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Chairman: Mr. Guillermo FLORES AVENDAÑO
 (Guatemala).

In the absence of the Chairman, Mr. Nabavi (Iran), Vice-Chairman, took the Chair.

AGENDA ITEM 57

Question of South West Africa (A/5238, chap. IX; A/C.4/572-576; A/C.4/L.754 and Corr.1) (continued):

- (a) Report of the United Nations Special Committee for South West Africa (A/5212 and Add.1-3);
- (b) Special educational and training programmes for South West Africa: report of the Secretary-General (A/5234 and Add.1)

GENERAL DEBATE (continued) AND CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.754 AND CORR.1)

1. Mr. PUREVJAL (Mongolia), speaking as the chairman of the African-Asian group, submitted draft resolution A/C.4/L.754 and Corr.1 on behalf of that group. The Mongolian delegation entirely endorsed the text, which expressed the views of the members of the African-Asian group on the question of South West Africa, and hoped that it would be unanimously supported by the Committee.

2. Mr. ARTEH (Somalia), chairman of the drafting committee of the African-Asian group, introduced the draft resolution. The text was whole-heartedly supported by every member of the group, who in drafting it had taken account of a number of factors. Firstly, the sponsors had felt that their aim should be the total implementation of resolution 1702 (XVI), which was the most satisfactory resolution the General Assembly had adopted on the question of South West Africa. The Special Committee for South West Africa, for reasons which it had explained in its report (A/5212 and Add.1-3), had been unable to carry out the task entrusted to it by the General Assembly; the African-Asian group counted on obtaining the Committee's unanimous support in order to prevent the South African Government from once again using the hesitation of certain delegations as a

pretext for delay and for refusing to change its attitude.

3. The joint draft resolution was reasonable, practical and objective. It was based on the principles set forth in the Declaration on the granting of independence to colonial countries and peoples (General Assembly resolution 1514 (XV)) and on the provisions of General Assembly resolutions 1702 (XVI)—especially operative paragraphs 2 and 7—and 1761 (XVII). The sponsors had also taken into consideration the conclusions and recommendations in part IV of the report of the Special Committee for South West Africa, which endorsed the views expressed by its Chairman and Vice-Chairman; and the statements of the petitioners and of those members of the Committee who hoped to see the establishment of an effective United Nations presence in the Territory. Lastly, they had considered it advisable to request that the tasks assigned to the Special Committee for South West Africa should be taken over by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, established under General Assembly resolution 1654 (XVI), which was more competent to recommend the necessary steps for the attainment of the aims in view.

4. Thus the draft resolution reflected the ideas of the overwhelming majority of the members of the Committee and was in conformity with the purposes and principles of the United Nations. The delegations which recognized that South West Africa was a Mandated Territory whose people had the inalienable right to self-determination and independence and which believed in justice and human dignity should prove the true worth of their words by voting in favour of the draft resolution. Its adoption would form a basis for a better understanding in the Committee of what was to come.

5. Mr. DORSINVILLE (Haiti) suggested a drafting amendment to the French text of operative paragraph 7 (a) of the draft resolution: the words "dans tel ou tel endroit" should be replaced by "en quelque lieu que ce soit".

6. Mr. ZIKRIA (Afghanistan) noted with regret that the endeavours of the United Nations to solve the problem of South West Africa by peaceful means had once again failed completely, owing to the unrelenting obstinacy of the South African Government, which still refused to recognize that the United Nations was competent to supervise the administration of the Mandated Territory. Moreover, following their visit to the Territory the Chairman and Vice-Chairman of the Special Committee for South West Africa had brought back information that confirmed nearly all the statements of the petitioners regarding the deplorable conditions in which the indigenous inhabitants of the Territory were living.

7. The South African Minister for Foreign Affairs, Mr. Louw, had been unable to refrain from making a violent attack upon the Chairman and Vice-Chairman of the Special Committee, but those baseless charges had not surprised the Fourth Committee for it had frequently heard Mr. Louw make slanderous statements about petitioners. For example, when Mr. Lowenstein, Mr. Bundy and Mr. Bull had testified before the Committee in 1959, on the situation in South West Africa,^{1/} Mr. Louw had accused them of having obtained visas for South West Africa by fraudulent means, thus seeking to discredit them. Mr. Lowenstein had written a book entitled Brutal Mandate, with a foreword by Mrs. Franklin D. Roosevelt, in which he stated, *inter alia*, that the situation in South West Africa constituted a grave threat to the peace of the world and that united action by the international community was the last chance of bringing about a peaceful and humane resolution to that situation.^{2/} No doubt Mr. Louw would not hesitate to allege once again that all the information concerning South West Africa was a mere concoction of calumnies and malicious attacks on his country, perhaps hoping thereby to reverse world public opinion, which condemned the policy of apartheid.

8. The United Nations had been considering the legal aspect of the question for several years. The General Assembly had asked the International Court of Justice to define the legal status of the Territory and the Court had decided, in its opinion of 11 July 1950,^{3/} that the Union of South Africa continued to have the obligations deriving from the Mandate and that in particular the obligation assumed by the Union to agree to international supervision remained intact, despite the substitution of the United Nations for the League of Nations as the supervising body. In resolution 1060 (XI) the Assembly had also requested the Committee on South West Africa to study the question of what legal action would be open to the United Nations to ensure that the Union of South Africa fulfilled the obligations assumed by it under the Mandate for South West Africa.

9. Neither the advisory opinion of the Court nor the report of the Committee on South West Africa (A/3625) had, however, touched upon the idea of revoking the Mandate. It had been only after the failure of the Good Offices Committee for South West Africa established by resolution 1143 (XII) that that idea had taken shape and that the Committee on South West Africa, in its report (A/4926), had explicitly recommended to the General Assembly at its sixteenth session that the Mandate entrusted to the Union of South Africa should be withdrawn. Following that recommendation, the representative of Mexico in the Fourth Committee, in his statement of 28 November 1961 (1226th meeting), had for the first time made a detailed analysis of the legal grounds for revoking the Mandate. He had contended that in international law it was often possible to find legal means of altering situations which had become unsatisfactory. In support of that thesis, he had based his argument on the idea that the Mandate was a bilateral or synallagmatic treaty and that, if one of the parties to such a treaty

failed to comply with its obligations, the other party could either demand abrogation of the treaty on the ground of non-fulfilment or demand fulfilment of the obligations provided for in the treaty. As the representative of Mexico had pointed out, South Africa had not only failed to fulfil its duty to the inhabitants of the Territory but had hampered their material and moral well-being and impeded their normal development towards independence.

10. In order to deduce the legal reasons for the advisory opinion of the Court, the Mexican representative had based his thesis on the concept of the international community in order to show that since that community was the real Mandator, the Mandator had neither changed nor disappeared: its agent, the League of Nations, had been replaced by the United Nations. The international community could therefore act through its agent in order to revoke the Mandate and take over the administration of the Territory. The Mexican representative had stated that that method of solving the problem had the full support of the Mexican delegation, which considered that the recommendations made by the Committee on South West Africa in paragraph 162 of its report (A/4926) were entirely in accordance with resolution 1596 (XV).

11. The representative of Mexico at the seventeenth session, however, had arrived at a conclusion which seemed to be incompatible with that of his predecessor. In his statement at the Committee's 1376th meeting, he too had explicitly recognized that the Mandate was a bilateral treaty and that, since South Africa had violated its provisions, the Mandate could be revoked, but he had added that if the United Nations wished to respect the law it should not forget that the treaty which the Mandate constituted had given rise to a de facto situation which it was not for the General Assembly to abolish, because that would be contrary to the well-known rule of law that no one could be a judge in his own cause. The Mexican representative had therefore concluded that from a legal point of view it was absolutely necessary to have recourse to the International Court of Justice for an advisory opinion concerning the revocation of the Mandate.

12. Such an argument did not seem plausible. It seemed to him that it was desirable first of all to define the true nature of the treaty in question, and in order to do so he would be obliged to give some preliminary explanations regarding the theory of international treaties. In view of the fact that the jurisprudence of States, both at the international and the domestic level, was subject to the same human needs, jurists took the material distinction of legal acts from the domestic sphere and transferred it to the international sphere, concentrating on the nature of the act and on the legal situations to which it had given rise, and not, as in former days, solely on the formal distinction of treaties. In the domestic field, there were two categories of legal acts, basically different both in nature and in effect: the law, which created impersonal legal situations common to a large number of individuals; and the contract, which gave rise to particular legal situations which were specific to given individuals, namely the contracting parties. The same distinction could be admitted at the international level. Thus there were treaties of a contractual character, as for example trade agreements, which gave rise to special juridical situations—all treaties, incidentally, had for a long time

^{1/} See Official Records of the General Assembly, Fourteenth Session, Fourth Committee, 906th-909th and 911th-913th meetings.

^{2/} Allard K. Lowenstein, Brutal Mandate: A Journey to South West Africa (New York, The Macmillan Co., 1962), p. 209.

^{3/} International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.

been regarded as contracts, since up to the nineteenth century the great majority of them had related to trade, to alliances or to peace. Law-making treaties had become more and more numerous as the idea of international law governing a community of States had developed. Thus the Paris Declaration of 1856, the London Declaration of 1909, The Hague Convention of 1907, the Covenant of the League of Nations and the Charter of the United Nations constituted the sources of international law.

13. In the light of the foregoing, it was obvious that the Mandate entrusted to South Africa by the League of Nations was not an ordinary bilateral treaty because, unlike the guardianship of civil law, which involved two persons, namely, the guardian and his ward, the Mandate implied that three persons were involved, namely, the League of Nations, the Mandatory State and the Mandated Territory. Nor was the Mandate a synallagmatic contract based on reciprocal obligations, for although under Article 22 of the Covenant of the League South Africa had always been bound to render an account of the progress made in the Territory to the agent of the international community, the latter had no obligations to fulfil *vis-à-vis* the Mandatory. Hence the Mandate indisputably came into the category of law-making treaties. With a view to ascertaining the nature of the Mandate, and basing himself in order to do so on analogy, which was recognized by Article 38 of the Statute of the Court as one of the means of determining the rules of law, he came to the conclusion that among all the legal situations, whether of a domestic or an international nature, created by law, there was none which more closely approximated the Mandates System than that of the status, under administrative law, of civil servants, who were appointed to perform certain duties in the interests of the population of a country. In support of his argument he cited the jurist Paul Guggenheim, who held that the Mandate had been created in the interest of the inhabitants of the Territory and of mankind in general, as an international institution to which was assigned an international purpose, a sacred mission of civilization. In his book entitled *Le droit international public positif*, Louis Cavaré, the famous international lawyer, had upheld the same idea and contended that the Mandatory acted on behalf of the League of Nations and must render an account to it because it was fulfilling an international function. Mr. Cavaré had come to the logical conclusion that sanctions could apparently consist in a withdrawal of the Mandate by the League of Nations, although that was not mentioned in the Covenant.

14. The Covenant of the League of Nations reconciled the two principles of public law, namely, the right of peoples to self-determination and the principle of the continuity of public services in the interest of the peoples under mandate and in the interest of the international community as a whole. In the circumstances it was difficult to see how the institutional character of the Mandate could be disputed.

15. Today the United Nations Charter represented a further advance along the path of progress than the Covenant of the League of Nations; the United Nations, as the keeper of order in the world, under Article 39 of the Charter, took on to some extent the form of a supranational authority. The decisions of the United Nations, emanating from the will of the majority of Member States, which now comprised the greater part of mankind, must have the same force and the

same validity internationally as the decisions of a Parliament had within a State.

16. Since the United Nations had the power freely to establish new institutions, there was nothing to prevent it, from the legal standpoint, from revoking South Africa's Mandate, which was in fact an institution deriving from the international community, without having to ask the consent of the Court in the form of an advisory opinion.

17. The Afghan delegation felt that the United Nations, having adopted resolution 1514 (XV), should not hesitate to take the necessary steps to prepare for the independence of the people of South West Africa. Not only did the people of South West Africa well deserve the assistance of the General Assembly, but the conditions prevailing in that part of the world constituted an explosive situation which threatened peace and security in Africa. The time had come to respond to the appeals of the people of South West Africa, who had been calling for help for sixteen years, by another method than that of resolutions, which had remained a dead letter.

18. He expressed the hope that the draft resolution submitted by the African-Asian group (A/C.4/L.754 and Corr.1), including Afghanistan, would be adopted by the great majority of Member States, for its implementation would lead to the achievement of freedom and independence by the people of South West Africa.

Mr. Flores Avendañic (Guatemala) took the Chair.

19. Mr. AGUIRRE (Uruguay), supported by Miss BROOKS (Liberia), proposed that in view of the importance of the statement made by the representative of Afghanistan, the full text of that statement should be circulated as a Committee document.

It was so decided.^{4/}

20. Mr. TAPSOBA (Upper Volta) congratulated the Special Committee for South West Africa on its report (A/5212 and Add.1-3), which was well-balanced and lucid. He recalled that despite the efforts made by the United Nations to solve the problem of South West Africa by persuasion, negotiation and conciliation, the racist Government of South Africa continued to trample under foot the resolutions of the General Assembly, to flout the Charter and the Universal Declaration of Human Rights, to defy the opinions of the International Court of Justice and to betray the sacred trust given to it to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Mandated Territory. By refusing to co-operate with the United Nations and sheltering behind fallacious legal interpretations, the South African Government was guilty of a breach of trust towards the United Nations, which was the heir of the League of Nations. For the United Nations to acquiesce in South Africa's annexation of the Territory would be tantamount to its denying the people their inalienable right to self-determination and sanctioning the South African Government's policy of segregation. Annexation must therefore be prevented.

21. Despite the assertions of the South African representative, it was clear from the reports of the Special Committee for South West Africa and of the Special Committee established under General Assem-

^{4/} See A/C.4/578.

bly resolution 1654 (XVI) (A/5238, chap. IX), as also from the petitioners' statements, that the policy of the South African Government condemned the inhabitants of South West Africa to forced labour, police oppression and poverty; the situation was aggravated by the expropriation of indigenous land and the concentration of the indigenous inhabitants in arid areas, in violation of the fundamental principles of human rights. A handful of white settlers made the law, took advantage of the helplessness of the African population and was endeavouring systematically to exterminate them.

22. The Government and the people of Upper Volta denounced the South African Government's policy of apartheid and unreservedly supported the Africans in their struggle for freedom and independence. The President of the Republic of Upper Volta had denounced the imperialist racist plot which was endeavouring to establish a "copper belt" consisting of Angola, South Africa, the Rhodesias, South West Africa and Katanga, with a view to ensuring white domination over the rich parts of Africa, and had stated that if steps were not taken without delay against those who were responsible for the policy of apartheid it would be the bounden duty of free Africans to unite in taking vigorous steps to remedy a disgraceful situation.

23. His delegation hoped that the South African Government would comply with the wishes expressed by the Committee and would change its attitude, and that the Powers which were supplying it with arms would cease delivery, thus facilitating a rapid settlement of the question. The delegation of Upper Volta entirely associated itself with the conclusions reached by the Chairman and Vice-Chairman of the Special Committee with regard to the imperative need for continued firm action on the question by considering the feasibility of revoking the Mandate and of the United Nations' simultaneously assuming the administration of the Territory in order to prepare its people for independence, if need be by imposing sanctions or employing other means to enforce compliance with its decisions or resolutions (A/5212, part II, para. 43). His delegation hoped that at the current session the United Nations would fix a time within which South Africa should comply with the relevant General Assembly resolutions and in particular with resolution 1702 (XVI).

24. Mr. EL-MASRI (Libya) recalled that since 1948 the Government of South Africa had regarded the Mandated Territory of South West Africa as the fifth province of South Africa and had been trying by every means to incorporate it. Knowing that the United Nations would never consent to any proposal which would perpetuate the exploitation and slavery of the people of South West Africa, it had refused to place the Territory under the International Trusteeship System, as recommended by the General Assembly. Yet the International Court of Justice, when asked for an opinion on the question, had clearly stated that the Mandate had not lapsed as a result of the dissolution of the League of Nations, as claimed by the South African Government, and that that Government continued to have the international obligations and the responsibilities set forth in the Mandate and the Covenant of the League; in the opinion of the Court the United Nations, as the legal successor to the League of Nations, should exercise supervisory functions.

25. The South African Government had granted representation in its Parliament to a handful of white settlers in the Territory and, going back on its promises, had ceased in 1949 to transmit information on the Territory, thus flagrantly violating the Mandate and the Charter. Since then, despite the efforts made by the United Nations, it had followed a systematic plan for the extermination of the indigenous inhabitants in order to facilitate the annexation of the Territory. The application of apartheid in all aspects of life in South West Africa, the denial to the indigenous inhabitants of legitimate human rights and fundamental freedoms, the enforcement of discriminatory racial legislation in the political, economic, social and educational fields, the restrictions on the freedom of movement of the indigenous inhabitants, the discriminatory and inequitable allocation of land and the expropriation of Africans in order to accommodate the white settlers, the expulsion from the Territory of persons under the protection of the Mandates System, and the arbitrary arrest, detention and imprisonment of the leaders of the people of South West Africa were among the crimes committed by South Africa in the Territory. Not only had the Mandatory Power done nothing to promote the material and moral well-being and social progress of the inhabitants, but it had taken action in the opposite sense. From the statements made by the representatives of South Africa it was clear that the South African Government had no intention of changing its policy.

26. The United Nations, acting in accordance with its Charter and in the light of its responsibilities, had examined that critical problem and had devoted much time to seeking a solution that would ensure self-determination for the Africans and the restoration of their human and political rights. Although many resolutions had been adopted and many committees established, those endeavours by the United Nations had remained fruitless on account of the defiant attitude of the racialist Government of South Africa. His delegation had carefully studied the report of the Special Committee and the report of that Committee's Chairman and Vice-Chairman, whose dignity, impartiality and devotion to the cause of the oppressed peoples were unquestionable, following their visit to South West Africa; it had also studied the statements made by the petitioners and had come to the conclusion that the South African Government had completely failed to administer the Territory in accordance with the provisions of the Mandate and that it persisted in refusing to implement the General Assembly resolutions and to comply with the wishes of the people concerned. In the opinion of his delegation, the mere presence of the racialist Power in the Territory seriously threatened the lives and property of the indigenous inhabitants, as well as peace and security in that part of Africa. In order to counter that threat, the United Nations should show itself equal to its responsibilities and should respond to the appeals that the people were making to it.

27. The time had come for the United Nations to take firm and decisive action. It should in due course revoke the Mandate and assume the administration of the Territory in order to prepare the people for self-determination, taking their true aspirations fully into account. If the South African Government resisted or hindered such action by the United Nations, the Security Council should immediately consider the possibility of invoking Articles 40, 41 and 42 of the

Charter in order to solve the problem before it was too late. His delegation further considered that the presence of the United Nations in the Territory should be established as soon as possible, so as to prevent further deterioration of the already explosive situation. The United Nations could not, however, discharge its responsibilities effectively without the co-operation of all Member States.

28. He therefore appealed to all Member States to assist the Organization and, by refraining from supplying the South African Government with arms and military equipment that might be used against the inhabitants of South West Africa, to help the United Nations to solve one of the critical problems with which it was faced. Exploitation, slavery and white supremacy would not last long in Africa. Supported by other Africans and by the peace-loving countries, the peoples still under the yoke of foreign domination would no longer remain silent in the face of terror and tyranny. The day would come when there would be no place for racialists, colonialists and their puppets on African soil. It was the duty of the United Nations to continue to support the people of South West Africa in their endeavours to recover their dignity, freedom and independence. The people and Government of Libya were following the struggle of the people of South West Africa for liberation from foreign domination and for the fulfilment of their national aspirations with sympathetic attention and would like to assure them of Libya's support and solidarity.

29. His delegation would support any draft resolution or any action based on the principle of the right of peoples to self-determination which would lead to a just solution of the problem. It had co-sponsored the joint draft resolution (A/C.4/L.754 and Corr.1) in the conviction that it represented a logical and just first step towards the peaceful solution of the question of South West Africa. He hoped that the draft resolution would obtain the support of the majority of the Committee.

30. Mr. HAMDANI (Pakistan) said that his delegation had studied with great care the report of the Special Committee for South West Africa and that of the Special Committee established under General Assembly resolution 1654 (XVI). It had also listened with interest to the statements of the petitioners, especially those of the Reverend Michael Scott. It had been disappointed, however, in the statement made by the South African Minister for Foreign Affairs at the Committee's 1369th meeting, which had added nothing to his earlier statements.

31. In its report, the Special Committee for South West Africa had described the efforts it had made to carry out the tasks the General Assembly had set it in resolution 1702 (XVI), which had proclaimed objectives to which his delegation attached a great deal of importance. Of the eight tasks with which the Special Committee had been entrusted, it had been able to fulfil only one, that of visiting the Territory of South West Africa. Although that had been only a partial achievement, it was noteworthy that for the first time authorized representatives of the United Nations had been able to enter the Territory in order to observe the situation and to hear evidence. It was encouraging to note that the Chairman and the Vice-Chairman of the Special Committee had been able to make observations on the spot and to submit a report (A/5212, part II); his delegation took note of that re-

port and generally endorsed the conclusions and recommendations in paragraphs 42 and 43.

32. Most of the members of the Committee recognized that the administration of the Territory continued to be characterized by the rigorous application of the policy of apartheid, resulting in racial segregation and discrimination, deprivation of basic human rights and freedoms, and the subordination of the interests of the African population to those of the European minority. In part IV of its report (A/5212) the Special Committee had concluded that the policy of apartheid had been intensified and made more systematic in recent years. The United Kingdom representative had said at the 1380th meeting that apartheid was morally abominable, intellectually grotesque and spiritually indefensible, adding that the Government of South Africa was to be condemned for the existence in the Territory of South West Africa of an intolerable situation in which the rights of the individual were set at naught unless his skin was of the right colour. What little political activity Africans could still undertake had to be carried out within the framework of laws which restricted it; African labour was not allowed to form trade unions; education was provided on a basis of segregation and young Africans were given only a rudimentary schooling in order to keep them in a state of subservience. His delegation had been amazed at the reply given by the South African authorities to the question asked by the Chairman and Vice-Chairman of the Special Committee regarding opportunities for higher education for Africans: they had been told that South West African students would be too young to benefit from such studies or might be exposed to communist influences (A/5212, para. 76). In paragraph 77 of its report the Special Committee mentioned several countries, including Pakistan, which had offered scholarships to students from South West Africa, but it was not known to what extent that offer had been communicated to its intended recipients.

33. His delegation generally endorsed the conclusions and recommendations in paragraphs 78 to 82 of the report of the Special Committee, in which that body expressed the view, *inter alia*, that it was imperative that a United Nations presence should be established in South West Africa. The visit of the Chairman and Vice-Chairman, however brief and barren of results it might have been, had been a step in the right direction and his delegation was amongst those that favoured keeping the door open so that a United Nations presence could be established in the Territory in whatever form could be arranged in agreement with the Mandatory Power. If conditions in South West Africa were as rosy as the Minister for Foreign Affairs would have the Committee believe, and if his statement at the 1369th meeting regarding a five-year plan was correct, it was all the more necessary that the Special Committee should be able to visit the Territory and see for itself the results achieved, the more so since the petitioners had expressed opposition to the plan on the grounds that it was based on the concept of separate and subordinate racial groupings.

34. He considered that the Special Committee had been justified in concluding that, in the absence of an early settlement of the question, the situation in South West Africa could result in a political disaster with far-reaching consequences. At the 1372nd meeting, the Reverend Michael Scott had referred to the

alliance of the industrial monopolies in Southern and Central Africa and to their political influence. At the 1380th meeting the United Kingdom representative had described that statement as a fallacious allegation and a standard myth in communist propaganda. The petitioner had, however, produced ample evidence in support of his argument. The United Kingdom representative had said that his country was willing to appeal to the Government of South Africa to heed the opinion of the international community. Appeals of that kind had been made year after year and had fallen on deaf ears. Surely the time had come for those members of the Committee who had some influence with the Government of South Africa, by virtue either of defence pacts or of economic or commercial ties, to consider backing up their appeals by loosening, or threatening to loosen, such ties. It was the lack of such efforts on the part of friends of the Republic of South Africa which had emboldened the South African Minister for Foreign Affairs to say at a press conference, before his departure from New York, that his country was not worried about a boycott by some African and Asian countries, since its trade with those countries was negligible, and that what really mattered to it was its trade with the Western European countries, the continuance of which he had implicitly acclaimed as an endorsement of the South African policy of apartheid. Countries which condemned that policy and were ready to appeal to the South African Government to adopt a more liberal attitude in South West Africa, but whose appeals had hitherto evoked no response, should consider bringing pressure to bear on South Africa in order to achieve their objectives, and it was in that sense that his delegation would urge those Powers to consider the use of economic pressure against the South African Government.

35. His delegation considered, however, that coercive measures such as economic sanctions were extreme measures and in any case had only a moral value. It was of the opinion that such extreme measures, which could be recommended by the Assembly at any time, should not be resorted to until the International Court of Justice had made known its decision. He understood that that decision might be given by the end of the month.

36. His delegation had listened with great interest to the statement made by the representative of Mexico at the Committee's 1376th meeting, as well as to the statement made by the delegation of that country at the 1226th meeting, held during the sixteenth session. Those statements had contained a full analysis of the legal aspects of the question of South West Africa. The Pakistan delegation merely wished to state that it was in agreement with Mexico's views, especially on the question of the course to be followed with regard to the Mandate.

37. To sum up, his delegation believed that a United Nations presence should be established in South West Africa, that contacts should be maintained with the South African Government to that end, and that the possibility should be considered of a visit to the Territory by United Nations representatives or special committees in consultation with the Government of South Africa. The Pakistan delegation further believed that a study of the question of revoking the Mandate should be pursued. Finally, it considered that the General Assembly should await the decisions of the International Court of Justice and that a final

effort should be made by the Western Powers to induce the South African Government to co-operate with the United Nations, such efforts being accompanied by economic pressure designed to persuade that Government to fulfil its obligations under the Mandate.

38. Mr. ALLOUNI (Syria) recalled that, at the previous session of the General Assembly, his delegation had stated that the South African Government's attitude had not changed in the past fifteen years. The statement by the South African Foreign Minister had confirmed that fact. Syria had consequently been obliged to propose, together with many other delegations, that stern measures should be taken to induce the South African Government to modify its position. His delegation did not think, like some delegations, that that Government had really left the door half open for further consideration of the question of South West Africa. The South African Foreign Minister had defied all logic in his exposition of his Government's case, which was entirely indefensible. His tactics had been designed to obstruct the Committee's work and to confuse the issue.

39. The question which now arose was how the situation could be saved. There was no longer reason to hope for a change in South Africa's attitude regarding the Mandate for South West Africa, and strong pressure from outside was necessary. Mr. Louw had pleaded the sub judice rule in connexion with the proceedings instituted in the International Court of Justice by Ethiopia and Liberia, but neither he nor his Government had ever acknowledged the jurisdiction of the Court. The representative of India has asked the South African Minister for Foreign Affairs whether, if the Committee agreed to stop the debate on South West Africa, he would be prepared to give a solemn undertaking on behalf of his Government that the Court's decisions would be respected and applied. Mr. Louw had remained silent. His delegation did not wish to prejudice the Court's decision, but believed that the Court's verdict would be binding and would declare South Africa to be in breach of its obligations under the Mandate.

40. As the Committee was aware, it was South Africa's contention that the Mandate had ceased to exist upon the demise of the League of Nations. The aim of the South African Government was to incorporate South West Africa with South Africa; that objective was inspired by obvious economic considerations and by the fact that, out of the total European population of South West Africa, one third had been born in South West Africa and one third in South Africa, the remainder being of German origin. The South African Government's attitude was derived largely from its determination to maintain the solidarity between the European elements in the Mandated Territory and in South Africa. Finally, the South African authorities saw the question of South West Africa as a trial of strength with the United Nations. The establishment of a United Nations presence in South West Africa would embarrass South African efforts to impose the policy of apartheid. South Africa regarded South West Africa as its frontier with the rest of the world, and a defeat on the present issue at the hands of the United Nations would be very deeply felt by South Africa.

41. The persistent refusal of the South African Government to place South West Africa under the Trusteeship System, to submit reports to the United Nations and to co-operate with the specialized agen-

cies on any basis whatever had rendered the principles of Articles 55 and 56 of the United Nations Charter of no effect as far as the inhabitants of South West Africa were concerned. The findings of the Special Committee for South West Africa showed that the South African Government's policies continued to be completely contradictory to the principles and purposes of the Mandate, the Charter and the Universal Declaration of Human Rights. All signs indicated that there was no possibility of implementing General Assembly resolution 1702 (XVI), and no hope of any solution to the question which would be acceptable to the South African Government other than the virtual or outright annexation of the Mandated Territory.

42. His delegation accepted the Special Committee's conclusions and recommendations and wished to reiterate that it considered the South African Government's presence in the Territory to be purely temporary. The Mandate had been intended only as a temporary arrangement designed to prepare the indigenous people for self-government and independence. The question was no longer merely one of demanding the strict application of the Mandate: the nations of the world had solemnly proclaimed the inalienable right of the people of South West Africa to independence and national sovereignty. The United Nations should therefore use all the means at its disposal to ensure that effect was given to its resolutions, especially resolution 1514 (XV), containing the Declaration on the granting of independence to colonial countries and peoples, and resolution 1702 (XVI). His delegation therefore asked that the Special Committee established under General Assembly resolution 1654 (XVI) should enter into talks with a view to the implementation of the General Assembly resolutions. The Syrian delegation agreed with a number of delegations that the Assembly should consider whether there was not a need for urgent study of the problem by the Security Council. The establishment of a United Nations presence would be a step forward, enabling the United Nations to approach the problem in the context of its rights and obligations.

43. Mr. MATSUI (Japan) said he deeply regretted that it should be necessary to examine once again the question of South West Africa, a territory whose population was oppressed and humiliated by the very Power to which the task of protecting that population's interests had been entrusted forty years previously.

44. In spite of world opinion and the judgement given by the supreme judicial organ of the United Nations, the South African Government showed no inclination to alter its ruthless policy; that situation was all the more paradoxical in view of the rapid process of decolonization which was taking place throughout the world, and more particularly in the African continent. In resolution 1702 (XVI), the General Assembly had noted that the situation in the Territory was dangerous and was becoming increasingly explosive. The newly independent African peoples would find it extremely difficult to tolerate the continuation of the situation in a territory so near to them.

45. As was pointed out in paragraph 59 of the Special Committee's report (A/5212), General Assembly resolution 1702 (XVI), which had received almost unanimous support, marked a turning point in the policy of the United Nations with respect to South West Africa. Faced with the negative attitude which the Mandatory Power had displayed for fifteen years,

the Organization had decided, in that resolution, to define in concrete and specific terms the political objectives of the United Nations with respect to South West Africa. His delegation considered that resolution 1702 (XVI) constituted an important basis for future political action.

46. In view of the South African Government's position, it was not surprising that the Special Committee had failed to achieve most of the objectives set out in resolution 1702 (XVI). The visit which that Committee's Chairman and Vice-Chairman had made to South West Africa had been something different from what the General Assembly had envisaged in its resolution; the South African Government had described the visit as informal and had affirmed that it maintained its previously stated political and legal position. Nevertheless, the very fact of the presence of United Nations representatives in the Territory must have had a psychological effect, both on the Africans and on the Europeans, which it would be difficult to ignore; in comparison with that achievement, the incident of the Pretoria communiqué was of minor importance. The Japanese delegation wished to express its appreciation of the work done by the Special Committee and its full agreement with that Committee's conclusions concerning the necessity of a United Nations presence in the Territory.

47. The Special Committee had also envisaged the possibility of revoking the Mandate and imposing sanctions on South Africa in order to enforce the decisions and resolutions of the General Assembly. However, if the situation was viewed realistically, the use of sanctions could hardly be expected to achieve any real solution of the problem at the present time. In any case, it was a matter on which a decision would have to be taken by the Security Council in accordance with Chapter VII of the Charter. With regard to revoking the Mandate, the Japanese delegation was of the opinion that such a measure could be considered only after the International Court of Justice had handed down its judgement on the case before it. If such action were taken, it must not be open to any legal doubt. Although the proceedings instituted by Ethiopia and Liberia against the South African Government were outside the Assembly's province the decision of the International Court of Justice would undoubtedly have a vital bearing on the question before the Committee. Japan had become a party to the Statute of the International Court of Justice even before its admission to the United Nations and had accepted all the obligations of Article 94 of the Charter. That Article, which imposed quite specific obligations on those who subscribed to it, was the very basis of international law.

48. In spite of the setbacks of the past sixteen years, the United Nations had gradually succeeded in building up an impressive unanimity in support of its actions. Resolution 1702 (XVI) had been adopted quasi-unanimously. The United Nations should take care not to destroy by any hasty decision the unanimity which had gradually developed and which would enable the Organization to attain its goals more rapidly and more surely.

49. Mr. GUELLAL (Algeria) said that, in accordance with the policy of his country, which its Prime Minister had outlined in his statement in the General Assembly (1147th plenary meeting), the Algerian delegation wished to make a positive contribution to the question of South West Africa, particularly as the

basic feature of the question of South West Africa arose from the same causes as the eight years' bloodshed in Algeria.

50. In the view of the Algerian delegation, the question of South West Africa was very clear: it involved, on the one hand, the problem of the future of a colonized people fighting for its independence and, on the other, the policy of a Member State which endangered peace and security in Africa.

51. Where the violation of the Charter was concerned, the Pretoria authorities bore a twofold responsibility: first, they had annexed a territory with an international status; secondly, they practised a deplorable policy of discrimination and segregation based on the idea of racial superiority. The Algerian delegation's concern, like that of the majority of Members of the United Nations, arose not only from the fact that the South African Government was systematically violating human rights and Articles 55 and 56 of the Charter, or was refusing to comply with the recommendations of the General Assembly and the Security Council, but also and more especially from its anxiety regarding the fate of millions of women and men subjected to an inhuman system of oppression. The Algerian delegation was convinced that the continuance of such a policy would inevitably lead to a trial of strength which would plunge that part of Africa into bloody conflict.

52. The question of the responsibility of the Pretoria authorities was fundamental and the statement of the South African Minister for Foreign Affairs on his Government's position had contained nothing new. The Committee knew that South Africa had violated the Mandate entrusted to it by the League of Nations and the resolutions of the General Assembly. The South African Minister for Foreign Affairs had simply reaffirmed his Government's intention to continue its policy of discrimination and segregation towards the indigenous population and to co-operate with the United Nations only if the latter defaulted on its obligations towards South West Africa. What was more, the South African Minister for Foreign Affairs had urged respect for the International Court of Justice despite the fact that his Government had never shown the slightest respect either for the International Court or for common justice. In view of the fact that South Africa's philosophy and its conception of man were directly contrary to the principles of the Charter, it might well be asked whether that country had ever really joined the United Nations.

53. As a Member of the United Nations, South Africa was subject to certain obligations deriving from the Charter and the resolutions of the General Assembly. It was also clear that apartheid could not be reconciled with the terms of the Mandate or with the provisions of Article 22 of the Covenant of the League of Nations. That Article stated that the well-being and development of a people under mandate formed a sacred trust and the Mandate required the Mandatory Power to promote as far as possible the material and moral well-being and the social progress of all the inhabitants of the Territory. But on their return from South Africa, the Chairman and Vice-Chairman of the Special Committee had reported that the indigenous population was subjected to the apartheid policy and that its interests were totally subordinated to those of a small European minority. The Chairman had also reported that the authorities at Pretoria had no intention of carrying out reforms or of applying

a policy which would permit South West Africa to attain independence.

54. The United Nations should do everything in its power to prevent the colonialist authorities at Pretoria from organizing the Territory on the model of the Republic of South Africa. Those authorities were inflicting on the indigenous population a ferocious system of repression which was turning the Territory into a totalitarian police State. The Algerian delegation was convinced that, in supporting the recommendations of the Special Committee, it was helping to preserve peace and security in that part of Africa. South West Africa was covered by resolution 1514 (XV) on the same basis as other colonial territories and had therefore a right to independence. Furthermore, a government which itself lived on the fringe of international legality could not continue to administer a territory for which the United Nations had obligations.

55. The petitioners Mr. Kozonguizi and the Reverend Michael Scott had told the Committee that South Africa was becoming a vast fortified camp. The Committee had also been informed of the existence of military agreements between the South African authorities and the members of the North Atlantic Treaty Organization (NATO). In the opinion of the Algerian delegation, such intensive militarization and the involvement of the NATO Powers constituted one of the most disquieting features of the problem before the Committee, particularly as South Africa was only one link in the network of interests that had been set up in that part of the world. The internal policy of the Pretoria authorities conformed to those interests, and it could be said that the support given by the Powers interested in maintaining the present state of affairs accounted for the audacity with which the South African Government was violating its international obligations. The Algerian delegation was aware that the "unholy alliance" of the last champions of an outworn colonialism had influenced the decisions of the United Nations, whose previous resolutions had been adopted with difficulty because of the obstruction of those defenders of South Africa. The distribution of votes at the 341st meeting of the Special Political Committee, at the conclusion of its recent debate on apartheid, had been very illuminating in that respect. That was why the Algerian delegation was apprehensive about the build-up of South African military potential. It condemned that country's policy out of a concern for peace and a desire for a peaceful settlement of the problem of South West Africa. In that connexion, it welcomed the decision of the United States Government to stop sending military equipment and supplies to the South African Government.

56. For all the reasons he had given, the United Nations should demand that States maintaining close economic and military relations with South Africa should also comply with United Nations recommendations. It was not only the militarization of South Africa that should be condemned but also those who were aiding that militarization; they must be required to discontinue such aid, in accordance with General Assembly resolution 1761 (XVII).

57. The main difficulty in the question of South West Africa, a difficulty which had been mentioned by a number of delegations, was the problem of the future of the Europeans living in the Territory. The same problem arose in Southern Rhodesia and in all the

surrounding territories. In the case before the Committee, the European community looked to apartheid to guarantee them against expulsion or subjection to discriminatory treatment by the majority. The Committee should remember that its duty was to find a solution to the problem in accordance with the principles of democracy and justice, since the refusal of the colonial governments of those territories to permit the harmonious coexistence of two ethnic communities with respect for democracy and justice could lead only to catastrophe. Both communities had a role to play in the future of those territories and in that connexion the Algerian delegation had been favourably impressed by the moderation of the petitioners' statements on that aspect of the question. The greatest difficulty was to induce the European minority to accept the principle of the inevitable development of the territories towards sovereignty and independence. In view of the risks entailed by inertia, the Algerian delegation emphasized the urgent need to find a speedy and amicable solution to problems which were essentially political and not legal or constitutional, as some sought to maintain.

58. The present situation in South West Africa required urgent action by the United Nations. In the face of the challenge thrown down by the Pretoria authorities, the States Members of the United Nations must first of all give loyal support to the Organization by respecting its resolutions. They must also act to create conditions favourable to eliminating the danger resulting from the military coalition of the colonial bastions in Southern and Central Africa. The state of affairs brought about by the Government of South Africa was clearly such that it could lead to an explosion of international dimensions. That was why Algeria would join in any decision of the General Assembly calling for sanctions against the Pretoria Government. The policy of appeasement in regard to South Africa had been without result. All members of the Committee wished to take into account the legitimate interests of the Europeans living in the territories in question, but there could be no thought of yielding to the crude blackmail of the Pretoria leaders. The United Nations must therefore give unambiguous expression to its desire to face its responsibilities. For its part, Algeria would defend the principles of the Organization regardless of the consequences.

59. If South Africa was liable to be expelled from the United Nations, the responsibility was its own, because it had turned its back on the most elementary principles of humanity, had attacked the political independence of the newly independent countries and had trampled under foot both its own obligations and the principles of the Charter by trying to make the international community accept the concept of a society built upon racial hatred.

60. The colonial authorities of South West Africa had the choice between two solutions. The one was to recognize the national aspirations of the people under their domination and to give evidence of a democratic and progressive attitude; the other was to keep themselves in power by force, with the prospect that the peoples under their domination would likewise resort to force. In Algeria, the problem had existed in exactly the same way as it now existed in South West Africa. Through negotiation and through efforts, in concert with France, to determine the only process by which co-operation and friendship could be estab-

lished on a permanent basis, Algeria had helped to point the way towards a solution not only of the problem of South West Africa but also of all problems which arose from the existence of European minorities in the territories of Central and Southern Africa. His delegation was convinced that it would be futile to divorce the struggle for the liberation of South West Africa from the struggle to establish a democratic régime in South Africa and to liquidate British colonialism in the Federation of Rhodesia and Nyasaland as well as Portuguese colonialism in Angola and Mozambique.

61. It was in view of those considerations that the Algerian delegation had become one of the sponsors of the draft resolution before the Committee (A/C.4/L.754 and Corr.1).

62. Mr. AGUIRRE (Uruguay) said that his delegation did not intend to speak at any length at that stage of the debate, as the problem with which the Committee was dealing had been fully examined. His delegation had participated actively in the discussion of the question of South West Africa in the Special Committee established under General Assembly resolution 1654 (XVI), after having previously done so in the Committee on South West Africa, in which a representative of his country had even had the honour of occupying the Chair.

63. He would limit himself to commenting on draft resolution A/C.4/L.754 and Corr.1. The terms of that draft were on the whole appropriate to the situation and took all its elements into account. His delegation could say at that stage that it would vote in favour of the draft.

64. In view, however, of the desire which had been expressed during the present session to avoid overlapping and of the allusions which had been made in some quarters to a reorganization of the bodies concerned with decolonization in Africa, he thought that operative paragraphs 5 and 6 of the draft resolution should be amended. Those paragraphs provided for direct action by the Secretary-General, but his delegation felt that in the two instances in question it would be preferable for direct action to be taken by the Special Committee established under General Assembly resolution 1654 (XVI). That Committee could be asked, for example, to designate, in consultation with the Secretary-General, the United Nations technical assistance representative whose appointment was contemplated in operative paragraph 5.

65. Mr. KIANG (China) said that he wished first of all to reserve the right of his delegation to speak again in order to comment on the draft resolution which was before the Committee.

66. In his delegation's opinion, there was no need for it to speak at any length on the problem of South West Africa because that problem had just entered a new and decisive stage in which the paramount consideration was the decision that was to be handed down by the International Court of Justice. After years of discussion marked by the adoption of numerous resolutions, the Court's decision would certainly hasten the choice of a final solution.

67. As his delegation had already in previous years explained its position with regard to South West Africa, it would merely recall that it had on many occasions deplored the application to the Mandated Territory of the policy of apartheid, which sanctioned

racial discrimination. His delegation had declared at the fifteenth session that the attitude of the persons responsible for that policy made it unlikely that they would adopt a positive policy which would promote the moral well-being and social advancement of the inhabitants of South West Africa in accordance with the provisions of article 2 of the Mandate. In his delegation's opinion, the only solution was to place South West Africa under the International Trusteeship system as an initial step towards enabling the Territory to achieve independence.

68. Those delegations, including his own, which had voted for resolution 1565 (XV) had attached great importance to the validity of the Mandate. That was also the reason why the Governments of Liberia and Ethiopia had instituted contentious proceedings against the Government of South Africa. The fact that the Mandate continued to be valid furnished the United Nations with an indisputable legal basis for any action which it might consider necessary when the decision of the International Court became known. In that connexion, the representative of Mexico had felt that before the Mandate was abrogated by a political decision, it would be desirable to request an advisory opinion from the International Court of Justice. While he himself did not disagree with that view, he thought that the United Nations should refrain from taking any action until the International Court had given a decision on the proceedings instituted by Liberia and Ethiopia. It would, after all, be difficult for the Court to give an advisory opinion on a matter that depended in large measure on the results of the inquiry it was carrying out on the question with which it was at present concerned. Some delegations might, moreover, consider that as soon as the International Court had decided whether South Africa had or had not violated the Mandate, the General Assembly would be fully justified, even without any further juridical directives from the Court,

in taking appropriate action by virtue of the general principles of international law. His own delegation urged that the United Nations should wait for the decision of the International Court of Justice before taking any action.

69. Before concluding his remarks, he wished to say how much he deplored the incident, referred to by many representatives, concerning the Pretoria communiqué. In his opinion, the Government of South Africa could not be blamed for that incident, which could probably have been avoided if, at the sixteenth session, the Committee had adopted the Swedish delegation's proposal for sending to South West Africa an investigating body whose members would have been nominated by the President of the General Assembly (A/C.4/L.713/Rev.3). It was regrettable, so far as the interests of the people of South West Africa were concerned, that advantage had not been taken of the offer which had been made at that time by the Government of South Africa and which was undoubtedly indicative of a change in attitude on the part of the Pretoria authorities. It was to be hoped that the incident of the Pretoria communiqué would not have the effect of preventing constructive contacts between the United Nations and South Africa.

REQUEST FOR A SUPPLEMENTARY HEARING

70. The CHAIRMAN informed the Committee that he had received a communication from Mr. Sam Nujoma, a petitioner, in which a further hearing was requested. He accordingly suggested that a hearing should be granted to Mr. Nujoma on the same terms as those agreed upon at the 1383rd meeting with regard to the additional hearing of the Reverend Michael Scott, who was to be heard by the Committee after the general debate.

It was so decided.

The meeting rose at 5.45 p.m.