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Chairman : Prince WAN WAITHAYAKON (Thailand).

Libya. Problem of war damages : report of the Secretary-General (A/2000 and A/C.2/L.150/Rev.1) (*concluded*)

[Item 21]*

1. Mr. ORMSBY-GORE (United Kingdom) called attention to the revised draft resolution (A/C.2/L.150/Rev.1) submitted jointly by the French and United Kingdom delegations which took into account opinions expressed at the previous meeting as well as private conversations held since. The revised draft contained a few drafting alterations which brought it more into line with General Assembly resolutions relating to the Expanded Programme of Technical Assistance. He hoped that, in its present form, it would prove acceptable to the Committee.

2. Mr. NAUDY (France) said that his delegation had welcomed the opportunity of sponsoring the revised joint draft resolution, as his Government was most interested in the future development of Libya.

3. That draft resolution took into account the remarks made by the Libyan representative at the previous meeting and emphasized the importance of the problem of war damages as well as the need to consider such a problem within the framework of overall economic development plans. He hoped that the draft resolution would be adopted, since it would serve that country's interests.

4. Mr. ANEIZI (Libya) was grateful to the United Kingdom and French delegations for submitting the revised joint draft resolution which he believed met

the principal requests formulated by the Libyan Government for a further study of the entire problem of war damages. His delegation particularly welcomed the proposed inclusion in the study of the problem of public and private property.

5. Mr. DE MARCHENA (Dominican Republic), supported by Mr. MARINO PEREZ (Cuba) and by Mr. AREAN (Argentina) drew the attention of the Secretariat to certain errors in the Spanish text of the revised joint draft resolution. The delegation of the Dominican Republic would support the draft resolution once those corrections had been made.

6. Mr. JACOME (Ecuador) said that his delegation wished to make it clear that its support of the French-United Kingdom draft resolution should not be taken as in any way prejudging the question of responsibility for war damage reparations. Accordingly, the Government of Ecuador was not entering into any financial commitments in that connection.

7. U KYIN (Burma) said that his delegation welcomed the revised joint draft resolution as it represented a measure which had been agreed upon by all parties concerned. The farsighted statesmanship of the leaders of the Governments of the United Kingdom, France and Libya was to be commended.

8. However, in considering the draft resolution, the Committee ought to ask itself whether the adoption of such a draft resolution would in fact constitute a step forward as compared with the technical assistance which had thus far been granted to Libya. It was essential to bear in mind past references to financial assistance in previous General Assembly resolutions, as well as to establish the extent of aid which the United Nations was prepared and able to provide to Libya. He himself did not feel that the present draft resolu-

* Indicates the item number on the General Assembly agenda.

tion went a great deal further than the measures hitherto adopted, particularly as, from his own experience in Burma, he was fully aware of the financial assistance necessary to carry out development plans in a war-ravaged country.

9. Mr. AREAN (Argentina) said that his delegation had carefully studied the Secretary-General's report (A/2000) and agreed with other representatives that further study of the problem was called for. It would consequently support the revised joint draft resolution which provided practical measures to that end.

10. The CHAIRMAN put to the vote the revised joint draft resolution (A/C.2/L.150/Rev.1) submitted by France and the United Kingdom.

The revised joint draft resolution was adopted by 44 votes to one, with 5 abstentions.

11. Mr. ANEIZI (Libya) expressed his gratitude to the Committee for their sympathetic attitude towards the problem of war damages in Libya, which was of such importance to that country's future.

12. Mr. DE MARCHENA (Dominican Republic), explaining his vote, said that, although his delegation had voted in favour of the revised joint draft resolution, it reserved its Government's position as regards the implications of that resolution, and particularly its financial implications, once the study by the experts had been completed.

Economic and financial provisions in respect of Eritrea arising out of paragraph 19 of Annex XIV of the Treaty of Peace with Italy (A/1896, A/1925, A/C.2/174 and A/C.2/L.142)

[Item 62]*

13. The CHAIRMAN noted that the Italian Government had submitted a request to the United Nations (A/C.2/174) for participation by an Italian representative in the discussion on the item of the agenda under consideration. If there was no objection, he would invite the Italian representative to participate as an observer in the Committee's discussions without the right to vote.

14. He accordingly invited the representative of Italy to be seated at the Committee table.

15. Mr. ORMSBY-GORE (United Kingdom) began by recalling the provisions of the Treaty of Peace with Italy, particularly Article 23 and Annex XI, which provided that the question of the final disposal of the former Italian colonies should be referred to the General Assembly for a recommendation. The disposal of Eritrea had been effected in the political sense by General Assembly resolution 390 (V) but, in accordance with Annex XIV of the Treaty of Peace which provided that the economic and financial provisions to be applied to the former Italian colonies should form part of the arrangements for the final disposal of those territories pursuant to Article 23, the United Nations was now being asked to deal specifically with the economic and financial provisions in respect of Eritrea.

16. The United Kingdom, as the Administering

Authority, had therefore submitted a draft resolution on that subject (A/C.2/L.142), which was not, however, intended in any way to modify the terms of General Assembly resolution 390 (V). The draft resolution was based fundamentally on the same principles as General Assembly resolution 388 (V) relating to the economic and financial provisions in respect of the former Italian colony of Libya, which had been adopted after several weeks of most careful deliberation, as the United Kingdom delegation considered that the United Nations would want to deal with the Eritrean problem on parallel lines. The only alterations made to the formula used in the similar case of Libya had been introduced because of the different circumstances in Eritrea and because of the experience gained in giving effect to the resolution concerning Libya.

17. The principal economic and financial arrangements covered by the United Kingdom draft resolution provided for the cession of state property to the former colony, the return to its owners of the balance of private property still held in custody by the Administering Authority and the establishment of a United Nations tribunal to settle disputes. It was considered important that when the United Kingdom, as the administering Authority, relinquished its jurisdiction Administering Authority, relinquished its jurisdiction should not be complicated by questions concerning Italian property, as had happened in the case of Libya. Consequently, the draft resolution provided a settlement in itself. The Administering Authority, prior to the transfer of jurisdiction, would have the duty of implementing the resolution.

18. With that intention in mind, in Article I, paragraph 1, reference was made simply to "Eritrea". That was intended to mean the former Italian colony of that name and the property would in the first instance be received by the Administering Authority in trust for Eritrea. His delegation recognized that when the Eritrean constitution was determined in the light of General Assembly resolution 390 (V), some of the land and property dealt with in that resolution might devolve finally upon the future Federal Government of Ethiopia, while some would be the concern of the future Eritrean Government. His delegation regarded the question of what property might ultimately pass to the Federal Government when that had been established as a domestic matter for settlement by internal arrangement at a later stage between the Eritreans and the Federal Authority.

19. The Committee would observe that the draft resolution provided that all movable and immovable property located in Eritrea and owned by the Italian State, either in its own name or in the name of the Italian Administration in Eritrea, should pass to Eritrea. Unlike Libya, it was unnecessary in the case of Eritrea to reserve certain classes of property for subsequent transfer on conditions to be established by separate agreement between the two Governments. On the other hand, a point of similarity with the provisions regarding Libya was that Italy would retain necessary premises for official representation and for the functioning of established schools and hospitals in Eritrea.

20. Referring to Article X, which his delegation considered to be most important, he explained that, as Eritrea had an adverse balance of trade, the Administering Authority considered that if the new State

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was to avoid a serious deterioration in its standards of living, the tenants who were mainly agricultural producers, should be confirmed in possession of their holdings so that they might develop them with confidence and continuity. That article differed considerably from the corresponding article in General Assembly resolution 388 (V), since the system of land tenure in Eritrea differed from that of Libya. In Eritrea, the former Italian Administration had granted an ever increasing number of concessions to Eritreans and others, with the result that the majority of persons now holding temporary and limited grants of that kind in Eritrea were not Italians and, as they formed a vital part of the Eritrean economy, it was considered important that such persons should enjoy complete security of tenure.

21. Although disputes arising out of the interpretation of the United Kingdom draft resolution, if it were adopted by the General Assembly, were not likely to be numerous, the need for independent arbitration machinery provided by the United Nations was apparent. It was the desire of the Administering Authority that as many outstanding matters as possible should be settled before the vote of Federation next September and that disputes should be brought before a tribunal as they arose and be promptly dealt with. Experience in Libya had shown that several months were needed to set up such a tribunal. In the interests both of economy of time and expense, his delegation urged the Committee to give serious consideration to its proposal that the same arbitral tribunal should serve both for Libya and Eritrea.

22. If desired, he would, of course, be prepared to discuss the articles of the draft resolution in detail. In submitting the draft resolution, his delegation believed that it had provided the best possible compromise in a complicated situation and it hoped that it would be adopted by the Committee in substantially its present form.

23. Mr. RETTA (Ethiopia) said that since it was his desire not to prolong the Committee's work, he hesitated to suggest amendments to the United Kingdom draft resolution (A/C.2/L.142). That hesitation was further due to the fact that his delegation had always felt that the draft resolution itself was somewhat unnecessary. When the General Assembly had adopted resolution 390 (V), the Ethiopian Minister for Foreign Affairs had stated that his Government was most anxious to protect the interests of all foreign and local minorities, and when the federation with Eritrea entered into effect, both the Federal Government and the Eritrean Government would be entrusted with that responsibility. His Government therefore felt that it might have been more appropriate to undertake direct negotiations between all the parties concerned, namely, not only the Italian but also the United Kingdom and Ethiopian Governments. The fact remained that the problem was essentially one of ensuring the protection not only of Italian but of other foreign interests in Eritrea, through the combined efforts of both the Federal Government and the autonomous Eritrean Government.

24. He suggested that the draft resolution did not clearly reflect the local and federal responsibilities involved in the problem and that certain clarifications were necessary to enable the text to be evaluated. He therefore reserved his Government's position on the draft resolution.

25. Since the Committee was bound by the decisions taken in General Assembly resolution 390 (V), it was essential to ascertain that the reference to transfer in Article I meant transfers in accordance with resolution 390 (V).

26. He noted the absence of any reference to the two jurisdictions to be involved, which apparently meant that the Federal Government would be relieved of the obligations devolving upon the local Eritrean Government under Article VII, paragraph 2 and 3, and Articles VIII, IX and X.

27. It was essential that, in order to protect property interests, those jurisdictions from which assurances of protection were necessary should be brought into the draft resolution.

28. He further wondered whether, as currently drafted, the proposed draft resolution really served the best interests of local autonomy and the future development of a strong Eritrean Government. The Ethiopian Government, in its conversations with the United Nations Commissioner in Eritrea, had pressed for the establishment of such a government, so that the property interests of Italians and other foreign nationals in Eritrea might be adequately protected by that autonomous unit. It was however doubtful whether a strong Eritrean judiciary would be fostered by a resolution providing that the local courts of Eritrea might, for an indefinite period, have no jurisdiction over any matters which the tribunal provided for in Article XI might see fit to deal with itself.

29. With the same object, he would have liked to see more precise language used in Article I, paragraph 7, so as to ensure that the Eritrean Government would without delay acquire the greatest possible liberty and scope of action. Similar considerations applied to Article VIII, paragraph 2, and Article X, paragraph 4.

30. The clarification of certain questions of language would also facilitate the rapid consideration of the draft resolution. In Article II, for example, did the words "public archives" mean that the article did not apply to secret archives? In the phrase "other categories of insured persons" in Article III did "other" extend to foreign nationals? The wording of Article X, paragraph 2, also gave rise to doubt. His Government wished to ensure respect for all concessions granted by the former Italian Administration provided they were now in existence and being operated; it could see no purpose in reviving expired concessions, and presumed that that was not the intention of the draft resolution. With regard to Article I, paragraph 4, if the reference to "the functioning of Italian Government representation in Eritrea" was meant to apply to consular representation, that might be specifically indicated.

31. In view of the need for such clarifications he was refraining from making at present any suggestions for improvement of the text. He hoped that the United Kingdom representative would be in a position to furnish the explanations requested.

32. Mr. CAPOMAZZA (Italy) said the draft resolution submitted by the United Kingdom followed the principles sanctioned by the United Nations by the adoption of General Assembly resolution 388 (V) on economic and financial provisions relating to Libya. The new draft resolution however departed from the

Assembly resolution in certain points by imposing additional charges on Italy. The resolution on Libya had established that the public property and the inalienable property of the State and of the Fascist Party would be immediately transferred without payment, while the alienable property of the State would be transferred only after agreement upon the conditions of transfer between Italy and Libya. The draft resolution no longer contained that distinction and imposed on Italy the free transfer both of the public property and the alienable as well as inalienable property of the State. It also imposed the burden of payment of civil and military pensions and renunciation of any repayment of the Italian public debt.

33. Those brief general comments gave a measure of the contribution required of Italy. Such a contribution would be inconceivable if the party benefiting from it were not a country which had had such a long and happy association with his own.

34. Members of the Committee knew the attitude his country had adopted during the settlement of Eritrea's political fate, and the efforts it had made to ensure it an autonomous and democratic future within the framework of a federal government under the Ethiopian Crown. In view of his Government's interest in Eritrea's future and its civil, cultural and economic progress, it would give sympathetic consideration to the United Kingdom draft resolution. It wished however at that stage to reserve its right to submit amendments to the draft resolution if such appeared to be necessary, but should the majority of the Committee favour the draft resolution as submitted, his delegation would reconsider its attitude with a view to facilitating its adoption.

35. His Government hoped the United Nations would take all appropriate measures for the safeguard of foreign interests in Eritrea, not only for reasons of equity, but in order to give practical effect to that part of resolution 390 (V) which spoke of "the importance of assuring the continuing collaboration of the foreign communities in the economic development of Eritrea". Eritrea would undoubtedly receive such collaboration if appropriate assurances and measures for stabilization re-established confidence in the country's economic development and in the future of its autonomous government.

36. Mr. SAKSIN (Union of Soviet Socialist Republics) asked the United Kingdom representative and the United Nations Commissioner for Eritrea whether the adoption of the United Kingdom draft resolution would alter the status of foreign concessions on Eritrean territory, or whether that status would remain as it had been when Eritrea had been a colony.

37. Mr. ORMSBY-GORE (United Kingdom) said he was not at the moment in possession of all the relevant material but he would be glad to answer the USSR representative, and give the explanations requested by the representative of Ethiopia, at a later stage in the discussion.

38. Mr. ANZE MATIENZO, United Nations Commissioner for Eritrea, said he would also prefer to give a specific and detailed reply to the USSR representative's question at a later stage, in view of the complexity of the problem. The question of conces-

sions involved a system of contracts which might be described as *sui generis* and which were of varying kinds although established on the same legal basis. An attempt was being made to consolidate those contracts so as to enable the holders to continue to contribute to the Eritrean economy.

39. Mr. CAPOMAZZA (Italy) quoted figures showing the modest area involved in the problem of concessions. Of a total area of about 1,200,000 hectares, there were only 28,000 hectares of agricultural concessions in Eritrea, of which a little less than 20,000 hectares belonged to Italian subjects and the remainder to Eritreans.

40. Mr. NARIELWALA (India) hoped the United Kingdom delegation would give careful consideration to the views expressed by the representative of Ethiopia and incorporate some of the latter's suggestions in the draft resolution.

41. It was particularly important to show whether the draft resolution remained within or went beyond the scope of resolution 390 (V).

42. Article I, paragraph 2 (f), said that certain rights of the Italian State should be transferred to the Eritrean Government. It should be made clear whether those rights would entail any liabilities for the future Eritrean State and the Ethiopian Government since, in such a case, it would be for those Governments to decide whether or not they wished to accept them.

43. Further, with regard to Article X, paragraph 2, it should be stated that the concessions involved were only agricultural, and in continuing them, it should be seen that they were in the national interest of Eritrea.

44. Mr. ZIA-UD-DIN (Pakistan) said his Government took a keen interest in the future prosperity of Eritrea and hoped that it would be on a sound economic footing when it became part of the Federation under the Ethiopian Government. Since, in accordance with General Assembly resolution 390 (V), it was also incumbent on the General Assembly to settle the economic and financial problems confronting Eritrea, the draft resolution was most welcome to his delegation and, subject to reservations of detail, his delegation would support it.

45. It was for the Assembly to decide what arrangements should be made for the devolution of property which had formerly belonged to the Italian State or to aliens. State property would naturally be transferred to the new State, either to the Eritrean or to the Federal Government. In that connexion, the draft resolution wisely made provision for the establishment of an arbitral tribunal. That tribunal was the only body which would be in a position to settle disputes arising out of the application of the draft resolution. That being so, there seemed to be no need to embark on a long discussion of the interpretation of the draft resolution, though it would of course be desirable to hear whatever explanations the author might wish to give the Committee.

46. The CHAIRMAN suggested that delegations concerned might wish to meet informally on Wednesday, 23 January, and exchange their views for the clarification of the United Kingdom's draft. In his

view such an informal meeting could be helpful and should enable the Committee to complete the consideration of that item on Thursday, 24 January.

Rapporteur's draft report (A/C.2/L.149)

47. The CHAIRMAN reminded the Committee that its

draft report in item 11 of the agenda had been circulated.

48. At the request of Mr. NARIELWALA (India) he postponed until 6 p.m. on Wednesday, 23 January, the time limit originally fixed at 12 noon, 23 January, for the Rapporteur to receive amendments to that draft.

The meeting rose at 5.15 p.m.