

Distr.
GENERALA/2747/Add.1
15 November 1954

ORIGINAL: ENGLISH

Ninth session
Agenda item 34

QUESTION OF SOUTH WEST AFRICA

Report of the Fourth Committee (Part II)^{1/}Rapporteur: Mr. Aleksandar BOZOVIC (Yugoslavia)

1. Following the adoption, at its 403rd meeting on 8 October 1954, of part I of its report to the General Assembly on the question of South West Africa, the Fourth Committee, at its 404th meeting on 12 October 1954, resumed its consideration of the report^{2/} of the Committee on South West Africa.
2. From its 404th to 408th meetings, from 12 to 16 October, the Committee held a general debate on conditions in the Territory. It continued its consideration of the question of South West Africa at its 409th and 424th to 427th meetings on 18 October and 8 to 10 November 1954.
3. At the 407th meeting, Brazil, Chile, Denmark, Mexico, Peru and the United States of America introduced a joint proposal (A/C.4/L.340) whereby the Fourth Committee, for the purpose of keeping open the item on the question of South West Africa, would decide to defer its approval of the report of the Rapporteur on this item until toward the end of the Committee's agenda.
4. The Committee considered the joint proposal at its 408th meeting.
5. At that meeting, the representative of the Philippines orally suggested an alternative proposal which would reserve the right of any delegation, until 10 December 1954, to place the item before the Committee for final action.

^{1/} Part I of the report (A/2747) of the Fourth Committee on the question of South West Africa, containing two draft resolutions, was considered by the General Assembly at its 494th plenary meeting on 11 October 1954. Draft resolution A, as amended by the General Assembly, was adopted (A/RESOLUTION/201); draft resolution B was not put to the vote.

^{2/} See Official Records of the General Assembly, Ninth Session, Supplement No.14, documents A/2666 and Corr.1 and Add.1.

6. At the same meeting, the Committee accepted without objection a suggestion of the Chairman to take no action on the joint proposal (A/C.4/L.340) at that stage of the consideration of the item.
7. At the 409th meeting, on 19 October, the representatives of Norway, Thailand and the United States of America made statements indicating that, in the absence of a request for an advisory opinion of the International Court of Justice on the voting procedure to be applied in reaching decisions on reports and petitions relating to the Territory of South West Africa, their delegations would not participate in the consideration of resolutions based on the substance of the report of the Committee on South West Africa.
8. At the same meeting, the representative of Norway also informed the Committee that as a consequence of the amendment of draft resolution A (A/2747) by the deletion in operative paragraph 2 of the phrase "subject to the acceptance by the Union of South Africa, as the Mandatory for the Territory of South West Africa" resulting from the negative vote of eight Member States at the 494th meeting of the General Assembly on 11 October 1954, his delegation could not be associated with the future work of the Committee on South West Africa.
9. At its 409th meeting, the Committee decided, without objection, to reproduce in the present report the texts of the letters notifying the withdrawals of Norway (A/2754) and Thailand (A/2753) from membership in the Committee on South West Africa, as follows:
 - (a) Letter dated 13 October 1954 from the Permanent Representative of Norway to the United Nations, addressed to the President of the General Assembly.

I have the honour to inform you on behalf of my Government that Norway does not wish to continue its membership in the Committee on South West Africa, established by General Assembly resolution 749 (VIII) of 28 November 1953. It will be recalled that on 3 December 1953 Norway was appointed by the General Assembly, on the recommendation of the Fourth Committee, to serve as member of that Committee, and that previously Norway had served for two years on the Ad Hoc Committee on South West Africa. The Norwegian Government considers that this would be the appropriate time for the Fourth Committee and the General Assembly to invite another Member State to assume the responsibilities of membership in the Committee on South West Africa. You are,

therefore, respectfully requested to take the necessary steps to replace Norway on that Committee.

(Signed) Hans ENGÉN

Permanent Representative of
Norway to the United Nations

- (b) Letter dated 12 October 1954 from the Permanent Representative of Thailand to the United Nations, addressed to the President of the General Assembly.

On behalf of the Government of Thailand, I should like to inform you that my Government wishes to relinquish its membership of the Committee on South West Africa to which it was appointed at the 467th plenary meeting on 3 December 1953. It will be realized that the Delegation of Thailand has been associated with the work of the Ad Hoc Committee and the Committee on South West Africa for the last few years; it is therefore desirable that opportunity be given to some other delegation to take its place on this important Committee.

In notifying you of this decision of my Government, I wish to express through you to the General Assembly my Government's appreciation for the trust the General Assembly has placed in it.

(Signed) Thanat KHOMAN

For the Permanent Representative
of Thailand to the
United Nations

10. Following the statements referred to above in paragraphs 7 and 8, the representative of Iraq, at the 409th meeting, orally proposed the establishment of a sub-committee, consisting of the representatives of Brazil, Denmark, Iraq, Pakistan and the United States of America, "to review the whole situation and report back to the Committee on what to do".

11. The representative of Iraq accepted an amendment orally proposed by the representative of Colombia to alter the terms of reference of the sub-committee to read: "to review the situation arising in the 409th meeting of the Fourth Committee on 19 October 1954, and report back to the Committee on what to do."

12. The proposal by the representative of Iraq, as thus amended, was adopted by the Fourth Committee at its 409th meeting, by a roll-call vote of 25 to 11, with 17 abstentions, as follows:

In favour: Afghanistan, Canada, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Guatemala, Honduras, India, Iran, Iraq, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Peru, Saudi Arabia, Sweden, Syria, Thailand and Yemen.

Against: Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, France, Haiti, Indonesia, Poland, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics and Yugoslavia.

Abstaining: Argentina, Australia, Belgium, Bolivia, Brazil, Chile, China, Cuba, Ethiopia, Greece, Israel, Mexico, Philippines, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela.

13. A further proposal by the representative of Iraq to adjourn the discussion of the question of South West Africa was then adopted by 32 votes to 8, with 11 abstentions.

14. The Sub-Committee on South West Africa held three meetings, on 20, 25 and 29 October 1954. Its report (A/C.4/274) was considered by the Fourth Committee at the 424th to 426th meetings.

15. The report of the Sub-Committee contained:

(a) Recommendations concerning the reference to the International Court of Justice for an advisory opinion of the voting procedure for reports and petitions relating to the Territory of South West Africa; and

(b) A draft resolution proposing that the Committee on South West Africa should be enlarged, for the purpose of improving its geographical composition, to ten members - Brazil, Colombia, Iraq, Mexico, Pakistan, Sweden, Syria, Thailand, Uruguay and one member from North America - and be authorized "in addition to the terms of reference entrusted to it by paragraph 13 of resolution 749 A (VIII), and with a view to reaching an agreement between the United Nations and the Union of South Africa, to undertake consultations with the Government of the Union of South Africa and suggest to the General Assembly possibilities for solving the question of South West Africa."

16. At its 424th meeting, the Fourth Committee decided to consider, prior to any other proposals before it, a recommendation contained in paragraph 14 of the report of its Sub-Committee to the effect that the Fourth Committee should "recommend to the General Assembly that the question of submitting special rule F to an advisory opinion by the International Court of Justice be reopened, in accordance with rule 83 of the rules of procedure".

17. This recommendation of the Sub-Committee was rejected at the 425th meeting, by a roll-call vote of 18 to 18, with 16 abstentions, as follows:

In favour: Brazil, Canada, Denmark, Egypt, Guatemala, Iceland, India, Iraq, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Saudi Arabia, Sweden, Syria, Thailand and the United States of America.

Against: Argentina, Bolivia, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Cuba, Czechoslovakia, Ethiopia, Greece, Haiti, Indonesia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela and Yugoslavia.

Abstaining: Afghanistan, Australia, Belgium, China, Costa Rica, Ecuador, El Salvador, France, Iran, Israel, Liberia, Mexico, Peru, Philippines, Union of South Africa and the United Kingdom of Great Britain and Northern Ireland.

18. The Chairman of the Fourth Committee stated that the recommendation of the Sub-Committee for referral of the voting procedure to the International Court of Justice for an advisory opinion fell away as a result of this decision. It was so agreed.

19. At the 426th meeting, the representatives of Iraq, Sweden and the United States of America stated that, as a consequence of the decision taken by the Fourth Committee, their delegations would be unable to accept an invitation to serve on the Committee on South West Africa.

20. At the same meeting, the representatives of Brazil, Mexico and Pakistan, and at the 427th meeting the representatives of Syria and Thailand reserved the positions of their Governments with respect to their future participation in the Committee on South West Africa.

21. At the 426th meeting, the representative of Iraq stated that it had been the understanding in the Sub-Committee on South West Africa, of which he was Chairman, that the Sub-Committee's proposal concerning the Committee on South West Africa (see paragraph 15 (b) above) had been contingent on the approval by the Fourth Committee of the Sub-Committee's recommendations relating to the referral of the voting procedure to the International Court of Justice for an advisory opinion.

22. The Committee agreed, at its 426th meeting, that in the circumstances it would not be necessary to discuss the proposal made by the Sub-Committee concerning the Committee on South West Africa.

*

* *

23. The Fourth Committee, at its 409th, 425th and 426th meetings, considered draft resolutions relating to the following matters:

- A. A petition from Miss Margery F. Perham concerning South West Africa;
- B. A petition from Jariretundu Kozonguizi concerning South West Africa;
- C. The report of the Committee on South West Africa; and
- D. The status of the Territory of South West Africa.

24. A detailed account of the consideration by the Fourth Committee of these draft resolutions, and of any amendments proposed thereto, is given below in sections A to D.

25. The Committee approved and recommends to the General Assembly the adoption of the four draft resolutions annexed to the present report.

A. PETITION FROM MISS MARGERY F. PERHAM CONCERNING SOUTH WEST AFRICA

26. At its 425th meeting, the Fourth Committee considered a draft resolution proposed by the Committee on South West Africa with respect to the above petition (A/2666, annex VI (c)). The draft resolution would, inter alia, have the General Assembly (1) note the petitioner's statement that a Native school principal of South West Africa had been unable to avail himself of a scholarship at Oxford University because the Union Government had refused to grant him a passport; (2) state its opinion that the withholding of a passport from a qualified

student for study abroad was not only a direct interference in the advancement of an individual but a hindrance to the educational development of the Territory;

(3) express regret that the Union Government had not responded to the appeal addressed to it by representatives of such an eminent educational institution as Oxford University; and (4) invite the President of the General Assembly to use his good offices with the Union Government to assist the student to obtain a passport and all other administrative facilities so that he might avail himself of the scholarship.

27. The representative of Mexico orally proposed the following amendments in view of the fact that the petition did not emanate from an inhabitant of South West Africa:

(1) The deletion, at the end of the first paragraph of the preamble, of the following words: "including the opinion that petitions concerning the Territory of South West Africa are to be transmitted by the Government of the Union of South Africa to the General Assembly of the United Nations, which is legally qualified to deal with them".

(2) The deletion of the fourth paragraph of the preamble, which read: "Noting that the Government of the Union of South Africa, by letter dated 25 March 1954, has informed the Committee that it has never recognized any obligation to submit ..petitions to any international body since the demise of the League of Nations".

28. The voting on the draft resolution and the amendments thereto was as follows:

The amendment to the first paragraph of the preamble was approved by 21 votes to none, with 20 abstentions.

The deletion of the fourth paragraph of the preamble was approved by 21 votes to none, with 23 abstentions.

The draft resolution as a whole, as amended, was approved by 34 votes to 5, with 8 abstentions.

29. The text approved by the Committee is reproduced as draft resolution A below.

B. PETITION FROM JARIRETUNDU KOZONGUIZI CONCERNING SOUTH WEST AFRICA

30. At its 425th meeting, the Fourth Committee considered a draft resolution proposed by the Committee on South West Africa concerning the above petition (A/2666/Add.1, annex III (b)). By this draft resolution, the Assembly would note, inter alia, several allegations made by the petitioner, and would decide to transmit to the petitioner those sections of the report and observations of the Committee on South West Africa "dealing with education and the transfer of control over Native affairs, where the Committee expresses its apprehensions concerning these matters".

31. The representative of Mexico orally introduced amendments to the preamble of this draft resolution identical to those which he had proposed to the draft resolution on the petition from Miss Margery F. Perham (see paragraph 27 above).

32. The voting on the draft resolution and the amendments thereto was as follows:

The amendment to the first paragraph of the preamble was approved by 24 votes to one, with 16 abstentions.

The deletion of the fourth paragraph of the preamble was approved by 22 votes to none, with 22 abstentions.

The draft resolution as a whole, as amended, was approved by 31 votes to 4, with 10 abstentions.

33. The text approved by the Committee is reproduced as draft resolution B below.

C. REPORT OF THE COMMITTEE ON SOUTH WEST AFRICA

34. At the 409th meeting, Burma, Egypt, India, Lebanon, Liberia and the Philippines introduced a joint draft resolution (A/C.4/L.341) on the report of the Committee on South West Africa. Under the terms of this draft resolution, the General Assembly would, inter alia: (1) express its appreciation of the work of the Committee; (2) note the report and observations of the Committee regarding conditions in South West Africa; (3) note with concern that, in the opinion of the Committee, the administration of South West Africa was in several aspects not in conformity with the Union Government's obligations under the Mandate; (4) note with satisfaction that the Union Government had participated in the substantive discussion of the report in the Fourth Committee; (5) invite that

Government to co-operate with the Committee and in particular to submit reports on its administration of the Territory and to assist the Committee to examine such reports or such information and documentation as might be available to the Committee;

(6) request the Committee to analyse and summarize the substantive discussion of the question of South West Africa in the Fourth Committee and to transmit its analysis and summary to the Union Government; and (7) request the Committee to examine the extent and manner in which specialized agencies and extra-budgetary organs of the United Nations might contribute to the social, economic and educational advancement of the inhabitants of the Territory.

35. The joint draft resolution was considered at the 409th and 426th meetings of the Fourth Committee, and was voted upon at the 426th meeting.

36. At the request of the representative of Argentina, separate votes were taken on the words "Notes with concern" in operative paragraph 3 of the draft resolution and on the words "Notes with satisfaction" in operative paragraph 4.

37. The voting was as follows:

The words "Notes with concern" were approved by 27 votes to 4, with 17 abstentions.

The words "Notes with satisfaction" were approved by 24 votes to 1, with 22 abstentions.

The draft resolution as a whole was approved by 29 votes to 7, with 12 abstentions.

38. The text approved by the Committee is reproduced as draft resolution C below.

D. STATUS OF THE TERRITORY OF SOUTH WEST AFRICA

39. At the 409th meeting, Burma, Egypt, India, Lebanon, Liberia, Pakistan and Syria submitted a joint draft resolution (A/C.4/L.342) proposing, inter alia, that the General Assembly should reiterate its earlier resolutions to the effect that the Territory of South West Africa be placed under the International Trusteeship System and reassert that the normal way of modifying the international status of the Territory would be to place it under Trusteeship by means of a Trusteeship Agreement in accordance with the provisions of Chapter XII of the Charter.

40. The joint draft resolution was considered at the 409th and 426th meetings of the Fourth Committee, and voted upon at the 426th meeting.

41. The draft resolution was approved by 36 votes to 2, with 12 abstentions.

42. The text approved by the Committee is reproduced as draft resolution D below.

DRAFT RESOLUTION A

PETITION FROM MISS MARGERY F. PERHAM CONCERNING SOUTH WEST AFRICA

The General Assembly,

Having accepted the advisory opinion of the International Court of Justice on the question of South West Africa,

Having authorized the Committee on South West Africa, by resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa dealing with a petition dated November 1953 from Miss M.F. Perham,^{1/}

Noting the petitioner's statement that a Native school principal of South West Africa has been unable to avail himself of a scholarship at Oxford University because the Government of the Union of South Africa has refused to grant him a passport and has given no reason for its action,

Noting that education forms the foundation of all development in the Territory and that educational facilities for Natives are still inadequate,

1. Is of the opinion that the withholding of a passport from a qualified student for the purpose of studying abroad is not only a direct interference in the educational and general advancement of an individual but a hindrance to the educational development of the Territory of South West Africa which was entrusted under the Covenant of the League of Nations to the administration of the Union of South Africa;

2. Regrets that the Union Government did not respond to the appeal addressed to it by the representatives of such an eminent educational institution as Oxford University;

3. Invites the President of the General Assembly to use his good offices with the Government of the Union of South Africa in order to assist Mr. Himmuine to obtain a passport and all other administrative facilities so that he may avail himself of the scholarship granted to him by Oxford University.

^{1/} See Official Records of the General Assembly, Ninth Session, Supplement No. 14, document A/2666, page 4.

DRAFT RESOLUTION B

PETITION FROM JARIRETUNDU KOZONGUIZI CONCERNING SOUTH WEST AFRICA

The General Assembly,

Having accepted the advisory opinion of the International Court of Justice on the question of South West Africa,

Having authorized the Committee on South West Africa, by resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee on South West Africa dealing with a petition dated 5 August 1954 from Jariratundu Kozonguizi,^{1/}

Noting the petitioner's allegations that:

(a) Since the Government of the Union of South Africa assumed the administration of the Territory, the indigenous people have suffered under oppressive legislation and have not developed in any sphere,

(b) In spite of their repeated objections to incorporation under the Government of the Union of South Africa, the Africans of South West Africa were placed under the direct administration of the Minister of Native Affairs in the Union Government,

(c) The enforcement of the Bantu Education Act in South West Africa, as contemplated by members of the Union Parliament, would virtually eliminate African education in the Territory, where at present there are no more than six non-Europeans who have gone beyond high school standard,

(d) The Administrator of South West Africa, without giving any reasons, would not allow or sanction the establishment of a proposed student body purely concerned with the education of the people,

Noting the observations of the Committee on South West Africa with respect to education in the Territory and with respect to a bill proposing the transfer of control over Native affairs from the Administrator of South West Africa to the Minister of Native Affairs of the Union,

Noting that the South West Africa Native Affairs Administration Act, 1954 (Act No. 56 of 1954) was applied to the Territory on 30 June 1954 and is to come into operation on 1 April 1955,

^{1/} A/2666/Add.1, page 4.

Decides to transmit to the petitioner those sections of the report and observations of the Committee on South West Africa dealing with education and the transfer of control over Native affairs, where the Committee expresses its apprehensions concerning these matters.

DRAFT RESOLUTION C

REPORT OF THE COMMITTEE ON SOUTH WEST AFRICA

The General Assembly,

Having established by its resolution 749 A (VIII) of 28 November 1953 "until such time as an agreement is reached between the United Nations and the Union of South Africa, a Committee on South West Africa",

Having requested that Committee to "examine, within the scope of the questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926, such information and documentation as may be available in respect of the Territory of South West Africa" and to "transmit to the General Assembly a report concerning conditions in the Territory taking into account, as far as possible, the scope of the reports of the Permanent Mandates Commission of the League of Nations",

Having considered the report of the Committee on South West Africa,^{1/}

1. Expresses its appreciation of the work of the Committee;
2. Notes the report and observations regarding conditions in the Territory of South West Africa, contained in annex V of the report of the Committee;
3. Notes with concern that, in the opinion of the Committee, the administration of South West Africa is in several aspects not in conformity with the obligations of the Government of the Union of South Africa under the Mandate;
4. Notes with satisfaction that the representative of the Union of South Africa participated in the substantive discussion in the Fourth Committee of the report on conditions in the Territory of South West Africa;
5. Invites therefore the Government of the Union of South Africa to co-operate with the Committee on South West Africa and, in particular, to submit to the Committee reports on its administration of the Territory of South West Africa and to assist the Committee on South West Africa to examine such reports or such information and documentation as may be available to that Committee;

^{1/} See Official Records of the General Assembly, Ninth Session, Supplement No.14, documents A/2666 and Corr.1 and Add.1.

6. Requests the Committee on South West Africa to analyse and summarize the substantive discussion of the South West African question in the Fourth Committee of the General Assembly and to transmit this analysis and summary to the Government of the Union of South Africa for its information;

7. Requests further the Committee on South West Africa to examine the extent to which and the manner in which the specialized agencies and extra-budgetary organs of the United Nations might contribute to the social, economic and educational advancement of the inhabitants of the Territory.

DRAFT RESOLUTION D

STATUS OF THE TERRITORY OF SOUTH WEST AFRICA

The General Assembly,

Having recommended, by its resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947, 227 (III) of 26 November 1948, 337 (IV) of 6 December 1949, 449 B (V) of 13 December 1950, 570 B (VI) of 19 January 1952 and 749 B (VIII) of 28 November 1953, that the Mandated Territory of South West Africa be placed under the International Trusteeship System, and having repeatedly invited the Government of the Union of South Africa to propose, for the consideration of the General Assembly, a Trusteeship Agreement for South West Africa,

Having accepted, by its resolution 449 A (V) of 13 December 1950, the advisory opinion of 11 July 1950 of the International Court of Justice concerning South West Africa, inter alia, to the effect that:

(a) While "the provisions of Chapter XII of the Charter do not impose on the Union of South Africa a legal obligation to place the Territory under the Trusteeship System", they "are applicable to the Territory of South West Africa in the sense that they provide a means by which the Territory may be brought under the Trusteeship System",

(b) ".....the Union of South Africa acting alone has not the competence to modify the international status of the Territory of South West Africa", and "....the competence to determine and modify the international status of the Territory rests with the Union of South Africa acting with the consent of the United Nations",

Considering that, in accordance with Chapter XII of the Charter, all Mandated Territories which have not achieved independence have been brought under the Trusteeship System with the sole exception of the Territory of South West Africa,

1. Reiterates its resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947, 227 (III) of 26 November 1948, 337 (IV) of 6 December 1949, 449 B (V) of 13 December 1950, 570 B (VI) of 19 January 1952 and 749 B (VIII) of 28 November 1953 to the effect that the Territory of South West Africa be placed under the International Trusteeship System;

2. Reasserts that the normal way of modifying the international status of the Territory would be to place it under the Trusteeship System by means of a Trusteeship Agreement in accordance with the provisions of Chapter XII of the Charter.
