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President: Mr. Edvard HAMBRO (Norway).

AGENDA ITEM 96

**Review of the role of the International Court of
Justice**

REPORT OF THE SIXTH COMMITTEE (A/8238)

1. Mr. OWADA (Japan), Rapporteur of the Sixth Committee: I have the honour to submit to the General Assembly the last report on the work of the Sixth Committee at the present, twenty-fifth, session. The item on which I am about to report to the Assembly this afternoon is agenda item 96. The report of the Sixth Committee is contained in document A/8238.

2. By a letter dated 14 August 1970 [A/8042 and Add.1 and 2], Argentina, Australia, Canada, Finland, Italy, Ivory Coast, Japan, Liberia, Mexico, the United Kingdom, the United States of America and Uruguay requested the inclusion in the agenda of the twenty-fifth session of the General Assembly of an item entitled "Review of the role of the International Court of Justice". At its 1843rd plenary meeting, on 18 September 1970, the General Assembly decided, on the recommendation of the General Committee, to include the item in the agenda and allocated it to the Sixth Committee.

3. An explanatory memorandum was attached to the letter—in accordance with rule 20 of the rules of procedure of the General Assembly—proposing the inclusion of the item in the agenda. After stressing the urgent need for a review of the role of the International Court

of Justice, the principal judicial organ of the United Nations, the sponsors of the item proposed that a study be undertaken of obstacles to the satisfactory functioning of the Court and ways and means of removing them, including an exploration of additional possibilities for use of the Court that have not yet been adequately explored. For this purpose, the sponsors proposed the establishment of an *ad hoc* Committee to undertake such a study and to report its conclusions to the twenty-sixth session of the General Assembly.

4. The Sixth Committee devoted 16 meetings in all to the consideration of the present item, held during the period between 29 October and 18 November 1970. The discussions in the Sixth Committee were quite extensive, ranging from general comments on various aspects of the review of the role of the Court to the examination of various procedural possibilities for dealing with this question.

5. The present report attempts to analyse, under appropriate headings and sub-headings, the main trends of the debate in the Sixth Committee on the item, as I have just described. Thus, in chapter III, section A, which deals with comments of a general character, covers such questions as the need or otherwise for the review, the place of the Court in the United Nations system and the role played by the Court. Section B is devoted to comments made with regard to concrete factors relevant to the present situation of the Court and suggested remedies. The debate in the Sixth Committee in this regard covered a very wide field, extending to most diverse points, as can be seen from the sub-heading of this section in the present report. On a general level, such various factors as the international climate, the state of international law, the composition of the Court and the compulsory jurisdiction of the Court were raised as relevant to the present discussion and commented upon widely. On a more technical level, inadequacies in the present procedures and methods of work were pointed out and concrete improvements were suggested. Existing limitations on the competence of the Court with regard to international organizations and advisory proceedings were also referred to with a view to their re-examination. Finally, in section C the discussion concerning the action to be taken following consideration of this item by the Sixth Committee is summarized, according to what appeared to be the three main trends, as sub-headings of that section.

6. In the course of the debate in the Sixth Committee four draft resolutions—one sponsored by Argentina and 21 other States, another by France, a third by the Ukrainian Soviet Socialist Republic and Czechos-

lovakia, and a fourth by Tunisia—were submitted. In addition, amendments to the first draft resolution were sponsored by the Central African Republic and six other States. Those draft resolutions and amendments, whose texts can be found in paragraphs 6 to 15 of the present report, sought to propose various procedures for dealing with the question of the review of the role of the Court, on the basis of differing viewpoints that their respective sponsors held on the question.

7. After a long series of exchange of views and protracted consultations which centred on the question of procedures to be followed, the Sixth Committee finally succeeded in reaching a consensus. Thus at its 1229th meeting on 18 November 1970, the Sixth Committee adopted by acclamation a draft resolution on the basis of this agreement. The Committee at the same time decided to include the following statement in the report: [A/8238, para.71]

“It has been possible for the Sixth Committee to adopt a consensus draft resolution on the International Court of Justice on the understanding that this draft resolution is without prejudice to whatever action may be taken in 1971.”

8. In accordance with this consensus, the Sixth Committee now recommends to the General Assembly the adoption of the draft resolution contained in paragraph 73 of its report. The financial implications of this draft resolution are dealt with in the report of the Fifth Committee [A/8239]. The present draft resolution, if adopted by the General Assembly, would have the Assembly take, *inter alia*, the following measures:

(a) Invite Member States and States parties to the Statute of the Court to submit to the Secretary-General, by 1 July 1971, views and suggestions concerning the role of the Court on the basis of the questionnaire to be prepared by the Secretary-General;

(b) Invite the Court to state its views, should the Court so desire;

(c) Request the Secretary-General to prepare a comprehensive report in the light of the opinions expressed by States and the Court, should the Court so desire;

(d) Decide to include in the provisional agenda of the twenty-sixth session of the General Assembly an item entitled “Review of the Role of the International Court of Justice”, with a view to taking such appropriate measures as may seem desirable.

9. On behalf of the Sixth Committee, I wish to conclude my brief statement by expressing the confidence that the draft resolution will meet in this General Assembly the same spirit of co-operation that prevailed in the Sixth Committee.

10. Since all the reports of the Sixth Committee’s work have now been presented to the Assembly, I should like to take this opportunity to pay my personal tribute and warm thanks to all the members of the

legal staff of the United Nations Secretariat, who, throughout the session, have co-operated in such an efficient manner with a view to achieving the best results in clear and objective reporting. Without their co-operation, patience and experience the Rapporteur would have been quite unable to accomplish his task. My last words as Rapporteur of the Sixth Committee therefore cannot be complete without the expression of my feelings of deep gratitude and friendship to all those in the Secretariat who so ably dedicated themselves to the fulfilment of the duties of the Rapporteur.

Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the report of the Sixth Committee.

11. The PRESIDENT: I now invite members of the General Assembly to turn their attention to the decision adopted by the Sixth Committee in paragraph 71 of its report [A/8238]. May I take it that the Assembly takes note of that decision?

It was so decided.

12. We now turn to the draft resolution recommended by the Sixth Committee in paragraph 73 of its report. As the rapporteur stated, the financial implications of the draft resolution appear in paragraph 5 of document A/8239. In the Sixth Committee, this draft resolution was adopted by acclamation. May I take it that it is the wish of the General Assembly to adopt it unanimously?

The draft resolution was adopted unanimously (resolution 2723 (XXV)).

13. I shall now call upon representatives who wish to explain their votes.

14. Mr. JAVITS (United States of America): I took the occasion in the Sixth Committee on 29 October [1211th meeting], speaking for the United States, to state in detail the views of my Government concerning the International Court of Justice and its role in the United Nations. We realize that the press of the General Assembly’s business at this time would make a detailed recapitulation of our views burdensome, so we will not undertake it. But the United States does attribute considerable importance to this question of the Court, because the action that the General Assembly is taking should result in a wise extension of the use and effectiveness of the Court as an instrument for the maintenance of peace through the rule of law.

15. The resolution on the International Court of Justice [2723 (XXV)], along with the Friendly Relations Declaration [resolution 2625 (XXV)] and the hijacking resolution [2645 (XXV)] are considered by the United States delegation to be among the principal achievements of the Sixth Committee at this twenty-fifth anniversary session. The draft resolution on the Court, adopted by acclamation in the Sixth Committee and now in the General Assembly, is worth noting in detail.

16. The preamble of the General Assembly’s resolution is unorthodox, both in brevity and importance.

It predicates the need for a study of the Court on "the desirability of finding ways and means of enhancing the effectiveness of the Court". We think it important to underscore the unanimity among the membership of the United Nations in support of this endeavour.

17. The third paragraph of the preamble states an insight whose appreciation is fundamental to those concerned with a better life for mankind. This paragraph states that a goal of the study of the Court is "to facilitate the greatest possible contribution by the Court to the advancement of the rule of law and the promotion of justice among nations". The General Assembly has thus correctly articulated a relationship that we sometimes forget, namely, that the purpose of the search for what we call the rule of law is the securing of justice. In times of stress, men often tend to forget that the search for justice is at once an indispensable component and the goal of institutions of law, legislatures and law enforcement agencies, as well as judicial and administrative tribunals.

18. The delegations which requested the inclusion of this item in August of this year had in mind that though the Court is the judicial tribunal of the United Nations and though the Charter establishes it as a principal organ on a par with the General Assembly and Security Council, the Court has been little used in recent years. No one could conclude that this under-use of the World Court is due to lack of legal disputes or differences around the world. We all know there are too many already. Attitudes of States are in large part responsible for the scarcity of international litigation; and indeed, we feel that the Court, too, bears a share of the responsibility.

19. Nevertheless, many of us have found good signs for the future of the Court. The Court in its current composition continues to reflect high standards of personal excellence and fulfils in a fair way what is called for by the Statute of the Court, that is, the representation of the main forms of civilization and the principal legal systems of the world. The Judges have recently shown a strong desire, within the limits of judicial discretion, for a real liaison with the representatives of Member States.

20. Moreover, the United States attaches great importance to the advisory proceeding currently before the Court on the question of South West Africa. We hope the Court's opinion will help give Member States a sound basis in law for developing policy with regard to Namibia. We hope that contribution of the United States to this proceeding, which takes the form of a written statement which the United States submitted to The Hague on 19 November, will be helpful to the Court in its consideration of the difficult questions in this case.

21. We note that yet a further indication of increased activity lies in the Court's undertaking on its own initiative a review of its rules. We made a number of suggestions in our statement of 29 October regarding the considerations that might usefully be examined in this context. Our suggestions are directed to increasing the

attractiveness of the Court as the foremost judicial forum of the community of nations.

22. Twenty-two Members of the United Nations joined in the Sixth Committee to sponsor a proposal that has formed the basis of the resolution just adopted by the General Assembly. The review of the Court that the General Assembly has today authorized will begin with a request by the Secretary-General to United Nations Members for written statements of their views and suggestions concerning the role of the Court. These statements are to be transmitted by 1 July 1971. They will then be translated and circulated to Members so that all may be informed when the General Assembly begins its twenty-sixth session in September 1971.

23. The resolution also invites the International Court of Justice to state its views, should the Court so desire. We believe that this request underscores our respect for the views of the Judges. We recognize that there may be many and varied views among members of the Court, and we think there will be profit in hearing and learning of this diversity. We very much hope that the Bench will find it possible and appropriate to inform the Secretary-General of its view, or views, concerning ways and means of enhancing the effectiveness of the Court.

24. The resolution also requests the Secretary-General "to prepare a comprehensive report". Here I might say we anticipate that the United Nations Legal Counsel will, as has always been the good tradition, produce a work of high merit. The United States delegation would join with the Rapporteur in expressing appreciation of the fine work done on this subject by the United Nations Legal Counsel and his staff.

25. Taking into account the desire of Governments first to state their views and learn the opinions of other Governments, and the generally favourable reaction to the idea of examining the role of the International Court of Justice, the sponsors of the adopted resolution thought it wise to defer requesting the establishment of an *ad hoc* committee. As the statement in paragraph 71 of the report of the Sixth Committee asserts: "It has been possible for the Sixth Committee to adopt a consensus draft resolution on the International Court of Justice on the understanding that this draft resolution is without prejudice to whatever action may be taken in 1971". The Rapporteur quite properly reported this.

26. We think that the initiative for a fresh look at the Court has been well begun. We hope that the request to Governments for statements of their views will be taken by every Government as an opportunity to re-examine its relationship with the Court. For a major obstacle to the Court's effectiveness is the persistence of ancient suspicions and old insecurities about the utility of courts and judicial apparatus. If we are to make progress in the difficult and unending business of trying to resolve international disputes by law so as to secure justice, we can no longer afford these archaic attitudes. Indeed, they are not a luxury but an obstacle to the attainment of national goals and policies for peace and justice. I myself hope to stimulate

a re-examination in the Congress of the United States of our attitude towards the Court and, very importantly, to the reservations on our acceptance of its jurisdiction.

27. I hope as well that what we have accomplished at this twenty-fifth session of the General Assembly will stimulate a wider interest in the Court, its jurisprudence and its potential. I know that hundreds of millions of people throughout the world would join me when I say, as a representative of the United States to the General Assembly this year, that our most fervent wish and our every aspiration must be to help to transform what governs mankind into a rule of law to replace the rule of force which has caused so much suffering to mankind in all its recorded history.

28. Mr. KOLESNIK (Union of Soviet Socialist Republics) (*translated from Russian*): The Soviet delegation did not stand in the way of the unanimous approval by the General Assembly of the draft report of the Sixth Committee on the role of the International Court of Justice, or the adoption of the resolution on the subject. We took into account the particular circumstances which prevailed and acted in a spirit of co-operation, understanding that the majority of representatives are uneasy about the situation in which the International Court has found itself and intend to ascertain the views of Governments and of the Court itself before taking any action and, indeed, before deciding whether any action is necessary.

29. The Soviet delegation would like to state, however, that it is dissatisfied with the resolution adopted, for the reasons stated in the Sixth Committee during the lengthy consultations and informal negotiations which produced the resolution. I do not think, however, that this is the time to repeat all these arguments. We do not support the idea of a review of the so-called role of the International Court in any form at all. The Soviet delegation sees no need to prolong the discussion on this question and thus divert the attention of the United Nations from other urgent problems, in particular, those relating to the maintenance of international peace and security.

30. The resolution adopted does not reflect the viewpoint of the Soviet delegation and of the delegations which supported draft resolution A/C.6/L.802—I am referring to the draft submitted by the delegations of Czechoslovakia and the Ukrainian Soviet Socialist Republic [*A/8238, para.9*]. Yet, we are pleased that the resolution adopted rejects the idea of an *ad hoc* committee to review the role of the International Court. In the opinion of the Soviet delegation, the resolution does not in any way prejudice the need for the adoption by States or by the United Nations of measures for the so-called reactivation of the International Court or, still less, for a revision of the Statute of the Court. In our view, the resolution does not in any sense deal with the problem of the Court; until the opinions of Governments are known, it cannot be said that such a problem exists.

31. The adoption of the resolution in question does not in any way alter the Soviet Union's position of

principle that the Court has become an irrelevant organ, not because of any shortcomings in its Statute but because it has often compromised itself by unjust and erroneous decisions. It can be said that the work of the International Court has been influenced by certain forces, which have tried to make it an instrument of their policy. This has given rise to disappointment with its work and has led the Court into a blind alley. The Court itself will have to find a way out of the situation that has arisen.

32. The Soviet delegation still holds firmly to the opinion that there should be no review whatsoever and hence no undermining of the Statute of the Court, which would be tantamount to undermining the Charter of the United Nations. This applies in particular to the compulsory jurisdiction of the Court, which can in no case be imposed on sovereign States against their clearly expressed wishes.

AGENDA ITEM 37

United Nations Conference on Trade and Development: report of the Trade and Development Board

REPORT OF THE SECOND COMMITTEE (A/8259)

33. Mr. VERCELES (Philippines), Rapporteur of the Second Committee: I have the honour to present the report of the Second Committee on agenda item 37.

34. The Second Committee took up agenda item 37 in 10 meetings. The Committee had before it the reports of the Trade and Development Board on the third part of its ninth session, its tenth session and its fourth special session, as well as the relevant portion of the report of the Economic and Social Council relating UNCTAD. Furthermore, three draft resolutions on the subject were presented to the Committee, the texts of which are found in sections I, II and III of the report.

35. The first draft resolution was introduced by the representative of the Sudan at the 1357th meeting of the Committee. At the same meeting, the draft resolution, as revised, was unanimously adopted by the Committee. The draft resolution would have the General Assembly affirm the urgency of identifying the least developed among the developing countries to enable them to benefit, as early as possible, from the special measures in their favour adopted in the various United Nations forums, particularly those incorporated in the International Development Strategy for the Second United Nations Development Decade, and invite the Economic and Social Council, the Trade and Development Board and other United Nations bodies to accord high priority towards the identification of these countries.

36. The second and third draft resolutions were introduced by the representative of Chile.

37. The second draft resolution as adopted by the Committee would have the Assembly decide that the third session of UNCTAD be convened in April/May 1972 at a place to be finally decided by the Trade and

Development Board; invite the Board to draw the attention of the Third Conference to the importance of reviewing the progress in the implementation of the policy measures in the international development strategy, of reaching specific agreement on the unresolved issues in the strategy, of seeking new areas of agreement and widening existing ones and of evolving new concepts and seeking agreement on additional policy measures; recommend that the institutional machinery of UNCTAD be fully oriented towards the implementation of the Strategy; and request the Trade and Development Board to give consideration, in its preparations for the Third Conference of UNCTAD, to such reforms in the institutional arrangements and methods of work in UNCTAD as to make it a more effective instrument for trade and development, particularly of developing countries.

38. The third draft resolution would have the General Assembly endorse resolution 74 (X) of the Trade and Development Board, which established the Intergovernmental Group on Transfer of Technology, reaffirm the need for UNCTAD to pursue its work on a continuing basis in the field of transfer of operative technology to developing countries, and request the States members of UNCTAD to give full support to the Intergovernmental Group, including such budgetary support necessary to enable it to discharge its functions.

39. The three texts, which the Second Committee recommends for adoption by the General Assembly, appear in paragraph 20 of the report.

40. What I have introduced was the last report of the Second Committee for this the twenty-fifth session of the General Assembly. And now, allow me, Mr. President, to express to you my profound admiration for your abundant talents and for the firm and fair manner by which you have guided the deliberations of this crucial session of the General Assembly. I am certain that history, which has no axe to grind, will judge you as one of the great Presidents of the General Assembly. The thought of working, at it were, under the shadow and influence of your outstanding personality will always be a source of personal satisfaction to me.

41. The PRESIDENT: I thank the Rapporteur of the Second Committee for his very kind words, which I appreciate very much, although perhaps they were out of order in a report.

Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the report of the Second Committee.

42. The General Assembly will now take a decision on the draft resolutions recommended by the Second Committee in paragraph 20 of its report [A/8259]. Draft resolution I was adopted without objection in the Committee.

43. If I hear no objection, I shall consider that the General Assembly also adopts it without objection.

Draft resolution I was adopted (resolution 2724 (XXV)).

44. Next we turn to draft resolution II. The report of the Fifth Committee on the administrative and financial implications of this draft resolution is to be found in document A/8260.

45. A separate vote has been requested on paragraph 6. If I hear no objection I shall consider that the General Assembly decides to take a separate vote on paragraph 6. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Barbados, Bolivia, Brazil, Burma, Burundi, Cameroon, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritius, Mexico, Morocco, Nepal, Netherlands, Nicaragua, Niger, Nigeria, Pakistan, Panama, Peru, Philippines, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Swaziland, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Hungary, Japan, Mongolia, Poland, South Africa, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Greece, Ireland, Italy, Luxembourg, Malta, New Zealand, Norway, Paraguay, Portugal, Romania, Spain, Sweden.

Paragraph 6 of draft resolution II was adopted by 83 votes to 13, with 20 abstentions.

46. The PRESIDENT: We shall now proceed to take a recorded vote on draft resolution II as a whole.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Brazil, Burma, Burundi, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya,

Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Somalia, Southern Yemen, Spain, Sudan, Swaziland, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Arab Republic, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: None.

Abstaining: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Hungary, Japan, Mongolia, Poland, South Africa, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Draft resolution II was adopted by 102 votes to none, with 13 abstentions (resolution 2725 (XXV)).

47. The PRESIDENT: Finally, we turn to draft resolution III. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Brazil, Burma, Burundi, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Somalia, Southern Yemen, Spain, Sudan, Swaziland, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: None.

Abstaining: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Hungary, Mongolia, Poland, South Africa, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Draft resolution III was adopted by 106 votes to none, with 10 abstentions (resolution 2726 (XXV)).

AGENDA ITEM 101

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories

REPORT OF THE SPECIAL POLITICAL COMMITTEE (A/8237)

48. Mr. MAHJOUBI (Morocco), Rapporteur of the Special Political Committee (*interpretation from French*): I have the honour to submit to the General Assembly the final report of the Special Political Committee on item 101 of the agenda of this General Assembly, which was sent back for discussion to the Special Political Committee by the decision of the General Assembly on 18 November of this year at its 1909th plenary meeting. This item was placed on the agenda of the Special Political Committee as a new point because of that decision and was debated in the Committee from 7 to 11 December 1970.

49. Delegations participating in the debates on this agenda item showed a unanimous intellectual objectivity and moral fairness in carrying out their task, and they showed their deep concern at information concerning the policies and practices of repression exercised by Israel in the occupied territories. In this connexion they manifested a serious anxiety that was caused by the situation in which the peoples in these territories must live. All these delegations denounced those practices and policies because they constituted a violation of human rights.

50. These delegations have asked the occupying administration of these territories to give up the practices of repression and to conform to the various obligations imposed by the Geneva Conventions—especially that of August 1949 referring to the protection of civilians in time of war—and to conform also with the obligations stemming from the Universal Declaration of Human Rights and the relevant resolutions adopted both by the United Nations and by other international bodies.

51. The Israeli delegation also submitted its observations during the debate on the matter.

52. In reaffirming the principles of resolution 2546 (XXIV) adopted by the General Assembly in December 1969 at its 1829th meeting, delegations who participated in the debate on item 101 in the Special Political Committee, while expressing their gratitude to the members of the Special Committee, at the same time called upon that Committee, which was established in conformity with the decisions of resolution 2443 (XXIII), to continue its work in consultation with the International Committee of the Red Cross, if necessary, and to make a report to the Secretary-General as quickly as possible and thereafter as need may arise. These delegations called upon the Israeli Government to implement immediately the recommendations of the Special Committee in Chapter IV of its report [A/8089] and to fulfil its obligations under the terms of various international instruments. They also asked the Israeli Government

to co-operate with the Special Committee and to give it all the facilities it needs to carry out its delicate mission.

53. All of these considerations can be found in the draft resolution in paragraph 8 of the report of the Special Political Committee [A/8237], which is submitted to the Assembly for adoption.

54. The Special Political Committee on 11 December 1970 adopted the draft resolution in question by 49 votes to 14, with 17 abstentions.

55. May I take this opportunity, from this rostrum, to express my gratitude to all delegations in the Special Political Committee—of which I am honoured to be the Rapporteur—for supporting me in the performance of my duties. I should also like to take the opportunity to thank the various members of the secretariat in that Committee for the assistance and advice they gave me in the accomplishment of my task.

56. While expressing my gratitude to the Chairman of the Special Political Committee, I should like to conclude by expressing my admiration for the objectivity, courtesy and masterful fashion in which you, Mr. President, have directed our debates in the plenary Assembly. It has been an honour for me to submit the report of the Special Political Committee.

Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the report of the Special Political Committee.

57. The PRESIDENT: The draft resolution recommended by the Special Political Committee appears in paragraph 8 of its report [A/8237]. The administrative and financial implications arising out of paragraphs 3 and 6 of the draft resolution are contained in document A/8245.

58. Two delegations have asked to explain their votes before the vote is taken.

59. Mr. EL-SHIBIB (Iraq): As you may recall, Mr. President, it was the Iraqi delegation which requested that the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories should be included as an item on the agenda of the twenty-fifth session of the General Assembly. Subsequently, that request by the Iraqi delegation was approved by both the General Committee and the General Assembly and was referred to the Special Committee for consideration. The report of the Special Committee was contained in document A/8089.

60. The reasons which prompted our delegation to ask for a discussion of the report were the very reasons that prompted the General Assembly to set up the Special Committee. It was basically our concern for the human rights of the population of the occupied territories. As the Committee pointed out in its report, occupation of a people's territory by an alien Power is by its nature a violation of human rights. When the population of an occupied territory clearly expresses its resentment of and its resistance to that occupation,

the occupying authorities must, by the very nature of occupation, resort to coercive measures to keep that population under its control. Therefore, violations of human rights are bound to occur.

61. Furthermore, since Israel occupied the Arab territories as a result of the June 1967 aggression, numerous reports have come out in the Western news media—which can be accused of anything but being anti-Israeli—of serious violations of human rights. These include collective punishment—which the Israelis prefer to call neighbourhood punishment—demolition of houses of suspected persons and their neighbours, demolition of villages, expulsion of people from the West Bank to the East Bank of the Kingdom of Jordan, exile to the desert, lengthy curfews, administrative detention, and other violations of human rights. These reports have been confirmed by a number of impartial and respected bodies known for their impartiality and humanitarian motives. They include the Council of the Churches of Christ of the United States of America, the World Council of Churches, Amnesty International and the International Committee of the Red Cross.

62. Therefore, the report of the Special Committee on its work is a very timely document worthy of discussion, consideration and action.

63. But the Israeli authorities refused to admit the Special Committee to the occupied territories, just as it has been the practice of the Israeli authorities to refuse any impartial investigating body entry into the occupied territories. They have given various reasons and used various subterfuges to hide their guilty secret, which is clearly no longer a secret thanks to the efforts of dedicated and impartial people, whether in the news media, in various investigating bodies, or in humanitarian organizations.

64. With regard to the report of the Special Committee, not only were the members refused entry into the occupied territories, but aspersions were cast at their dignity and honesty. In spite of these attempts by Israelis, the Committee succeeded in its work and presented its report, which drew mainly on Israeli sources. The report is a clear indictment of the inhuman practices of the Israeli occupation forces in the occupied territories.

65. Our concern has been increased by the fact that during the present debate we have seen no indication on the part of Israel that these practices will cease. They continue to refuse adamantly to allow investigating bodies to go to the occupied territories. Their occupation continues and, by its nature, will result in violations of human rights. What is even worse, they continue to refuse to adhere to the fourth Geneva Convention of 1949, which was designed specifically to prevent a repetition of the war crimes committed by the Nazis during the Second World War.

66. In view of the conclusions and the findings of the Committee, in view of the statements made during the debate, we felt that a strong draft resolution condemning these barbarous and inhuman practices should have been presented and adopted, and that the Commit-

tee had every reason to be requested to continue its essential and humanitarian work.

67. However, the draft resolution presented by the delegation of Mauritania and other delegations [A/8237, para.8] fell short of the strong condemnation which my delegation felt that it should contain. Nevertheless, we appreciated the motives that prompted this moderation in the language and terms of the draft resolution and therefore voted for it in the Committee. We shall do the same in the General Assembly.

68. Mr. MOLINA (Costa Rica) (*interpretation from Spanish*): The establishment of the Special Committee to investigate Israeli practices in territories occupied by Israel as a result of the armed conflict of 1967 raised serious legal problems in connexion with the interpretation of Articles of the Charter. These problems were not satisfactorily and convincingly resolved, and have created a precedent which does not seem to have been a useful one. The composition of the Committee, which comprises States which have no diplomatic relations with Israel and include one which is considered to be in a state of war with Israel, cannot give assurance of an investigation which would be surrounded by all the guarantees necessary give the indispensable credit which is needed for a report to be produced under such circumstances. This composition made it impossible to bring about the co-operation of the State which is occupying the territories in which it is presumed that there acts in violation of human rights have occurred. This fact creates the anomalous situation in which the investigated party has not been heard during the investigation.

69. In these conditions it becomes very difficult to accept the investigation by the Special Committee and its recommendations without serious reservations. Were we to accept this report, we would have to pre-judge to a considerable extent the true situation in these territories without objective information for a decision. Other organs of the United Nations, especially such prestigious institutions as the International Red Cross, because of their very nature and the objectives which they pursue, are responsible for surveillance over and investigation of the very acts which fall within the purview of the Special Committee, a fact which makes the Committee's report clearly redundant.

70. It should be stressed, moreover, that the reports of the General Assembly ought to be objective if they are to merit the seriousness and respect which ought to characterize decisions of this high body.

71. For these reasons my delegation will vote against the draft resolution to be found in document A/8237

72. The PRESIDENT: The General Assembly will now vote on the draft resolution. A roll-call vote has been requested.

A vote was taken by roll-call.

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

In favour: Equatorial Guinea, Greece, Guinea, Hungary, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Mauritania, Mauritius, Mongolia, Morocco, Nepal, Nigeria, Pakistan, Poland, Romania, Saudi Arabia, Senegal, Somalia, Southern Yemen, Spain, Sudan, Syria, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Chad, China, Cuba, Cyprus, Czechoslovakia.

Against: Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Israel, Lesotho, Liberia, Madagascar, Malawi, Nicaragua, Panama, Paraguay, Rwanda, United States of America, Uruguay, Australia, Canada, Costa Rica, Dahomey.

Abstaining: Denmark, Ethiopia, Fiji, Finland, France, Ghana, Guyana, Honduras, Ireland, Italy, Ivory Coast, Jamaica, Japan, Kenya, Laos, Luxembourg, Mexico, Netherlands, New Zealand, Niger, Norway, Peru, Philippines, Portugal, Sierra Leone, Singapore, Sweden, Thailand, Togo, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, Upper Volta, Venezuela, Argentina, Austria, Barbados, Belgium, Bolivia, Brazil, Burma, Central African Republic, Colombia, Congo (Democratic Republic of).

The draft resolution was adopted by 52 votes to 20, with 43 abstentions (resolution 2727 (XXV)).¹

73. The PRESIDENT: I shall now call on those representatives who wish to explain their vote after the vote.

74. Mr. LORCH (Israel): My delegation voted against the draft resolution for reasons which were explained in the Special Political Committee and which, I regret to say, have not been fully reflected in the oral report by the Rapporteur of that Committee.

75. The Committee whose report and recommendations we have been asked to endorse and whose continued existence we have been asked to approve was established under a mandate which prejudged the issues it was supposed to investigate and which ignored the plight of Jews in certain Arab countries who have been made to suffer as the result and in the wake of the war of 1967. The members of the Committee represent countries whose considered views on the Middle East conflict are no secret; one of them—Somalia—has in fact declared itself to be in a state of war with Israel, and the other two—Ceylon and Yugoslavia—have since June 1967 broken off diplomatic relations with Israel in a demonstration of their pro-Arab attitude. The procedure of the Committee was far removed from

¹ The delegation of the People's Republic of the Congo subsequently informed the Secretariat that it wished to be recorded as having voted in favour of the draft resolution and the delegation of Gabon that it wished to be recorded as having voted against the draft resolution.

internationally acceptable standards. It was shown in the course of the debate in the Special Political Committee that allegations—often grotesque, macabre and pathological allegations—damaging to Israel were accepted as established truths, while evidence favourable to Israel was deliberately suppressed. The Committee's recommendations demonstrate its political bias; they lack factual foundation and are one-sided.

76. There is nothing in the recommendations of the Committee or in the resolution before us based upon those recommendations which can induce my Government to change its well-known attitude towards the three-man Committee. It is not because of this report and resolution, but in spite of them, that my Government will continue to do everything in conformity with its international obligations to safeguard the human rights of people in the territories under Israeli administration, to maintain the territories open to visitors and to strive for a peace based on secure and recognized boundaries and mutual respect for the sovereignty and territorial integrity of all the countries involved in the Middle East conflict.

77. Mr. SAYEGH (Kuwait): My delegation has voted both in the Committee and here today in favour of the resolution which the Assembly has just adopted. In so doing we, along with some three quarters of the Members present and voting, have voted for the principle of safeguarding human rights, we have voted for the principle of respecting the integrity of international commitments and we have given a vote of confidence to the Special Committee which has so ably and with such objectivity and thoroughness discharged a difficult task entrusted to it by the General Assembly.

78. In view of the fact that on no less than half a dozen occasions one representative—the representative of the suspect Government—sought to impugn the integrity of the Special Committee and to attribute to it motives of subjectivity and bias, the vote by some three quarters of the Members present and voting here in the Assembly to uphold the Special Committee comes as a denial by the majority of the Members of the United Nations of the charges made against the Special Committee and its members, a denial with which we are proud to associate ourselves. It will be recalled that in the course of a one-week-long debate in the Special Political Committee not one delegation associated itself with the charges against the Special Committee which were voiced on more than half a dozen occasions by the delegation of the suspect Government, the occupying authority.

79. We have voted for this resolution because the evidence that the Special Committee has assembled, compiled and painstakingly analysed corroborates and is corroborated by the evidence accumulated by other distinguished international bodies including the Special Working Group of Experts set up by the Commission on Human Rights, Amnesty International, the International Committee of the Red Cross and other non-governmental international organizations. Yet it has been suggested that the evidence is not sufficient. My delegation argued in the Special Political Committee

[751st meeting] and submits again today that it is precisely those who maintain that the evidence is not sufficient who are under an obligation to favour the continued investigation, because if they are in doubt about the adequacy of the evidence marshalled by the Special Committee, that is all the more reason for continuing the investigation in order that the truth may be established.

80. Finally, it was suggested that this resolution was an unbalanced resolution. My delegation has submitted and submits again today that the charge that this is an unbalanced resolution is born either of maliciousness or of foolishness, or perhaps of both. For there can be no meaning to the requirement that a resolution on the occupied territories should be two-sided. There are not two sets of occupied territories—Israeli territories occupied by Arab States, and Arab territories occupied by Israel—and therefore there cannot be two-sided resolutions. There is only one set of occupied territories, and the requirement of two-sidedness does not obtain.

81. In conclusion, I wish to address myself to those delegations that voted against and those that abstained, and say: I earnestly pray that none of you will ever know the meaning of foreign occupation. I earnestly pray that you will be spared foreign occupation. But should you ever find yourselves under foreign occupation, whoever you may be, my delegation will always be among the first to sponsor the maintenance of international law, the protection of human rights and the conduct of international investigations in the territories under occupation.

82. Mr. BRUM (Uruguay) (*interpretation from Spanish*): Our delegation voted against the draft resolution because it is our opinion that, from an objective point of view, the establishment of the Special Committee suffers from defects which endanger the juridical validity and the practical effectiveness of its conclusions. It did so because it believes that the conduct of the investigation shows serious and irreparable procedural defects, and my delegation refers again to the grounds for our vote in the Special Political Committee on this draft resolution.

83. Mr. DAVIN (Gabon) (*interpretation from French*): For reasons beyond our control, the delegation of Gabon was unable to cast its vote when its name was called for it to take part in the voting. My intention now is to remedy that state of affairs and to indicate here that had my delegation been present it would have voted against the resolution. I would be grateful if my statement could be included in the record.

84. I know it is no longer the time for explanations of vote and I should not wish to prolong the debate, so I shall simply confine myself to indicating that, as I stated on the last occasion, this resolution does not seem to me to take sufficient account of the interests of the parties involved in the problem which concerns us. The interests of one party seem to have been taken into account but not that of the other. I have heard

it said that the resolution could not be better balanced because the occupation was a unilateral one; that is true. As I look at the resolution now I note in operative paragraph 2 mention of the protection of civilians in the time of war. A war cannot, of course, be a unilateral act; there are at least two parties in a war. If action is aimed at one party one would imagine that it could also be equally aimed at the other. That is the impression I gathered from a rapid reading of this text. It confirms my impression that the resolution does not sufficiently take into account the interests of the parties concerned; it is biased. In a grave problem such as this we must find objective solutions, after an objective analysis. I regard it as desirable, therefore, that resolutions which we try to have adopted unanimously should be better balanced than this one. That is why my delegation cast an unfavourable vote.

85. Mr. BRECKENRIDGE (Ceylon): I would crave the indulgence of the Assembly since I have taken the floor at this time not so much to explain Ceylon's vote—a vote which needs no explanation—but more on a point of order. Since so much has been said on this item and there is a need for truth, objectivity and the facts of the case, I just wish to point out that, if I heard correctly, the representative of Israel stated here this afternoon that Ceylon had broken diplomatic relations with Israel since June 1967. Since we all speak here for the record, I wish it to be noted that when Ceylon accepted a place on the Special Committee it did have diplomatic relations with Israel and that the subsequent suspension of relations and the history behind it are only too well known to the representative of Israel for him to have forgotten the entire history. So much for two facts about which so much noise has been made of late.

86. I may add that it is a similar blanket syndrome which seems to cover many of the allegations that have been cast against the conduct and the findings of the Committee.

AGENDA ITEM 35

United Nations Relief and Works Agency for Palestine Refugees in the Near East: report of the Commissioner-General (*concluded*)*

REPORT OF THE WORKING GROUP (A/8264)

87. The PRESIDENT: There is one remaining matter under agenda item 35 on the agenda of the Special Political Committee that has been submitted for consideration directly in plenary. I refer to the report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East [A/8264]. I now invite the Rapporteur of the Working Group to present the report.

88. Mr. ARNESEN (Norway), Rapporteur of the Working Group: by its resolution 2656 (XXV) of 7 December 1970, the General Assembly decided to establish a working group to study all aspects regarding the financing of the United Nations Relief and Works

Agency for Palestine Refugees in the Near East. While it will present a comprehensive report on this question to the General Assembly at its twenty-sixth session, the Working Group was requested by the same resolution, in consultation with the Secretary-General and the Commissioner-General of UNRWA, to present an interim report to the General Assembly not later than 14 December 1970 containing its recommendations on possible measures to be taken to prevent the reduction of the Agency's services in 1971. The interim report and the recommendations of the Working Group are contained in document A/8264.

89. The Agency finds itself in a very serious financial situation. The grim facts have been brought out again and again by the Commissioner-General. Following his statement in the Special Political Committee on 1 December 1970 [738th meeting] and the appeal made by the Secretary-General the next day [740th meeting], it was recognized that the situation required urgent attention by the Members of the United Nations. The Working Group was established as one immediate way of dealing with the situation.

90. Only a few days have been at the disposal of the Working Group, but, thanks to a spirit of co-operation among all the members and with the valuable assistance of the Secretary-General and of the Commissioner-General, the Group was able to reach a set of recommendations which were adopted on the basis of consensus.

91. The Working Group recognizes that UNRWA is faced with a short-term cash crisis and a more long-term financial problem. It has not been possible to go into all aspects of the financial situation at this time, but the Working Group hopes to be able, in the next phase of its work, to carry out a more systematic and thorough analysis of the situation.

92. The most direct solution of the UNRWA deficit problem would be to secure a prompt and adequate increase in voluntary contributions from Governments and other sources. It is also to be hoped that Governments which have not hitherto contributed will consider doing so now in view of the serious financial situation facing UNRWA.

93. It would certainly be a helpful act if Governments could endeavour to arrange for the payment of their contributions as early as possible in the year. The Working Group is greatly encouraged by the information that some Governments already are taking steps in that direction. In case of an immediate liquidity crisis at a later stage, it would be useful if the General Assembly could authorize the Secretary-General to make available short-term assistance from the Working Capital Fund. A public fund-raising campaign in 1971 should also be considered.

94. There might be a possibility of securing assistance from other organizations in the United Nations family. In this connexion the Working Group has noted with particular interest UNESCO's appeal for funds for the improvement and continuation of educational services

* Resumed from the 1926th meeting.

for Palestinian refugees. There have been consultations with the Executive Director of UNICEF, the Administrator of the United Nations Development Programme, the Controller of the United Nations and a representative of the Assistant Secretary-General for Inter-Agency Affairs.

95. It is the intention of the Working Group to undertake consultations with the executive heads of other international agencies and United Nations programmes during its next programme of work.

96. The Working Group has also found it necessary to point to the situation which would arise if the efforts recommended by the Working Group did not succeed in bringing about a substantial improvement in the financial conditions of UNRWA. The Working Group fervently hopes that this situation with all the attendant dangers will not develop, but if it does the Group will assist, as appropriate, the Secretary-General and the Commissioner General in reaching solutions to the problems in order to enable UNRWA to meet its financial and budgetary responsibilities.

97. The measures recommended can work only to the extent that Governments are willing to implement them. They accomplish nothing by themselves. What happens during the next few months may have a decisive influence on the future activities of UNRWA. The

Working Group accordingly appeals to all Governments to join in a collective effort to solve the financial crisis of UNRWA.

98. With those words, I have the honour to submit the report of the Working Group [A/8264] and recommend for the consideration of the Assembly the draft resolution reproduced in paragraph 11 of that report.

99. The PRESIDENT: I thank the Rapporteur for his report and the Working Group for its speedy work. I should like, from this rostrum, as President of the General Assembly, to add my voice by making an earnest appeal to Governments to try to make their contributions more quickly and more generously than before. This is, I think, an item of vital concern to all of us.

100. The draft resolution contained in paragraph 11 of the report [A/8264] was adopted by consensus in the Working Group. Since it is unlikely that there would be any objection to this report in the General Assembly, may I take it that it is the wish of the General Assembly to adopt the draft resolution?

The draft resolution was adopted (resolution 2728 (XXV)).

The meeting rose at 4.45 p.m.