

United Nations GENERAL ASSEMBLY

SEVENTEENTH SESSION

Official Records



FOURTH COMMITTEE, 1387th
MEETING

Friday, 16 November 1962,
at 10.50 a.m.

NEW YORK

CONTENTS

| | Page |
|---|------|
| <i>Agenda item 57:</i> | |
| <i>Question of South West Africa (continued):</i> | |
| (a) <i>Report of the United Nations Special Committee for South West Africa;</i> | |
| (b) <i>Special educational and training programmes for South West Africa: report of the Secretary-General</i> | |
| <i>General debate and consideration of draft resolutions (continued)</i> | 387 |
| <i>Supplementary hearing of petitioners</i> | 394 |

Chairman: Mr. Guillermo FLORES AVENDAÑO
(Guatemala).

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

1. Mr. DELISLE (Canada) noted that the Committee had before it the report (A/5212 and Add.1-3) of the Special Committee for South West Africa and the report (A/5238, chap. IX) 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, established under General Assembly resolution 1654 (XVI). The former Special Committee, whose conclusions had been endorsed by the latter, had stated in its report that the situation in the Mandated Territory continued to be dominated by the policy of apartheid, which was buttressed by a system of regulations restricting the movement of Africans. In addition, the African population, though nearly six times as large as the European population, was not represented either in the Legislative Assembly of the Territory or in the House of Assembly of South Africa. In the opinion of the Government of Canada, the policy of apartheid was incompatible with the terms of the League of Nations Mandate, the United Nations Charter and the Universal Declaration of Human Rights and was prejudicial to the maintenance of peace and orderly administration in the Territory; hence it was of legitimate concern to the United Nations.

2. South West Africa was an international Territory, and although efforts to persuade South Africa to place it under the Trusteeship System had been unsuccessful,

the International Court of Justice had declared that South Africa had the obligation to report to the United Nations on the progress of the Territory. The effect of apartheid on the development of South West Africa was a matter of particular concern. At the 1164th plenary meeting of the General Assembly, the South African Minister for Foreign Affairs had quoted his Prime Minister as saying that the Bantu was no longer incapable or undesirous of participating in the control of his destiny; the Foreign Minister had then attempted to justify the policy of separate development for each racial group within its own area. Such a concept of development was unacceptable since it meant different standards and opportunities for different groups. The South African Government had recently set up a commission which was to inquire into the question of promoting the material and moral welfare and the social progress of the inhabitants of South West Africa, particularly its non-white inhabitants, and to take cognizance of the wishes and needs of the latter. While such developments were encouraging, the South African Government was mistaken if it thought that it could fulfil its responsibilities to the South West African people under the present system.

3. The question of South Africa's failure to promote the welfare and social progress of the inhabitants, as required under the League of Nations Mandate, was the subject of an important case now before the International Court of Justice. He agreed with the United Kingdom representative that the Assembly should not take definitive steps with regard to South West Africa until the conclusions of the Court justified such steps; he also shared the view that the South African Government should agree to be bound by whatever ruling the Court might give.

4. It would be appropriate for some committee of the Assembly to be asked to review the question of South West Africa while the Assembly was not in session. In that connexion, serious consideration should be given to the view put forward by the Mexican representative at the 1376th meeting that any step taken towards the revocation of the Mandate should be supported by an opinion of the International Court.

5. Meanwhile efforts to associate the United Nations with the progress of the Territory towards self-government should not be abandoned. Representatives of the Assembly or of the Secretariat should get into touch with the South African Government in order to offer United Nations assistance in the fields of education, health and economic development, and to obtain factual information which might guide the General Assembly in its future deliberations on the ultimate status of the Territory.

6. Any action recommended by the Committee should be of a realistic and practical nature. His delegation was opposed to the application of sanctions at the present stage for reasons which it had already stated

in the Special Political Committee (341st meeting) during the discussion on apartheid. It was also opposed to any attempts to revoke the Mandate unilaterally at the present time; the General Assembly should rather continue to remind South Africa of the international status of the Territory. Despite past discouragements, the path of negotiation should not be abandoned. The United Nations should continue to work towards the achievement of self-determination for the people of South West Africa, leading to independence if that was their wish. If the Special Committee established under resolution 1654 (XVI) was asked to take up the question of South West Africa, he hoped that the Assembly would encourage that Committee to seek every opportunity to enter into a working relationship with the South African Government in the hope of bringing home to it the concern of world opinion over the trend of events in South West Africa.

7. Mr. McINTYRE (Australia) said that he had been in sympathy with most of the views expressed during the debate. At the same time, not everything which had been said had been entirely relevant. He would mention in particular the thesis of a certain Professor Alvin Wolfe which had been described at length by the Reverend Michael Scott at the 1372nd meeting. He doubted whether the Committee should attach undue importance to the views put forward by Mr. Wolfe, who claimed that African Governments were unable to control large private commercial concerns in their countries and that the freedom of action of such concerns was increased by the process of decolonization. In actual fact, many new countries, particularly in Asia, had found that it was possible to control such foreign-owned concerns in a satisfactory way, and he was confident that the same would prove true in Africa.

8. The Government and people of Australia deplored the practice of racial discrimination, in South West Africa as elsewhere, and further considered that South Africa should have followed the example of other Mandatory Powers and have placed South West Africa under the Trusteeship System. At the very least, South Africa should treat the Territory as a Non-Self-Governing Territory and transmit information to the United Nations under Chapter XI of the Charter. There was also a clear moral obligation on the part of South Africa to promote the Territory's advancement towards self-determination and to put an end to all discriminatory policies. Moreover, there could be no doubt that South Africa should grant exit permits to students who were granted scholarships for study in the United States or elsewhere, irrespective of whether opportunities already existed in South West Africa and South Africa. The continued failure of South Africa to acknowledge its obligations or to heed world opinion could not but have explosive consequences.

9. His delegation was in general agreement with the text of the draft resolution before the Committee (A/C.4/L.754 and Corr.1) and welcomed the fact that the sponsors had avoided prejudicing the legal aspects of the question. There were, however, certain details about which it had reservations. Australia had been unable to support General Assembly resolutions 1702 (XVI) and 1761 (XVII), and consequently had reservations concerning the second and third preambular paragraphs. The Australian delegation was also unable to agree that the situation in South West Africa constituted a serious threat to international peace and security at the present time and it would therefore prefer the last preambular paragraph to be worded in a

conditional form. It would further like to see a reference to self-determination in operative paragraph 1 and would like the word "Condemns" in operative paragraph 2 to be replaced by "Deplores".

10. All possible means should be used for renewing the contacts between the United Nations and South Africa which had been established earlier that year. The fact that the visit of the Chairman and Vice-Chairman of the Special Committee for South West Africa to the Mandated Territory had ended on a note of controversy should not discourage continued efforts on the same lines, particularly as the Prime Minister of South Africa had stated that he did not exclude the possibility of a further visit by United Nations representatives. The most viable solution would naturally be the establishment of a United Nations presence in the Territory, as envisaged in operative paragraph 6 of the draft resolution. Meanwhile, the United Nations should seek to avail itself of all possible channels to bring the pressure of world opinion to bear upon the South African Government.

11. Mr. ISSA (Niger) expressed his appreciation of the valuable report which the members of the Special Committee for South West Africa had drawn up in spite of the enormous difficulties which had been placed in their way by the Pretoria Government. In particular, the Chairman and Vice-Chairman of the Committee, who had had to cope with all kinds of manoeuvres on the part of the South African authorities during their visit to South West Africa, continued to deserve the confidence of the world community.

12. South West Africa had been placed under the administration of South Africa by the League of Nations and had acquired exactly the same legal status as other Mandated Territories. At the end of the Second World War the League of Nations had been replaced by the United Nations, but the difference between the two organizations was no more than a difference of terminology, analogous to the difference between the former Union of South Africa and the present Republic of South Africa. The South African argument that the Mandate had lapsed with the disappearance of the League of Nations was specious and South Africa's failure to follow the precedent established by other Mandatory Powers was an act of provocation. His delegation could not agree with the view that the United Nations should refrain from any action pending the decision of the International Court of Justice, which would probably not be known for at least two years. The 1950 advisory opinion of the International Court^{1/} had established that South West Africa was still a Mandated Territory, and that opinion constituted an important basis for the Committee's discussions.

13. In South West Africa the policy of apartheid was being applied with more vigour than ever before and by its repressive laws South Africa was bringing about the systematic extermination of the indigenous population. The Africans were denied the opportunity to earn reasonable wages; they were obliged to live in insalubrious reserves; they could not move about without passes; they faced dire penalties if they dared to protest against injustices; they were obliged to abandon their land at the whim of the Whites; they were given no more than a rudimentary education and those who obtained scholarships for study abroad found insurmountable obstacles placed in their way. No inter-

^{1/} International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.

national organization was permitted to enter the Territory to bring aid to the population. Political meetings were banned and the African leaders tortured and deported.

14. Speaking at the opening of his party's congress on 27 September 1962, the Prime Minister of South Africa had said that chaos would be created in South West Africa, as had happened in the Congo, if the Whites abandoned the Territory. He had gone on to declare that the destinies of South Africa and South West Africa were irrevocably linked, that no intimidation would deflect South Africa from its duties towards the white and coloured populations of the Territory and that the only road for South Africa and South West Africa was that of separate evolution for the Whites and Non-Whites.

15. The Africans were becoming more and more desperate and a tragedy was imminent. As the Chairman and Vice-Chairman of the Special Committee for South West Africa had stated in paragraph 43 of their report (A/5212, part II), the General Assembly, after giving the South African Government a short period of time in which to comply with the General Assembly resolutions, should consider such measures as the imposition of sanctions. There was no point in hiding the difficulties which would be encountered in the application of such measures. Fifteen Powers had voted with South Africa against the General Assembly's recent resolution on apartheid (1761 (XVII)), including three permanent members of the Security Council who were among the principal founder Members of the United Nations and had proclaimed at San Francisco their faith in fundamental human rights and in the dignity and worth of the human person. The support of those countries, based on ties of economic interest, encouraged South Africa to persist in its defiance of the United Nations, a defiance which, if it was not stopped, augured ill for the Organization.

16. Mr. SATO (Central African Republic) observed that the fact that the problem of South West Africa had been before the United Nations for sixteen years testified to its importance and to the determination of the Government of South Africa not to co-operate with the United Nations in seeking a solution. Despite the numerous resolutions adopted by the General Assembly recommending that South Africa should transfer power to the African majority in the Territory, that Government maintained its colonialist policy in South West Africa. The situation there was critical and constituted a threat to peace and security not only in that part of Africa but in all Africa and indeed the whole world. The South African Government questioned the competence of the United Nations in the matter in order that it might continue to exploit the natural resources of the Territory by the use of cheap African labour. What was particularly shocking was that that Government's attitude was supported by the colonialist Powers which were Members of the United Nations and which in the General Assembly voted in favour of resolutions condemning South Africa's apartheid policy, while at the same time they were supplying South Africa with armaments and increasing their trade with that country. For sixteen years South Africa, a country with a few million inhabitants, had defied the United Nations, which represented the bulk of world opinion. Foreign settlers established in that part of Africa refused to recognize the rights of the majority of the inhabitants and condemned them to slow death. The virtual annexation of South West Africa, a Territory placed under international mandate, had faced the

United Nations with a fait accompli. The prestige of the United Nations was at stake and unless it took prompt action it might be accused of complicity in the South African Government's actions of the past sixteen years.

17. The South African Government's reaction to the adoption of General Assembly resolution 1514 (XV) had been to increase its military build-up. The oppression of the people had been intensified; the South African Government and the imperialists were determined to exterminate the people merely because they were asking for the right to self-determination. The indigenous inhabitants were not represented in the Government or even in Parliament and did not participate in any way in the administration of their country. The retrograde system of Bantu education kept them in a state of ignorance, poverty and perpetual servitude. Africans were arrested daily for infringement of the pass laws or other technical offences, in order to provide cheap labour; they were sentenced to prison terms and leased out to white farmers, for whom they worked for miserable wages. The United Nations had assumed a heavy responsibility towards the people of the Territory and should not fail in its duty by tolerating constant defiance of its decisions. It should act with speed and firmness in accordance with the terms of Article 6 of the Charter.

18. Mr. CUEVAS CANCINO (Mexico) said that the statement which he had made at the 1376th meeting had been the subject of numerous comments, most of them dealing with its constructive aspects. Others had been less favourable, and he proposed to take up the main points at issue in order to explain the ideas that had prompted the solution proposed by Mexico for the future of South West Africa.

19. His delegation had not replied at once to the questions asked by the Liberian representative at the 1377th meeting because they would have been answered by a reading of the full text of his statement (A/C.4/573) and because, moreover, the legal argument was based on firm and continuing action by the General Assembly and sought to utilize the brief period of time recommended by the Chairman and Vice-Chairman of the Special Committee for South West Africa in paragraph 43 of their report (A/5212, part II). The Liberian representative's questions had related for the most part to the draft resolution which was to be submitted. The Committee now had before it the draft resolution submitted by the African-Asian group (A/C.4/L.754 and Corr.1), in which one of the two possible courses outlined by his delegation—that of political action by the General Assembly—had been adopted and the Special Committee's conclusions were duly taken into account. His suggestions were consequently no longer relevant and there would be no need to revert to them if the Government of the Republic of South Africa made good use of the further period granted to it. That need would arise only if the efforts of the United Nations should again fail and it should be necessary to terminate the Mandate. In any case, however, he thought it would be useful to take up the other questions raised by various speakers.

20. The objections to the Mexican proposal could be divided into two categories: political and legal. He would deal first with the former category.

21. It had been stated that the question of the Mandate was primarily political, that time should not be wasted on secondary issues, that the General Assembly had

already won its case before the Court and that it was for the losing side to bring the matter before the Court again. Some delegations also thought that the General Assembly should exercise pressure and that the existing machinery should be brought into play.

22. He had not thought and still did not think that that solution would be the best. His scepticism was based on a long list of resolutions which had remained a dead letter. He had made it clear that if a majority in the Assembly wished to follow such a course his delegation would raise no objection and would have no difficulty in voting in favour of draft resolution A/C.4/L.754 and Corr.1.

23. He did object, however, to the legal aspect being treated as secondary, because it was only on the basis of law that any system, national or international, could be established. The dividing line between the political and the legal was a thin one. Heated debates had frequently taken place in the United Nations regarding the interpretation of Articles of the Charter, debates involving profound political interests which had been presented in a legal form. Again, at a recent Inter-American Conference a number of countries had adopted a definite political stand on the question of the impossibility of expelling a member because the Charter of the Organization of American States did not provide for that penalty. The States in question had been accused of being legalistic but in his opinion their stand had been a political one.

24. Much could be said on the question of whether it was wrong for the party which had won a case to have recourse to the Court again. In the first place, in the case of an advisory opinion there was no question of the United Nations winning or losing. The Court's opinion simply provided a basis on which the United Nations could deal with the problem. Three advisory opinions had been requested in the case of South West Africa and his delegation considered that a request for a fourth opinion would be justified.

25. Finally, reference had been made to the loss of time and the Mexican delegation admitted that the method which it had proposed was not a quick one. Moreover, his delegation had refrained from discussing the relationship between the new advisory opinion and the proceedings instituted before the Court by Ethiopia and Liberia and from linking the Assembly's essentially political findings concerning the violation of the Mandate with the necessary legal proof of those violations. In strict law, the advisory opinion envisaged would have to be sought once the Court had pronounced judgement against South Africa in the proceedings instituted by Ethiopia and Liberia. His delegation did not think, however, that such a judgement would suffice to enable the Assembly to revoke the Mandate since the Court would simply have confirmed what the Assembly had long known: namely, that the terms of the Mandate had been violated. Between that and the revocation of the Mandate there was a considerable gap which could not be ignored.

26. He would now deal with the legal objections. As the Mexican thesis had been a strictly legal one, those were the more serious objections. They could in fact be reduced to two: firstly, the attempt to refute the Mexican argument by setting against it the anti-colonial system established by General Assembly resolution 1514 (XV); and secondly, the claim that the Assembly was the only body legally competent to revoke the Mandate for South West Africa.

27. The first objection held that the liquidation of colonialism initiated by the General Assembly at its fifteenth session created a world-wide situation which left no loop-holes. It was argued that the provisions laid down were universal in application. South West Africa was no exception and it only remained to liberate the Territory.

28. Resolution 1514 (XV), however, operated on the international plane, and therein lay its essential difference from domestic legislation. In the case of domestic law, after the necessary legal procedures a decision could be put directly into effect. That was not so at the international level. The United Nations could resolve to end the colonial system, but the compliance of all Governments, including colonial Governments, was still necessary, each particular case must still be considered, and individual resolutions designed to achieve the objectives of resolution 1514 (XV) still had to be implemented. He would draw attention in that regard to the debates which were still going on about the Portuguese colonies and the United Kingdom Territories which were still not independent, to the continued subjection of South West Africa and to the agreement which had been reached with regard to the Territory of West Irian and which did not provide for the direct transfer of West Irian to Indonesia. His conclusion was that, in the liquidation of colonialism, transitional periods and adjustments to particular circumstances were permitted within the international system and were indeed necessary in view of the variety and complexity of the situations which had to be faced.

29. He would now deal with the question of the legal competence of the General Assembly. The objection which had been raised in that respect took two forms: firstly, a new application to the Court was considered of secondary importance; secondly, it was argued that the Assembly was the only body competent to take the step envisaged.

30. The supporters of the latter thesis seemed to him to base themselves on fallacious arguments, since they all tried to show that the United Nations was competent to revoke the Mandate for South West Africa—which was an institution deriving from the international community—without having to ask the consent of the Court in the form of an advisory opinion.

31. His delegation had never questioned the powers of the United Nations, but the thesis to which he referred made a distinction between the United Nations and one of its organs, since the Court was part of the United Nations according to Articles 7 and 92 of the Charter; it was further asserted, again erroneously, that the United Nations was not obliged to ask the consent of the Court in the form of an advisory opinion. The Court could not give its consent; it could only deliver its opinion, in accordance with Article 65 of the Statute, and it was for the Assembly to take the political decision to act.

32. His delegation considered that that argument was being used illogically. Its proponents adduced excellent reasons in support of the law-making role of the United Nations but then proceeded to detract from the body which, according to the Charter, was the juridical organ "par excellence" of the Organization. As there was no intention of weakening the Organization or depriving it of a competence which rightly belonged to it, the argument was feeble.

33. One representative had stated in the Committee that the United Nations was a supranational authority. The Mexican delegation very much questioned that assertion and could produce sound legal arguments, endorsed by a large number of writers, in support of its opinion. Besides, experience showed that many of the crises of the present day arose from the fact that the United Nations was not such an authority. He wondered, however, whether within a State, when difficulties arose concerning the application of a law, it was not right to refer the matter to the judicial organ. All that the Mexican delegation desired was that, in the solution of the present colonial problem, the Assembly should not act without the support of the International Court. The Assembly should avoid even the suspicion of an abuse of law, by giving legal considerations their due importance in support of an act which was essentially political.

34. It had been claimed that arguments in favour of the thesis in question would be found in the statement which had been made at the previous session (1226th meeting) by the representative of Mexico and it had also been suggested that there was a contradiction between the statements made in 1961 and in 1962. He did not consider that there was any such contradiction; at least, it did not appear so from the letter from the Permanent Representative of Mexico addressed to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories (A/5212, annex V), which treated both arguments as part of the same thesis. Nor did he think that there was any justification for speaking of contradiction when it was only a matter of the successive development of one and the same thought. In the Mexican argument, in 1961 and in 1962, the revocation of the Mandate by the United Nations was considered. Mexico had not moved an inch from that basic position. On the first occasion Mexico had offered a solution based on legal considerations and leading to political conclusions. It had done the same on the second occasion. The difference was that in 1961 the Mexican argument had not gone into all the possible legal implications of the idea, whereas in 1962 an endeavour had been made to do so.

35. With regard to the objections concerning the legal validity of the Mexican thesis, certain opinions had been expressed at the previous meeting regarding the general theory of treaties which he did not propose to dispute; indeed, he thought that they actually supported his thesis. His delegation was prepared to accept all that had been said regarding law-making treaties and to agree that the Mandate fell into that category. It seemed to him that the argument in question weakened the case in favour of the competence of the General Assembly to revoke the Mandate and strengthened his own thesis. It was precisely because that kind of treaty was involved that the competent United Nations bodies must be allowed to play their proper part. The violation of a so-called synallagmatic treaty could not be compared with that of a law-making treaty in which the fate of a whole people was at stake.

36. Nor did he think that due attention had been given to resolution 449 (V) and its implications. The Court's opinion, which the Assembly had accepted in resolution 449 (V), was that only the Union of South Africa, as it then was, in agreement with the United Nations, could alter the international status of the Mandated Territory. The revocation of the Mandate would constitute a change in that status. He wondered whether, by means of another resolution, the Assembly could change a

legal status established in a resolution, without the support of an opinion by the Court on the new elements justifying such a change. His delegation could not accept that idea. It based its position on Judge Lauterpacht's opinion that when the Assembly accepted, by a resolution, an advisory opinion of the Court, it added to the Organization's constitutional law. Such law, in his view, included not only the Charter but also that extremely valuable body of rules by which the daily work of United Nations organs was governed and which formed part of the basic norms guiding the conduct of the United Nations. No legally crystallized situation lasted for ever, but in order to change a situation of a constitutional nature the General Assembly must proceed in the same way as when it had created the situation. The Assembly could not depart from customary norms which it had set for itself and the lack of which would weaken the United Nations considerably.

37. Mr. DORSINVILLE (Haiti) proposed that, in view of the importance of the Mexican representative's statement, the full text should be circulated as a document and annexed to the final printed records of the Committee's proceedings.

It was so decided.^{2/}

38. Mr. IPOTO (Congo, Leopoldville) observed that the maintenance of certain questions on the agenda of the General Assembly at successive sessions proved the importance of those questions and the perseverance of the United Nations in endeavouring to settle them, but also showed clearly that the efforts made by the United Nations had encountered formidable obstacles. Not only had no progress had been made in the question of South West Africa but the situation in that Territory had deteriorated to the point of becoming a threat to international peace and security. That statement could be made without fear of contradiction, since the information at the disposal of the United Nations was confirmed by the report of the Special Committee for South West Africa; while there had been no real progress in the Territory itself, there had undoubtedly been progress with regard to the amount of information available.

39. It had been on the basis of the disturbing developments in the Territory that General Assembly resolution 1702 (XVI) had been adopted on 19 December 1961. It recalled General Assembly resolution 1514 (XV), whose principles should be borne in mind, since on the very continent of which the Territory formed a part a number of peoples had attained independence and others were about to achieve self-determination. In the meantime, South West Africa seemed to be undergoing a new form of colonization more dangerous than the former kind. Indeed, the Mandatory Power had simply annexed the Territory, in violation of the most elementary rules of international law.

40. Despite the care taken by the South African Government to prevent the Chairman and Vice-Chairman of the Special Committee from carrying out an objective investigation of the Territory, their report and that of the Special Committee showed that the situation had not changed since the question had been examined at the sixteenth session of the General Assembly. In his statement at the 1369th meeting, the South African Minister for Foreign Affairs had confined himself to stressing the fact that the Chairman

^{2/} The full text of the statement by the Mexican representative was subsequently circulated as document A/C.4/581 and Corr.1.

and Vice-Chairman had enjoyed complete freedom of movement in the Territory and had been able to meet and talk with anyone they wished. He had endeavoured to distract the attention of Member States from the circumstances in which the visit had taken place.

41. The Congolese delegation could not accept the statement by the United Kingdom representative at the 1380th meeting that the important point was that the Government of South Africa had "voluntarily" allowed the visit. It was obvious that a visit to so vast a Territory by only two people had given the South African Government every opportunity to limit the visit to places expressly chosen for the purpose. A heavy schedule of nine days, much of which time had been taken up by long and arduous journeys, had been deliberately planned to obstruct the activities of the Chairman and the Vice-Chairman. The secrecy surrounding the journeys and the hostile propaganda which had been encouraged while the visitors were in the Territory had been intended to prevent contact between them and the people. The visit had been doomed to failure by the fact that the inhabitants had not learned of it until the two representatives had already arrived, and by the intimidation of the inhabitants by local officials. The petitioners who had been heard by the Chairman or the Vice-Chairman had almost all expressed the fear that they would suffer as a result of having been in touch with the United Nations representatives. Others had expressed the desire to see the representatives but had had no opportunity of doing so. In short, the South African authorities had done their utmost to mislead the Chairman and Vice-Chairman and had invited them only in the belief that the visit could be so arranged that the truth could be concealed. They had hoped, by allowing the visit, to legalize the situation and to allay the fears of the General Assembly by providing it with false information.

42. In his statement before the Committee the South African Foreign Minister had gone so far as to say that the whole problem of South West Africa had been created by the United Nations. He had affirmed that all was well with the African population, that there was no reason for anxiety and that there was no threat to international peace, no police régime and no militarization. The facts set forth in the report proved, however, that the Chairman and Vice-Chairman had discerned the truth. The information available enabled the Committee to form an accurate picture of the situation and to examine the various factors with a view to taking appropriate and effective steps.

43. The invitation to the Chairman and the Vice-Chairman of the Special Committee had been merely a manoeuvre, which happily had not succeeded. It would have been more proper to invite the whole Special Committee, with the appropriate staff, and to allow the programme of the journey, the time-table and the itinerary to be drawn up by the United Nations. No doubt, however, that would have been dangerous for the South African Government, which had been able to persist in its colonialist policy only by virtually isolating South West Africa from the outside world.

44. His delegation considered the report of the Special Committee for South West Africa to be comprehensive, circumstantial and objective. It congratulated the Chairman and Vice-Chairman and the other members of the Committee who had participated in the drafting.

45. It was unfortunate, but in no way the fault of the Committee, that the essential aims of resolution 1702

(XVI) had not been achieved. The Committee had carried out part of its task under that resolution but had encountered considerable difficulties regarding its complete implementation. The South African Government had once again met a peaceful move on the part of the United Nations by a negative attitude. It continued to maintain its military forces in the Territory, despite the denials of the Foreign Minister. His delegation could hardly accept the fact that the Chairman and Vice-Chairman had been unable to visit barracks and military bases as evidence that there was no military build-up in South West Africa. The Foreign Minister and the Prime Minister of South Africa had recently solemnly proclaimed that for strategic reasons the Government of South Africa could not be indifferent to South West Africa. In other words, they needed the Territory to bar the road to African nationalism. If the Territory was necessary for defensive purposes, it was useless to claim that it could be defended without weapons or troops. Indeed, the large-scale purchases of weapons and fighter aircraft by the South African Government were apparently intended to meet the needs of further militarization. It was only by force of arms that the population of such a vast territory could be confined in reserves and in the so-called Native quarters, prevented from moving about the Territory or from going abroad, expelled from their land and deprived of education.

46. The policy of apartheid, which had been condemned almost unanimously by the United Nations, continued to be imposed in the Territory, in flagrant violation of the most elementary principles of human rights and of the United Nations Charter. The South African Government had ignored the recommendations of the General Assembly and refused even to discuss the problem as a whole. The hope that the visit to the Territory would result in some relaxation of the apartheid system had been in vain. The South African Government, while recognizing the urgent need for more rapid economic and social progress, refused the assistance of the United Nations or of the specialized agencies, thus making it clear that the Africans were to be kept in a state of subjugation. Even if the South African Government considered that it could dispense with international assistance, the fact remained that it did not use its resources to improve the people's living conditions. The so-called five-year plan had been formulated only after many years of international pressure.

47. The report of the Special Committee made it clear, and the Foreign Minister had not denied, that those Africans who had been able to approach the Chairman and Vice-Chairman had demanded a United Nations presence in the South West Africa. They believed that only the United Nations could improve their lot and guarantee them a future worthy of human beings in a sovereign independent South West Africa. The United Nations was undoubtedly faced with one of the most serious and critical problems it had encountered in its history. It must spare no means in its power to comply with the purposes and principles of the Charter. It could no longer be satisfied with adopting vague and ineffective resolutions which were flouted, as was the Charter itself, by South Africa. Nor should it be satisfied with the vague hopes expressed by the United Kingdom that one day the indigenous people of South West Africa would be able to exercise their right of self-determination. It was quite clear that the Territory had simply been annexed.

48. The General Assembly should take strong and effective action, in which all Member States should participate. That was the more necessary in that previous decisions of the General Assembly had had little effect. The steps advocated the previous year by the great majority of delegations had not been put into effect. At the current session a fresh resolution should stiffen the attitude of the General Assembly with regard to the policy of apartheid.

49. At the 1380th meeting of the Committee the United Kingdom representative had referred to Shackleton aircraft and Buccaneer bombers which had been delivered to South Africa, allegedly for the purpose of maintaining order in the Territory. In the opinion of the Congolese delegation those reconnaissance aircraft and bombers were intended to be used in repressing possible revolts among the African population. The Shackletons, which were not only for use at sea, would search them out and the Buccaneers would launch bombing attacks. Possibly they were not the same types of aircraft as those used by the United Kingdom against the Arab tribesmen in Aden or Oman, for example, but they could be used for the same purposes. His delegation had not been surprised by the attitude of the United Kingdom, since it was familiar with the duplicity of that Government's policy. The support given by British nationals and companies to the secessionists of the province of Southern Katanga was in accordance with the information given by the Reverend Michael Scott concerning the activities of powerful financial and economic interests to the detriment of the African populations. British, South African and Portuguese financial interests made the law in that part of Africa. It was they who for two years had been keeping rebellion alive in southern Katanga. It was they who supported the policy of apartheid in South Africa and foreign domination in Southern Rhodesia.

50. In his delegation's opinion the legal aspects of the problem did not justify delay in the examination and implementation of the necessary steps in connexion with the serious situation in South West Africa. The 1950 advisory opinion of the International Court of Justice was a sufficient basis for decisions in accordance with the Charter. The sub judice argument had been almost unanimously rejected by the Committee. His delegation would oppose any proposal that a further opinion from the Court should be awaited before an effort was made to solve the problem. The General Assembly had ample powers to reach valid and effective decisions and should not allow itself to be circumvented by delaying tactics. The urgency and gravity of the problem were generally recognized. The South African Government was well aware that it was wrong in denying the competence of the International Court and of the United Nations and it should comply with the decisions of the Court and of the General Assembly.

51. There had been a sufficiency of opinions and decisions; what was needed now was effective steps whose application would be guaranteed by all Member States. The action outlined in General Assembly resolution 1702 (XVI) was practicable and feasible; all the General Assembly needed to do was to confirm its provisions and those of resolution 1761 (XVII).

52. Mr. FOURIE (South Africa), speaking in exercise of his right of reply, recalled that the representative of the Congo (Leopoldville) had claimed that during their visit to South West Africa the Chairman and the Vice-Chairman of the Special Committee had been limited to certain regions. One look at the map, how-

ever, would show that the visit had covered a cross section of the country. The same representative had also claimed that the visit had been surrounded with secrecy. In point of fact announcements about it had been made over the radio and in the local Press, with the result that everywhere large numbers of people had awaited the arrival of the Chairman and the Vice-Chairman of the Special Committee. He need not repeat what he had already said about the allegations of intimidation or denial of free access. The representative of the Congo (Leopoldville) had also alleged that the South African Government had tried to distort the views of the Chairman and the Vice-Chairman. The fact was that the South African Government had not altered one word of the communiqué; as could be seen from the statement by the Vice-Chairman (A/5212, annex X), his account of what had happened agreed with that of the South African Government. The only difference was with the Chairman, and it concerned the extent to which the latter had been involved in authorizing the issue of the joint communiqué. As for the use to which the Shackleton aircraft were being put, he invited the representative of the Congo (Leopoldville) to give the Committee a single instance of such an aircraft having been used to drop a single bomb on the population of the Territory.

53. Mr. IPOTO (Congo, Leopoldville) replied that in stating that the Chairman and the Vice-Chairman of the Special Committee had been subjected to limitations during their visit to South West Africa, he had meant that a territory of over 1 million square kilometres could not be properly inspected within a space of nine days. With reference to intimidation, the fact was that individuals who had wished to meet the Chairman and the Vice-Chairman of the Special Committee had refrained from doing so out of fear of reprisals after the departure of the United Nations representatives. The South African representative had asked him to quote examples of bombing raids; that representative had apparently forgotten that United Nations reports on the situation in Katanga had revealed that aircraft which had taken off from South Africa had been used for bombing peaceful Congolese in Southern Katanga.

54. Mr. FOURIE (South Africa) emphatically denied the suggestion that planes had taken off from South Africa to carry out raids on Katanga. The Secretary-General's latest report had included the suggestion that planes—there had been no specific reference to bombers—might have gone to Katanga or been imported into Katanga via South Africa. His Government had supplied answers which had been to the satisfaction of all concerned. In that connexion he referred the Committee to the South African Foreign Minister's recent communication to the Acting Secretary-General (S/5180).

55. Mr. IPOTO (Congo, Leopoldville) said that it was a fact that aircraft had left South Africa and had gone to molest the people of Katanga. Furthermore he would point out that his country had never signed an air transit agreement with South Africa. The South African representative would also find it hard to refute the fact that mercenaries from his country had gone to Katanga to help the rebellion there and that arms for the same purpose had been sent to Katanga through South Africa.

56. Mr. BOZOVIC (Yugoslavia) said that he had read the report to which the South African representative had referred. The South African Government had indicated in its reply that some aircraft had been sold to Southern Rhodesia, whence they had gone to Katanga.

57. Mr. FOURIE (South Africa) pointed out that the Yugoslav representative had misread the report in question since it contained no suggestion that the aircraft had gone to Katanga. The suggestion that the aircraft had gone to Katanga from Rhodesia did not appear in the document concerned; it was the Yugoslav representative's own insertion. He would again assure the representative of the Congo (Leopoldville) that no weapons had been sent from South Africa to Katanga.

58. The CHAIRMAN invited the Committee not to dwell on that point any further because it was outside the subject under discussion.

59. Since no more representatives had asked to speak in the general debate, he suggested that the general debate on the question of South West Africa should be closed and that the two petitioners whose request for additional hearings had been granted should be invited to make their statements.

It was so decided.

SUPPLEMENTARY HEARING OF PETITIONERS

At the invitation of the Chairman, the Reverend Michael Scott, representative of the Africa Bureau, and Mr. Sam Nujoma, representative of the South West Africa Peoples Organization (SWAPO), took places at the Committee table.

60. The Reverend Michael SCOTT (Africa Bureau) said that in the light of the debate in the Second Committee and of the statement made by the United Kingdom representative at the 1380th meeting denying that industrial companies played a political role or exerted influence in Africa, he wished to reiterate his plea that a committee of inquiry should be appointed to elicit the truth about the role played by industry in South West Africa and the southern part of Africa in general. It was now being alleged that industry was non-political, just as on a previous occasion the Committee had been asked to believe that certain political movements and individuals were non-racial.

61. There could be no doubt about the influence exerted by certain industrial concerns in Central Africa; it sufficed to recall the role they had played in the concept and formation of the Federation of Rhodesia and Nyasaland. Debate in the United Kingdom Parliament and documentation available in institutions such as the Royal Institute of International Affairs proved that fact. Reference could be made, for instance, to *Optima*, the journal of the Anglo American Corporation, which had been advocating the concept of Federation long before federation had been imposed upon the African peoples of the Rhodesias and Nyasaland. On the other hand, an assistant to the Chairman of American Metal Climax Inc. had referred to the difficulties encountered by his company in South West Africa in relation to local labour policies. One of the legal requirements governing mining in South West Africa was that companies had to recruit their labour through the semi-

official South West Africa Native Labour Association and were powerless to alter the system of recruitment or wages, the existence of the bachelor compounds or the short-term nature of the contracts. In Northern Rhodesia, on the other hand, where American Metal Climax also operated, the conditions of recruitment, compensation and employment of labour were quite different.

62. While no one would suggest that industry was necessarily a power for evil, he felt that it was important for the United Nations to know the methods certain companies used in Africa. There was no lack of goodwill in Africa towards industry, which was assisting the new countries in building up their economies and helping them to cope with their vast problems.

63. At the same time it was impossible to ignore the fact that the great industrial revolution going on in Europe would have profound effects upon Africa. Europe's consumption of ferrous alloys and non-ferrous metals would probably double between 1955 and 1970. Europe itself was relatively poor in such minerals, whereas Africa was very rich. In so far as those minerals would be relatively more important to Europe's economy, those who controlled mineral resources would exert increased influence in international affairs. The representatives of political States would become less important than those of the "Cape-to-Katanga miners." The corporations forming that group were registered in many countries. Indeed, the increased freedom of movement of capital resulting from the creation of the European Economic Community might make the whole idea of national economy obsolete. Reference might also be made to the fact that South Africa's withdrawal from the Commonwealth had not entailed any change in its economic relations with the United Kingdom. Furthermore, the disintegration of the colonial empires in Africa opened the way for the integration of economic empires. With reference to South West Africa, the constitutional position still persisting there had been influenced by considerations of maintaining a supply of cheap migratory indigenous labour.

64. Although it might have been hoped that the Prime Minister of Southern Rhodesia would have sense something of the strength of world public opinion in relation to the policies pursued in his country, it seemed that the debate which had taken place in the Committee had had very little effect on him. In that connexion he could quote a statement by Sir Edgar Whitehead which was reported in *The Times* of London on 9 November 1962.

65. The CHAIRMAN reminded the petitioner that the Committee was dealing with the question of South West Africa.

66. In view of the lateness of the hour, he invited him to continue his statement at the following meeting.

The meeting rose at 1.5 p.m.