 2, 1962. In 1963 the Special Fund reimbursed the Bank for an amount equal to the "exchange adjustment" by increasing the balance of the Bank's "undrawn allotments".

With this exception, as executing agency for the Special Fund, the Bank translates currencies other than United States dollars into United States dollars at the exchange rates used by the Special Fund when making remittances to the Bank.

2. The statement of the status of funds has been prepared in accordance with the format prescribed by the United Nations Special Fund. The following table summarizes briefly additional information relating to commitments liquidated or unliquidated. In the format specified for annual reporting the latter are re-included in the amount reported as the total available for disbursements.

	(In United States dollars)	
Unliquidated commitments at January 1, 1963		2,211,615.47
Commitments made during 1963		4,458,269.49
		6,669,884.96
Commitments liquidated by disbursements during 1963	2,538,355.31	
Commitments liquidated or to be liquidated by participating Government, previously reported as commitments of Bank as executing agency	49,000.00	2,587,355.31
Unliquidated commitments at December 31, 1963 relating to:		
Commitments existing at January 1, 1963	712,316.39	
Commitments made during 1963	3,370,213.26	4,082,529.65

The Bank reports as unliquidated commitments only those amounts for which, as executing agency for the Special Fund, it has entered into contracts for receipt of goods or services or for which the Government receiving assistance from the Special Fund has entered into such contracts. Also the Bank reports as unencumbered balance of allocations, amounts for which no such commitments have been made.

(*Signed*) PRICE WATERHOUSE & Co.
by Theodore HERZ, *a partner*

31 March 1964.

ANNEX 10

International Telecommunication Union: status of funds as at 31 December 1963

(*Expressed in United States dollars*)

Balance of allocations and other available funds at the end of prior year		3,791,714.40
Add:		
Funds allocated during current year including adjustments		1,719,707.00
Total available for disbursements		5,511,421.40
Deduct:		
Commitments:		
Liquidated by disbursements during current year	487,201.72	
Unliquidated at end of current year	777,139.18	1,264,340.90
Unencumbered balance of allocations at end of current year		4,247,080.50
Add:		
Other income:		
Miscellaneous income and exchange adjustments		(72.07)
Unencumbered balance of allocations and other income at end of current year		4,247,008.43
Represented by:		
Cash at banks, on hand and in transit	48,956.86	
Undrawn allotments	1,230,890.59	
Unallotted allocations	3,688,818.00	
Accounts receivable and sundry debit balances	68,787.99	5,037,453.44
Less:		
Unliquidated commitments	777,139.18	
Accounts payable and sundry credit balances	13,305.83	790,445.01
		4,247,008.43

CERTIFIED CORRECT

(*Signed*) R. C. CHATELAIN

APPROVED

(*Signed*) M. B. SARWATE
Deputy Secretary-General

AUDIT CERTIFICATE

I have examined the books and accounts of the International Telecommunication Union and I hereby certify that the above is a true extract therefrom and, to the best of my knowledge and belief, correct.

(*Signed*) Ch. POCHON
Chief of Section, Federal Audit Department of the Swiss Confederation
External Auditor

REPORT ON THE STATUS OF FUNDS ALLOCATED TO THE INTERNATIONAL TELECOMMUNICATION UNION AT GENEVA BY THE UNITED NATIONS SPECIAL FUND AS AT 31 DECEMBER 1963

1. The International Telecommunication Union (ITU) at Geneva, as an executing agency of United Nations Special Fund projects, keeps its accounts in United States dollars, and the status of funds is also prepared in that currency.

2. We conducted a spot audit of operations during 1963 and of the status of funds, following which, on 24 March 1964, we signed the prescribed certificate of audit of the "Status of Funds as at 31 December 1963".

3. The operations can be summarized as follows:

	(In United States dollars)
Unencumbered balance of earmarkings at end of previous year	3,544,484.59
Add:	
Unliquidated commitments at end of previous year	247,229.81
Balance of earmarkings and other available funds at end of previous year ...	3,791,714.40
Add:	
Funds earmarked during current year	1,719,707.00
Intermediate total	5,511,421.40
Deduct:	
Expenditures, including miscellaneous operations and exchange adjustments	1,264,412.97
Unencumbered balance of earmarkings at end of current year	4,247,008.43

4. The operations relating to the Special Fund call for the following explanations:

4.1. The Special Fund allocations shown in the schedule A drawn up by ITU total $5,764,900, whereas according to the information received from the United Nations they should total only $5,733,625. The difference of $31,275 represents an allocation for the Special Fund project in China which, according to the cable of 3 March 1964 from Mr. Henry of the United Nations, will not in fact be allocated until 1964.

4.2. According to the ITU accounts, the total of remittances as at 31 December 1963 was $845,191.41, whereas according to a telegraphic communication of 5 March 1964 from the United Nations it should have been $789,578.99. The difference of $55,612.42 was explained to us as follows:

		(In United States dollars)	
Allotment to China project			57,001.00
Deduct:			
"Inter-office vouchers"	Korea 63/83	450.00	
	Philippines 63/148	378.82	
	Sudan 63/112	559.76	1,388.58
Total as given above...			55,612.42

5. Apart from the observations made in this report, no comments are necessary concerning the status of funds allocated to the International Telecommunication Union at Geneva by the United Nations Special Fund.

(*Signed*) Ch. POCHON
Chief of Section, Federal Audit Department
of the Swiss Confederation
***External** Auditor*

Berne, 25 March 1964.

ANNEX 11

World Meteorological Organization: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at 31 December 1962		38,199
Deduct:		
Commitments in current year:		
Personal services	24,232	
Travel and transportation	5,345	
Miscellaneous	687	30,264
		7,935
Add:		
Funds allocated during current year less adjustments		75,100
		83,035
Less:		
Surrendered to WMO General Fund—prior years' other income		224
		82,811
Represented by:		
Cash at bank, on hand and in transit	15,057	
Undrawn allotments	19,742	
Unallotted allocations	56,000	90,799
Less:		
Unliquidated commitments 1963	503	
Accounts payable	7,485	7,988
		82,811

(*Signed*) D. A. Davies
Secretary-General

(*Signed*) E. H. Cook
Chief, Budget and Finance Section

AUDIT CERTIFICATE

The above statement has been examined in accordance with my directions. I have obtained all the information and explanations that I have required, and I certify, as a result of the audit, that in my opinion, the statement is correct.

(*Signed*) E. G. Compton
(*Comptroller and Auditor General, Great Britain*)
External Auditor

ANNEX 12

International Atomic Energy Agency: status of funds as at 31 December 1963

(Expressed in United States dollars)

Balance of allocations and other available funds at the end of prior year		707
Add:		
Funds allocated during current year including adjustments		551,260
Total available for disbursements		551,967
Deduct:		
Commitments:		
Liquidated by disbursements during current year	60,569	
Unliquidated at end of current year	141,893	202,462
Unencumbered balance of allocations at end of current year		349,505
Add:		
Other income:		
Miscellaneous income and exchange adjustments		(238)
Unencumbered balance of allocations and other income at end of current year		349,267
Represented by:		
Cash at banks, on hand and in transit	70,583	
Undrawn allotments	110,879	
Unallotted allocations	330,500	
Accounts receivable and sundry debit balances	124	512,086
Less:		
Unliquidated commitments	141,893	
Accounts payable and sundry credit balances	20,926	162,819
		349,267

CERTIFIED CORRECT

(*Signed*) Howard R. ENNOR
Director, Division of Budget and Finance

APPROVED

(*Signed*) Sigvard EKLUND
Director-General

AUDIT CERTIFICATE

The financial statement showing the status of allocations made to the IAEA in connexion with the United Nations Special Fund, for the period from 1 January to 31 December 1963, has been examined in accordance with the directions of the undersigned. All the informations and explanations have been obtained and this is to certify, as a result of the audit, that in the opinion of the undersigned, the above statement is correct.

(*Signed*) Dr. Georg BRETSCHNEIDER
(*Vice-President of the Court of Accounts,*
Federal Republic of Germany)
External Auditor

REPORT OF THE EXTERNAL AUDITOR OF THE INTERNATIONAL ATOMIC ENERGY AGENCY TO THE MANAGING DIRECTOR OF THE UNITED NATIONS SPECIAL FUND ON THE ACCOUNTS OF THE UNITED NATIONS SPECIAL FUND—STATUS OF FUNDS FOR THE YEAR ENDED 31 DECEMBER 1963

1. The Director-General of the International Atomic Energy Agency submitted the following financial statement for audit certification:

Special Fund Projects

Status of funds for the year ended 31 December 1963.

2. The above statement is certified by me as being in accordance with the books and records; four copies are attached.

3. I have examined the transactions, accounts and inventories to the extent deemed necessary to satisfy myself as to the general state of the accounts and the accuracy of the financial statement submitted for audit certification, and to report thereon to the Managing Director of the United Nations Special Fund. All information required was provided and I now record my appreciation of the co-operation and assistance extended by the Secretariat of the Agency.

(*Signed*) Dr. Georg Bretschneider
(*Vice-President of the Court of Accounts, Federal Republic of Germany*)
External Auditor

Vienna, 20 March 1964.

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