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**FOURTH COMMITTEE, 364th
MEETING**

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Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

Question of South West Africa: report of the *Ad Hoc* Committee on South West Africa (A/2475 and Add.1 and Add.2, A/C.4/245, A/C.4/L.305/Rev.1 and Add.1, A/C.4/L.306 and Add.1) (*continued*)

[Item 36]*

1. Mr. RYCKMANS (Belgium) said that the attitude of the Belgian delegation both to the question of South West Africa and to the draft resolutions submitted to the Committee A/C.4/L.305/Rev.1 and Add.1, A/C.4/L.306 and Add.1), was determined by three considerations. The first and most important was that of the welfare of the indigenous population of South West Africa. The Belgian delegation had always maintained that the indigenous peoples, whether they lived within the metropolitan territory of a State or in overseas territories, were entitled to the care of the United Nation; that care ought *a fortiori* to be extended to the people of South West Africa, who were living under a special régime and should be administered in accordance with the obligations contracted by the Union of South Africa under the terms of the Mandate. The Belgian delegation was prompted, secondly, by its concern for the respect due to the Charter. Finally, his delegation was prompted by its concern for the dignity and prestige of the General Assembly. It would therefore vote eagerly in favour of any resolution likely to promote the interests of the indigenous people of South West Africa.

2. The draft resolutions before the Committee could achieve that end if there were any likelihood of their acceptance by the Union of South Africa, or if, by virtue of the Charter, the General Assembly had the power to impose its decision. As was known, the terms of reference of the *Ad Hoc* Committee on South West Africa were restricted: the Committee could negotiate only within the framework of the advisory opinion of the International Court of Justice.¹ The Union of South Africa had rejected that opinion, which it was not obliged to accept. The General Assembly, which also had no such obligation, had accepted it, as it had the right to do; nevertheless it could only make recommendations and could not impose its interpretation on a Member State. The Belgian delegation would be able

* Indicates the item number on the agenda of the General Assembly.

¹ See *International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 128.

to vote for the draft resolutions if any of their sponsors could say in all sincerity that he believed that the Union of South Africa would change its attitude. Nobody, however, believed in such a possibility.

3. As the representative of the Philippines had rightly observed (361st meeting), the General Assembly could not find a way out of the impasse by successively adopting identical resolutions, and considerations of prestige should not be allowed to outweigh the interests of the indigenous peoples. The draft resolutions before the Committee revived, with only slight modifications in form, resolutions already rejected by the Union of South Africa. No one would deny that those resolutions would remain a dead letter, like their predecessors, for the Union of South Africa had stated unequivocally that they were unacceptable. Thus it was not by adopting those draft resolutions that the Committee would be serving the best interests of the indigenous peoples. Their interests would have been better served by resolutions granting the *Ad Hoc* Committee the power to negotiate without imposing rigid limitations upon it. Several speakers had observed that, if it accepted the opinion of the Court, the Union of South Africa would not necessarily have to assume more extensive obligations than those imposed upon it by the Mandate. That was a question which might well be discussed by the *Ad Hoc* Committee. The Committee, however, had not the right to negotiate on that matter, because, before opening negotiations, it required an assurance that the Court's opinion had been accepted by the Union of South Africa; thus the door to negotiations was closed.

4. If it was simply a matter of expressing a wish, a pious hope, the Belgian delegation might vote for the draft resolutions. As it was, however, the good of the peoples was being sacrificed for a better which was clearly unattainable. The indigenous people were waiting; if a useless solution were adopted, it would be left waiting, whereas something might be achieved if the *Ad Hoc* Committee were not tied by preliminary conditions. Moreover, the Fourth Committee owed it to the dignity and prestige of the United Nations not to take futile decisions. In a similar case the General Assembly had endeavoured by means of more and more forceful resolutions to influence a State over which it had no power. The outcome of that experiment was well known and the Belgian delegation had no desire to associate itself with a fresh attempt which would be doomed to the same fate.

5. For all those reasons, his delegation would abstain from voting.

6. Mr. QUINTEROS (Chile) supported the two draft resolutions, which reaffirmed the competence of the United Nations in a matter which was of vital interest to the whole international community. Given the basic principles on which international law was founded, it was clear that the question could not be resolved on the basis of the exclusive competence of one State.

7. Mr. CALLE Y CALLE (Peru) said that he would vote in favour of the two draft resolutions. With regard to draft resolution A/C.4/L.305/Rev.1 and Add.1, the Peruvian delegation would have preferred the third paragraph of the preamble to contain an affirmation of the compulsory jurisdiction of the Court by virtue of article 7 of the Mandate for South West Africa. Article 37 of the Statute of the International Court of Justice and Article 80, paragraph 1, of the Charter merely maintained and confirmed the principle set forth in the Mandate. Logically moreover, the provision would be better placed, not in the preamble, but in the operative part of the resolution, after paragraph 9. The Peruvian delegation would not, however, submit a formal amendment to that effect.

8. Mr. DE HOLTE CASTELLO (Colombia) said that, despite the reservations his delegation had expressed on a number of occasions in regard to the advisory opinions and decisions of the International Court of Justice, he would vote for the two draft resolutions before the Committee. That vote would be an expression of its hope that the question would be settled in accordance with the opinion of the court, as a result of co-operation between the *Ad Hoc* Committee and the Government of the Union of South Africa.

9. Mr. MENON (India) said that in his statement at the previous meeting the South African representative had singled out the Indian delegation for criticism and had imputed to it motives which it had never had. While his delegation realized that the view the Union of South Africa was upholding was that of the minority, which should in fairness be allowed a good deal of latitude in stating its case, it nevertheless felt compelled to take up the criticism of the line it had taken, a line which had been determined solely by the fundamental principles at issue, the different factors in the problem and the historical and political considerations by which India was invariably guided.

10. The draft resolutions before the Committee reflected the ideas that the General Assembly had already held at previous sessions and it was difficult to understand why the motives of their sponsors should have been more vigorously assailed than in preceding years. Furthermore, draft resolution A/C.4/L.305/Rev.1 and Add.1 provided for an extension of the Committee's terms of reference, thereby meeting the Union of South Africa's objection that they were too restricted. The Indian delegation had been surprised by the Belgian representative's statement, which appeared to imply that the Committee was powerless to act in the present case.

11. In invoking the provisions of Article 2, of paragraph 7, of the Charter, the South African representative had not questioned the General Assembly's competence; the question should therefore be considered against the background of the Mandate. The establishment of the Mandates System gave concrete expression to the ideal of the international community, of which President Wilson had been one of the staunchest champions; that ideal required that certain territories should no longer be regarded as the spoils of war and treated accordingly, but should be administered with regard for the interests of their inhabitants. That new concept raised the question of where the sovereignty over such territories lay. To disregard that question was to place the matter in a false perspective from the very outset. There could be no doubt about the answer: wherever there was a people or a nation, sovereignty was vested

in them. It so happened that certain peoples were not yet capable of exercising that sovereignty, which in such cases was reserved. That was true of South West Africa; in its case, it was the Government of the Union of South Africa which exercised sovereignty, doing so, however, under conditions which had been explicitly laid down, and any authority it enjoyed was by delegation.

12. The stand the Union of South Africa was at present taking was the one Field Marshal Smuts had taken in the League of Nations before the establishment of the Mandate; as the Committee was aware, he had later taken a different view. The League of Nations had not admitted the arguments Field Marshal Smuts had used in favour of incorporating South West Africa in the territory of the Union; it had not accepted the Union of South Africa's proposal, but had established a Mandate for South West Africa which contained important reservations.

13. Analysing the nature of the relationship which the Mandate had established between the Union of South Africa and South West Africa, Mr. Menon said that the Mandates System, of which the Trusteeship System was a logical development, had conferred upon the Mandatory Power the role of trustee over the territory it administered. The concept of trusteeship had already been present in the minds of those who had introduced the Mandates System, as was indicated by the expressions they had used to describe what that system was intended to be. He quoted a statement by Mr. Lloyd George in that connexion. The role of trustee had been well defined by Sir Arnold MacNair, a member of the International Court of Justice, in his separate opinion.² Three fundamental principles were brought out by his analysis—the trustee was not in the position of the normal complete owner, who could do what he liked with his own, because he was precluded from administering the property of his ward for his own personal benefit; secondly, the trustee was under some kind of legal obligation, based on confidence and conscience, to carry out the mission confided to him for the benefit of some other person or for some public purpose; thirdly, any attempt by such a person to absorb the property entrusted to him into his own patrimony would be illegal and would be prevented by the law.

14. In a memorandum called *The League of Nations: A Practical Suggestion*, reproduced in Hunter Miller's book, *The Drafting of the Covenant* (vol. II, p. 23-60), Field-Marshal Smuts had expressed a similar view, namely, that the authority, control or administration of dependent territories should be vested in the League of Nations, but that, as joint international administration had been found wanting wherever it had been tried, it would be preferable for the League of Nations to delegate those powers to a mandatory State, instead of exercising them itself. Hence, the relationship of the Union of South Africa towards South West Africa was purely that of a trustee to whom powers had been delegated and upon whom an obligation based on confidence and conscience had been imposed, which would not come to an end until South West Africa had attained full self-government. That obligation did not rest upon a contractual agreement; if that had been the case, the contracting parties—the League of Nations, the Principal Allied and Associated Powers, and the Union of South Africa—could have made whatever modifications they wished in the status of the territory by joint

² See *International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 146.

agreement. It was a question of natural law, in virtue of which it was the duty of the Union of South Africa to guide the people of South West Africa towards the highest level of human development. It was precisely for that reason that, under the terms of the Mandate, the status of the territory could not be modified without the consent of its inhabitants. For the same reason, the rights of those inhabitants, which were similarly derived from natural law, had not lapsed with the dissolution of the League of Nations. Moreover, it was not primarily rights that the trustee had, but obligations; his rights were limited to those essential for the discharge of his obligations and were thus invariably a corollary of his obligations towards his ward. Since the rights of South West Africa persisted, it could not be claimed that the corresponding obligations of the Union of South Africa had been extinguished with the demise of the League of Nations.

15. Having demonstrated the legal impossibility of the disappearance of the international obligations undertaken by the Union of South Africa, Mr. Menon pointed out that the South African Government had, moreover, solemnly proclaimed its intention of continuing to carry out in South West Africa the sacred trust of civilization conferred upon it by the League of Nations Mandate. Field-Marshal Smuts in the League of Nations and the South Africa delegation in the United Nations had stated that the Union would continue to discharge its obligations under the Mandate until some new provision was made governing the future status of the territory. Thus the Union had recognized that its obligations remained valid and had accepted them.

16. The disappearance of the League of Nations had had only one effect: it had made it necessary to revise the methods by which those obligations were to be carried out. The Court's opinion concerned those methods of implementation rather than the principle of the existence of obligations. The South African Government rejected that opinion in its entirety and justified its rejection by pointing out that the Court's opinions had no binding force, which was, of course, true. Nevertheless, it should be borne in mind that those opinions had great moral force and that, moreover, the League of Nations had expressly transferred to the International Court of Justice the power of compulsory jurisdiction which article 7 of the Mandate conferred upon the Permanent Court of International Justice. If, therefore, the Government of the Union of South Africa did not accept the Court's opinion, it was to be feared that it did not recognize the Court's power of compulsory jurisdiction. Yet the Court was part of the United Nations, to which the League of Nations had transferred the powers formerly exercised by its Permanent Mandates Commission with respect to mandated territories. By its resolution of 18 April 1946,³ which had been adopted without objection on the part of the South African representative, the League of Nations had taken note of the intention of the Mandatory Powers to continue to administer the mandated territories in accordance with the obligations set forth in the various mandates until new arrangements had been entered into between the United Nations and the various Mandatory Powers. The resolution added that the principles stated in Chapter XII of the Charter corresponded to those contained in Article 22 of the League Covenant. The League had referred to the United Nations—and

to the United Nations alone—as the party with which the Mandatory Powers were to conclude new agreements. Moreover, at that time, the drafting of the Charter had been sufficiently advanced for the League to have a very clear idea regarding the Trusteeship System. The resolution was therefore a perfectly valid act of succession, from the legal point of view, for its text specifically designated the organ which was to inherit the functions of the League of Nations, and it had been adopted in full knowledge of the facts.

17. The International Court of Justice had considered that the Charter did not impose on the Union of South Africa a legal obligation to place South West Africa under the Trusteeship System provided in Chapter XII. That statement, however, should not be interpreted outside its context, for the Court had also declared that the Trusteeship System provided the best means for a mandatory Power to continue to carry out the sacred trust of civilization referred to in Article 22 of the Covenant. Consequently, there was on the one hand an obligation to administer a mandated territory in the best interests of the population, and on the other, the only genuinely effective means of carrying out that obligation: the inevitable conclusion was that the Territory of South West Africa should be placed under the Trusteeship System established by the United Nations. Article 10 of the Charter was couched in rather general terms, which accounted for its vagueness, but nevertheless it unquestionably empowered the United Nations to protect the peoples who were still dependent.

18. The South African representative had said that the Indian delegation had accused the Union of having annexed the Territory of South West Africa. That accusation was justified: the Union was actually administering South West Africa as if the territory had been incorporated into the Union, although that *de facto* situation had never been officially recognized in any legislative text. In that connexion, there was a flagrant contradiction in the assertions of the South African Government, for it claimed on the one hand that the League of Nations Mandate authorized it to consider South West Africa as an integral part of the Union, and on the other, that the constitutional measures it had adopted respecting the territory were wholly legitimate and in no way amounted to annexation.

19. It was true that article 2 of the Mandate provided that the Mandatory Power would have full power of administration and legislation over South West Africa, but the exercise of powers did not *per se* constitute the sovereignty of a State. Moreover, the Union's rights with regard to South West Africa were further restricted by article 3 of the Mandate, which prohibited slave trade, forced labour, traffic in arms and ammunition, and the sale of intoxicating spirits and beverages to the indigenous population; by article 4, which prohibited the military training of the indigenous population or the establishment of military or naval bases or fortifications; by article 6, which imposed on the Union the obligation of transmitting reports on the territory; and lastly, by article 7, which stated that the consent of the Council of the League of Nations was required for any modification of the status of the territory. That being so, it was clear that there was no question of the South African Government's sovereignty with respect to South West Africa, but simply trusteeship. In addition, the Mandate explicitly recognized two distinct entities: the Union of South Africa and the

³ See *League of Nations, Official Journal, Special Supplement No. 194*, p. 58.

Territory of South West Africa. That was further proof that integration was not provided in the Mandate.

20. It was not only in the letter that the Mandate precluded any notion of incorporating South West Africa in the Union; that idea was also incompatible with the spirit in which the League of Nations had established the Mandates System. The League of Nations had rejected Field-Marshal Smuts' proposal to treat the Territory of South West Africa as though it were an integral part of the Union. President Wilson had said that the objective of the Mandates System was to guarantee dependent territories against any future annexation, and, in addition, to promote the advancement of the under-developed peoples of those territories so as to enable them to decide their own future. President Wilson had added that it was the special duty of the League of Nations to protect the people of South West Africa from exploitation and abuse, owing to the bad administration to which the territory had been subjected under Germany.

21. Although the Mandate implicitly and explicitly precluded any idea of annexation of South West Africa to the Union, the South African Government had nevertheless conferred South African citizenship on the inhabitants of the territory and had granted them representation in the South African Parliament. Those two facts proved that, in fact, South West Africa had become a fifth province of the Union. The Indian delegation would have no objection if the Union had incorporated the territory in response to the freely and clearly expressed will of its inhabitants. Similarly, it would be pleased to know that the Territory of South West Africa had its own legislative body if that were a sign of its independence.

22. The general policy of the Union of South Africa towards South West Africa appeared to be based on the accepted fact that the territory had simply been incorporated. The South African Minister of Economic Affairs had stated recently that the Union should pursue its policy without regard to any disapproval it might arouse in the world. Such statements, which were not perhaps quite so ruthless in their context, none the less fully justified misgivings concerning the future of South West Africa.

23. The people of South West Africa had made some progress in education as compared with the situation in 1917, but that was true of all peoples throughout the world; the important thing was whether the number of illiterates had been reduced substantially and whether the development of education in the territory had enabled the inhabitants to reach the level of the peoples of other countries.

24. If it was true, as the South African Government claimed, that the tribal chiefs and the chiefs of the tribal councils of South West Africa were entirely free, it was difficult to understand why they had not been authorized to appear before the Committee or why they had recently been barred from going to the United Kingdom, although their visit was to have been for purely religious reasons. It would appear that the local administration of the territory was not truly democratic.

25. After showing extreme intransigence during the negotiations with the *Ad Hoc* Committee on South West Africa, the South African Government had tried to replace its League of Nations Mandate by an agreement negotiated and concluded with the three Principal Allied and Associated Powers. That proposal was not

acceptable. In the first place, the United States delegation had announced that it endorsed the draft resolutions in documents A/C.4/L.305/Rev.1 and Add.1 and A/C.4/L.306 and Add.1; moreover, the association of the three Powers had been dissolved at the time of the demise of the League of Nations.

26. The new committee on South West Africa which it was proposed to establish under paragraph 12 of document A/C.4/L.305/Rev.1 and Add.1 was not intended by the sponsors of the draft resolution to replace the Permanent Mandates Commission of the League of Nations. It was merely intended to discharge certain essential functions so long as the United Nations was not able to exercise international supervision over the Territory of South West Africa and so long as petitions and reports concerning the territory were not communicated to the United Nations. For example, it was to receive the information which the South African Government was to transmit in virtue of the Court's advisory opinion. The new committee would enable the United Nations to keep informed of the real situation in South West Africa while the status of the territory was in a state of flux. If there had actually been annexation, that was a change of status and the United Nations should oppose it. Paragraph 12 listed temporary provisions, none of which was contrary to the Charter or to the Mandate. Agreement had already been reached in the present *Ad Hoc* Committee on South West Africa on the need to report on the way in which the Union was administering the territory. The whole difficulty arose from the fact that opinions differed regarding the nature of the organ to which the Union of South Africa was responsible and the procedure under which the Union would discharge that responsibility. Document A/C.4/L.305/Rev.1 and Add.1 was designed precisely to resolve that difficulty.

27. Mr. Menon turned next to the right of veto, which had actually been the prerogative of every Power represented on the Permanent Mandates Commission, since the Commission's decisions had required unanimity. The majority rule in force in the United Nations was more flexible and therefore preferable, for it made it possible to reconcile divergent views.

28. Finally, if the South African Government wished to be responsible only to the three Principal Allied and Associated Powers, that meant that it did not accept the Trusteeship System provided by the Charter and refused to account to the United Nations for the way in which it administered the Territory of South West Africa. Those objections had no legal validity and they were, moreover, incompatible with the fact that the Government of the Union of South Africa had adopted the United Nations Charter.

29. Document A/C.4/L.306 and Add.1 contained nothing which had not already appeared in previous resolutions; the Indian delegation hoped that the South African Government would accept it. The sponsors of the two draft resolutions had had no other object than to facilitate the solution of the question of South West Africa. The disinterested nature of their intentions was beyond doubt, for the draft resolutions had been submitted before the South African representative had entered the debate. The sponsors of the draft resolutions were ready to give sympathetic consideration to any amendments which might be proposed.

30. The CHAIRMAN asked the Committee to vote on the draft resolutions contained in documents A/C.4/L.305/Rev.1 and Add.1 and A/C.4/L.306 and Add.1.

31. At the request of Mr. LYNKOV (Byelorussian Soviet Socialist Republic), the CHAIRMAN agreed that each of the two draft resolutions should be put to the vote separately, paragraph by paragraph.

32. Mr. JOOSTE (Union of South Africa) stated that, as he had indicated at the previous meeting, since the draft resolutions were to be put to the vote paragraph by paragraph, his delegation would vote against each paragraph.

33. Mr. LANNUNG (Denmark) made a correction to paragraph 6 of the operative part of draft resolution A/C.4/L.305/Rev.1: the opening word should be "Affirms", instead of "Reaffirms".

34. The CHAIRMAN put draft resolution A/C.4/L.305/Rev.1 and Add.1 to the vote paragraph by paragraph.

The first paragraph of the preamble was adopted by 43 votes to 6.

Sub-paragraph (a), of the second paragraph of the preamble, was adopted by 48 votes to 1, with 1 abstention.

Sub-paragraph (b) was adopted by 42 votes to 1, with 7 abstentions.

Sub-paragraph (c) was adopted by 47 votes to 1, with 2 abstentions.

The second paragraph of the preamble, as a whole, was adopted by 45 votes to 1, with 4 abstentions.

The third paragraph of the preamble was adopted by 44 votes to 1, with 5 abstentions.

The fourth paragraph of the preamble was adopted by 44 votes to 1, with 5 abstentions.

The fifth paragraph of the preamble was adopted by 44 votes to 1, with 5 abstentions.

Paragraph 1 of the operative part was adopted by 45 votes to 1, with 5 abstentions.

Paragraph 2 of the operative part was adopted by 44 votes to 5, with 3 abstentions.

Paragraph 3 of the operative part was adopted by 46 votes to 1, with 4 abstentions.

Paragraph 4 of the operative part was adopted by 45 votes to 4, with 2 abstentions.

Paragraph 5 of the operative part was adopted by 45 votes to 3, with 3 abstentions.

35. At the request of Mr. BOZOVIC (Yugoslavia), the CHAIRMAN put the phrase "though it should not exceed that which applied under the Mandates System" in paragraph 6 (a) of the operative part to the vote separately.

The phrase was adopted by 35 votes to 5, with 11 abstentions.

Sub-paragraph (a) of paragraph 6 of the operative part was adopted by 40 votes to 1, with 10 abstentions.

Sub-paragraph (b) of paragraph 6 of the operative part was adopted by 46 votes to 1, with 4 abstentions.

Paragraph 6 of the operative part, as a whole, was adopted by 41 votes to 1, with 9 abstentions.

36. At the request of Mr. LYNKOV (Byelorussian Soviet Socialist Republic), the CHAIRMAN put paragraph 7 of the operative part to the vote in two parts.

The first part of paragraph 7 of the operative part, up to and including the words "the International Court of Justice", was adopted by 43 votes to 2, with 7 abstentions.

The second part of paragraph 7 of the operative part was adopted by 48 votes to 1, with 2 abstentions.

The whole of paragraph 7 of the operative part was adopted by 43 votes to 2, with 7 abstentions.

Paragraph 8 of the operative part was adopted by 50 votes to 1.

Paragraph 9 of the operative part was adopted by 49 votes to 1.

Paragraph 10 of the operative part was adopted by 47 votes to 1, with 3 abstentions.

Paragraph 11 of the operative part was adopted by 47 votes to 1, with 3 abstentions.

Sub-paragraph (a) of paragraph 12 of the operative part was adopted by 39 votes to 12, with 1 abstention.

Sub-paragraph (b) of paragraph 12 of the operative part was adopted by 39 votes to 8, with 6 abstentions.

Sub-paragraph (c) of paragraph 12 of the operative part was adopted by 39 votes to 8, with 4 abstentions.

Sub-paragraph (d) of paragraph 12 of the operative part was adopted by 45 votes to 6, with 1 abstention.

37. Mr. JOOSTE (Union of South Africa) requested that the vote should be taken by roll-call on paragraph 12 of the operative part as a whole.

A vote was taken by roll-call.

Luxembourg, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Mexico, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Saudi Arabia, Sweden, Syria, Thailand, United States of America, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Bolivia, Brazil, Burma, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Lebanon, Liberia.

Against: Poland, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, Belgium, Byelorussian Soviet Socialist Republic, Czechoslovakia, France.

Abstaining: Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, Australia, Canada, Israel.

Paragraph 12 of the operative part, as a whole, was adopted by 39 votes to 8, with 6 abstentions.

38. Mr. RYCKMANS (Belgium) had voted against paragraph 12, because he considered that the committee set up by virtue of that paragraph would have only an exceedingly vague idea of its task. It was stated that the committee was to examine such information and documentation as might be available, without indicating what information or documentation was referred to, and to examine reports and petitions which might be submitted to it, without specifying what were those reports or whence the petitions might come.

39. Mr. PIGNON (France) had voted against paragraph 12 for the same reasons as those of the Belgian representative.

Paragraph 13 of the operative part was adopted by 44 votes to 6, with 2 abstentions.

Paragraph 14 of the operative part was adopted by 43 votes to 6, with 3 abstentions.

40. Mr. JOOSTE (Union of South Africa) requested that the vote should be taken by roll-call on the draft resolution as a whole (A/C.4/L.305/Rev.1 and Add.1).

A vote was taken by roll-call.

The Union of Soviet Socialist Republics, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United States of America, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Mexico, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Saudi Arabia, Sweden, Syria, Thailand.

Against: Union of South Africa.

Abstaining: Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, Byelorussian Soviet Socialist Republic, Czechoslovakia, France, Netherlands, New Zealand, Poland, Ukrainian Soviet Socialist Republic.

The draft resolution, as a whole, was adopted by 41 votes to 1, with 11 abstentions.

41. The CHAIRMAN put draft resolution A/C.4/L.306 and Add.1 to the vote paragraph by paragraph.

The first paragraph of the preamble was adopted by 44 votes to 1, with 7 abstentions.

Sub-paragraph (a) of the second paragraph of the preamble was adopted by 39 votes to 6, with 6 abstentions.

Sub-paragraph (b) of the second paragraph of the preamble was adopted by 39 votes to 1, with 12 abstentions.

The second paragraph of the preamble, as a whole, was adopted by 39 votes to 1, with 12 abstentions.

The third paragraph of the preamble was adopted by 44 votes to 1, with 6 abstentions.

Paragraph 1 of the operative part was adopted by 42 votes to 1, with 8 abstentions.

Paragraph 2 of the operative part was adopted by 43 votes to 1, with 7 abstentions.

42. Mr. JOOSTE (Union of South Africa) requested that the vote should be taken by roll-call on the draft resolution as a whole (A/C.4/L.306 and Add.1).

A vote was taken by roll-call.

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

In favour: India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Mexico, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Saudi Arabia, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, Haiti.

Against: Union of South Africa.

Abstaining: Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, Canada, Denmark, France, Greece.

The draft resolution, as a whole, was adopted by 42 votes to 1, with 10 abstentions.

43. Mr. LOOMES (Australia) sincerely hoped that the question of South West Africa would be settled by mutual agreement. The Australian delegation accordingly supported the continuation of negotiations between

the Union of South Africa and a committee set up by the General Assembly.

44. The Australian delegation had however been compelled to abstain from voting on draft resolution A/C.4/L.305/Rev.1 and Add.1 for three reasons. In the first place, the system established by the draft resolution appeared to provide for a degree of control exceeding that applied under the Mandates System. For instance, paragraph 12 (a), would allow the examination of information from non-official sources, which had certainly not taken place under the Mandates System. The same comment applied to sub-paragraphs (b) and (c), which also seemed to allow the committee to go beyond the scope of the Mandates System. Secondly, in paragraphs 2, 4 and 5, the resolution implicitly criticized the Union of South Africa. The statement that the Union of South Africa "continues in its refusal to assist" was both unjust and contrary to the facts submitted to the Fourth Committee. Thirdly, while congratulating the sponsors of the draft resolution on the effort they had made to bridge the gap between the Union of South Africa and the United Nations and on the generally moderate tone of the draft resolution, the Australian delegation considered that the resolution was not, in the present situation, likely to lead to a solution satisfactory to all parties.

45. The Australian delegation had also abstained from voting on draft resolution A/C.4/L.306 and Add.1; it considered that the Government of the Union of South Africa was in no way bound to place the territory under the International Trusteeship System. That fact had been clearly recognized by the International Court of Justice itself. Furthermore it was pointless and undesirable to repeat the same resolutions year after year. That practice could not have the slightest effect and would inevitably impair the prestige of the United Nations.

46. Mr. SCOTT (New Zealand) had abstained from voting on draft resolution A/C.4/L.305/Rev.1 and Add.1 because he did not consider that the procedure to be followed by the proposed committee on South West Africa conformed as closely as it might have done to the procedure under the Mandates System.

47. The New Zealand delegation thought that the Fourth Committee could have suggested measures more closely in accordance with the advisory opinion of the International Court of Justice, which had been accepted by the General Assembly. Furthermore, the language used in some paragraphs did not seem such as to contribute to the reaching of an agreement between the Union of South Africa and the United Nations. Subject to those qualifications, the New Zealand delegation recognized that the draft resolution represented a praiseworthy effort to give effect to the opinion of the International Court. It hoped that the committee on South West Africa would endeavour first of all to reopen negotiations with the Government of the Union of South Africa, since an agreement acceptable to all parties and the co-operation of the Union of South Africa were essential to the satisfactory solution of the question.

48. Mr. CREPAULT (Canada) said that the Canadian delegation had on several occasions explained in detail the Canadian Government's position on the question which the General Assembly was now examining for the fifth time. He would therefore merely give a brief explanation of his vote on the draft resolutions which the Committee had adopted.

49. The Canadian delegation had considered it necessary to abstain from voting on paragraphs 2 and 4 of the operative part of draft resolution A/C.4/L.305/Rev.1 and Add.1 because it felt that more conciliatory language would have been more likely to contribute to the achievement of the principal purpose of the resolution.

50. His delegation had also abstained on paragraph 12 (c), because it had some misgivings regarding the scope of the new committee's activities in regard to the reports it was to supply on conditions in the Territory of South West Africa. The Canadian delegation had also abstained on paragraph 12 as a whole. The Canadian abstention, however, had nothing to do with the establishment of the new committee, but had been prompted by the inclusion in that paragraph of the words "until such time as an agreement is reached between the United Nations and the Union of South Africa". The Canadian delegation would have indeed preferred to have those words deleted since they might attach to the establishment of the committee a notion of permanency which it did not consider necessary or useful. It doubted the value of being so specific as to the terms of tenure, especially when paragraph 14 provided that the committee should submit a report to all regular sessions of the General Assembly so that the latter would have an opportunity of exercising its rights of examination and review every year.

51. The Canadian delegation had however voted for draft resolution A/C.4/L.305/Rev.1 and Add.1 as a whole because that resolution was intended primarily to give effect to the advisory opinion of the Interna-

tional Court of Justice. The decisions of that Court were, of course, not binding, but the Canadian Government regarded them as an authoritative expression of international law, and therefore considered that due weight should be given to the Court's opinion in order to uphold the supremacy of law and increase the Court's prestige.

52. As it had frequently stated in the Fourth Committee, the Canadian delegation sincerely hoped that a solution would be reached which would satisfy all parties, respect the undeniable rights of the Government of the Union of South Africa in South West Africa, and at the same time allow the population of South West Africa to realize their legitimate aspirations.

53. The Canadian delegation congratulated the *Ad Hoc* Committee on the effort it had made to find an area of agreement with the Government of the Union and paid a tribute to the work of the Chairman and members of that Committee. He hoped that the new committee would succeed in its task of finding a reasonable and equitable solution of the South West Africa question, so that that question could be finally removed from the General Assembly's agenda.

54. With regard to the second draft resolution (A/C.4/L.306 and Add.1) the Canadian delegation had not considered it useful or desirable to repeat General Assembly resolutions year after year and had therefore abstained on the resolution as a whole as well as on all its paragraphs.

The meeting rose at 5.50 p.m.