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TRUSTEESHIP COUNCIL

VERBATIM RECORD OF THE THIRTY-FIRST MEETING OF THE THIRD SESSION

Lake Success, New York  
Friday, 23 July 1948, at 2:00 p.m.

President:

Mr. Liu CHIEH

(China)

The PRESIDENT: I declare open the thirty-first meeting of the third session of the Trusteeship Council.

EXAMINATION OF THE ANNUAL REPORT ON SOUTH WEST AFRICA

The PRESIDENT: Today we begin the examination of the annual Report on South West Africa. It will be recalled that on 1 November 1947 the General Assembly passed a Resolution in which the Assembly urges the Government of the Union of South Africa to propose a trusteeship agreement for the Territory of South West Africa for the consideration of the General Assembly and expresses the hope that the Union of South Africa might find it possible to do so in time to enable the General Assembly to consider the agreement at its third session. The General Assembly went on in the next paragraph to authorize the Trusteeship Council to examine in the meantime the Report on South West Africa which had recently been submitted by the Government of the Union of South Africa and submit its observations thereon to the General Assembly.

At its second session last December, the Trusteeship Council examined the Report and it was resolved that in certain particulars the Report appeared to be incomplete and that advantage should therefore be taken of the offer of the Government of the Union of South Africa to transmit, if desired, further available data. The Trusteeship Council sent a list of questions to the Union Government, and the Union Government has submitted a reply which is embodied in document T/175. The Report, therefore, which is now under examination <sup>will</sup> be discussed in conjunction with this document.

I should like to point out that although the General Assembly has more than once urged the Union Government to submit a trusteeship agreement in respect of South West Africa, that territory has not yet been placed under the trusteeship system. The Union Government has declared that it

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1 continue to administer that territory in the spirit of the Mandate  
has for that purpose sent a Report for the information of the United  
tions.

The General Assembly has authorized the Trusteeship Council to undertake an examination of that Report, but, as I have said, South West Africa has not yet been placed under the trusteeship system, and the Government of the Union of South Africa has not consented to send a special representative to assist this Council in the examination of the Report. The Trusteeship Council, therefore, will not have an opportunity of addressing questions to a special representative, as is the case with all the territories under trusteeship.

I would therefore propose that members of the Council will examine the Report, together with the replies given to the questions raised at our last session, and will make such observations as will be useful for the information of the General Assembly.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): The question of the examination of the Report presented by the Government of the Union of South Africa concerning the situation in the territory of South West Africa requires a special approach on our part, in view of the Resolution adopted by the General Assembly on 1 November 1947 which the President cited a few minutes ago. In that Resolution, the necessity of the territory of South West Africa being included in the trusteeship system is clearly stated, and it is also stated that the Government of the Union of South Africa should present a trusteeship agreement for examination by and the approval of the General Assembly on the basis of this Resolution.

The delegation of the USSR considers that the Report which has been presented by the Government of the Union of South Africa cannot be examined by the Trusteeship Council, because the status of the territory at the present time is, in fact, undetermined because the

declaration of the Government of the Union of South Africa is to the effect that they will continue to administer this territory in the spirit of the mandate given by the League of Nations. But this declaration cannot in any way be supported, because the League of Nations, the Permanent Mandates Commission, and the mandate system no longer exists. Therefore, this territory in fact is a territory which does not have any juridical identity in practice, and the administration of this territory by the Government of the Union of South Africa is not based at the present moment on any juridical basis. I must again emphasize that the mandate system no longer exists. This system died together with the League of Nations and the Permanent Mandates Commission.

To fill in the vacuum which was then produced, we might apply two methods: either the Territory of South West Africa should be granted independence or the Territory should be included in the international trusteeship system. That is the only way in which the question of South West Africa can be stated.

We must also bear in mind that this is the last and only territory which was included in the mandate system and which is left outside of the trusteeship system; due to the stubbornness of the Government of the Union of South Africa not to include it.

Although the examination of the Report presented by the Government of the Union of South Africa concerning the Territory of South West Africa was begun at preceding meetings of the General Assembly, the Report offers no basis to justify the examination of it at the present time. What is this Report, what territory does it concern and what rules of procedure can we apply in the examination? We have rules of procedure for the examination of reports concerning trusteeship territories, but we have no rules of procedure which we might apply for this specific case. Such reports were not foreseen for examination by the Trusteeship Council. They were not foreseen either in the Charter of the United Nations or in the rules of procedure. The examination of such a report by the Trusteeship Council in a situation where the Government of the Union of South Africa does not wish to include this territory under the trusteeship system, or at any rate has not yet presented a trusteeship agreement concerning this territory, would create the false impression throughout the world that somehow or other the Trusteeship Council is accepting this situation. We would be examining a report concerning a territory which is neither a trusteeship territory nor one that has any juridical status at the present moment.

The opinion of the USSR delegation is well-known to the members of the Trusteeship Council. During the last session of the General Assembly the USSR delegation shared the same opinion and supported it, namely, that the Report of the Government of the Union of South Africa on the Territory of South West Africa should not be examined until this territory is included in the trusteeship system and a trusteeship agreement presented.

Therefore, the USSR delegation now formally moves that the Report presented by the Government of the Union of South Africa concerning the Territory of South West Africa should not be examined.

In the Resolution of the General Assembly of 1 November it states that the Trusteeship Council is authorized to examine the Report presented by the Government of the Union of South Africa. I think that this in no case forces us to examine this Report. If the Trusteeship Council should consider it necessary and justifiable to examine the Report, we can examine it. However, we can also refuse to examine it.

In our report to the General Assembly we can explain the reasons for not examining the Report in the manner in which I have just presented them to the Council. I request that this question should now be considered from this point of view.

Mr. RYCKMANS (Belgium) (Interpretation from French): In answer to the last point raised by the representative of the USSR, namely, that we can refuse to examine the Report, it is possible that we could refuse. However, in any case, in order to refuse to examine this Report it would be necessary first of all to take a decision changing our previous decision concerning the examination of this Report. We have already decided to examine it and we have already begun to examine it. If we declare to-day that we are not going to examine the Report, we must take a decision changing our previous decision.

Concerning the substance of the question, has been stated that we have no basis to examine the Report because the situation of the Territory of South West Africa does not conform to the articles of the Charter as the General Assembly had approved a Resolution inviting the Government of the Union of South Africa to include that territory under the Trusteeship System. But that has nothing to do with the question which has been submitted for our examination. We are examining the Report because the General Assembly requested us to do so. The basis of our examination is the Resolution of the General Assembly.

I ask the members of the Trusteeship Council why we should refuse to follow the Resolution approved by the General Assembly by invoking another Resolution of the General Assembly?

It has been stated that we have no rules of procedure on which we can base the examination of this Report and that the situation was not foreseen by the Charter. We had no rules of procedure to examine the draft of the status of the City of Jérusalem, but we did it.

By examining this Report it is stated that we shall give the impression that we accept the situation. We shall not give any impression of that kind. The question is to know whether the situation in South West Africa is regular. It is not the Trusteeship Council which has to decide this. The Territory of South West Africa is not included in the trusteeship system. The Report which has been submitted to us has been directed to us by the General Assembly, and we have no judgment to pronounce in one sense or another as to the attitude of the Government of the Union of South Africa or as to the situation of the Territory of South West Africa.

In consequence, I move that the Trusteeship Council should continue the examination of this Report, an examination which we have already started on the basis of the Resolution of the General Assembly.



Mr. GARREAU (France) (Interpretation from French): I requested to speak in order to say exactly, point by point, what has just been stated by the representative of Belgium. I have nothing to add to what he has said.

The PRESIDENT: It has been moved by the representative of the USSR that the Trusteeship Council decide that the Report submitted by the Government of the Union of South Africa should not be examined by this Council. I believe the representative of Belgium has submitted a counter motion.

Mr. RYCKMANS (Belgium): I say that this motion is out of order because we have decided to examine the Report.

The PRESIDENT: The representative of Belgium maintains that the Council has already decided to examine the Report, and therefore it should continue with the examination of the Report. That view has been supported by the representative of France.

If there are no further observations, I shall make a statement on behalf of the Chinese delegation.

The Chinese delegation has maintained the view that the trusteeship system, as envisaged by the authors of the Charter at San Francisco, should include all the mandated territories which were not given immediate independence. It is a very happy turn of events that all the administering powers responsible for the mandated territories have placed their mandated territories under the trusteeship system, except the Government of the Union of South Africa concerning South West Africa. It was that view which was behind the resolutions of the General Assembly, both in the 1946 and 1947 sessions, ordering the Government of the Union of South Africa to submit a trusteeship agreement in respect of this territory.

The Government of the Union of South Africa has declined to submit such a trusteeship agreement so far, but has submitted a report for the information of the United Nations. The General Assembly considered that the Trusteeship Council, which was created to supervise the administration of territories similar in status to the mandated territory of South West Africa, was the proper organ to examine such a report. That is not only an authorization but, as I believe, an instruction from the General Assembly, and this Council, operating under the authority of the General Assembly, has the obligation to carry out this resolution of that body.

The Chinese delegation, therefore, shares the view expressed by the representatives of Belgium and of France that the Trusteeship Council should continue to examine this report as a duty undertaken vis-a-vis the General Assembly, but would like to add that there is another obligation of which the Council should be mindful -- the general obligation towards the peoples in mandated territories. It is true that it has been argued that the Charter does not automatically place a mandated territory under the trusteeship system, except as / <sup>the</sup> consequence of a trusteeship agreement. The representative of the USSR, however, raised just now the question of the status of South West Africa, and pointed out that if it is not a trust territory its status is indeterminate. The territory was formerly under mandate and, therefore, belongs not to the administering authority but to the inhabitants.

Under the mandate system the people of that territory were under the protection of the League of Nations through the Permanent Mandates Commission. That Commission has now ceased to exist, but I would submit that the people of South West Africa are entitled to no less: a degree of protection and supervision from the trusteeship system which was created after the second world war than that given to them under the mandate system created after the first world war.

I should like to acknowledge with gratification that the Government of the Union of South Africa has seen fit to submit this report to the United Nations in respect of the territory of South West Africa, and also to transmit replies to the questions which were raised during the first examination of the report by this Council. It seems to me that, apart from its obligation towards the General Assembly, the Trusteeship Council would be failing in its duty if it did not examine this report conscientiously. It has undertaken such a duty in respect of trust territories and, in a larger sense, the principles of trusteeship apply to this territory as they apply to those territories which have been placed under the trusteeship system.

Does the representative of the USSR desire that his motion be put to a vote?

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): Yes, I move formally the proposal that the Trusteeship Council should not examine the report presented by the Government of the Union of South Africa in so far as it is stated in the resolution of the General Assembly of 1 November that the Territory of South West Africa should be included in the trusteeship system of the United Nations.

The report has been presented, but it is not known what category of territory it concerns. The retention of the administration of this territory by the Union of South Africa and the presentation of a report concerning it are not founded on any juridical basis. This territory should either become an independent state, or it should be included in the trusteeship system. There can be no other system and no other alternative for this territory. The examination of the report would simply be contrary to the principles which have been laid down in the Charter for such territories which were formerly mandated territories.

The President himself has just said that mandated territories should be included in the trusteeship system. The Government of the Union of South Africa has not been prepared to accept this in respect of the Territory of South West Africa so far, and presents us with a report as if by examining that report we should, in some way or other, legalize the situation of the territory. This would be, at all events, an indirect regularization of the situation, and we cannot admit it to take place and then have the Government of the Union of South Africa continue, from year to year, to present reports to the Council on the territory, which it would continue to administer in the spirit of the mandate.

The PRESIDENT: It has been suggested by representatives that, since the Council has already taken a decision to examine the report, what the representative of the USSR now proposes is the reversal of that decision.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): In regard to this decision which was taken, I must draw attention to the experience of the Trusteeship Council a few months ago, in connection with the decision of the General Assembly concerning the status of the City of Jerusalem. The General Assembly decided that during a period of five months a statute for the City of Jerusalem should be drawn up and approved by the Trusteeship Council.

But what happened in practice? Despite the decision of the General Assembly, the Trusteeship Council, although it had drawn up the Statute, did not go through to the end with it but has sent the question back to the General Assembly. That shows that there is<sup>a</sup>/somewhat different practice from the one mentioned by the representative of Belgium, who said that when there is a decision of the Council to examine a report, we must examine it. There is also of course the decision of the General Assembly; the Trusteeship Council did not carry out that decision but sent the question back to the General Assembly without any basis.

The PRESIDENT: I should like to observe that the sending of this Council's report to the General Assembly was based on a decision of the Trusteeship Council. The Council decided to submit the report to the General Assembly on the steps which the Council had already taken in accordance with the General Assembly's Resolution. It was a decision of the Council. I am now submitting that this Council took a decision during the last session to examine this report, and therefore I think I am right in saying that the proposal of the representative of the USSR is to reverse the decision of the Council.

Mr. RYCKMANS (Belgium)(Interpretation from French): I never said that the Council could not, eventually -- as it did in the case of Jerusalem -- return a question to the General Assembly. I only said that at its last session the Council had adopted a resolution, No. 28, in which it was stated that it had begun to examine reports and required

supplementary information from the Government of the Union of South Africa. If today the Trusteeship Council wishes to refuse to examine the report, according to the proposal of the representative of the USSR, or to return the question for further examination by the General Assembly as was done in the case of the Statute of Jerusalem, the Council is absolutely free to do so, but first we must reverse our previous decision. That is the question which must first be decided -- does the Council wish to reverse its decision to examine the report?

The PRESIDENT: I have explained the situation, but if there is a formal motion by the representative of the USSR I will put it to the vote.

Mr. PADILLA NERVO (Mexico): The representative of the Soviet Union gave reasons for not examining the report of the Government of the Union of South Africa, but in that connection I should like to point out that the question was discussed in the Fourth Committee and in the plenary session of the General Assembly, and at that time the General Assembly, including the delegation of Mexico, was of the opinion that the Union Government should submit a Trusteeship Agreement for South West Africa.

The fact that the Trusteeship Council examines the report in no way means that it accepts a position which is tantamount to examining reports on a third category of territories not specified in the Charter. On the contrary, I believe that when this matter was discussed in the Fourth Committee and in the General Assembly the proposal of some of the members was that the report from the Union of South Africa in respect of South West Africa should be examined by a special committee of the General Assembly.



Another view was that the report should be examined by that committee of the General Assembly which examines reports relating to non-self-governing territories. Nevertheless, there was also another view, and this was the view which prevailed, that the report should be examined by the Trusteeship Council, precisely because it is a report relating to a former mandated territory. We considered then that the report should be examined by the Trusteeship Council, like other reports relating to mandated territories, because if we did not do so we should give the impression that we considered the mandated territory of South West Africa to be a colonial or non-self-governing territory, in the same position as those to which Chapter XI of the Charter refers. At all events, we felt that if we did not examine the report we should be admitting and recognizing the existence of an anomalous and sui generis category of territories and creating an exclusive procedure for dealing with reports relating to such territories.

For that reason we were of the opinion -- and that opinion was also the opinion of the General Assembly in the last resort -- that this report should be examined by the Trusteeship Council. I repeat that I do not consider that by examining the report we shall be giving our assent to the attitude of the Union of South Africa in refusing to submit a trusteeship agreement for the territory. That is a question of an entirely different character and which does not belong to this Council; it has been twice discussed in the General Assembly.

I consider that it is now our duty to report back to the General Assembly our opinion in regard to this report, which the General Assembly did wish this Council to examine and consider. I express this opinion because I want to make it clear that by being in favour of the examination of this report I do not subscribe to the attitude of the Union of South Africa on the political question which has been twice debated by the General Assembly.

The PRESIDENT: That is an entirely correct view, in my belief.

Mr. CARPIO (Philippines): I did not expect that a legal question of this nature would be brought up today. I have assumed all along that, as is set forth in our agenda, we should discuss this report. For that reason I am not prepared at the moment to argue the legal point raised by the representative of the USSR. Nevertheless, after going hurriedly over the provisions of the Charter while the representative of the USSR was speaking, I feel that there is enough not only in the letter of the Charter but perhaps also in its spirit to give us authority or jurisdiction to deal with this report.



The representative of Mexico has pointed out that our consideration of this Report should not be interpreted as conformity on the part of the Trusteeship Council to have this Territory of South West Africa, which was previously under mandate, continuously remain as such without having it brought under the aegis of the international trusteeship system. I believe that is a very good interpretation, and I conform to it.

But even granting that that view could not be maintained, I still feel that this Council is vested with sufficient authority to go ahead with the Report in question.

Under Article 73 of the Charter, we have a solemn declaration on the part of the:

"Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount."

Granting, for instance, that from the standpoint of the pure, legal technicality, this Council cannot consider the trust territory in question now as within the purview of the international trusteeship system, it is my opinion that under Article 73, which I have just quoted, we would still have authority to deal with the particular Report we are now considering because it will be noted under paragraph (e) the member state having responsibility for non-self-governing territories is required to submit or transmit a report regularly to the Secretary-General. Here we have a report. Whether it is under the international trusteeship system or not, it is nevertheless a report on a territory, and we, then, have as the next provision of the Charter Article 87, which requires this Council, in conjunction

with and under the authority of the General Assembly to consider reports. I emphasize the word "reports" because it makes no distinction, evidently, between reports considered under the international trusteeship system and reports submitted under Article 73 of the Charter.

Having this Report before us, as submitted by the Union of South Africa, and having been expressly authorized by the corresponding resolution of the General Assembly of 1 November 1947, to go over this Report and to make our recommendations thereto, <sup>and</sup> / in addition to all this, this Council, having previously acted upon this Report in its Resolution of 12 December 1947, Resolution 28. This, I believe, more than sufficiently gives the Trusteeship Council authority to go into this Report at this time. For that reason, I feel that we can proceed with the consideration of the Report now under discussion.

The PRESIDENT: As I said, we have the Resolution of the General Assembly which authorizes this Council to examine this Report. In fact, it not only authorizes, but I believe it requires this Council to examine this Report and to submit its observations to the General Assembly. Therefore, it does not seem to me that the Council need waste time in discussing whether the Council has the authority or not to examine the Report.

The observations of the representatives of Mexico and the Philippines are pertinent insofar as it makes it clear that the examination of this Report by the Council does not prejudice the present or future status of that territory. Perhaps I am not far wrong in saying that the Union Government has declared to administer this Territory in the spirit of the mandate, and the Council is now having its Report in the spirit of a trust territory.

I notice that there are several representatives who desire to speak. As I said, the question of authority to examine its Report is not in question, so unless the representatives decide to speak on other aspects, I will call on them; otherwise I would prefer to put the motion to the vote.

Mr. GARREAU (France) (Interpretation from French): Before we vote, I must answer an argument rather unexpectedly made by the representative of the Philippines when he spoke of Article 76 of Chapter XI. This has nothing to do with the obligations of the Trusteeship Council. It has two things. Either the Territory of South West Africa is a territory which should be placed with the non-autonomous territories -- but this was not admitted by the General Assembly -- or these territories are still under the regime of the mandate until <sup>it</sup> is displaced by the trusteeship system.

The PRESIDENT: May I keep the record straight? I believe the representative of France is referring to Article 73, because it would be very wrong to refer to Article 76, as Article 76 does not come under the Trusteeship Council.

Mr. GARREAU (France) (Interpretation from French): Article 73 cannot be applied in this case because, according to the decision taken by the General Assembly, there should be no confusion here. The fact that the Trusteeship Council on the basis of the recommendation of the General Assembly is now called to consider a report considered by the Government of the Union of South Africa does not at all signify, as was stated by the representative of the Philippines, that the Trusteeship Council is qualified to examine reports presented to the General Assembly on the basis of Article 73, paragraph (e). These are two absolutely separate questions. As regards the rest, I am absolutely in accord with what has been said by my colleagues.

Mr. REID (New Zealand): I think that the arguments have been made clear, but I would also like to make it clear why I intend to vote for the continuation of the examination of the Report.

Our colleague from the USSR has suggested that a vote in that direction will in some way give some legal sanction to the action of the Government of the Union of South Africa in failing to put the territory under trusteeship, or will in some way regularize the status of this territory in the meantime. That is not the reason why I shall support this proposal for the continuation of the debate. As it happens, the New Zealand delegation, while not believing that the Government of the Union of South Africa is under any legal obligation to place the territory under trusteeship, does believe it is unfortunate that it has not done so.

Further than that, I would agree with my colleague from the USSR entirely with regard to the practical difficulties of examining the Report. I do not see how we can examine properly this Report in the absence of questions to a special representative, in the absence of petitions and reports from a visiting mission. I believe it will be a most unsatisfactory job for us so to do, but I do believe that with this territory left in an indeterminate position and not subject to trusteeship, we have a duty, as requested by the General Assembly, to do the best we can in the way of supervision of the treatment of the inhabitants and to examine the position on the evidence that is available and with the machinery we have got. For that reason I will support the proposal that we go ahead with the examination.

The PRESIDENT: I should like to point out that the examination of the Report does not depend upon petitions, and also that the absence of a special representative in this case has been offset by the written replies to the questions submitted by the Trusteeship Council in a previous session.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): Before we come to the vote, I should like to draw the attention of the Trusteeship Council to the following circumstances which support the views expressed by myself a short while ago. The attempt to find in the Charter a basis for the Trusteeship Council to consider the Report on South West Africa has produced two references, one to Article 73 and one to Article 87. Article 87 speaks of reports submitted by the administering authority, but the Government of the Union of South Africa is not an administering power. Therefore, we cannot consider this Government to be an administering authority, because there is no legal basis for that. We can only consider that Government as an administering authority when it shall have completed with the United Nations a trusteeship agreement for that territory.

As to Article 73 (e), to which reference was made by the representative for the Philippines, it is stated that there is a justification for examining this Report as a report of a non-autonomous territory, and this Article 73 (e) speaks of information concerning those territories which are not covered by Chapters XII and XIII of the Charter; in other words, territories which are not trusteeship territories but colonies. This merely confirms my point of view that to find a legal basis or justification for the examination of the Report on South West Africa by the Trusteeship Council cannot be based on the Charter, because if we begin to search for such a basis, we arrive at Article 73 (e) and Article 87. Article 73 (e) cannot be applied in this case, neither can Article 87.

That is why I again draw the attention of the members of the Trusteeship Council to the fact that the examination of this Report still creates the impression of some kind of legal sanction of the now existing situation of the territory of South West Africa. In one form or

another, this is a legal sanction of the situation. This territory is neither a non-self-governing territory, of which Chapter XI speaks, nor is it a trusteeship territory. It is a territory of some kind of new category, and we are giving this new kind of territory a legal sanction. Of course, the Government of the Union of South Africa perhaps wishes to create a middle situation for this territory so as to leave its hands free to go in the direction which we know well, that is, a direction towards the annexation of South West Africa. But we should not help the Government of the Union of South Africa in this. Therefore, it seems to me the Trusteeship Council should adopt a decision that bearing in mind the decision of the General Assembly of 1 November concerning an agreement to be concluded for the inclusion of the territory of South West Africa in the trusteeship system, the Trusteeship Council considers that it is impossible to examine the Report because the examination of such a Report cannot be based on any Article of the Charter, and the Charter is the only basis which can guide the Council.

As to the decision of the General Assembly, it only states that it "authorizes the Trusteeship Council", so we can say that we have no basis for this examination, and submit to the General Assembly that we have found no legal basis for us to examine this Report, and, therefore we left this Report without consideration.

Mr. RYCKMANS (Belgium) (Interpretation from French): Our colleague, the representative of the USSR has forgotten to read Article 80 of the Charter. He states that the Government of the Union of South Africa is not an administering authority and, therefore, we should not consider the Report which has been sent. But he forgets that Article 80 is quite formal. This Article states:



"1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties."

On the basis of this, the Government of the Union of South Africa, until an agreement shall have been concluded, has an absolute right to administer South West Africa.

As to the other argument advanced by the representative of the USSR, it astonished me that he brought it forward, because if the effect of a consideration of the Report by the Trusteeship Council should give a legal sanction to the situation of that territory, that would be rather extraordinary because we have already decided, and a higher authority has decided, we should submit that Report to the General Assembly. Therefore, if today we decide that the examination of this Report sanctions the legal situation of that territory, it would not change anything because the vote of the General Assembly has already been taken. The General Assembly has already decided we shall examine this Report, so if we follow the argument put forward by the representative of the USSR, the General Assembly has already given legal sanction to this situation.

I think there is no use in continuing this discussion, and I propose that the debate be closed and I ask the President to proceed to vote in order to decide whether the Trusteeship Council should reverse its previous decision. If the Trusteeship Council so wishes, we can reverse this decision, then we can discuss this question in full substance.

Mr. FORSYTH (Australia): I understand the closure has been moved.

The PRESIDENT: Yes, but if the representative of Australia wishes to speak, I will not close it for him.

Mr. FORSYTH (Australia): What I want to say is very brief. I am not anxious to vote on the question in the form in which the representative of the USSR has proposed it. It would have been my view before the General Assembly's Resolution was made, but since the General Assembly has directed us to do something, then I am prepared to do it. In any case, the decision has already been taken to examine this Report, and the proper form of the question which the representative of the USSR has put is that we should reconsider that decision. There is that prior question, and if the representative of the USSR will not put that proposition, then I suggest that we continue with the discussion because there is no question before us, unless the representative of the USSR moves that we reconsider the previous decision.



The PRESIDENT: The proposal of the representative of the Union of Soviet Socialist Republics has the effect of re-opening and reversing the decision.

We shall now proceed to the vote. The proposal is that the Trusteeship Council shall not examine the Report submitted by the Government of the Union of South Africa in respect of South West Africa.

Mr. KHALIDY (Iraq): I have no intention of intervening at this point. But, purely as a point of order, the motion is not put in a practical way so far as procedure is concerned. The President will allow me to say that there are only three courses under which a motion of this type could be put. It must be either "to reconsider", "to defer the consideration of the present Report" or "to send it to the General Assembly as it is." There is no fourth course. We are in the middle of the stream and we must either go backward or forward or to the other shore. There is no fourth course. Unless the USSR representative would care to reconsider the wording of his proposal, I submit that the motion is a priori out of order. But I am sure he would like to reconsider the phraseology of the proposal.

The PRESIDENT: Unless the Council wants to spend the rest of the afternoon in procedural debate, I should like to say that this form is not out of order.

Mr. RYCKMANS (Belgium): It is out of order. There is only one way which would be the Council could vote to reconsider its previous decision to examine the Report. If the Council votes to reconsider the decision, we will discuss the matter to the end. But, if the Council, as I believe it will, decides that there is no reason to reconsider its decision, we should proceed to the examination of the Report.

The PRESIDENT: It would be more proper to phrase it in that way. But, as I said, the present proposal would have the same effect. Would the USSR representative prefer to reword his motion?

Mr. TSARAFKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I consider that the Trusteeship Council has no reason not to vote on the proposal as I formulated it. It could be formulated differently. It is merely a question of changing the wording so as to state that the Council reverses its decision, etc. I do not think that this is necessary. I think it can be expressed in a positive form. I think it can be expressed in a positive not a negative form. It does not have to be that the Council reverses its decision, but it can be that the Council did not consider it possible, in view of the fact that there is not a sufficient legal basis, to examine this Report.

I might add that, despite the excellent knowledge of parliamentary procedure which the representative of Iraq has, he forgets that even the General Assembly, which took the decision of 29 November concerning Palestine, did not phrase the later question as a reversal of its decision. This was not put as a motion. Had this argumentation been used, it would have been necessary first of all to reverse the decision, and then to go on and reconsider the question of the new formulation. This was not done in the General Assembly. What does Mr. Khalidy think of that? If we are consistent, how can we explain that act of the General Assembly? I consider that the Trusteeship Council has full right to vote the question as I formulated it.

The PRESIDENT: I should say this: The representative of Iraq did not maintain that the Trusteeship Council cannot reverse its own decisions. He only, on very technical and subtle grounds, held that there should be two steps, first, the reconsideration of the decision, and secondly, the decision not to examine the Report. But I do not agree with the third alternative he outlined which was to send the Report as it is to the General Assembly without observations. We cannot do that. That is not a correct procedure.

if we want to do that, we shall have to report to the General Assembly the fact that we are not examining the Report and give our grounds for not examining it. Therefore, it seems to me, that that is a very minute technicality. It seems to me that there are great disadvantages in following the line of that technicality. It would mean that if we voted to reconsider our decision, we might still come back to the same decision. This proposal, as it is worded by the USSR representative would imply that we are reconsidering it. Otherwise we would not take a decision contrary to the previous decision. It is omitting a step which is a logical step, but it is nevertheless an implied step.

Unless the Council holds other procedural views, I shall put the question to the vote.

Mr. KHALIDY (Iraq): I ask to speak purely to give a slight clarification, and to answer a challenge which Mr. Tsarapkin put to me. The two cases of the Statute of Jerusalem and the present case are not quite identical. That is precisely why I took this position. But, in spite of the fact that the circumstances vary to a very large extent, we are doing here, or trying to do, precisely the same thing. We sent the Statute back to the General Assembly after the Council had studied it, and we sent it back with our views. That is what we are trying to do here. We are trying to consider the Report of the Union Government and then send it to the General Assembly under whose authority we are working.

The PRESIDENT: I have said that you did not imply that we cannot reverse our decisions.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): Before we pass to the vote, I wish to give the bases for the decision to not examine the Report of the Union Government. The Council should refer to the following arguments. The only Article of the Charter which authorizes

the Trusteeship Council to examine reports is Article 87, paragraph (a). This is the only place in the Charter where it is stated that the Trusteeship Council can examine reports. And this concerns only reports presented by administering authorities. The Government of the Union of South Africa is not an administering authority because it is not an administering authority under the trusteeship system. There is no other basis for the examination of the Report.

The PRESIDENT: We shall proceed to the vote. The motion by the USSR representative is that the Trusteeship Council decides that the Report submitted by the Government of the Union of South Africa in respect of South West Africa should not be examined by the Council.

A vote by show of hands was taken.

The PRESIDENT: There were 1 in favour, 19 against and 1 abstention. Therefore, the motion is not carried.

We shall proceed to the continuation of the examination of the Report.

Mr. SAYRE (United States of America): In looking over the Report of the Government of the Union of South Africa on the administration of South West Africa, my Government is mindful of the fact that we have already entered upon an examination of the original report at a prior meeting. As a result of our examination during that session, we decided to ask certain additional questions of the Government of the Union of South Africa. That Government has been very courteous in sending us detailed and informative replies to the questions which resulted from our earlier examination. With the permission of the President I should like to comment principally upon these replies rather than upon the original printed Report which has already been discussed.

In the view of the United States delegation, the Trusteeship Council should first note with satisfaction and appreciation the prompt submission by the Government of South Africa of the supplementary report of which I have just spoken, and particularly for the full and adequate answers which have been given to the Council's questions.

The Council might state in its report that it has noted the statements contained in the letter of transmittal accompanying the supplementary report, and for its part has examined the Report on the administration of South West Africa without prejudice to the portions of the Charter involved.

Then turning to several of the specific questions, I looked first at question 3 on page 13 of document T/175, which asks, "Would the Government of the Union of South Africa give details on the steps planned toward fuller participation by non-Europeans in the government of the territory?" In reading the reply to this and one or two other questions, my delegation feels that the Council might note that the franchise and the right to hold office in South West Africa are

restricted to Europeans. The Council might observe that the Union of South Africa might wish to consider the desirability of arranging for African representation in governing bodies of the territory along lines such as are being developed elsewhere in Africa. The Council might further observe that the Union of South Africa might also desire to prepare the indigenous inhabitants for such representation by giving them greater opportunities than now enjoyed for participation in the administration of their own affairs in the native reserves.

Turning to questions 9 and 10 on pages 33 and 34 -- I shall not take the time to read them because I do not want to occupy more than fifteen minutes -- the Council might observe that, in view of the fact that only approximately ten per cent of the entire budget of the territory is spent directly on non-European administration and welfare whereas the non-European population constitutes approximately ninety per cent of the total population of the territory, the Union of South Africa might care to consider whether the proportions of the budget spent on behalf of Africans should not be substantially increased.

Turning to question 10, and particularly paragraph (c), in which the question is asked, "To what extent have Africans shared in the increased prosperity which the territory has enjoyed in recent years," I suggest that the Council might note the positive achievements of the Union of South Africa in advancing the economic position of the Africans, with the hope that services along these lines might well be increased.

Turning to question 17 on page 54, in the view of my delegation the Council might note that out of a total of 47,714,161 hectares of land Europeans occupy 27,789,172 hectares, or fifty-eight per cent, although the Europeans represent only about ten per cent of the population.



It might be noted that nothing is said in the Report regarding the quality of the land allocated to Africans. Therefore, the Council might observe that the productivity of this land, as well as its extent, has a great bearing on the question of whether the land on which the natives are dependent for their livelihood is adequate for their well-being.

Turning next for a moment to questions 28 and 35, beginning on pages 167 and 188 respectively, dealing with the subject of labour, it is indicated in the Report that the rates of pay for mine workers in South West Africa average approximately half of the rates of pay in the Union of South Africa. In its comment the Council might note this discrepancy and observe that, in the absence of data to show whether the cost of living is also proportionately different, it is unable to comment further.

The Council might also note that the master and servant laws applicable to civil contract between employer and employee provide criminal penalties for breach of the civil contract by the employee. The Council might observe that a modification of the law to substitute civil damages for criminal penalties might be considered by the Union of South Africa.

With regard to social problems, I look at question 26, the answer to which is set forth on pages 74 to 164. With respect to regulations for locations, the Council might perhaps observe that more attention might well be given to the improvement of housing, the preservation of family life and the encouragement of a greater degree of responsibility on the part of // Africans within the locations for administration as well as the increasing of the advisory functions of the native boards.

Concerning the question of education, which is dealt with in question 39 on page 198 of the Report, the Council might note that the amount spent per child in European schools is £28.14.7, the amount spent per colored child is £13.11.10, and the amount spent for the native child averages only £8.11.3.



This difference in educational opportunity, as measured by per capita expenditure, appears very great, but is even greater if we also take into consideration the fact that the proportion of European children of school age who are in school is very much higher than the proportion of African children of school age who are in school. The Trusteeship Council might observe that a sizable increase in expenditures for the education of African children would seem appropriate.

With regard to question 41 on page 210 the Government of the Union of South Africa states in its reply that it has not established secondary schools for Africans because there are no Africans sufficiently educated to be eligible for them. The Council might observe that this statement suggests a necessity for increasing the quantity and the quality of the primary schools.

Question 44 on page 213 also, perhaps, deserves comment. In its comment the Council might suggest that the administration might pay increased attention to the education of Africans for sub-professional medical work along the lines of programmes being undertaken in other comparable African areas. According to the Report, the Government of the Union of South Africa is of the opinion that the educational development of non-Europeans has not yet reached the stage where the establishment of training facilities in South West Africa is justified. The Council might observe that arrangements might be made to send South West African students to other areas in Africa where such training is given.

In conclusion the United States delegation suggests that the Trusteeship Council might state that its observations are submitted -- as I think all will realize -- in the interests of achieving goals common to the Union of South Africa and the Trusteeship Council alike. We are all partners in the same enterprise. We all care about the human beings in such territories

as this. We all seek alike to promote to the utmost the well being of the inhabitants of South West Africa, and to ensure their political, economic, social and educational advancement.

The PRESIDENT: Since no other representative wishes to speak I should like to make a few observations on behalf of the Chinese delegation. A good many of the questions that occurred to my mind have been raised by the representative of the United States. I may say that I am in agreement with his observations.

I think that the Trusteeship Council is particularly concerned with the possibility of increased participation by the indigenous population in the direction of the affairs of the Territory. I notice from the reply of the Government of the Union of South Africa on page 1 of document T/175 that the political franchise in South West Africa is confined to Europeans. Therefore, the indigenous population is excluded from enjoying the right of franchise. On page 2 of the same document it is stated that in order to qualify for appointment to the Legislative Assembly a person must be enrolled as a voter. Since, as I have pointed out, indigenous inhabitants do not have franchise they would not be eligible for such appointment. The result is that there is no representation of the indigenous population in any of the legislative bodies in the territory.

The representative of the United States has raised some questions concerning conditions of labour and wages. On pages 194 and 195 of document T/175 there is mention of instances in which prison labour was hired out to private persons. This, in my submission, is a practice which may lead to abuses, and <sup>which</sup> is contrary to the practice in other territories formerly under mandate and now under trusteeship. In connection with labour I would also express concern that there is no explanation of the fact that not a single international labour convention has been applied to the territory.

Furthermore, there is a very important fact which has emerged from the Report itself. It is that the gold mines of South Africa are recruiting labour from the tribal areas of South West Africa. This information is contained in paragraph 114 of the Report. I understand that never before has labour from this territory been indentured for the South African mines. Now that the South African mines are recruiting labour from South West Africa I believe that the Trusteeship Council would be interested to know what are the labour conditions prevailing in those mines, more especially since South Africa has not ratified any of the International Labour Office conventions on the recruitment of native labour.

On this same topic, we are told on page 171 of document T/175 that the wages of mine labourers are likely to be increased as a result of the recommendations by the Native Labourers Commission which is mentioned in paragraph 117 of the Report. There is no reference to any consideration of wage rates among the terms of reference of the Commission I have mentioned. I think the Trusteeship Council would be interested to know what progress has been made in the wages paid to labourers in the mines.

The question of land tenure is always very important. I notice that in answer to question 50, on page 219 of document T/175, the mandatory power states that the Hereros cannot be allowed to return to their homeland on account of the shortage of land in the territory. On the other hand, I see that in the answer to question 17, on page 54 of document T/175, it is stated that no less than 27.8 million hectares of land are owned or occupied by about 38,000 Europeans. That amounts to 738 hectares per European. It seems to me that, as the representative of the United States has already pointed out, the question of land distribution requires further consideration.

Mr. RYCKMANS (Belgium)(Interpretation from French): The reply to question 21, which I believe I formulated myself, shows I think that it would be desirable to request the Union Government to be more precise in future reports as to what is the exact situation as regards this question. On page 62 appears the sentence:

"As is mentioned in replies to other questions, whatever traditional land rights the natives possessed ceased to exist during the German regime."

It was asked what were the traditional land rights of the natives and how far those traditional rights were being recognized. From the reply it appears that those rights are not being realized and have ceased to exist. It seems that the Union Government should re-examine the question of the traditional rights of the natives at any rate as far as it concerns crown lands which have not yet been alienated.

The meeting was suspended at 3.55 p.m. and resumed at 4.30 p.m.

The PRESIDENT: We shall continue the discussion of the Report on South West Africa which has been submitted by the Government of the Union of South Africa.

Mr. REID (New Zealand): I believe that the representative of the United States has noted the high points in this supplementary Report and that the debate which occurred at our previous session traversed most of the ground. At this session our obligation does not extend beyond the consideration of those points which are adduced in the further Report given in response to the questions of the Trusteeship Council.

In particular, I would support the comments of the United States representative in regard to the representation of the native population in the Government of the territory. There appears to be no provision for any powers other than advisory, even down to the tribal level. The Native Advisory Boards and the Native Land Boards have native members, but they are apparently only in an advisory capacity to the European Administrator who sits as Chairman of the Boards. So far as higher Government is concerned, there appears not only to be no native representative in the Legislative Assembly, but more than that, there appears to be no European representative of the native peoples. The eighteen members consist of nominees of the Administrator, who presumably are officials, and elected members who are elected exclusively by Europeans. I should agree with the United States representative that attention should be drawn to this point.

I think, in fairness to the Trusteeship Council, that in our Report to the General Assembly, we should draw attention to the fact and remind the General Assembly of the fact that this Report cannot be considered in the detail and with the exhaustive care that we have devoted to the Reports on trust territories. It is a handicap not to have a representative of the

territory here to elucidate the answers given in the Report. Details occur to us which we query and which might be clarified by question and answer. In addition, we have not the background that we are gaining in respect to other territories by visiting missions and other methods. That is one of the penalties that we pay because the territory is not under the trusteeship system. But I believe that we should draw the attention of the General Assembly to the fact that the nature of our Report is dictated by the nature of the evidence on which we are able to work.

Mr. CARPIO (Philippines): I hesitated a great deal before taking part in the present discussion because I must confess that the overnight time available to me for studying the Report has not been sufficient to give me the necessary, thorough study that the Report evidently deserves. Nevertheless, I have gone over this new Report, as well as the old one, in a rather cursory way. I have also gone over some other documents that I have been able to gather. I find with the greatest disappointment that all through, in the conditions as evinced by these Reports and papers, I seem to note some clear vistas of racial discrimination in the administration of South West Africa. I note particularly the provision of the Mandate to the effect that the Mandatory shall promote to the utmost -- and I emphasize the word "utmost" -- the material and moral well-being and the social progress of the inhabitants of the territory "subject to the present Mandate."

Notwithstanding this beneficent provision of the Mandate, all the way through there seems to be clear evidence of racial discrimination. I shall confine myself to two functional fields, education and health.

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The records show that while in South West Africa \$18.68 has been spent for each European student, only the small pittance of \$.28 per head has been spent on the native enrollment. Certainly this big discrepancy in the amount spent per head for the Europeans and for the natives does not seem to measure up to the provisions of the Mandate that I have just mentioned.



Along the lines of health also, the same discrimination seems to be apparent all the way through. In the maintenance of hospitals, for instance, seventy dollars per head has been spent for the European patients, whereas only eighteen dollars per head has been spent for the native patients.

I do regret very sincerely to notice this trend in the administration of South West Africa. I should have thought that South Africa, being perhaps one of the most, if not the most, advanced of countries now existing in that continent of Africa, would have led the way -- blazed the way, in fact -- towards the improvement of the African native. Certainly, the whole of Africa has every right to expect that the Union of South Africa would still live up to that expectation. Even those of us who come from regions far away from Africa have as much right to expect that the Union of South Africa would measure fully up to the expectations that that country, by reason of her signature to the Charter of the United Nations, has undertaken to assure, and we can only hope that in the very near future we will see better evidence of her full compliance with the solemn obligations she has assumed.

The PRESIDENT: The representative for the Philippines has touched on the question of racial discrimination. In making my observations on behalf of the Chinese delegation, I did not deal with this point because I felt that the discussions during the second session of the Trusteeship Council had already borne out many injustices which require redress. I feel that, on behalf of the Chinese delegation, I should like to emphasize just a few examples. For instance, there is the restriction on the indigenous population on the keeping of cattle, which is their chief form of wealth, the segregation of the natives in reserves, and the fact that there are many restrictions imposed on the natives with regard to



the acquisition of land. The right to land, the right to keep cattle, the right of freedom of movement in their own land, and the right of freedom of living in their own land, these are, it seems to me, very fundamental rights, and we should be failing in our duty if in our Report we do not clearly draw the attention of the Government of the Union of South Africa to these restrictions of the fundamental rights of the natives.

Mr. PADILLA NERVO (Mexico): We are examining, or we are considering, this Report in this Council under very peculiar circumstances. Last year, the General Assembly reaffirmed its Recommendation of 1946 urging the Government of the Union of South Africa to propose for the consideration of the General Assembly a trusteeship agreement for the territory of South West Africa. The General Assembly also expressed the hope that the Government of the Union of South Africa would find it possible to do so in time to enable the General Assembly to consider the agreement at its third session.

The General Assembly went on to state in its Recommendation that in the meantime -- that is, until the third session of the General Assembly took place and that agreement was submitted--it authorized this Council to examine this Report. That does not mean, therefore, it will be the practice for this Council to examine the Reports submitted by the Union of South Africa. A decision in that respect will have to be taken by the General Assembly at its next session.

I believe that in the report which the Trusteeship Council will send to the General Assembly in respect of South West Africa, due emphasis should be given to the political advancement of the natives concerning the possibilities they have to take part in the functions of government and the voice that they really have in these matters. I believe that we should emphasize this particular aspect because when the Union of South Africa requested the authorization of the General Assembly for annexation, one of its contentions was the claim that the overwhelming majority of the native races had expressed themselves in favour of annexation. The General Assembly at that time, and also last year, considered that the African inhabitants of South West Africa had not yet secured political autonomy or reached a stage of political development which enabled them to express a considered opinion which the General Assembly could recognize on such an important question. The examination of this Report should give us the clear impression that, in such an important matter as deciding between the complex situation of trusteeship <sup>and</sup> / annexation, the native inhabitants are really not competent to do so.

Therefore, I believe that this Report has made it more clear that the opinion given by the Union of South Africa for the claim to annex South West Africa was not well founded. I believe that the General Assembly might wish to examine more thoroughly the situation of the inhabitants of South West Africa, especially in view of the fact that the Government of the Union of South Africa claims no obligation whatsoever to give any information to the United Nations in that respect. At the same time, the representative of the Government of the Union of South Africa has recognized that the Territory of South West Africa is not a colony, and that the claims of the Government toward that Territory, in the words of that representative, were that they did not mean that the Union Government claims that the mandated

territory is a colony; that the Union Government recognizes that it is not a colony and that the position of the territory was suis generis. The Union Government nevertheless promised to continue administering that territory in the spirit of the mandate. Nevertheless, from many answers given to the questions presented by the Council, it is shown that they have not taken very great interest in promoting the advancement of the people even in those fields which the mandate prescribed.

The fact that we have not been able to make such a thorough examination of the situation concerning South West Africa as we were able to make concerning the other territories placed under trusteeship will not, in any way, mean that the Trusteeship Council finds this Report more satisfactory or as satisfactory as the other reports. I think that particular reference should be made in our report to the peculiar situation in which the Council finds itself in examining this Report at the express desire of the General Assembly.

Mr. GARREAU (France) (Interpretation from French): We are, of course, confronted by a rather particular case. I suppose that explains the brevity of our debate on the supplementary Report which we have before us. The Government of the Union of South Africa has replied frankly and with great clarity to the various questions which we put to them. However, the discussion has been abbreviated by the fact that we cannot address supplementary questions to a representative of the Union of South Africa. We can only regret that the Union Government did not see fit to conform to our wish so that we could have before us a representative to whom we could address questions as we did to the representatives of the trust territories.

In view of the fact that the Government of the Union of South Africa consented to reply to the questions presented to it by the Trusteeship Council,

it seems to me that, without modifying its position on substance, the Government could have sent us a representative with whom we could have discussed this situation of South West Africa. I, of course, leave the responsibility of this decision entirely with the Union Government. However, it seems to me that the Trusteeship Council could stress its regret at not having the possibility of hearing a responsible representative of the Territory of South West Africa.

On the other hand, I am fully in accord with the statements of the representatives of Mexico and the Philippines that, if we examine the situation in that territory on the level of a mandate, then we have to formulate a certain series of conclusions and wishes.

I think these wishes should be formulated by those members of the Council who have already spoken, particularly the representative of the United States, Mr. Sayre, and the President. I think the Council could formulate and adopt unanimously conclusions on the following points, which are the most important. First of all, education. Education must be a subject of particular care and attention by the responsible governments in the Territory of South West Africa. Then there are the restrictions placed on various phases of the natives' lives. These should be progressively suppressed as far as the situation permits. The Government of the Union of South Africa has explained the reasons for which native reservations exist, and I think that they are reasons which may be justified, but we must hope that this situation is only momentary and that the restrictions will gradually disappear.

I believe that we all feel that it is in the interests of the Government of the Union of South Africa itself to pay the greatest attention to the fate of the natives and to try to develop them intellectually and politically, so that they may be represented progressively in the various governmental organisms of the territory. At the present time there exist only consultative councils in some parts of the territory, and they are evidently insufficient.

We should also formulate the wish that every racial discrimination should disappear as quickly as possible.

On these points I think that the Trusteeship Council could formulate both wishes and conclusions, leaving completely aside a problem which does not concern our competence -- namely, the question of the status of the territory which concerns the General Assembly alone.

The Trusteeship Council has been charged -- or, as the resolution says, "authorized" -- to examine the Report placed before it voluntarily by the Government of the Union of South Africa. We have a right to require that this examination should be conducted as seriously as was the case with the other reports on trusteeship territories. I think that it would have been exceedingly useful to have had a representative of the Government of the Union of South Africa before us. He would not have been here as the representative of an administering power under the terms of Chapters XII and XIII of the Charter, since the Government of the Union of South Africa has not yet presented a trusteeship agreement to the General Assembly. Nevertheless, that Government could have sent a representative just as it consented to reply in writing to the questions we addressed to it.

That is all I wish to say on the question in general, but I hope that when next we have to examine a report sent in by the Government of the Union of South Africa we shall be able to do so in much more detail than has been the case today, and that our questions will be stated thoroughly. I think that that would be the only way for the Trusteeship Council to demonstrate the attention it pays to the fate of the natives in that territory.

Mr. CARPIO (Philippines): In glancing over document T/53 I note that quite a number of petitions are listed. Among others, there are those in the form of letters sent to the Secretariat by the Reverend Michael Scott representing various chiefs and tribes in South West Africa. The Reverend Scott has suggested that, if necessary, and before we make our report to the General Assembly, he should be given an opportunity to present orally such reports as he has in his possession so that they may form a part of our consideration, jointly



with the replies of the Government of the Union of South Africa to the questionnaire.

I have been wondering whether any representative or any member of the Secretariat knows anything as to the whereabouts of the Reverend Scott at this time, because if he were here we might do well to hear from him in person such evidence or information as he might have, in accordance with rule 101 of our rules of procedure and with the resolution adopted by the Trusteeship Council on 3 March 1948. We might thus be better guided in formulating our report to the General Assembly. As I say, I wonder if anyone knows whether the Reverend Scott is here or not and whether, if he is, it might be well for us to allow him to appear before the Council if that would cause no inconvenience.

The PRESIDENT: As far as I know the Reverend Scott is not in New York but in Johannesburg. I think that the Council will recall that last year he was in New York at the time of the General Assembly and also during the first part of the second session. There was a question of his appearing before the Trusteeship Council but it was considered by the Council inappropriate to hear him in person because he was not an elected or selected representative of the inhabitants of South West Africa. It was felt that all the questions he might present to the Council could be communicated in writing. Thus the Council did not hear him although he made the request if I remember correctly.

Mr. GARREAU (France)(Interpretation from French): I can add that during discussion of this subject which took place in the course of our last session we were reminded that the Resolution of the General Assembly charged us only with examining the report submitted by the



Government of the Union of South Africa. It seems to me that when the representative of Mexico presented this petition from the Reverend Scott objection was raised. In fact, I myself raised the objection that the particular rights given to us by the resolution did not provide for this. As the representative of the USSR has remarked we are now in the presence of a case which cannot be judged on the basis of Chapters XII and XIII of the Charter in the same way as the question of the statute of Jerusalem. Therefore, the general rules of Chapters XII and XIII cannot apply in this case. We have been charged by the General Assembly with the examination of a report which is sent not to the Trusteeship Council but to the General Assembly itself by the Government of the Union of South Africa. The General Assembly discussed at great length the question as to whether the examination of this Report should be entrusted to a sub-committee or to the Trusteeship Council. It was the second proposal which was accepted, and that is why we are now charged with the examination of the Report.

This task includes everything else, and therefore we have not the authority to hear witnesses, for instance, on the situation in South West Africa unless the Union Government agrees. Otherwise we should be going beyond the authority conferred upon us by the General Assembly. If we wished to decide to accept oral presentations, we should have to ask the concurrence of the Government of the Union of South Africa. This of course is a special situation which is not covered by the Articles of the Charter or by the rules of procedure.

The PRESIDENT: In any case, it is purely an academic question now, since Mr. Scott is not in New York. If there are no further observations on the Report, I propose that a committee be set up to draft a report on the Report on South West Africa to be submitted to the General Assembly. I propose that the committee be composed of the representatives of Belgium, Costa Rica, the United States and the Philippines.

Mr. CARPIO (Philippines): I naturally appreciate this sign of confidence, but I should prefer someone to take my place on the proposed committee. The reason is that I am a member of the committee which was appointed yesterday to draft a report on New Guinea, and the work in connection with that report may take all my time between now and the end of the session. Therefore I might not be able to give this other work the attention it deserves. If the representative of Mexico has no objection, I suggest that he be designated in my stead as a member of the committee.

Mr. NORIEGA (Mexico) (Interpretation from Spanish): Whether our delegation can accept or not depends on the calendar of work which the committee will have, because we are still occupied in drafting the report on Tanganyika. Perhaps we shall have finished our work by the middle of next week, or a little later, and in that case I could accept.

The PRESIDENT: Can Mr. Carpio be persuaded to undertake the task, because I do not think this committee will meet simultaneously with the committee on New Guinea? While Mr. Noriega is always a very competent member on whom the Council relies a great deal, he is a member of the Tanganyika committee which I understand will probably be meeting at the same time as this committee on South West Africa.

Mr. CARPIO (Philippines): If by reason of a conflict of work the representative of Mexico is unable to accept, I think the representative of China could just as well, if not better, perform the task. However, if he felt that he could not accept I should have no other course but to agree. It would then however be necessary to correlate the work of the drafting committee for New Guinea with that of the new committee. I am not dodging responsibility, nor am I afraid of hard work, but I anticipate some difficulty along that line and that is why I would prefer the representative of China to take the responsibility himself if the representative of Mexico cannot do it.

The PRESIDENT: I am in the hands of the Council, but for the particular assignment I think the names I have suggested would be the most appropriate.

Mr. CARPIO (Philippines): The reason why I would prefer the representative of China to take part in the work of this committee is that a portion of the report will necessarily be based on what took place before I had the opportunity of joining this Council, and it seems to me that the representative of China will be in a better position to take part in the work. However, I leave it entirely to the President.

The PRESIDENT: The Chair does not like to give the impression that it likes to push work on to other members, so I will accept the assignment.

The drafting committee will therefore be composed of the representatives of Belgium, Costa Rica, United States and China.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I should like to propose that in the report to be drawn up by the drafting committee on the Report of the Government of the Union of South Africa the position taken by the USSR shall be fully reflected.

The PRESIDENT: I can give that assurance to the representative of the USSR.

(Reminder of proceedings not reported)



This document is omitted from this volume because:

Document n'est pas inclus dans ce volume:

It was issued in English only	Document public en anglais seulement
It was issued in French only	Document public en français seulement
It was issued in _____ only	Document public en _____ seulement
It was cancelled and withdrawn	Document annulé et retiré
It was issued with this number.	<u>X</u> Numéro non utilisé
It is filed with the volume of MINUTES OF MEETINGS for this origin meeting number _____ dated _____	Document inclus dans le Volume des PROCES-VERBAUX des REUNIONS de ce origine _____ date _____