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**FOURTH COMMITTEE, 1102nd
MEETING**

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Chairman: Mr. Adnan M. PACHACHI (Iraq).

In the absence of the Chairman, Mr. Ortiz de Rozas (Argentina), Vice-Chairman, took the Chair.

Requests for hearings (*continued*)

REQUESTS CONCERNING AGENDA ITEM 45 (QUESTION OF THE FUTURE OF RUANDA-URUNDI) (A/C.4/468/ADD.3) (*continued*)*

1. The CHAIRMAN informed the Committee that the Secretariat had received a request for a hearing from Mr. Bernard Niyirikana, a petitioner from Urundi.¹

The Committee decided to grant the request.

AGENDA ITEM 43

Question of South West Africa (*continued*)

PRELIMINARY REPORT OF THE COMMITTEE ON SOUTH WEST AFRICA ON THE IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 1568 (XV) (A/4705, A/C.4/L.671 AND REV.1 AND REV.1/CORR.1 (*continued*))

2. Mr. RODRIGUEZ FABREGAT (Uruguay) thought it would be better to have a single solution for the problems relating to South West Africa. For the moment, however, all the Committee had before it was the preliminary report of the Committee on South West Africa (A/4705) and the draft resolution submitted by Mexico and Venezuela (A/C.4/L.671). At the previous meeting the representative of Guinea had expressed the wish that the Committee would adopt a more precise text and to that end had proposed that the words "especially the Government of the United Kingdom" should be added after the words "Union of South Africa" in the operative paragraph. The question of South West Africa had, however, already been debated in the United Kingdom Parliament and in December 1960 the House of Commons had adopted a resolution calling upon Her Majesty's Government to take action in the United Nations and in the forthcoming Commonwealth Prime Ministers' Conference to ensure that the Government of the Union of South Africa carried out the solemn

obligation it had undertaken in accepting the Mandate of the League of Nations, or surrendered it to the United Nations so that alternative trusteeship arrangements could be made. It was evident, therefore, that the United Kingdom Parliament had taken a clear stand in support of the principles upheld by the Fourth Committee.

3. He reserved the right to speak again before the vote in order to give any explanations or to provide further information.

4. Miss BROOKS (Liberia), reverting to an idea expressed previously by the representative of India, said she felt that the Committee should examine the reasons which had led the representative of Venezuela to withdraw his draft resolution during the first part of the session and should not take a hasty decision.

5. Mr. CASTAÑEDA (Mexico) said that he had a few changes to make in the draft resolution submitted by his delegation and the delegation of Venezuela. In order to take account of developments since the close of the first part of the session, as also of the resolution adopted by the General Assembly on the subject, he was adding the words "and especially resolution 1568 (XV) of 18 December 1960" at the end of the first preambular paragraph.

6. Similarly, since the Union of South Africa, in line with its past practice, had ignored that important resolution, which would have enabled the Committee on South West Africa to investigate the situation prevailing in the Territory, he proposed to add, after the second preambular paragraph, a new paragraph reading as follows: "Noting with special concern the refusal of the Mandatory Power to implement resolution 1568 (XV)".

7. The delegations of Mexico and Venezuela were aware that their draft resolution did not represent the one and only solution of the problem and that it was not ideal. Their sole purpose in submitting it was to attack one of the aspects of the problem and they were therefore appealing to Governments having close relations with the Union Government to bring their moral influence to bear on that Government. In the mind of the sponsors, those Governments were primarily the members of the Commonwealth, although no one of them was mentioned explicitly. Some representatives, especially the representative of Morocco, had observed that the draft resolution should be directed to those Governments only rather than to all States Members of the United Nations. Accordingly, to satisfy the delegation of Morocco, the sponsors of the draft resolution were prepared to delete the words "and particularly those" from the operative paragraph, feeling that they would at the same time also, indirectly, give satisfaction to the delegation of Guinea, which had asked for the inclusion of a reference to the Government of the United Kingdom. They did not, however, consider it advisable to draw attention to the United Kingdom Government only: it would be better to direct the appeal to every

* Resumed from the 1098th meeting.

¹ Subsequently circulated as document A/C.4/468/Add.3.

member of the Commonwealth. If the representative of Guinea pressed for his amendment to be put to the vote, the sponsors of the draft resolution would be compelled to abstain.

8. Mr. SKALLI (Morocco) said he had approached the representative of Mexico and had proposed an amendment to the draft resolution whereby the words "and particularly those" would be deleted from the operative paragraph. He thanked the co-sponsors of the draft for incorporating his amendment in their text.

9. Mr. ACHKAR (Guinea) said that he appreciated the efforts made by the sponsors of the draft resolution. He would not revert to the reasons why the appeal should be directed primarily to the United Kingdom, whose Government was in large measure responsible for the present situation: the Mandate entrusted to it should in no circumstances have been handed over to a Government whose racist theories were already known. Nevertheless, and in view of the fact that Mexico and Venezuela were among those countries most committed to the liberation of oppressed peoples, he would withdraw his amendment. He reserved the right, however, to stress once again the special responsibility of the United Kingdom in the matter and at a later stage to suggest measures for withdrawing the Mandate from the Union of South Africa.

10. Mr. JHA (India) said that he understood the reasons that had prompted Mexico and Venezuela to submit their draft resolution: it was an emergency resolution intended to record the Committee's reactions to a series of violations by the Government of the Union of South Africa of General Assembly resolutions, and in particular of resolution 1568 (XV). Draft resolution A/C.4/L.671 seemed, however, to be totally inadequate in view of the seriousness of the problem. It was strange that anyone should even imagine that moral influence could be brought to bear on a Government which had never paid any heed to the General Assembly's resolutions on South West Africa.

11. The Indian delegation would not vote against the draft resolution, but it thought it should be strengthened by the addition of a sixth preambular paragraph reading as follows: "*Considering* that attempts at the assimilation of the Mandate Territory of South West Africa, culminating in the so-called referendum held on 5 October 1960, are totally unacceptable as having no moral or legal basis and being repugnant to the letter and spirit of the Mandate".

12. Mr. DIAZ CASANUEVA (Chile) expressed regret that the solemn appeals made in unequivocal terms to the Government of the Union of South Africa had not resulted in any improvement in the alarming situation in the Territory. There were therefore grounds for scepticism regarding the effect of any resolution whatsoever. Moreover, the Committee should not forget that the question was before the International Court of Justice and it should use every legal means available to it as well. The Chilean delegation would therefore vote in favour of the draft resolution. He was glad that Guinea's amendment had been withdrawn, for if it had been adopted it might have given the impression that the Committee was trying to interfere in the internal affairs of a community of nations.

13. Mr. ZULOAGA (Venezuela) thanked the representative of Guinea for his kind words and was glad that he had withdrawn his amendment.

14. The sponsors were perfectly willing to insert the paragraph proposed by the representative of India in their draft resolution. Whereas up to the present time the United Nations had shown a kind of tacit indulgence towards the Union of South Africa, it was now asking a group of great Powers to declare themselves outright against a shocking racial policy. The Indian representative's pessimism was unwarranted; if he were willing to take a position similar to that of Guinea, he would make it easier for the resolution to be adopted. He asked the Committee to waive the rules and to proceed immediately to the vote, for time was short and the Prime Ministers' Conference should be informed of the United Nations position without delay.

15. Mr. MANOTAS WILCHES (Colombia) said that his delegation would vote in favour of the draft resolution, especially with the amendments introduced by the representative of Mexico, which showed that due account had been taken of the suggestion made by the Guinean representative. That text should be adopted as a matter of urgency, for it was now necessary to appeal to public opinion. Any conception of the Mandate which might have prevailed at the time when the League of Nations had entrusted that mission to the Union of South Africa was no longer valid. At that time, no international obligations had existed other than those which sovereign States themselves had assumed. States would henceforth have to recognize their interdependence at the international level and submit to a supranational rule. That was the principle that should underline the revision of a Mandate which was being interpreted by the Union of South Africa in a manner which was no longer valid. The Mandate should lead to the placing of the Territory of South West Africa under trusteeship since the United Nations had the right to protect territories which were not self-governing. It was no longer a question of determining the initial intent of the legislator but of determining how he would have applied the law in given circumstances.

16. Mr. CARPIO (Philippines) agreed with the Indian representative that the draft resolution was somewhat weak but he felt that the sponsors were right in hoping that it might nevertheless produce some results. He would like, however, to propose a few amendments which would strengthen the text. The last sentence of the former third, now fourth, preambular paragraph of the draft resolution implied that the inhabitants of all races could, if they had so wished, have taken part in the referendum of 5 October 1960, whereas that had not been the case. It would be more accurate to say: "...referendum of 5 October 1960 in which only the 'European' inhabitants of the Territory were permitted to take part".

17. He also proposed, again in order to strengthen the text, the deletion of the word "moral" before the word "influence" in the operative paragraph and the addition of the words "as a matter of urgency" after the words "to bring" in the same paragraph.

18. He would have liked the General Assembly to declare itself in favour of more specific measures—in particular the placing of the Territory under trusteeship—but subject to those few amendments, he would vote in favour of the text submitted.

19. Miss BROOKS (Liberia) recalled that as early as 1955 her delegation had raised the question of the United Kingdom's responsibility *vis-à-vis* the international community with regard to the Territory of

South West Africa. The Venezuelan representative had recently taken up the same idea when he had spoken of the Mandate which the British Crown had handed over to the Union of South Africa. The international community appeared to have been somewhat indulgent with the United Kingdom in the matter. A specific reference to the United Kingdom in the operative paragraph might perhaps have made it possible finally to count on the effective co-operation of that Government. If, however, the majority of the members of the Committee considered that the United Kingdom should not be appealed to directly, her delegation would vote in favour of the text submitted but reserved the right to propose more constructive measures later.

20. Mr. BINGHAM (United States of America) said that he did not quite understand why the sponsors of the draft resolution had chosen to mention, among the many violations of the spirit and no doubt the letter of the Charter which the Union of South Africa had probably committed, only "an express violation of the provisions of Article 80, paragraph 2, of the Charter", which they had introduced in the former fourth, now fifth, preambular paragraph. The mention of one single example might weaken the entire resolution, particularly since the paragraph which he had mentioned lent itself to various interpretations. As the additional paragraph proposed by the Indian representative would mention specific violations committed by the Union of South Africa, he wondered whether the sponsors of the draft resolution would agree to delete the phrase he had mentioned.

21. Mr. EDMONDS (New Zealand) said that he fully sympathized with the objectives of the draft resolution, but if that draft were put to the vote at the present meeting he would, in the absence of instructions from his Government, be unable to take a decision on the text and would therefore abstain. His country's Prime Minister was at present in London attending the Conference of Commonwealth countries. As many revisions and amendments had been proposed, it might be desirable to postpone the vote until the following meeting, which would probably allow time for delegations such as his to obtain instructions.

22. Mr. ZULOAGA (Venezuela) announced that the sponsors of the draft resolution agreed to amend the former third, now fourth, preambular paragraph as suggested by the Philippine representative, and to add the words "as a matter of urgency" in the operative paragraph, as that representative had proposed. For reasons which had been presented during the first part of the fifteenth session, the sponsors of the draft resolution preferred to retain the adjective "moral" before the word "influence".

23 With regard to the question raised by the Liberian representative, he had indeed wondered whether the United Kingdom had not some legal responsibility with regard to the Mandate entrusted to the Union of South Africa. The United Kingdom had, however, sent his delegation a memorandum on the subject and he felt that it would be inappropriate to go into the legal aspects of the problem of the Mandate at the present juncture.

24. He was pleased to note that the United States delegation had shown great willingness to co-operate with regard to the proposed text and he saw no reason to object to the deletion of the last part of the present fifth preambular paragraph reading "and an express

violation of the provisions of Article 80, paragraph 2, of the Charter".

25. Mr. CASTAÑEDA (Mexico) said that he readily acknowledged that the draft resolution might appear very weak if it was read out of context. He pointed out to the Indian representative that the draft resolution dealt with only one aspect of the problem. The other aspects could be discussed in connexion with other draft resolutions.

26. He wished to inform the Liberian representative that the sponsors of the draft resolution had sought to emphasize the "moral" aspect of the problem as distinct from the legal aspect. The moral pressure which could be brought to bear on the Government of the Union of South Africa should not be underestimated.

27. The Union of South Africa was clearly violating the provisions of Article 80, paragraph 2, of the Charter. Since, however, the new paragraph proposed by the Indian representative took due account of the violations committed by the Union Government, he too would not oppose the deletion of the last part of the fifth preambular paragraph, as suggested by the United States representative.

28. He again emphasized that the text should be adopted as soon as possible in order that it might produce results.

29. Mr. SKALLI (Morocco) said that, in the French version of document A/C.4/L/671, the adverb of comparison "*plus*", which appeared twice in the operative paragraph although there was no second element of the comparison in the sentence, should be deleted.

30. Mr. SMITHERS (United Kingdom) wished to dispel misapprehension on a matter of fact. The Liberian representative had referred to a Mandate given to the British Crown and handed over to the Union of South Africa. It might be thought by some that the United Kingdom had been instrumental in conferring the Mandate on South Africa and had itself held the Mandate at some stage or other. That was a misconception. It was the Principal Allied and Associated Powers who, on behalf of the League of Nations, had conferred the Mandate upon South Africa. The formula in which they had done so referred to His Britannic Majesty, but the sovereign himself was not capable of discharging legal obligations except through a particular group of Ministers. United Kingdom Ministers never had in any sense whatsoever been the holders of the Mandate on behalf of the United Kingdom. The grant had been expressly in reference to Ministers of the South African Government. The matter had been stated as follows in the House of Commons: "Our legal position in no way differs from that of any other Member of the United Nations which was also a former Member of the League of Nations".

31. Mr. FORSYTHE (Australia) said that, like the New Zealand representative, he had no instructions and would be obliged to abstain if the draft resolution was put to the vote during the present meeting.

32. Mr. ZULOAGA (Venezuela) regretted that he could not yield to the reasons given by the representatives of New Zealand and Australia. He was surprised that members of the Commonwealth needed further instructions on a question of such long standing. He urged that the draft resolution should be put to the vote as soon as the list of speakers was exhausted.

33. GOEDHART (Netherlands) said that he too, in the absence of instructions, would be obliged to abstain if the draft resolution was put to the vote immediately.

34. Mr. SMITHERS (United Kingdom) endorsed the reasons given by the representatives of New Zealand and Australia and said that, not knowing what decisions had been made at the Commonwealth Conference in London, he was unable to take a stand forthwith on the proposed text.

35. Mr. SCOTT (Canada) pointed out that his delegation, too, had not received any instructions and could not, at the very time when its Prime Minister was participating in talks, take any independent decision on how to vote without appearing to dictate to the Prime Minister what policy should be followed. His delegation would therefore be compelled to abstain if the draft resolution was put to the vote at the present meeting. In so doing, it would not be expressing any opinion on the substance of the draft resolution.

36. Mr. BAMALLI (Nigeria) stressed that the only relationship which Nigeria had with the Union of South Africa resulted from their common membership in the Commonwealth. Membership in the Commonwealth did not in any way represent an endorsement of the Union Government's policies. If it did, Nigeria would leave the Commonwealth.

37. Mr. YOMEKPE (Ghana) regretted that the approval of the draft resolution by the Fourth Committee was being artificially linked with the Commonwealth Conference of Prime Ministers in London, because the two matters were entirely separate. The Ghanaian Government's stand was well known and the President of Ghana would shortly have occasion to reaffirm it. It would be a mistake to act hastily and the best course would be to examine carefully what specific measures could be taken by the Committee.

38. The CHAIRMAN recalled the provisions of rule 121 of the rules of procedure, to the effect that as a general rule no proposals could be discussed or put to the vote at any meeting of the Committee unless copies of it had been circulated to all delegations not later than the day preceding the meeting unless the Committee should decide otherwise.

39. Mr. BINGHAM (United States of America) said that he did not see any need for the matter to be put to a vote, urgently unless the General Assembly was ready to consider it without delay. It should be borne in mind that a resolution did not become effective until it had been adopted by the General Assembly. He asked when the General Assembly would be able to meet in plenary session.

40. The CHAIRMAN said that he had no specific information on that point.

41. Mr. KENNEDY (Ireland) thought that the Committee would be better able to decide whether it could vote on the draft resolution immediately if it had before it a revised text embodying all the amendments which had been introduced at the meeting. In particular, the wording of the fourth and the sixth preambular paragraphs should be made uniform, since reference was made both to the "referendum" and the "so-called referendum".

42. Mr. CASTAÑEDA (Mexico) said that the sponsors agreed to add the word "so-called" before the word "referendum" in the fourth preambular para-

graph. As all the amendments which had been made were very clear, the Committee should be able to proceed to a vote. If, however, it was not ready to do so, it could suspend the meeting for a time in order to enable the Secretariat to prepare a revised text of the draft resolution. The essential consideration was that the Committee should vote immediately after the meeting was resumed, because the resolution could only have a chance of being effective if it was adopted without delay.

The Committee decided by 34 votes to 17, with 27 abstentions, that the draft resolution would be put to the vote at that meeting.

The meeting was suspended at 5.15 p.m. and resumed at 6.10 p.m.

43. The CHAIRMAN drew the Committee's attention to the revised text of the draft resolution, which had now been circulated.² He pointed out that the Philippine representative had formally proposed the deletion of the word "moral" in the operative paragraph.

44. Mr. TRAORE (Mali) congratulated the sponsors of the draft resolution on wanting to assist the people of South West Africa to free themselves from the régime which had been oppressing them for more than a century. To be effective, however, the action taken must be consistent. There was an African proverb which said, "Before lecturing a murderer, it is well to take away his weapon". There seemed to be little point in talking of morality to a Government like that of the Union of South Africa, which was murdering the inhabitants of South South West Africa and, in defiance of all the principles defended by the United Nations, wanted not only to refuse to apply the Trusteeship System but even to annex the Territory. The African people would not understand why the United Nations was content to appeal to the moral sense of the Union Government when it had been doing that in vain ever since it had been established. The action taken should correspond to the gravity of the situation. The deletion of the word "moral" in the operative part would be preferable, since it would make the wording stronger. Every country would thus be able to exert whatever influence was within its power, whether moral, economic or other.

45. Mr. CASTAÑEDA (Mexico) said that the sponsors agreed to delete the word "moral", because they found the reasons put forward by the representatives of the Philippines and Mali very convincing.

46. Miss BROOKS (Liberia) thanked the sponsors of the draft resolution, on behalf of the African countries, for their spirit of co-operation.

47. The CHAIRMAN put the draft resolution (A/C.4/L.671/Rev.1 and Rev.1/Corr.1) to the vote.

A vote was taken by roll-call.

The United States of America, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroun, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Den-

² This text, as further revised in accordance with paragraph 45 below, was subsequently circulated in document A/C.4/L.671/Rev.1 and Rev.1/Corr.1.

mark, Ecuador, Ethiopia, Federation of Malaya, Greece, Guatemala, Guinea, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Lebanon, Liberia, Libya, Mali, Mexico, Morocco, Nepal, Nigeria, Norway, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Senegal, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic.

Against: None.

Abstaining: Australia, Belgium, Canada, Congo (Brazzaville), Finland, France, Ghana, Netherlands, New Zealand, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland.

The draft resolution was approved by 68 votes to none, with 12 abstentions.

48. Mr. ZULOAGA (Venezuela) expressed his pleasure that the draft resolution had obtained such

broad support. He asked the Chairman to get in touch with the President of the General Assembly so that a plenary meeting might be held as soon as possible.

49. Mr. CASTAÑEDA (Mexico) supported that request.

50. Mr. LAPIN (Union of Soviet Socialist Republics) also supported the request by the representative of Uruguay. He pointed out that the Committee should continue its considerations of the question, for while the draft resolution was helpful, it was not enough to bring about a practical solution of the question of South West Africa.

51. The CHAIRMAN said that he would inform the President of the General Assembly of the Committee's wishes. With a view to facilitating the organization of work, he invited the delegations which intended to submit draft resolutions to do so as soon as possible.

The meeting rose at 6.35 p.m.