

UNITED NATIONS

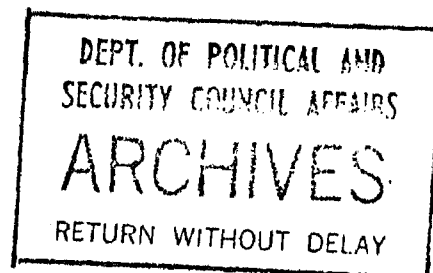


SECURITY COUNCIL OFFICIAL RECORDS

TWENTY-SIXTH YEAR

1597th MEETING: 19 OCTOBER 1971

NEW YORK



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FIFTEEN HUNDRED AND NINETY-SEVENTH MEETING

Held in New York on Tuesday, 19 October 1971, at 3.30 p.m.

President: Mr. Guillermo SEVILLA SACASA (Nicaragua).

Present: The representatives of the following States: Argentina, Belgium, Burundi, China, France, Italy, Japan, Nicaragua, Poland, Sierra Leone, Somalia, Syrian Arab Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America.

Provisional agenda (S/Agenda/1597)

1. Adoption of the agenda.
2. The situation in Namibia:
 - (a) Letter dated 17 September 1971 addressed to the President of the Security Council from the representatives of Algeria, Botswana, Burundi, Cameroon, the Central African Republic, Chad, the Congo (Democratic Republic of), Dahomey, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Liberia, the Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, the Niger, Nigeria, the People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, the Sudan, Swaziland, Togo, Tunisia, Uganda, the United Republic of Tanzania, the Upper Volta and Zambia (S/10326);
 - (b) Report of the *Ad Hoc* Sub-Committee on Namibia (S/10330 and Corr.1).

Adoption of the agenda

The agenda was adopted.

The situation in Namibia:

- (a) Letter dated 17 September 1971 addressed to the President of the Security Council from the representatives of Algeria, Botswana, Burundi, Cameroon, the Central African Republic, Chad, the Congo (Democratic Republic of), Dahomey, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Liberia, the Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, the Niger, Nigeria, the People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, the Sudan, Swaziland, Togo, Tunisia, Uganda, the United Republic of Tanzania, the Upper Volta and Zambia (S/10326);
- (b) Report of the *Ad Hoc* Sub-Committee on Namibia (S/10330 and Corr.1)

1. The PRESIDENT (*interpretation from Spanish*): In accordance with previous decisions taken by the Council,

and if there is no objection, I shall invite those representatives participating in our debate on this item to take the places reserved for them in the Council chamber.

2. I invite the representatives of Sudan, Ethiopia, South Africa, Liberia, Guyana, Chad, Nigeria, Mauritius, Saudi Arabia, Uganda and India to take the places reserved for them in the Council chamber, it being understood that they will be invited to take a seat at the Council table when they wish to speak. I also invite the President of the United Nations Council for Namibia to take a place at the Council table.

At the invitation of the President, Mr. E. O. Ogbu, President of the United Nations Council for Namibia, took a place at the Security Council table, and Mr. M. Fakhred-dine (Sudan), Mr. Y. Tseghe (Ethiopia), Mr. C. F. G. von Hirschberg (South Africa), Mr. J. R. Grimes (Liberia), Mr. P. Moussa (Chad), Mr. R. Ramphul (Mauritius), Mr. J. Baroody, (Saudi Arabia), Mr. G. S. K. Ibingira (Uganda) and Mr. S. Sen (India), took the places reserved for them in the Council chamber.

3. The PRESIDENT (*interpretation from Spanish*): I wish to draw the attention of the members of the Council to the text of the revised draft resolution submitted by the delegations of Burundi, Sierra Leone, Somalia and the Syrian Arab Republic, contained in document S/10372/Rev.1.

4. Mr. FARAH (Somalia): At the meeting of this Council held on Friday, 15 October [*1595th meeting*], my delegation had the privilege of presenting the text of a draft resolution, which was reproduced as a Security Council document under the symbol S/10372. The draft resolution was presented on behalf not only of my delegation but also of the delegations of Burundi, Sierra Leone and Syria.

5. Following the presentation of that draft resolution, we heard a number of constructive suggestions made by the representative of Argentina, and at the end of the meeting my delegation, along with the delegations of Sierra Leone, Syria and Burundi, indicated that those suggestions would be given very careful consideration and that it was hoped the majority of them would be incorporated in the draft resolution. I am glad to inform the Council that, as a result of consultations, the majority of those suggestions have now found expression in the first, sixth and tenth pre-ambular paragraphs and in operative paragraphs 5 and 14 of the revised version of the draft resolution contained in document S/10372/Rev.1.

6. One suggestion made by the representative of Argentina was not taken up by the sponsors—not because we disagreed in principle with the substance of the proposal but because we found that its incorporation in this draft resolution would be out of tenor with it. It may be recalled that during the period that led up to the submission of the report by the *Ad Hoc* Sub-Committee on Namibia to the Council [S/10330 and Corr.1] a proposal had been made by the Afro-Asian members of the *Ad Hoc* Sub-Committee to the effect that South Africa should be invited to enter into discussions with the Secretary-General so as to enable the United Nations to take over responsibility for the Territory as soon as possible. Following that proposal, there were counter-proposals to the effect that perhaps the best approach would be to ask the South African Government to co-operate and to make contact with the United Nations so that the people of the Territory could be given their right to self-determination and independence. Of course, we members of the Afro-Asian group have our own concept of what self-determination should mean and also of the kind of arrangements necessary to ensure that self-determination is properly and adequately exercised. The proposal made by the Afro-Asian members was maintained by the delegations of Italy and the United States, and found expression in paragraph 20 of the *Ad Hoc* Sub-Committee's report. The Afro-Asian members in fact did make certain amendments to that proposal, but they were unacceptable. During the current debate [1593rd meeting], the representative of France took up this question perhaps more vigorously and came out with a number of interesting proposals which merited careful consideration. Naturally, my delegation was waiting to see how those proposals would eventually find form, particularly in view of the statements which were made in the Council by the representative of South Africa.

7. The Afro-Asian members therefore believe that the provisions of the draft resolution which they have submitted to the Council should be maintained in their present form. The draft resolution is based strictly on the advisory opinion of the International Court of Justice¹ and upon other resolutions which have had been adopted by the Security Council and by the General Assembly.

8. We, the sponsors, believe that we have a strong, indisputable juridical position and one which should command the widest support amongst the international community. We trust that, with the revised text, it will now be possible to gain unanimous support.

9. There has been a last-minute change, as will be seen from operative paragraphs 5 and 6, to reflect the importance which the sponsors attach to the advisory opinion. Operative paragraph 5 "*Takes note with appreciation of the advisory opinion of the International Court of Justice of 21 June 1971*". Operative paragraph 6 goes a step further. It "*Endorses the Court's opinion expressed in paragraph 133 of the advisory opinion*". Naturally, the sponsors would have wished to see the Council endorse the whole of the advisory opinion but knowing the positions which indi-

¹ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16.*

vidual delegations have adopted on it we singled out paragraph 133, since it has particular and important relevance and quite neatly sums up the opinion which the Council invited when it referred the question to the International Court of Justice in July of last year.

10. With these few introductory remarks, it is the hope of the sponsors that members will have no difficulty in accepting the text of the revised draft resolution and that it will be possible for the Council to proceed to a vote as soon as possible.

11. The PRESIDENT (*interpretation from Spanish*): I thank the representative of Somalia for his statement. We have taken careful note of what he said, particularly when he mentioned the work done, in a spirit of utmost goodwill, in order to reconcile views on a draft resolution likely to be adopted by the Security Council. He referred specifically to the suggestions made by the representative of Argentina and he termed them constructive, particularly with regard to the revised text presented by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic.

12. Mr. ORTIZ DE ROZAS (Argentina) (*interpretation from Spanish*): With his usual clarity and eloquence, my distinguished friend, Ambassador Farah of Somalia, has now formally submitted the revised draft resolution contained in document S/10372/Rev.1. May I thank him and the other sponsors, the representatives of Burundi, Sierra Leone and the Syrian Arab Republic, for having been good enough to take into account the suggestions that I made at the 1595th meeting when we referred to the original text of the draft resolution. My intention and my desires were, whenever possible, to improve the formal contents of the document before us. In noting that those suggestions have been included, my delegation wishes again to express its gratitude for having its views considered. In fact, most of the suggestions that I made have been included in this newly revised text. I should like to state that we are extremely satisfied and can find no objections to the text being proposed to us. Therefore, I wish to state that I am ready to vote in favour of the draft resolution.

13. The representative of Somalia, in his presentation, also said, and this is the fact of the matter, that with regard to what would have been paragraph 7—to which I also made reference in my last statement—a separate section or separate draft resolution could have been drafted.

14. Let me clarify matters somewhat on this question. In my last statement, the Council may recall that I said that when the Security Council adopts a resolution on the item on its agenda, regardless of the decision arrived at, we could always leave the door open so that at the same time, and without prejudice to the draft resolution to be adopted, some type of negotiation could be undertaken that might lead to the ultimate goal that we all desire for Namibia, namely, independence. This willingness to negotiate, I felt, would place South Africa squarely before the responsibility of either accepting or rejecting negotiations. In either case the Council would know precisely where it stood and how to act accordingly.

15. I also said, and I want this to be very clearly understood, that that invitation, which might be embodied

in a draft resolution, would in no way conflict or be inconsistent with the draft resolution submitted to us by the four Powers. This point is very important because my delegation feels that the one step does not entirely preclude the other. The draft resolution submitted by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic is a perfectly structured resolution based upon the report that the *Ad Hoc* Sub-Committee on Namibia presented before this Council. This draft resolution is a mature document which considers every aspect of the question as it was discussed in the Sub-Committee, but by the same token it does take into account the advisory opinion of the International Court of Justice. If I may so put it, this draft resolution sets in motion a course of action to be taken by the Security Council, and as such my delegation supports this revised text. However, I feel that we might—and this is what we are doing—prepare an additional draft resolution which will in no way impinge upon the objectives of the present one, in order to leave the door open to the possibility to which I referred a few moments ago. If I may sum up, should the invitation to negotiate be ignored or pass unheeded, the Security Council would not have wasted its time and would certainly not have abdicated any of its responsibilities, because the draft resolution submitted by the four sponsors would still be in force. Thus, on the one hand, we should be acting on the strength of the report of the *Ad Hoc* Sub-Committee on Namibia, while at the same time we should be acting on the basis of the views expressed and exchanged during the course of this debate.

16. Since the laudable spirit of compromise shown by the four sponsors on draft resolution S/10372/Rev.1 has enabled us to consider other possibilities, such as the ones I mentioned earlier, I would ask you, Mr. President, and the sponsors of this draft resolution to be good enough to postpone the vote on it, so that, together with the four sponsors and with other members of the Council, particularly those of the Afro-Asian group, who obviously have interests and responsibilities in the question, consultations may take place on the possibility of preparing the other draft resolution. Then, perhaps at an early date, perhaps even in a few hours, we might agree on a text that would be duly submitted to the Security Council, at which time we might vote on both draft resolutions.

17. But in the meantime, to gain time perhaps, members of the Council might wish to speak on the present draft resolution already submitted to them for consideration.

18. The PRESIDENT (*interpretation from Spanish*): The representative of Argentina was extremely clear and we understood perfectly what he said. Logically, the revised draft resolution denotes a great effort on the part of its sponsors and seems to be generally acceptable to the members of the Council. The representative of Argentina argued that it might be wise to prepare a new draft resolution that would draw its meaning from operative paragraph 7 but would in no way contradict or compete with this draft resolution once it becomes an adopted document.

9. Obviously we are willing to entertain such a possibility and think it appropriate, and, as the representative of Argentina has correctly stated, we could take advantage of

this afternoon's meeting to set forth views and ideas on the revised text, as circulated. We could also meet in the very near future, after the necessary consultations have taken place, to consider the terms of that new and forthcoming draft resolution, which might be considered as complementing the work of the Council on this subject.

20. The draft resolution before us at this time is based upon a reality, namely, the work done by the *Ad Hoc* Sub-Committee on Namibia; it is also based upon another reality, and that is the advisory opinion of the International Court of Justice.

21. Mr. KOSCIUSKO-MORIZET (France) (*interpretation from French*): I listened to the statements of Ambassador Farah and Ambassador Ortiz de Rozas with the attention they deserved. I would like first of all to congratulate the members of the Council on the spirit of understanding and co-operation they have shown in a matter which is indeed most difficult, a problem to which we all very much want to find a solution. For although we may be in disagreement on points of law or on certain methods, we are nevertheless all agreed on the final objective, which is to enable the people of Namibia to exercise their right to self-determination.

22. The representative of Somalia has presented a revised draft resolution [S/10372/Rev.1], in which the sponsors have taken up various suggestions made by the representative of Argentina. On that point, there was nothing unexpected or new for us. On the other hand, there are other changes in the text, changes that in our opinion are not minor ones. For example, in operative paragraph 6 we find the word "Endorses". May I say, parenthetically, that I believe the French translation to be inexact—the original text was in English. The word "Endorses" is translated by the words "Fait sienne". As far as I know, "endorse" indicates what one does in signing one's name on the back of a cheque, for which the French translation is "donner son aval à . . .". You might say that there is no great difference between them, but there is nevertheless a difference between "donner son aval" and "faire sienne", and I should therefore like to have the French text reflect the meaning accurately.

23. This being said, there obviously is a problem; and since we are, I believe, a serious delegation that attaches importance to our votes, whether they be in favour, against or abstentions, we feel obliged very seriously to study the various changes, and I must communicate them to my Government and receive instructions.

24. This is why, as far as my own delegation is concerned, we would not be in a position to vote today on the revised text. Furthermore, the representative of Argentina has pointed out a new possibility which appeals to us, in view of the position we have taken in the debate. There also, however, we would need to have a text. Words are important, they must be weighed, and for that purpose too we need some time.

25. That is why—and contrary to our practice, since the French delegation is not in the habit of delaying or postponing meetings of the Council—we rather tend to

speed things up—in this particular case and for the serious reasons I have just indicated, I should prefer not to vote until tomorrow.

26. The PRESIDENT (*interpretation from Spanish*): We have listened carefully to the representative of France who was very clear. He quite justifiably feels that he will have to carry out some consultations on some of the terms of the revised draft resolution, the general terms of which seem acceptable to him. He referred specifically to operative paragraph 6, which begins with the word "endorses". He has correctly referred to both the juridical and grammatical difference between "to accept" and "to endorse". He also referred to the latest suggestion of the representative of Argentina and said that he would like to see those ideas in a specific document in order to engage in the consultations which are necessary between all representatives and their superiors. We understand full well the views of the representatives and their superiors. We understand full well the views of the representative of France, and unless the majority opinion disagrees, we are ready to vote on any document this afternoon.

27. On the other hand we might take advantage of the time between this meeting and the next to consider this revised text carefully, which I think will be an easy task, and to take cognizance of the second draft resolution to which the representative of Argentina referred.

28. Mr. TERENCE (Burundi) (*interpretation from French*): I should like to speak on a specific point, or to be precise, I want to state that we should not overlook the merits of the revised text since a very important fact had been omitted in the first text. The members of the Council will recall that since under resolution 284 (1970) the Council referred the question of Namibia to the International Court of Justice, and also since the United Nations, and therefore the Security Council as well, were represented at the Court in the person of the Secretary-General and furthermore since the Members of the United Nations were able to address the Court at The Hague during its hearings on this matter, the normal and logical conclusion to be drawn from these facts is that the Council, which asked for the advisory opinion from the Court, is in law a party to the case on which the Court has handed down its advisory opinion.

29. This is a very important aspect of the question which may perhaps have escaped the attention of some members of the Council. As I said earlier, the Security Council is a party to the case submitted to the International Court of Justice and therefore it goes without saying that normally all members of the Council should feel bound to accept the advisory opinion which the Council itself had asked of the Court.

30. Any contrary view would seem somewhat strange, since the request for the advisory opinion did emanate from this Council. That is why the sponsors of the draft resolution under discussion felt that it was more just and more in keeping with law to correct the error which had slipped into the text and which, fortunately, has now been corrected. That is why all the sponsors are relying on the Council to understand why we had to add the text now appearing in paragraph 6 of the draft resolution, which

recognizes that the Court's opinion should be accepted. Where the text says "Endorses the Court's opinion", I think we should use the term "Accepts the Opinion of the Court expressed in paragraph 133."

31. For these reasons, this is not a new matter but rather a correction. This point should have appeared in the previous draft: it is an essential one.

32. The PRESIDENT (*interpretation from Spanish*): The president intends to call a meeting of the Council for tomorrow. In the meantime, a joint effort might be made to find some form of words to express the idea of "Endorses" in operative paragraph 6, as mentioned by the representatives of France and Burundi, and also to prepare a new draft text, as suggested by the representative of Argentina.

33. Mr. ORTIZ DE ROZAS (Argentina) (*interpretation from Spanish*): Having listened very carefully to the statements just made by the representatives of France and Burundi, I feel that among the consultations that might take place between now and our next meeting we might also consider the section of paragraph 6 which reads "Endorses the Court's opinion". May I say that I have no objection to the words "Endorses the Court's opinion as expressed in paragraph 133 of the Advisory Opinion". However we think that because of various interpretations of "Endorses the Court's opinion" there may be some other wording that would allow all delegations to support it. We might also say "Also takes note of the court's opinion", or use some other formula that would meet any scruples or difficulties that might confront other delegations. In the case of the Argentine delegation there is no such difficulty. But since what we are seeking is unanimous approval of a resolution, we might include this question in the consultations between the sponsors and other delegations.

34. Mr. ISSRAELYAN (Union of Soviet Socialist Republics) (*translated from Russian*): The Soviet delegation has studied the text of the resolution submitted today and would be prepared to proceed to a vote. However, a request has been made by several members of the Council, in particular the representatives of Argentina and France, that the vote should be deferred until the next meeting and the Soviet delegation has no objection to that. At the same time, we should like to request the sponsors to inform the Soviet delegation of the progress of the consultations before the meeting of the Security Council at which we shall proceed to vote. That is the request of the Soviet delegation.

35. The PRESIDENT (*interpretation from Spanish*): We have taken note of the request of the representative of the Soviet Union and I presume that the sponsors of the draft resolution have done likewise.

36. Mr. FARAH (Somalia): First, I should like to make it clear that the revised draft resolution submitted by the Afro-Asian members must be considered on its own merits and should not be linked to any other draft resolution. In other words, if the draft resolution submitted by the representative of Argentina does not materialize, it does not mean that our draft resolution will not go forward. Our draft resolution is formally before the Council.

37. Secondly, the sponsors would like to have a unanimous vote on the revised draft resolution. However we were given the impression, following the debate in the Council and also as a result of our consultations, that, no matter what word we use, whether we use "accepts" or "endorses", some delegations—very few—would not vote for the revised draft resolution, but that at best they might abstain. Naturally, what we do not wish them to do is to vote against it. I should like to have this fact borne in mind.

38. The PRESIDENT (*interpretation from Spanish*): The idea of deferring a decision or a vote on this text stems from a desire to attain unanimity. We could utilize the next few hours in consultations on which word is to be used for "Endorse". It could be "Accept", or some similar expression. All these views can easily be taken into account in our search for unanimity which I think is what we all want.

39. Mr. ORTIZ DE ROZA (Argentina) (*interpretation from Spanish*): Let me say briefly that I entirely share the views of my friend the representative of Somalia as expressed in the opening words of his last statement. I, too, believe that this draft resolution stands alone. I do not believe it has to be merged with or confused with another draft resolution. It has to be considered separately on its merits. Whatever draft resolution may emerge from the consultations that may take place with other members of the Council will be a completely separate draft which must in no way impede this very important and substantive draft resolution and, as I said earlier, one which my delegation supports. The other is a separate procedure that will complement this draft resolution, but is in no way intended to impinge upon this draft resolution.

40. The PRESIDENT (*interpretation from Spanish*): I think that your explanation has satisfied the representative of Somalia, namely, that the revised text will have no link, should I say, will not depend upon the approval of the proposal referred to by the Argentine representative. This draft resolution, as you said, stands alone and therefore is not linked to the other draft resolution, to which the representative of Argentina referred twice in his statement.

41. Obviously, postponement of a vote will allow consultations on the terms contained in operative paragraph 6 of

the revised text. I feel that this might help us succeed in our efforts to achieve unanimity.

42. Mr. FARAH (Somalia): I should like to make clear that as a result of our consultations the sponsors are assured of an overwhelming majority vote on the present text of the draft resolution. Therefore the question of our adopting a language which would not show "approval" or "acceptance" or "endorsement" of the advisory opinion does not arise.

43. The PRESIDENT (*interpretation from Spanish*): May I ask whether the Council wishes to vote this afternoon upon the revised text, or as a considerable number of members of the Council seem to feel, should we defer the vote until tomorrow? If we postpone the vote until the next meeting there would be the advantage that unanimity would be easier to achieve and we would thus also comply with the request of the representative of France who very clearly said that he would appreciate a few hours to carry out specific consultations on operative paragraph 6 of the draft resolution. The representative of Argentina also referred to that specific paragraph.

44. May I with all respect venture to ask our colleague from Somalia whether he would object to agreeing to the suggestion that the vote on this draft resolution be deferred until tomorrow afternoon at our next meeting when it will be considered on its merits and independent of any other draft, with the assurance that by tomorrow the wording referred to by the representative of France will have been cleared up.

45. Mr. FARAH (Somalia): I am sure I am speaking for all the sponsors when I say that we wish to give every delegation here the time necessary to obtain instructions on this revised draft resolution.

46. The PRESIDENT (*interpretation from Spanish*): I take it then that we would all agree that we meet again tomorrow afternoon at 3.30 for the following purposes: immediately to vote upon the revised draft resolution, and to take up any other draft resolution that may be submitted on the question of Namibia.

The meeting rose at 5.10 p.m.