

"3. Deprecates the non-compliance of the Government of Portugal with the resolution of 31 July 1963;

"4. Reaffirms the interpretation of self-determination as laid down in General Assembly resolution 1514 (XV) as follows:

"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development";

"5. Notes General Assembly resolution 1542 (XV) which enumerated, inter alia, Territories under Portuguese administration as falling under the category of Non-Self-Governing Territories within the meaning of Chapter XI of the Charter;

"6. Believes that action by the Government of Portugal to grant an amnesty to all persons imprisoned or exiled for advocating self-determination in these Territories will be an evidence of its good faith;

"7. Requests the Secretary-General to continue with his efforts and report to the Council not later than 1 June 1964."

The question remained on the list of matters of which the Security Council is seized.^{581/}

THE QUESTION OF RACE CONFLICT IN SOUTH AFRICA

INITIAL PROCEEDINGS

By letter^{582/} dated 11 July 1963, the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta requested the President of the Security Council to convene an early meeting of the Council "to consider the explosive situation existing in the Republic of South Africa, which constitutes a serious threat to international peace and security".

Stating that the situation stemmed from the apartheid policies of the Government of the Republic of South Africa, the representatives of the African States urged the Security Council to take the necessary action to find a solution, "due to the systematic refusal of that Government to comply with the relevant resolutions of the General Assembly and the Security Council". It was noted further that "the extreme gravity of the situation" had been a matter of "deep concern" to the Heads of State and Governments of the Independent African States who had met at the Conference of Addis Ababa from 22 to 25 May 1963, and had adopted a resolution on this question, the relevant provisions of which were quoted in an attached memorandum. The resolution, in part, called for the dispatch of a delegation of the Foreign Ministers of Liberia, Madagascar, Sierra Leone and Tunisia to inform the Security Council of the explosive situa-

tion existing in South Africa. The resolution also called for "concerted measures of sanction against the Government of South Africa".

At the 1040th meeting on 22 July 1963, the Security Council decided to include the question in the agenda.^{583/} The Council considered the question at its 1050th to 1056th meetings, from 31 July to 7 August 1963. The representatives of Tunisia, Liberia, Sierra Leone and Madagascar were invited to take part in the discussion.^{584/}

At the 1050th meeting on 31 July 1963, the President (Morocco) recalled that the Council at its 1041st meeting had decided to invite the representative of the Republic of South Africa to take part in the consideration of the question.^{585/} A telegram to this effect had been sent to the Government of South Africa. The reply had just been received, and it indicated that the Government of South Africa declined the invitation of the Council. The letter^{586/} from the permanent representative of South Africa—which was read to the Council—stated that the South African Government had decided not to participate in the discussion of the Council on matters which it considered to fall solely within its domestic jurisdiction. The letter also stated that the African States that had submitted the item had "tried to justify their hostility and interference in South Africa's domestic affairs by relying on the totally unfounded allegation that South Africa is a threat to international peace and security". It was the view of the South African Government that these African States, or some among them, had threatened peace and order in southern Africa and had initiated preparations for the use of force against South Africa. Evidence of their intentions could be found in the relevant paragraphs of resolutions adopted by the African States at their recent conference in Addis Ababa, and in the reported statements of certain African leaders. In this regard, reference was made to contributions offered by several African States to finance military and other activities envisaged against South Africa. This "active incitement from abroad and systematic encouragement and subsidization of the small groups of subversive Bantu, supported by Communist elements and fellow travellers in South Africa" had recently compelled the South African Government to assume increased legislative powers for the maintenance of order and stability. The South African Government had decided therefore that "no useful purpose would be served by re-stating its case at the Security Council".

Decision of 7 August 1963 (1056th meeting):

- (i) *Expressing the Security Council's conviction that the situation in South Africa was seriously disturbing international peace and security;*
- (ii) *Deprecating strongly the policies of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter, and contrary to its*

^{583/} 1040th meeting: para. 6.

^{584/} 1050th meeting: para. 4.

^{585/} 1050th meeting: para. 5. For consideration concerning the question of the effect of the extension of the invitation, see chapter III, Case 26.

^{586/} S/5381, 1050th meeting: para. c.

^{581/} S/5500.

^{582/} S/5345, O.R., 18th year, Supp. for July-Sept. 1963, pp. 11-14.

obligations as a Member State of the United Nations;

- (iii) Calling upon the Government of South Africa to abandon the policies of apartheid and racial discrimination, and to liberate all persons subjected to prison or other restrictions for having opposed the policies of apartheid;
- (iv) Calling solemnly upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa;
- (v) Requesting the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963

The Foreign Ministers of Sierra Leone*, Tunisia*, Madagascar* and Liberia*, speaking at the 1050th and 1051st meetings on behalf of all African member States of the Organization of African Unity, stated that the findings and recommendations of the Special Committee of the General Assembly on the policies of apartheid of the Government of South Africa were supported in a resolution that had been unanimously adopted at the Addis Ababa Conference of that Organization.

In reviewing the past history of the question, they called attention to the fact that the South African Government had continued to disregard the resolutions of the General Assembly and the Security Council which had called upon that Government to revise its policies and bring them into conformity with its obligations and responsibilities under the Charter of the United Nations. They further remarked that the only reason which had been given by the Government of South Africa for its disregard of the resolutions against its policies of apartheid was to state that the United Nations was not authorized under the Charter to intervene in matters which were essentially within the domestic jurisdiction of any State. In their view, the validity of Article 2 (7) was not disputed but those who drew up the Article did not imagine that its adoption would result in depriving the United Nations of any right to act in situations involving the violation of fundamental principles of the Charter. The situation under consideration fell within the scope not only of Articles 55 and 56, but also of Articles 34 and 35 and subsequent Articles. Furthermore, the reference to Article 2 (7) was all the more futile as the General Assembly had repeatedly discussed racial segregation in South Africa. The twenty-seven resolutions adopted by a very large majority could scarcely lend any weight to such an argument. The Security Council had never permitted the defenders of colonial interests to take refuge in the "domestic jurisdiction" provisions of the Charter. When peace and security had been threatened, the Council had, time and again, acted promptly without paying any attention to "hypocritical allegations" of interference in domestic matters. In fact, no reasonable interpretation of the provisions of the Charter could require the organ which was responsible for the maintenance of international peace and security to refrain from intervening until an explosion actually occurred. The Security Council unquestionably had the duty to prevent such an explosion. Moreover, the situation in South Africa had

been greatly aggravated by an accelerated arms build-up and by the increasingly provocative attitude of the South African Government. Its arms build-up and its multiplicity of laws against freedom constituted the greatest threat to peace and security on the African continent. Besides, that Government was extending its policies and practices to the territory of South West Africa, which it had unlawfully occupied. The United Nations, to be true to its Charter, could not any longer tolerate the presence in South West Africa of the Government of South Africa, or the extension to that territory of the doctrine and policies of apartheid imposed by that Government. In conclusion it was stated that the Heads of the African States of the Organization of African Unity wished to add their plea to those of the General Assembly and the Special Committee that the Security Council would adopt the measures provided in the Charter and recommended by the Special Committee to compel the Government of the Republic of South Africa to abandon, before it was too late, its present collision course. The African representatives also urged the Council to give full support to General Assembly resolution 1761 (XVII).^{587/}

At the 1054th meeting on 6 August 1963, the representative of Ghana introduced a draft resolution^{588/} jointly sponsored with Morocco and the Philippines.

According to operative paragraph 3 of the draft resolution, the Council would call upon all States to boycott all South African goods and to refrain from exporting to South Africa strategic materials of direct military value.

At the 1056th meeting on 7 August 1963, upon the request of the representative of the United States, a separate vote was taken on operative paragraph 3, which was not adopted. There were 5 votes in favour, none against, and 6 abstentions.^{589/} The draft resolution, as amended, was then adopted by 9 votes in favour, none against, and 2 abstentions.^{590/}

The resolution^{591/} read:

"The Security Council,

"Having considered the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Republic of South Africa, as submitted by the thirty-two African Member States,

"Recalling Security Council resolution of 1 April 1960,^{592/}

"Taking into account that world public opinion has been reflected in General Assembly resolution 1761 (XVII) and particularly in its paragraphs 4 and 8,

"Noting with appreciation the two interim reports adopted on 6 May and 16 July 1963 by the Special

^{587/} For texts of relevant statements, see: 1050th meeting: Sierra Leone*, paras. 10-33; Tunisia*, paras. 34-34; 1051st meeting: Liberia*, paras. 26-80; Madagascar*, paras. 9-25.

^{588/} S/5384, 1054th meeting: para. c2.

^{589/} 1056th meeting: paras. 15-17.

^{590/} 1056th meeting: para. 15.

^{591/} S/5386, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 73-74.

^{592/} Resolution S/4300, see p. 157.

Committee on the policies of apartheid of the Government of the Republic of South Africa,^{593/}

"Noting with concern the recent arms build-up by the Government of South Africa, some of which arms are being used in furtherance of that Government's racial policies,

"Regretting that some States are indirectly providing encouragement in various ways to the Government of South Africa to perpetuate, by force, its policy of apartheid,

"Regretting the failure of the Government of South Africa to accept the invitation of the Security Council to delegate a representative to appear before it,

"Being convinced that the situation in South Africa is seriously disturbing international peace and security,

"1. Strongly deprecates the policies of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter of the United Nations and contrary to its obligations as a Member State of the United Nations;

"2. Calls upon the Government of South Africa to abandon the policies of apartheid and discrimination as called for in the Security Council resolution of 1 April 1960, and to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid;

"3. Solemnly calls upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa;

"4. Requests the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963."

By letter^{594/} dated 23 October 1963, the representatives of Algeria, Central African Republic, Ceylon, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Ivory Coast, Liberia, Madagascar, Malaysia, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta requested the President of the Security Council to convene an urgent meeting of the Council to consider the report^{595/} submitted by the Secretary-

^{593/} Documents S/5310 and S/5353, see GAOR, 18th Session, Annexes, addendum to a.i. 30, document A/5497/Add.1, annexes III and IV.

^{594/} S/5444 and Add.1, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 41-42.

^{595/} S/5433 and Add.1-5, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 7-33. In his report, the Secretary-General referred to an exchange of communications with the Government of South Africa which refused to comment on the question of the implementation of the Council resolution raised by the Secretary-General "since by doing so it would by implication recognize the right of the United Nations to intervene in South Africa's domestic affairs". The South African Government had also stated that the Council's resolution, in calling for an arms embargo on South Africa, was a denial of the spirit of Article 51 of the Charter. The resolution could not, therefore, have any binding effect on the Republic of South Africa or any other Member State. In the report and in its addenda were also given the substance of the replies received from Member States on the action taken or proposed to be taken by their Governments regarding the implementation of the resolution. An additional addendum containing further replies was issued on 23 December 1963 (S/5433/Add.6, *ibid.*, pp. 35-40).

General in pursuance of the Security Council resolution of 7 August 1963. In the same communication it was stated that the reaction of the South African Government to this resolution had been "completely negative", and further that "the situation, which according to that resolution was 'seriously disturbing international peace and security' has been further exacerbated by recent developments in that country". In conclusion, it was stated that the Council should convene to examine the report of the Secretary-General in order "to consider additional measures to ensure the compliance of the South African Government with previous Security Council resolutions and its obligations as a Member State".

The Council continued its consideration of the question at the 1073rd to the 1078th meetings held between 27 November and 4 December 1963. The representatives of India, Liberia, Madagascar, Tunisia and Sierra Leone were invited to participate in the discussion.^{596/}

Decision of 4 December 1963 (1078th meeting):

- (i) *Expressing the strengthened conviction of the Security Council that the situation in South Africa was seriously disturbing international peace and security;*
- (ii) *Strongly deprecating the apartheid policies of the Government of South Africa as being inconsistent with the principles of the Charter and with its obligations as a Member State;*
- (iii) *Appealing to all States to comply with the provisions of Security Council resolution of 7 August 1963;*
- (iv) *Urgently requesting the South African Government to cease forthwith its continued imposition of discriminatory and repressive measures, and again calling upon that Government to liberate all persons subjected to prison or other restrictions for having opposed the policies of apartheid;*
- (v) *Calling solemnly upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;*
- (vi) *Requesting the Secretary-General to establish under his direction and reporting to him a small group of recognized experts to examine methods of resolving the current situation in South Africa through full, peaceful and orderly application of human rights to all the inhabitants of its territory, and to consider what part the United Nations might play in the achievement of that end;*
- (vii) *Inviting the South African Government to avail itself of the assistance of this group in order to bring about such peaceful and orderly transformation;*
- (viii) *Requesting the Secretary-General to continue to keep the situation under observation and to report to the Council—in any case not later than 1 June 1964—on the implementation of this resolution*

The representatives of Liberia*, Tunisia*, India*, Sierra Leone* and Madagascar*, commenting on the

^{596/} 1073rd meeting: paras. 8-11.

report of the Secretary-General, drew attention to the reply of the Minister of Foreign Affairs of South Africa to the letter of the Secretary-General concerning the implementation of the Security Council resolution of 7 August 1963. The reply of the South African Foreign Minister was dated 11 October 1963, and was reproduced in the report. The Foreign Minister's argument that the resolution was contrary to the principle contained in Article 2 (7), since the matter fell within the domestic jurisdiction of South Africa, was held to be untenable and it was noted that it had been rejected by all United Nations organs. The various provisions of the Charter could not be interpreted separately. South Africa, as a signatory of the Charter and a Member of the United Nations, had pledged itself to respect the provisions of Articles 55 and 53 which concerned, among other things, the observance of human rights. International jurists were mostly agreed that there was an element of legal duty in the undertaking given in Article 56. There was, therefore, no doubt about the competence of the United Nations to deal with the matter of apartheid in South Africa, and no violation of Article 2 (7) of the Charter was thereby involved.

With regard to the statement that the South African military build-up was made necessary because of threats by African States, it was asserted that no African State wanted to fight a war with South Africa, or was presently armed for such an eventuality. Furthermore, the military build-up in South Africa started long before the Addis Ababa Conference convened in May 1963. Concerning the argument that the imposition of an arms embargo was contrary to the spirit of Article 51, which recognized the right of Member States to individual and collective self-defence, and that the Council resolution could not be binding on any Member State, it was noted that such a contention was contrary even to the title of the resolution of 7 August 1963. The last paragraph of the preamble of that resolution stressed the conviction of the Council that the situation in South Africa was "seriously disturbing international peace and security". Although not mentioned in the Charter, it was undeniable that the disturbance of peace constituted more than a threat to the peace, and obviously fell between a threat to the peace and a breach of the peace. Measures decided upon by the Security Council were obviously binding on Member States in conformity with Article 25 of the Charter. It was in that spirit that Member States had replied to the Secretary-General's request for information concerning the embargo on arms prescribed by the Security Council.

With regard to recent developments, the situation in South Africa was characterized in terms of "continuous deterioration". It appeared evident that the South African Government had no intention of changing its policy either with regard to the main bodies of the Organization or with regard to the Africans in its own country. The Council was, therefore, concerned with the fact that the continuation of the apartheid policy in South Africa constituted a serious threat to international peace and security. Only the firmest sanctions taken and implemented could make an impact. The Council could well prescribe measures of an economic character to force the South African Government to modify its position. One such measure

could be to halt the supply to South Africa of weapons, and also of the material necessary for the manufacture and maintenance of weapons.^{597/}

At the 1076th meeting on 3 December 1963, the representative of Norway introduced a draft resolution^{598/} which he declared to have been formulated on the basis of informal talks and consultations with members of the Council and with representatives of Member States who had participated in the debate on the matter before the Council.

At the 1077th meeting on 3 December 1963, the representative of Ghana expressed doubts on the necessity of "establishing a 'group of recognized experts' as is envisaged in operative paragraph 6 of the draft resolution" and requested that a separate vote be taken on the relevant paragraph.^{599/}

At the 1078th meeting on 4 December 1963, the representative of the United Kingdom requested that a separate vote be taken on operative paragraph 1 of the draft resolution dealing with an appeal to all States to implement the Security Council resolution of 7 August 1963. His delegation would reserve its position regarding the supply of equipment to South Africa proper to the purposes of her right to self-defence under Article 51 of the Charter.^{600/}

At the same meeting, the representatives of Ghana and the United Kingdom withdrew their requests for separate votes in response to appeals made by the sponsor of the draft resolution, which was put to the vote as a whole and adopted unanimously.^{601/}

The resolution^{602/} read:

"The Security Council,

"Having considered the race conflict in South Africa resulting from the policies of apartheid of the Government of the Republic of South Africa,

"Recalling previous resolutions of the Security Council and of the General Assembly which have dealt with the racial policies of the Government of the Republic of South Africa, and in particular the Security Council resolution of 7 August 1963,

"Having considered the Secretary-General's reports contained in S/5438 and addenda,

"Deploring the refusal of the Government of the Republic of South Africa as confirmed in the reply of the Minister of Foreign Affairs of the Republic of South Africa to the Secretary-General received on 11 October 1963, to comply with the Security Council resolution of 7 August 1963, and to accept the repeated recommendations of other United Nations organs,

^{597/} For texts of relevant statements, see:

1073rd meeting: Liberia*, paras. 15-19; Tunisia*, paras. 51-60;

1074th meeting: Ghana, paras. 2-37; India*, paras. 39-57; Sierra Leone*, paras. 59-77;

1075th meeting: Morocco, paras. 5-27; Madagascar*, paras. 29-51.

^{598/} S/5469, same text as S/5471, see below; 1076th meeting: paras. 59-60.

^{599/} 1077th meeting: paras. 27-30, 34.

^{600/} 1078th meeting: para. 20.

^{601/} 1078th meeting: paras. 120-121, 128-130, 137.

^{602/} S/5471, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 103-105.

"Noting with appreciation the replies to the Secretary-General's communication to the Member States on the action taken and proposed to be taken by their Governments in the context of that resolution's operative paragraph 3, and hoping that all the Member States as soon as possible will inform the Secretary-General about their willingness to carry out the provisions of that paragraph,

"Taking note of the reports of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa,

"Noting with deep satisfaction the overwhelming support for the resolution 1881 (XVIII) adopted by the General Assembly on 11 October 1963,

"Taking into account the serious concern of the Member States with regard to the policy of apartheid as expressed in the general debate in the General Assembly as well as in the discussions in the Special Political Committee,

"Being strengthened in its conviction that the situation in South Africa is seriously disturbing international peace and security, and strongly deprecating the policies of the Government of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter of the United Nations and with its obligations as a Member State of the United Nations,

"Recognizing the need to eliminate discrimination in regard to basic human rights and fundamental freedoms for all individuals within the territory of the Republic of South Africa without distinction as to race, sex, language or religion.

"Expressing the firm conviction that the policies of apartheid and racial discrimination as practised by the Government of the Republic of South Africa are abhorrent to the conscience of mankind and that therefore a positive alternative to these policies must be found through peaceful means,

"1. Appeals to all States to comply with the provisions of the Security Council resolution of 7 August 1963;

"2. Urgently requests the Government of the Republic of South Africa to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights;

"3. Condemns the non-compliance by the Government of the Republic of South Africa with the appeals contained in the above-mentioned resolutions of the General Assembly and the Security Council;

"4. Again calls upon the Government of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid;

"5. Solemnly calls upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;

"6. Requests the Secretary-General to establish under his direction and reporting to him a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed, and to consider what part the United Nations might play in the achievement of that end;

"7. Invites the Government of the Republic of South Africa to avail itself of the assistance of this group in order to bring about such peaceful and orderly transformation;

"8. Requests the Secretary-General to continue to keep the situation under observation and to report to the Security Council such new developments as may occur, and in any case not later than 1 June 1964, on the implementation of this resolution."

The question remained on the list of matters of which the Security Council is seized.^{003/}

SITUATION IN SOUTHERN RHODESIA--

INITIAL PROCEEDINGS

By letter^{004/} dated 2 August 1963 the representatives of Ghana, Guinea, Morocco and the United Arab Republic requested the President of the Security Council to call an urgent meeting of the Council to consider the situation in Southern Rhodesia in relation to: (a) General Assembly resolution 1760 (XVII) of 31 October 1962; (b) the resolution of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted at its 177th meeting on 20 June 1963; and (c) implementation of Article 73 of the Charter with respect to the British Non-Self-Governing Territory of Southern Rhodesia.

A memorandum attached to the letter stated why these Member Governments considered that the continuance of the situation was likely to endanger the maintenance of international peace and security, and why they thought it necessary that the Council should consider the item as a matter of urgency. The memorandum stated that: the British Government had refused to abide by the resolutions of the General Assembly in regard to "its Colony of Southern Rhodesia"; the situation in the territory had become aggravated and had been characterized as one "constituting a threat to international peace and security" by the Special Committee in its resolution of 20 June 1963; and the British Parliament had enacted the Rhodesia and Nyasaland Act, 1963 which would enable the British Government to transfer almost every

^{003/} In pursuance of his mandate under the resolution, the Secretary-General submitted to the Security Council on 20 April 1964 a report (S/5653 and Corr.1) to which was annexed the report submitted to him on 20 April 1964 by the Group of Experts established by him in pursuance of operative paragraph c of Council resolution S/5471 adopted on 4 December 1963. For further reference to the establishment, composition and termination of the Group of Experts, see chapter V, Case 4.

^{004/} S/5382, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 64-71.