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MEETING**

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Chairman: Mr. Frederick H. BOLAND (Ireland).

AGENDA ITEM 39

- Question of South West Africa (*continued*):**
(a) Report of the Good Offices Committee on South West Africa (A/3900);
(b) Report of the Committee on South West Africa (A/3906 and Add.1)

QUESTIONS ON THE REPORT OF THE GOOD OFFICES COMMITTEE ON SOUTH WEST AFRICA (A/3900)

At the invitation of the Chairman, Sir Charles Arden-Clarke, Chairman of the Good Offices Committee on South West Africa, took a place at the Committee table.

The CHAIRMAN invited the members of the Fourth Committee to question Sir Charles Arden-Clarke on the report of the Good Offices Committee on South West Africa (A/3900).

2. Mr. ZULOAGA (Venezuela), noting that in paragraph 13 of its report the Good Offices Committee had "resolved to give to its terms of reference the most liberal possible interpretation", asked whether the Committee had taken advantage of that latitude to try and make contact with the non-European people in the Territory, the partition of which was now being discussed.

3. Mr. SHIMA (Japan) referred to the suggestion in paragraph 52 of the Good Offices Committee's report that the General Assembly might encourage the Government of the Union of South Africa to investigate the practicability of partitioning South West Africa and, if it considered partition practicable, to submit detailed proposals on partition to the United Nations. The Union Government would be in an embarrassing situation if the General Assembly found that the proposals it had prepared unilaterally were unacceptable. Accordingly, it might be preferable for a United Nations organ or some other impartial group to take part in the investigation and the formulation of proposals. He would like to know whether the Good Offices Committee had raised that question during its discussions with the Union Government, and if so, what had been the Union Government's reaction. If it had not raised the question, why had it considered that the Union

Government alone should be left to make the investigation and formulate its proposals.

4. Mr. PACHACHI (Iraq) noted from the report of the Good Offices Committee that that body had come to the conclusion that it would not be justified in advancing any suggestion concerning partition on its own account (para. 23) and that a proposal for partition should be discussed only on the initiative of the Union Government (para. 24); he asked what imperative reasons had led the Committee to reconsider those conclusions. He would also like to know why in the part of the report devoted to the discussions with the Union Government no reference was made to the conditions which had originally been imposed in the event of any annexation of part of South West Africa, namely that the population should give their approval by means of a consultation by universal adult suffrage under United Nations supervision (para. 24). Finally he asked whether, before suggesting the possibility of partition, the Committee had tried to ascertain where the line of partition might run and whether the part of South West Africa to be placed under trusteeship could constitute a viable entity capable one day of attaining the independence provided for in Article 76 of the Charter.

5. Mr. RODRIGUEZ FABREGAT (Uruguay) drew attention to contradictions between paragraph 13 of the report, where the Committee proposed to give to its terms of reference the most liberal possible interpretation, paragraph 16, where it decided what it would do if it had the initiative, paragraph 23, where it came to the conclusion that it would not be justified in advancing on its own account any of the suggestions made in the past, which included partition, and, lastly, paragraph 52, sub-paragraph (6), where it expressed the opinion that some form of partition might provide a basis for an agreement.

6. He would like to know who was responsible for the idea of partition, which implied territorial annexation. If the Committee was responsible for the plan, would it defend it and the resulting territorial annexation in the Fourth Committee? Did it intend to submit such an annexation, which it claimed had at one time been accepted by the General Assembly, for an *a posteriori* consultation? During its stay in South Africa had it heard of a single instance where the South African Government had recognized the right to vote of the non-European population and had that population any experience of universal suffrage? He would like to know whether the Committee had investigated the situation of the inhabitants whose territory would be annexed and, if so, whether it had any idea of how they would receive a plan which would place them under the domination of the Union of South Africa and deprive them of international protection.

7. Mr. KENNEDY (Ireland) noted that in paragraph 24 the Good Offices Committee allowed for two possi-

bilities for that part of the Territory which would not be placed under trusteeship; annexation or administration as a Mandated Territory. The second solution was not mentioned again in the remainder of the report and in paragraphs 49, 51 and 52 the Committee referred only to the possibility of annexation. He would like to know whether the administration of South West Africa as a Mandated Territory had been envisaged as a possibility during the discussions with the Union. Furthermore, as the Reverend Michael Scott had attributed the idea of partition to the Committee, the speaker would like its Chairman to indicate what the situation was.

8. Mr. ABIKUSNO (Indonesia) thought that the facts and figures quoted by the Reverend Michael Scott at the two previous meetings indicated that partition was unacceptable because it was contrary to the interests of the Territory and the principles of the United Nations Charter. The Good Offices Committee, which stated as a principle in paragraph 14 of its report that every proposal must be acceptable to the United Nations, could not think that partition would be acceptable to the General Assembly; furthermore in paragraph 24 the Committee stated that it would not itself propose such a plan. It was therefore surprising to read, in paragraph 51, that the possibility of partition could be considered, if only in principle.

9. Those considerations led him to ask two questions of the Chairman of the Good Offices Committee, namely what reasons had induced that Committee to submit the idea of partition to the Fourth Committee when it must have realized that such an idea was unacceptable, and on what important factors had the Committee based its conclusion that partition would be possible?

10. Mr. SUMULONG (Philippines) wished to put five main questions to the Chairman of the Good Offices Committee.

11. Firstly, he wanted to know why had only two out of three of the members of the Committee been able to visit the Territory and whether the itinerary had been drawn up by the Union Government, by the Committee or by mutual agreement?

12. Secondly, in the light of the decision of the Union of South Africa not to take part in the Committee's discussion on the South African question, was there any point in giving further consideration to the possibility of partition and annexation?

13. Thirdly, what provisions were there in the Mandate or in the Charter to justify the partitioning of a territory entrusted to a country by international agreement and was not the whole idea in conflict with the very principles of trusteeship?

14. Fourthly, would it not be better if the inquiry which the Union of South Africa was to undertake were made under United Nations supervision and combined with some form of consultation such as a referendum or a plebiscite?

15. Lastly, the Committee seemed to have ignored the possibility of making the Territory into a dependent territory under the terms of Article 73 of the Charter. Did it not consider that such a solution was worth examining and might be the best one in the circumstances?

16. Mr. GEBRE-EGZY (Ethiopia) wished to know

what were the reasons that had led the Good Offices Committee to consider the partition of the Territory. It was true that paragraph 51 of the report of the Good Offices Committee stated that "the possibility of partition could be considered at the present stage only in principle", but even if that was so, the Committee must have considered whether a solution of that kind would improve the lot of the peoples in question. Moreover, paragraph 51 referred to an investigation which the Union Government might undertake to find out whether such a solution was practicable. He asked for a clarification of the meaning which the Committee and the Union Government attached to the word "practicable". Lastly, he would like to know whether the Good Offices Committee had studied the consequences of a possible partitioning of the Territory in the light of the racial policy of the Union of South Africa.

17. Mr. KANAKARATNE (Ceylon) remarked that two members of the Good Offices Committee had visited the Territory and asked Sir Charles Arden-Clarke to inform the Committee of the circumstances in which the visit had taken place; he wished to know at whose instance the visit had been made and whether the members of the Committee had been able to establish contact with certain groups of the indigenous population.

18. The report dwelt on the idea that some form of partition might provide the basis for an agreement. He wished to know whether the Committee had devoted all its attention to finding a basis of agreement, or whether it had also taken into consideration the interests of the population.

19. He would also like to know whether there had been any discussion of the question of the possible line of partition and, if so, whether such a line would correspond to the boundaries of the Police Zone.

20. Miss BROOKS (Liberia) recalled that, at the eleventh session of the General Assembly, her delegation had tabled a draft resolution (A/C.4/L.445/Rev.2) requesting the Secretary-General to explore ways and means of solving the question of South West Africa and to report on the matter to the General Assembly; that text, as amended, had become General Assembly resolution 1059 (XI). She regretted that up to the present no report on the question had been submitted to the General Assembly.

21. At its twelfth session, the General Assembly had set up a Good Offices Committee to discuss with the Government of the Union of South Africa a basis for an agreement which would continue to accord to the Territory of South West Africa an international status.

22. She did not feel that she should express any opinion on the work of the Good Offices Committee at present, but she would be interested in the answers given to the questions asked by previous speakers.

23. Mr. RAHNEMA (Iran) considered there was a contradiction between, on the one hand, paragraphs 12 and 23 of the report, where the Committee referred to an agreement which "would continue to accord to the Territory of South West Africa an international status" and recognized that it would not be justified in advancing on its own account any of the suggestions concerning a partitioning of the Territory and, on the other hand, paragraph 47, where the Committee stated that it had considered the possibility of annexation or

partitioning. In considering the possibility of such a solution, the Committee appeared to have exceeded its terms of reference.

24. He recalled that, according to the advisory opinion of the International Court of Justice in 1950,^{1/} the principle of non-annexation and the principle that the well-being and development of such peoples formed a sacred trust of civilization were of paramount importance. The Court further stated that the authority which the Union Government exercised over the Territory was based on the Mandate and that there could be no justification for retaining the rights derived from the Mandate and denying the obligations thereunder. Moreover, the Union of South Africa had declared some years previously that the Territory would continue to be administered in conformity with the Mandate and a resolution of the Union Parliament in 1947 recognized that the Union should submit reports to the United Nations in the same way as it had done at the time when the Mandates System was in force.^{2/} According to paragraph 39 of the report of the Good Offices Committee, the Union of South Africa now seemed to be reconsidering its previous position since it maintained that the Union Government did not recognize any international commitment as a result of the demise of the League. The Good Offices Committee might well have pointed out to the Union representative that the logical outcome of its new argument could be, not the annexation of the Territory, which would be contrary to the Mandate, but the abandonment of the Union's rights in favour of the United Nations.

25. In that connexion, he recalled that, at the time of the conclusion of the Treaty of Peace with Italy, in 1947, that country had renounced the rights conferred on it under the Mandates System.

26. Mr. ZIKRIA (Afghanistan) wished to have an explanation of the exact meaning of the expression "international character", which was used several times in the report of the Good Offices Committee.

27. Mr. BOZOVIC (Yugoslavia) asked why the Union of South Africa would not agree to undertaking an inquiry into the possibility of partitioning the Territory unless the General Assembly expressly requested it to do so and what were the grounds which had led the Good Offices Committee to accept those conditions?

HEARINGS OF PETITIONERS (continued)

At the invitation of the Chairman, the Reverend Michael Scott and Mr. Mburumba Kerina (Getzen) took places at the Committee table.

^{1/} International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128. Transmitted to members of the General Assembly by a note of the Secretary-General (A/1362).

^{2/} See A/334.

28. Mr. KERINA (GETZEN), continuing the statement he had begun at the previous meeting, said that Africans were denied the right to own land except in the reserves. In connexion with the Government's land alienation policies and practices, he read out a letter dated 24 September 1958 addressed by six African chiefs to the Secretary-General of the United Nations, asking that an impartial commission should be dispatched immediately to South West Africa to investigate the impending removal of the Nama people of Hoachanas from their traditional lands, and of other non-Europeans from urban areas. The people of Hoachanas had not been represented in the proceedings in which the High Court of South West Africa had decided in favour of the Administration on that issue.

29. The Union Government's request to the United Kingdom Government to be allowed to establish an emergency route across Bechuanaland to South West Africa and its proposal to set up a tropical warfare training school in the Caprivi Strip were in violation of article 4 of the Mandate Agreement, while the persecution of the African Methodist Episcopal Church in the Territory violated article 5 of that Agreement. Similarly, the transfer of control over the affairs of the indigenous inhabitants to the Union Minister of Native Affairs and the representation of South West Africa in the South African Parliament were contrary to the provisions of the Mandate. The interception of communications between the African people and the outside world, particularly the United Nations, was contrary to the principles of the Universal Postal Union.

30. He appealed to the United Nations on behalf of his people firstly, to request the Union Government to allow the Reverend Michael Scott to return to South Africa and report to the Herero people; secondly, to request it to issue travel documents to South West African students for study abroad; thirdly to invite Chief Kutako, Mr. Ja-Toivo (who had sent the speaker a tape recording of a message to the Fourth Committee on behalf of the Ovamboland Peoples' Congress), the Reverend Hamtumbangela and Chief Witbooi to appear as petitioners before the United Nations; fourthly, to ensure the continuance of the work of the Committee on South West Africa; fifthly, to appoint a commission to visit the Territory for the purpose of investigating conditions and hearing the grievances of the people; sixthly, to seek a judgement of the International Court of Justice determining whether the Union Government had fulfilled its international obligations under the Mandate; seventhly, to obtain a revocation of the Mandate; and eighthly, to place the Territory under the Trusteeship System.

The meeting rose at 12.55 p.m.