

GENERAL ASSEMBLY

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CONTENTS

	Page
Agenda item 39:	
Question of South West Africa (<i>continued</i>):	
(b) Report of the Committee on South West Africa;	
(c) Study of legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power under the Mandate for South West Africa: resumed consideration of the special report of the Committee on South West Africa	
General debate.	103
(a) Report of the Good Offices Committee on South West Africa	
Consideration of draft resolutions (<i>continued</i>) . . .	104
Question of a verbatim record of the debate on sub-item (a) (<i>continued</i>)	106

Chairman: Mr. Frederick H. BOLAND (Ireland).

AGENDA ITEM 39

Question of South West Africa (*continued*):

- (b) Report of the Committee on South West Africa (A/3906 and Add.1);
- (c) Study of legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power under the Mandate for South West Africa: resumed consideration of the special report of the Committee on South West Africa (A/3625, A/3906 and Add.1, A/AC.73/L.10 and 12)

GENERAL DEBATE

1. The CHAIRMAN, recalling the decision taken by the Committee at its previous meeting, declared open the general debate on sub-items (b) and (c) of agenda item 39.

2. Mr. MELINESCU (Romania) said it had been agreed at the 744th meeting that in the discussion on any of the sub-items of agenda item 39 delegations might make any comments they considered relevant on other sub-items. Accordingly, he wished to explain the Romanian delegation's views on the problem of South West Africa as a whole.

3. So far, the debate had revolved mainly around the report of the Good Offices Committee on South West Africa (A/3900) and the proposal that the Territory should be partitioned, the largest and richest part of it annexed by the Union of South Africa and the indigenous population herded into a small arid area under United Nations trusteeship. Some delegations had maintained that the matter at issue was not partition in any real sense, as no detailed plan had been submitted, but, at the most, partition as an idea. But behind that apparently innocent proposal there did lurk a plan of partition; and once the General Assembly had approved the proposal there would no longer be any possibility of considering the general question of partition, but only how it could be carried out in practice.

4. He was glad that a large majority of delegations had seen that danger and shown that the idea of partitioning a former mandated territory and allowing the former Mandatory Power to annex part of it was contrary to the principles of international law and to the United Nations Charter. The Romanian delegation considered that the Mandate over South West Africa had expired on 18 April 1946, when the League of Nations had been dissolved, and that it was the duty of the Mandatory Power to restore the Mandated Territory to the successor of the mandator organization, i.e., the United Nations. But even if the Mandate was considered to be still in force, the Mandatory Power had absolutely no right to appropriate the Territory entrusted to it. South West Africa was a geographical, ethnic and political unit which could not be dismembered. Finally, partition and annexation as a solution of the question was incompatible with the right of self-determination solemnly proclaimed in Article 1 and 55 of the Charter. True, the report of the Good Offices Committee stated that the Population would be consulted; but that would not be done until the General Assembly had encouraged the Government of the Union of South Africa to go further into the question and propose a detailed partition plan. The population would therefore be consulted not about the substance of the question, but only about practical methods of carrying out the plan. The only legally valid way to solve the problem of South West Africa was to place the Territory under United Nations trusteeship, as had been done with other mandated territories.

5. He recited the reasons for which the Romanian delegation had voted at the twelfth session against General Assembly resolution 1143 (XII) establishing the Good Offices Committee. For the South African Government, what was known as the new approach to the question of South West Africa had been nothing more than a new way of prosecuting its annexationist designs. Its so-called policy of integration or incorporation was nothing but *de facto* annexation. The indigenous population was prevented from participating in any way in the political life of the country and racial discrimination was practised in every sphere of social life, including health and education. So far as economic questions were concerned, Africans were being systematically deprived of their land in favour of European settlers and herded more and more into the semi-desert areas in the North. The economy was entirely in the hands of the European settlers and of foreign monopolies which ruthlessly exploited the indigenous population and kept them in the grip of chronic under-nourishment.

6. The attitude of the United States and United Kingdom representatives on the Good Offices Committee had been dictated by the important interests of those countries in the exploitation of the Territory, and it was therefore not surprising that the Committee had echoed the South African Government and proposed a

colonialist and annexationist solution based on segregation. The fact that, faced with the indignation aroused by that proposal, the delegations of those countries had given up supporting the plan of partition and annexation was one more proof of the force of world public opinion, and should encourage the Fourth Committee in its efforts to find a solution consistent with the principles of the Charter. However, it could not hope to succeed by renewing the mandate of the Good Offices Committee in its present form, and those who had suggested that the membership of that Committee should be enlarged or that its terms of reference should be modified were ignoring the existence of the Committee on South West Africa, to which the General Assembly had, by its resolution 749 A (VIII), assigned the task of negotiating with the South African Government with a view to finding a solution.

7. The Romanian delegation was therefore categorically opposed to the Good Offices Committee's conclusions regarding partition and annexation, and to any solution sought outside the United Nations or contrary to the Charter and the interests of the people of South West Africa. It asked the Fourth Committee to try to induce the Union of South Africa to respect the resolutions of the General Assembly and place the Territory of South West Africa under United Nations trusteeship.

The meeting was suspended at 11.20 a.m. and resumed at 11.45 a.m.

(a) Report of the Good Offices Committee on South West Africa (A/3900, A/C.4/L.531, A/C.4/L.532)

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.531, A/C.4/L.532) (continued)

8. Mr. KENNEDY (Ireland) introduced the draft resolution on the report of the Good Offices Committee on South West Africa sponsored by Argentina, Iran, Ireland, Japan and Venezuela (A/C.4/L.532). The Chilean representative was to be commended for the constructive spirit in which he had already submitted his delegation's draft resolution on the same subject (A/C.4/L.531); however, the sponsors of the new draft resolution had avoided raising some of the points touched on in the Chilean text in order to win the support of the greatest possible number of delegations. Operative paragraph 1 of the five-Power draft resolution (A/C.4/L.532) expressed the views of the Committee as they had emerged from the debate, and particularly the serious reservations which had been expressed regarding any partition plan which would involve the annexation of part of the Territory. Operative paragraph 2, which was very similar in wording to the corresponding paragraph of resolution 1143 (XII), expressed the general feeling that the Good Offices Committee should be asked to resume its talks with the Government of the Union of South Africa. He hoped that the Committee would adopt the five-Power draft resolution which had been drafted in a spirit of conciliation and realism. He felt that whatever their views on the report of the Good Offices Committee, all members of the Fourth Committee must recognize the constructive spirit in which the members of the Good Offices Committee had carried out their task.

9. Mr. ZULOAGA (Venezuela) thanked the Chilean representative for having encouraged the sponsors

of the five-Power draft resolution to prepare the text which was now before the Committee. It was not the purpose of the draft resolution to criticize the work of the Good Offices Committee, and it left that Committee enough latitude to pursue its work of negotiation. It was to be hoped that the Fourth Committee would adopt it by a large majority, and would change it as little as possible.

10. Mr. SHIMA (Japan) said that while the establishment of the Good Offices Committee had been entirely justified, the new approach to the problem had unhappily not produced the results that might have been expected. Thanks to the efforts of the Good Offices Committee the Fourth Committee had been given some idea of the type of solution which would be acceptable to the Union of South Africa; but it was a solution which, unfortunately, the United Nations could not approve. Negotiations must obviously be resumed with a view to reaching a solution acceptable both to the United Nations and to the Union of South Africa.

11. Mr. CAMILION (Argentina) said that the sponsors of the five-Power draft resolution had tried to find a formula which took into account the different opinions expressed during the general debate. The great majority of the members of the Fourth Committee had been against the idea of partitioning the Territory contained in the report of the Good Offices Committee. However, it had been felt that the Committee should continue its negotiations.

12. Under the draft resolution, the General Assembly would decide not to accept the suggestions that envisaged partition and annexation of a part of the Territory. For reasons which had been given during the debate, partition was economically, socially and politically unacceptable. Furthermore, the annexation of a part of the Territory, which was a corollary of its partition, would be contrary to the spirit of the Mandate.

13. Operative paragraph 2 invited the Good Offices Committee to renew discussions with the Government of the Union of South Africa. Such negotiations, by re-establishing contact between the Union and the United Nations, could not but be of help in the search for a solution. However, the sponsors of the draft resolution had felt it advisable to state clearly that, whatever the solution, the international status of the Territory as a whole should continue to be recognized; any solution which ignored that essential point would be contrary to the principles on which the Mandates System and the Trusteeship System were based. The Good Offices Committee would also be required to bear in mind the views expressed in the Fourth Committee.

14. The Argentine delegation felt that the adoption of that draft resolution by the General Assembly would help to bring about a solution of the problem by enabling the Good Offices Committee to explore many other possibilities of agreement.

15. Mr. RAHNEMA (Iran) said his delegation was against any form of annexation of the Territory, whether complete or partial, since such a measure would be contrary to international law, to the principles of the Charter and to the advisory opinions of the International Court of Justice. It would therefore seek to prevent the adoption of that solution. He reminded the Committee of the commendable efforts

at conciliation made by the United Nations in the past, and regretted the intransigence of the Union of South Africa, whose attitude might well have justified the United Nations in taking drastic action—for example under article 7 of the Mandate, which authorized former Members of the League of Nations to summon Mandatories before the International Court of Justice. Action by the Security Council might also have been requested, were it not for the fact that that procedure, while logical, would not perhaps have been in keeping with the spirit of conciliation recommended by the Charter. Accordingly, there were no grounds for regretting the friendly attitude adopted by the United Nations, nor the attempt which had been made to seek, with the Union of South Africa, some basis for an agreement. All the more disappointing, therefore, was the failure of that attempt; and the five-Power draft resolution was perhaps the final effort at conciliation by the United Nations. The draft resolution was simple, lucid and moderately worded; it represented one last endeavour to find a solution acceptable to the Union Government—which should appreciate the gesture at its true value. It was to be hoped that the Good Offices Committee would be able to suggest a basis for agreement acceptable to all the interested parties.

16. Mr. ESPINOSA PRIETO (Mexico) said that his delegation would support the five-Power draft resolution. The sponsors of the draft were doing the Committee a great service by introducing a text which could be accepted by most delegations, since it took into consideration the different views expressed during the debate. The Committee had been almost unanimous in opposing the idea of partition and annexation as a way of solving the problem, and the draft satisfactorily expressed that firm attitude. His delegation was among those which had rejected the idea in view of the special situation of the Territory and in view of the fact that any text adopted by the Fourth Committee would be a United Nations document which might be invoked in the future as a precedent in cases very different from that of South West Africa. What had been proposed to the Committee had in fact been a mistake, but he recalled that it had been agreed at the time the Good Offices Committee had been established that any proposal would be submitted to the Fourth Committee before being referred to the General Assembly. It was therefore the duty of the Fourth Committee to reject any idea it considered unacceptable, while remaining prepared to look into any just and reasonable basis for agreement founded on the principles of the United Nations.

17. Accordingly, there could be no question of ending the negotiations. His delegation had pointed out that the attitude of the Union of South Africa to the Committee's reaction on being presented with the partition proposal could only give the impression that partition had been the sole solution envisaged from the outset. If that were so, it would be pointless for the Good Offices Committee to continue its work. But there was a positive element, namely, the resumption of relations with the Union of South Africa, whose representatives apparently intended to take part in the Committee's discussions on the other items of the agenda. Goodwill on both sides was necessary for the continuance of negotiations; for that reason it was desirable that the Good Offices Committee should continue its work and should be made up of the same members, who had acquired valuable experience.

There was reason to hope for sincere assistance from the United Kingdom and the United States, which now well understood the Fourth Committee's views. It would not be advisable to enlarge the Good Offices Committee, since it would then duplicate the Committee on South West Africa. Since the Union was not prepared to negotiate with the latter, the Mandate of the Good Offices Committee should be renewed, as proposed in the five-Power draft resolution.

18. His delegation had examined with interest the draft resolution submitted by the Chilean delegation (A/C.4/L.531), but hoped that the Chilean representative would withdraw his text in favour of the five-Power draft, which tried to reconcile the different points of view expressed by members of the Committee.

19. As the five-Power draft resolution contained no reference to the purposes and principles of the United Nations, his delegation would support any amendment designed to repair that omission.

20. Miss BROOKS (Liberia) considered that the five-Power draft resolution satisfactorily took into account the different views expressed in the Committee. Her delegation would vote for that draft, as also for any amendment which did not alter its essential points. She agreed with the Mexican delegation that there should be some reference to the purposes and principles of the United Nations, and would propose an appropriate amendment, which would also include the point that South West Africa was a mandated territory.

21. Mr. COHEN (Chile) said that the purpose of his delegation's draft resolution had been solely to condense the main ideas expressed during the debate. He had a number of comments to make on the five-Power draft resolution.

22. Firstly, while almost all delegations had paid a tribute to the members of the Good Offices Committee, the joint draft contained not a single word of praise for the Committee's work. That slight lack of consideration should be remedied.

23. Secondly, the five-Power draft resolution had the drawback of prejudging the solution of the problem of South West Africa by ruling out a particular solution in advance. No one could say how the situation would develop, or in what light the solution of partition might be viewed at some later date, although it had to be noted that no delegations had expressed support of it. It would therefore be desirable to modify the text to indicate that partition was not acceptable in the present circumstances and without prior consultation of the population.

24. Finally, he agreed that it might be useful to reaffirm the purposes and principles of the Charter once again, as certain delegations had proposed, so as to cover the entire field of possible developments.

25. The Chilean delegation intended to submit some amendments along those lines, and if they were accepted would withdraw its draft resolution.

26. Mr. SUMULONG (Philippines) supported the five-Power draft resolution, which adequately reflected the ideas expressed during the debate. He was particularly glad of the categorical wording of paragraph 1, since any plan providing for the annexation of the Territory, whether complete or partial, was in his view

contrary to the concept of trusteeship which had been accepted by the Union of South Africa on receiving the Mandate.

27. Despite the disappointment expressed by a number of representatives, the Philippine delegation thought the Good Offices Committee should be invited to renew discussions, firstly, because it realized the difficulty of the Committee's task; and secondly, because it felt that the Charter imposed upon Member States the obligation to explore all possible avenues of agreement.

28. It was important that the draft resolution should clearly state that any agreement concluded should be strictly in keeping with the provisions of the Mandate and the Charter and with the advisory opinions of the International Court; that might be obvious even if left unsaid, but it would be even more obvious if said.

29. Mr. VITELLI (Italy) pointed out, like previous speakers, that the sponsors of the five-Power draft resolution had failed to include in their text any word of thanks to encourage the Good Offices Committee in its work. He agreed with the Chilean representative that the text might usefully be changed to that effect.

30. Mr. RAO (India) submitted the amendments (A/C.4/L.535) which his delegation was offering jointly with seven other delegations.

31. Mr. COHEN (Chile), replying to Mr. EL-RIFAI (Jordan), said he would not insist on his draft resolution being put to the vote first, as the date of its submission entitled him to do; that, however, did not imply the withdrawal of his text. The Chilean delegation would not withdraw its own draft resolution unless certain essential ideas were inserted in the five-Power draft resolution through the adoption of the amendments which it intended to submit.

QUESTION OF A VERBATIM RECORD OF THE DEBATE ON SUB-ITEM (a) (continued)

32. The CHAIRMAN said that he had discussed with the Chairman of the Fifth Committee the possibility of issuing a verbatim record of the Fourth Committee's debate on the report of the Good Offices Committee. The Chairman of the Fifth Committee had expressed the view that the question was covered by the General Assembly's decision, taken on the recommendation of the General Committee, that verbatim records could be prepared only in accordance with the principles suggested by the Secretary-General in his memorandum to the General Committee (A/BUR/149, para. 5). The Chairman of the Fifth Committee had therefore felt that the Fourth Committee

should address itself direct to the Assembly. He had also called attention to the draft resolution ¹/adopted by the Fifth Committee by 57 votes to none, with 6 abstentions, which provided that the existing practice relating to verbatim and summary records should continue unaltered. That draft resolution was to go to the General Assembly for action.

33. Mr. BOZOVIC (Yugoslavia) said that in adopting its draft resolution the Fifth Committee might well not have anticipated all the cases which might arise; the text did not rule out a more flexible application of the rules in actual practice. In any event, resolutions of the other Main Committees carried as much weight as those of the Fifth Committee.

34. Pointing out that under the provisions of paragraph 3 of the five-Power draft resolution the General Assembly would request the Good Offices Committee to bear fully in mind the discussions held at the thirteenth session, he asked if the Secretariat could prepare, for the benefit of the Good Offices Committee, as full a statement as possible of the views expressed in the Fourth Committee, basing the statement not only on the summary records but also on the sound recording of the debate.

35. Mr. WIESCHHOFF (Secretary of the Committee) said that if the draft resolution was adopted, the officers of the Trusteeship Division would refer to the sound recording of the debate and would make available to the Good Offices Committee as full a record as in their opinion would be necessary to guide it in its task.

36. Miss BROOKS (Liberia) asked whether it would not be possible to extend the time-limit for corrections to summary records. Members of the Fourth Committee, absorbed by the debate, had perhaps failed to give sufficient attention to the submission of corrections. The Liberian delegation would like to restore certain passages in the summary records of some of its statements in the Committee.

37. The CHAIRMAN said that the Liberian representative undoubtedly understood the reasons for which it was essential to set a time-limit for submitting corrections. Nevertheless, he was certain that the Secretariat would do everything in its power to meet the wishes of delegations.

The meeting rose at 1.5 p.m.

¹/ See A/3982, para. 10.