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CONTENTS

Agenda item 47:

Question of South West Africa (continued):

(a) Report of the Committee on South West Africa;

(b) Assistance of the specialized agencies and of the United Nations Children's Fund in the economic, social and educational development of South West Africa: reports of the agencies and of the Fund

Consideration of draft resolutions (continued) 553

Chairman: Miss Angie BROOKS (Liberia).

In the absence of the Chairman and of the Vice-Chairman, Mr. Houaiss (Brazil), Rapporteur, took the Chair.

AGENDA ITEM 47

Question of South West Africa (continued):

(a) Report of the Committee on South West Africa (A/4926, A/4957; A/AC.73/4; A/AC.73/L.15; A/C.4/509, 510, 511; A/C.4/L.711/Rev.1, L.712, L.713/Rev.2, L.714/Rev.1, L.716/Rev.1);

(b) Assistance of the specialized agencies and of the United Nations Children's Fund in the economic, social and educational development of South West Africa: reports of the agencies and of the Fund (A/4956 and Add.1)

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.711/REV.1, L.712, L.713/REV.2, L.714/REV.1, L.716/REV.1) (continued)

1. The CHAIRMAN said that the following telegram had just been received from the Reverend Michael Scott:

"Please make addendum to my statement. International Court under Statute 50 may establish its own commission of enquiry. Appeal to Fourth Committee not to endorse any proposal from South Africa which would interfere with Court action."

That message would be considered as an addition to Mr. Scott's statement before the Committee at the previous meeting.

2. Mrs. SKOTTSBERG-AHMAN (Sweden) said that she wished to introduce further changes in her delegation's draft resolution (A/C.4/L.713/Rev.2).<sup>1/</sup>

3. Operative paragraph 3 (a) would now read: "That the members of this investigating body should be nominated by the President of the General Assembly in consultation with the Government of the Republic of South Africa".

<sup>1/</sup> The revised text of this draft resolution was subsequently circulated as document A/C.4/L.713/Rev.3.

Page

4. As there were still some members of the Committee who seemed to think that it was intended under her delegation's draft resolution to set up some kind of rival special committee, she proposed to delete operative paragraph 2 and to amend the existing operative paragraph 4—now renumbered 3—to read:

"Recommends that the Special Committee established under General Assembly resolution... should, in addition to the other tasks assigned to it, also undertake the study envisaged in operative paragraph 1 above, taking into account:

"(a) The report of any body which may be set up in accordance with operative paragraph 2 above; and

"(b) The judgement of the International Court of Justice as soon as it is given."

The existing sub-paragraphs 4 (a) and (d) would be deleted.

5. The opening words of the present operative paragraph 5 would now read "Requests that this Special Committee...".

6. It would thus be clear that the body referred to in the Swedish draft resolution was the same as that referred to in draft resolution A/C.4/L.714/Rev.1; the sole intention was to add those points to the terms of reference already set forth in the latter proposal.

7. Mr. TAYLHARDAT (Venezuela), introducing draft resolution A/C.4/L.716/Rev.1 sponsored by his own and ten other Latin-American delegations, observed that under draft resolution A/C.4/L.714/Rev.1 provision was made for a new body to give effect to the recommendations of the United Nations. Certain Latin-American delegations had felt that, as a gesture of gratitude to the Committee on South West Africa, especially its Chairman, the termination of the Committee on South West Africa should form the subject of a separate draft resolution. In the eight years of its existence, that Committee had made unremitting efforts to carry out its duties and no word of criticism had ever been directed against it, except indeed by the South African Government. During his term of office as Chairman, Mr. Rodriguez Fabregat had become a living symbol of the persistent efforts of the United Nations to provide a solution for the difficult problem of South West Africa and to restore the legitimate rights of the indigenous inhabitants in their native land. He felt sure that the proposal would command unanimous support and he hoped that the South African delegation would vote in favour of it.

8. He also wished to introduce, on behalf of the same delegations, an amendment (A/C.4/L.717) to draft resolution A/C.4/L.714/Rev.1, consisting of the insertion, after operative paragraph 2, of a new paragraph requesting the proposed United Nations special committee for South West Africa to carry out the work which had been assigned to the Committee on

South West Africa by the General Assembly in paragraph 12 (a), (b) and (c) of its resolution 749 A (VIII).

9. Mr. SIDI BABA (Morocco) said that the sponsors of draft resolution A/C.4/L.714/Rev.1 accepted that amendment, which they regarded as an improvement to their text. They hoped that its inclusion would remove the reservations of certain delegations about the draft resolution and enable it to be approved unanimously.

10. His delegation fully endorsed draft resolution A/C.4/L.716/Rev.1 and hoped that it too would meet with unanimous approval.

11. Mr. CARPIO (Philippines) said that the constant deterioration of the situation in the Territory was due not only to the frustration of the indigenous inhabitants but also to the continued and ruthless application of apartheid and the deep emotional reactions which it aroused among all African peoples. The purpose of the two amendments (A/C.4/L.718) submitted by his delegation to draft resolution A/C.4/L.714/Rev.1 was to emphasize that fact.

12. The second amendment would introduce the word "findings" after the word "Endorsing" in the third preambular paragraph of the draft resolution. The reports submitted by the Committee on South West Africa (A/4926, A/4957) contained many findings which were not repeated in the conclusions and recommendations in document A/4926. For instance, there was the gradual extinction of the Native population, referred to in paragraph 112 of the special report (A/4926), which had been confirmed by the petitioners but denied by the South African representative. Another instance was the lack of the rule of law, which was mentioned in paragraph 79 but was not reflected in the conclusions, though an incidental reference to it appeared in the recommendations. If such findings were not mentioned in the draft resolution, the implication would be that the Fourth Committee did not endorse them.

13. Mr. BINGHAM (United States of America) said that in the first place he wished to mention the fact that at the 1241st meeting his delegation had voted in favour of the application by the petitioners to be granted a further hearing, on the understanding that they would not specifically discuss the draft resolutions. Had his delegation realized that it was mistaken in that belief, it would have abstained. It supported the United Kingdom representative's suggestion that the propriety of petitioners taking such a course should be discussed in principle on some suitable occasion not connected with a particular issue.

14. He wished to explain the amendments (A/C.4/L.720) his delegation was introducing to draft resolution A/C.4/L.714/Rev.1. With regard to the first amendment, proposing the replacement of the word "Endorsing" in the third preambular paragraph by the words "Noting with appreciation", he recalled that the representative of Ghana had said at the previous meeting that the existing text of the draft resolution meant that the Committee endorsed all the conclusions and recommendations of the Committee on South West Africa, to which the representative of the Philippines now proposed to add the "findings" of that Committee. While his delegation had the greatest respect for the Committee on South West Africa, it did not concur with all its recommendations. Moreover, it was the usual procedure in connexion with such documents as the reports of the Trusteeship Council and of the Committee on Information from Non-Self-Governing

Territories to note the document with appreciation, not to endorse everything that it contained. No reflection on the work of the Committee on South West Africa was intended. His delegation considered its amendment to be particularly appropriate in that the action called for in the draft resolution differed in many respects from that recommended by the Committee on South West Africa.

15. The reason for the second amendment was that, although much of what had been said had not been contradicted in detail by the South African Government, the kind of uncontested information which his delegation would like to have on the matters in question was not available. The text would be more precise if his delegation's amendment was adopted and it would afford South Africa less of an excuse to challenge the accuracy of the resolution on issues which were perhaps secondary to the central issue. The main facts, especially with regard to apartheid, were so clear that it was important not to lay the Committee open to the charge of having made unsubstantiated allegations on other matters.

16. The third amendment was self-explanatory. If the first Philippine amendment (A/C.4/L.718, para. 1), which his delegation found appropriate, was adopted, the word "actions" in the United States proposal could be changed to "a situation".

17. The purpose behind the fourth amendment was again to avoid giving the Government of South Africa any unnecessary excuse for rejecting the resolution on the grounds that the General Assembly had entrusted to a special committee responsibilities which were inconsistent with the Mandate and which in fact devolved upon the Mandatory Power as long as the Mandate continued to exist. The sponsors had decided not to call for the revocation of the Mandate at the present session. It would therefore be unwise to instruct the special committee to carry out all the tasks enumerated in paragraph 2, even with the inclusion of the words "in consultation with the Mandatory Power". His delegation's amendment would retain the original wording with regard to making arrangements for the committee's visit while making it clear that it would be the responsibility of the committee to make recommendations for the attainment of the other objectives.

18. The fifth amendment, too, was designed to avoid giving the Republic of South Africa an excuse for rejecting the proposal. In that connexion he drew attention to the wording of article 4 of the Mandate, which included the words "otherwise than for purposes of internal police and the local defence of the Territory".

19. The sixth amendment required no explanation. The new sub-paragraph proposed in the seventh amendment might be added after the present sub-paragraph (c). In proposing it his delegation had in mind especially the petitioners, who had undertaken to fight for the freedom of their country, at considerable risk to themselves, and as matters stood could not return to the Territory.

20. He hoped those amendments would be acceptable to the sponsors of the draft resolution.

*Miss Brooks (Liberia) took the Chair.*

21. Mr. HAMDANI (Pakistan) observed that draft resolution A/C.4/L.714/Rev.1, of which his delegation was a sponsor, was comprehensive and moderate in tone.

22. He had been greatly impressed by the cogent reasons advanced by the representative of Sweden in support of her draft resolution (A/C.4/L.713/Rev.2). There was much similarity between that draft resolution and draft resolution A/C.4/L.714/Rev.1; both had the same objectives and no one could legitimately question the motives behind either of them. There was, however, a great difference in tone and emphasis. The Swedish draft resolution was somewhat limited in scope in comparison with the joint draft resolution. To set up a special commission merely to study the matter would be to set up an organ with a rather academic task and it was doubtful whether it would do much to clarify the situation. The statement just made by the Swedish representative had, however, met his delegation's misgivings on that point.

23. The delegations which supported the formation of the investigating body saw in that proposal an avenue for progress, but all that interested the Government of South Africa was to obtain a clean bill of health for its administration of the Mandated Territory. The Committee would welcome an assurance from the South African Government that it would accept the fact-finding committee under the terms and conditions set forth in the Swedish draft resolution. From the statement made by the South African representative he had the impression that such an assurance was unlikely to be forthcoming. The absence of such an assurance did not, however, necessarily vitiate the proposal. If the South African Government accepted the investigating body some gain would have been made. The great value of the proposed investigating body was not that it would go to the Territory and discover new facts. The Committee did not lack facts; what was lacking was the compliance of South Africa with its international obligations. If the proposal came to fruition it would be the first time that a United Nations presence had been introduced into South West Africa and that would be a great encouragement to the people of the Territory.

24. His delegation welcomed the amendment Sweden had made to operative paragraph 3 (a) and felt confident that the revised Swedish draft resolution would commend itself to the Committee. There were still, however, one or two minor blemishes in it. First, although the sixth preambular paragraph expressed regret at the non-co-operation of the Government of South Africa, the operative part failed to urge the Government of South Africa to co-operate or even express the hope that it would do so. An operative paragraph on the lines of operative paragraph 3 of draft resolution A/C.4/L.714/Rev.1 would greatly improve the Swedish text. Secondly, as the representatives of Ghana and the Philippines had pointed out, operative paragraph 1 gave the impression that the General Assembly took note of only one recommendation of the Committee on South West Africa. That omission could easily be rectified by a suitable amendment on the lines of the third preambular paragraph of draft resolution A/C.4/L.714/Rev.1.

25. He hoped that the changes he had suggested could be incorporated in the Swedish draft resolution so that his delegation would be able to support it.

26. His delegation would support draft resolution A/C.4/L.716/Rev.1 provided the additional paragraph (A/C.4/L.717) proposed to draft resolution A/C.4/L.714/Rev.1 was adopted by an absolute majority of the General Assembly.

27. He reserved the right to speak again later with regard to the amendments proposed by the United States delegation (A/C.4/L.720), which needed careful consideration.

28. Mr. MAURICE-JONES (Sierra Leone) observed that his delegation had not participated in the debate because it felt that after fifteen years of discussion the time had come to take practical steps leading to a solution of the problem.

29. His delegation would be unable to support the Swedish draft resolution (A/C.4/L.713/Rev.2), which dealt with two main points: the offer made by the South African delegation and the study which it was proposed should be undertaken by a special commission of seven members. In his delegation's view the offer of the Republic of South Africa had never properly been laid before the General Assembly; it was a mere expression of what that country intended to do independently of the United Nations. Apart from that fact, his delegation considered that the part of the Swedish draft resolution which dealt with the South African offer suffered from certain defects. It was true that the South African Minister for Foreign Affairs had made a concession in proposing at the 1235th meeting that the three former Presidents of the General Assembly should be selected in agreement with the President of the present session, but the South African Foreign Minister had also informed the Committee that the invitations to serve on the proposed body had been issued on 21 November and indeed one of those invited had already replied. It could not therefore be maintained that they had been selected in agreement with the President of the General Assembly; the latter would merely be asked to give his seal of approval to the nominees of the South African Government. The delegation of Sierra Leone viewed that development with grave concern, for it felt that it tended to undermine the authority and prestige of the office of President of the General Assembly.

30. Furthermore, the Swedish draft resolution stipulated that the terms of reference of the investigating body should enable it to make a thorough study of the conditions prevailing in the Territory, but the Minister for Foreign Affairs of South Africa had by implication disallowed that stipulation, since he had informed the Committee that he had been authorized to state that the terms of reference would be those set out in the invitation referred to in his statement of 21 November (1218th meeting), i.e., to see for themselves whether there existed any threat to international peace and security or whether there was any truth in the allegation relating to military terrorization, the existence of an explosive situation and planned extermination.

31. A further provision of the Swedish draft resolution was that the proposed body should report to the General Assembly and the Mandatory Power. Even that had not been accepted by the South African delegation. The South African Foreign Minister had informed the Committee that the three former Presidents would report their findings to the South African Government, which would not only publish their report *in toto* but would immediately transmit a copy to the President of the General Assembly. That was not at all the same thing as reporting to the General Assembly; once again the President was being called upon to take second place.

32. The second part of the Swedish draft resolution dealt with the proposed study to be undertaken by a

special commission of seven members. A year earlier such a study would have been quite appropriate, but at the present time it was out of date. The time for the study of ways and means had passed; the time had come to implement General Assembly resolution 1514 (XV).

33. The Swedish draft resolution referred to the recommendation of the Committee on South West Africa but misquoted paragraph 162 of that Committee's report (A/4926), which made it clear that the purpose of the study in question was the termination of the Mandate. Draft resolution A/C.4/L.714/Rev.1 had for good reasons left that recommendation in abeyance.

34. In view of all those considerations his delegation hoped that the Swedish delegation would withdraw its draft resolution.

35. The merits of draft resolution A/C.4/L.714/Rev.1 had already been expounded, but he would point out a few of them by way of emphasis. One of the objectives of the proposed United Nations special committee for South West Africa was the evacuation of all military forces of the Republic of South Africa from the Territory. That objective was to be achieved in consultation with the Mandatory Power. That proviso could hardly be criticized; unless a climate of peace and confidence were established in the Territory it would be difficult to prosecute any plan of development. The special committee's terms of reference also included the release of all political prisoners. Political prisoners in Non-Self-Governing Territories were generally leaders of various groups which propagated nationalism. All the sponsors asked was that the leaders who were now held as political prisoners should be released so that they could put their knowledge and experience at the disposal of their followers. He understood that there was some reason to believe that the political prisoners had already been released and he asked whether the delegation of South Africa would confirm that that was so. One further point his delegation wished to emphasize was the holding of general elections in the Territory. To do so would not only lay the foundations for an independent South West Africa but would provide the United Nations with information concerning the opinion of the people of the Territory on the question of self-determination. Lastly, there was the proposal to co-ordinate the assistance offered by the specialized agencies. His delegation hoped that the South African Government would give due consideration to that point.

36. His delegation would study the various amendments that had been proposed to draft resolution A/C.4/L.714/Rev.1 and reserved the right to comment on them later if it deemed that necessary.

37. Mr. ACHKAR (Guinea) pointed out that the circulation of the Philippine and Malian proposals as formal amendments (A/C.4/L.718, A/C.4/L.719) had been due to an oversight since they had already been accepted by the sponsors of draft resolution A/C.4/L.714/Rev.1 following consultations outside the Committee. The Philippines had also been accepted as a co-sponsor of the draft resolution.

38. The sponsors wished to give serious consideration to the United States amendments (A/C.4/L.720). He would not, therefore, express any views on them at that stage.

39. His delegation would vote in favour of draft resolution A/C.4/L.716/Rev.1 sponsored by a number of Latin-American countries.

40. Mr. BOZOVIC (Yugoslavia) said that the second and third of the United States amendments (A/C.4/L.720) reflected an assessment of the situation in South West Africa which differed from the point of view of the Yugoslav delegation. The point at issue was whether the situation in the Territory constituted a serious threat to international peace and security now or whether it was such that it might endanger international peace and security at some future date. His delegation felt that the threat was already present in view of the attitude of the people of South West Africa and the possible reaction by South Africa.

41. With reference to the fourth United States amendment, he failed to see any advantage in referring to the special committee's visit to South West Africa in the first sentence of operative paragraph 2 rather than in sub-paragraph (a) and would therefore seek further clarification.

42. He also failed to see the relevance of article 4 of the Mandate of South West Africa to the fifth United States amendment, since the article in question referred to limitations on the military training of the Natives and not to the military forces of the Mandatory Power. As law and order in the Territory could be maintained by the South African police there, the logical course was to advocate the withdrawal of all the military forces of the Republic of South Africa from the Territory. If the United States representative wished to make his fifth amendment consistent with the language of the Mandate he should reword it to read: "except as required for purposes of internal police", in that case, however, the Committee would be entitled to an explanation concerning the use of military forces for police work. The amendment in question therefore raised serious doubts in his mind.

43. He felt that the sixth United States amendment would make a useful addition to operative paragraph 3 (b) of the Swedish draft resolution, which would then read: "That its terms of reference should enable it to make a thorough study of the conditions prevailing in the Territory resulting from the application of laws and regulations which establish and maintain the intolerable system of apartheid". He hoped that the Swedish representative would be able to take that suggestion into account.

44. Mr. BINGHAM (United States of America), referring to his delegation's third amendment, pointed out that the words "which is a serious threat to international peace and security" in the fifth preambular paragraph of draft resolution A/C.4/L.714/Rev.1 reflected the language of Article 39 of the Charter, which was part of Chapter VII "Action with respect to threats to the peace, breaches of the peace, and acts of aggression", whereas the alternative version proposed by his delegation was comparable to the language of Article 33, which was part of Chapter VI "Pacific settlement of disputes". It seemed to him that, in so far as the General Assembly had any jurisdiction at all in such matters which related to the functions and powers of the Security Council, it would be appropriate to use the language of Chapter VI rather than that of Chapter VII.

45. The proposal in his delegation's fourth amendment that the reference to the committee's visit to South West Africa should be incorporated in the first sentence of operative paragraph 2 of the draft resolution was of no significance whatever; indeed, he had endeavoured to preserve the language of the sponsors

of that text. The change would affect the remaining sub-paragraphs of operative paragraph 2 since they would now follow after the words "to recommend ways and procedures for". As he had already explained, his wording was more realistic and less open to criticism and immediate rejection by the Mandatory Power. Whereas, in the text as it stood, everything depended on the ability of the committee to visit South West Africa, where it would proceed to make all the necessary arrangements, the alternative wording proposed by his delegation had the advantage that the Committee would be able to recommend ways and procedures for the achievement of the desired objectives even if it was unable to visit the Territory.

46. The wording of the fifth United States amendment was of course open to improvement. The thought behind it was that reference should be made to the need for arrangements for the maintenance of order.

47. He would like the sponsors of draft resolution A/C.4/L.714/Rev.1 to explain whether the "general elections" referred to in operative paragraph 2 (e) and (f) meant legislative or parliamentary elections or a referendum.

48. Mr. BOZOVIC (Yugoslavia) said that it would seem to him that, if the fourth United States amendment was accepted, the only action which the special committee would have to perform in South West Africa, if it was allowed to go there, would be to discuss the various measures outlined in operative paragraph 2. It would then have to return to Headquarters to recommend ways and means for achieving the desired objectives, instead of trying to achieve them, with the co-operation of the Mandatory Power, while it was in the Territory. The course proposed by the United States would lead to further delays.

49. Mr. BINGHAM (United States of America) regretted that the Yugoslav representative had again misunderstood him. He thought he had made it quite clear that the purpose of the amendment was to enable the special committee to proceed to South West Africa to discuss and recommend action so that the latter might be taken promptly.

The meeting rose at 5.5 p.m.