

GENERAL ASSEMBLY

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

In the absence of the Chairman, Mr. Rodzinski (Poland), Vice-Chairman, took the chair.

AGENDA ITEM 39

Question of South West Africa (continued):

(a) Report of the Good Offices Committee on South West Africa (A/3900)

GENERAL DEBATE (concluded)

1. Mr. SHAHA (Nepal) said that when the Good Offices Committee on South West Africa had been established at the twelfth session, his delegation had had some misgivings which had not proved entirely unjustified. He would not discuss whether or not that Committee had exceeded its competence. There was little doubt that the Committee had weighed each word of its terms of reference during the preliminary talks, wondering how far it could go. In any event, the Fourth Committee was now confronted with the astonishing prospect of partition combined with annexation, which his delegation regarded as entirely unacceptable from both the legal and the moral points of view.

2. With regard to the legal aspects of the matter, no one, except perhaps the Union Government, was unaware that South West Africa did not belong to the Union of South Africa. It had been entrusted to the Union on a provisional basis. The Union could not dispose of it as it pleased but had to take into account both the views of the community of nations from which it held the Mandate and the wishes of the indigenous inhabitants.

3. As far as the indigenous inhabitants were concerned, the Fourth Committee had ascertained their views on the proposed solution despite the Union's efforts to stifle their voice. The United Nations, for its part, could not agree to a partition which would mean ceding the richest areas to the Union of South Africa and deporting groups of indigenous inhabitants from those areas to the barren North. There was the question, moreover, of what would become of the Africans who would remain in the annexed part and who would be subject to the racial laws of the Union. The United Nations was ultimately responsible for those human beings and could not be a party to such a discreditable transaction.

4. The delegation of Nepal thus held the view that the correct legal interpretation of the Mandate and the Charter, together with common sense and humanitarian feelings, precluded any acceptance of the Good Offices Committee's report (A/3900) or of the suggestion that had been made there. It nevertheless paid a tribute to the members of that Committee, whose efforts had at least had the one beneficial result of giving rise to discussions which had helped to clarify the position on both sides and would certainly assist the General Assembly in deciding on the next move, particularly with regard to the instructions to be given to those to whom it would entrust the problem.

5. His delegation appealed once more to the Union of South Africa, whose policy was sowing anger not only against South Africa, but against the whole Western world. It was to be hoped that the Union would become amenable to reason before reaping the fruits of its obstinacy.

6. Miss BROOKS (Liberia) said that the relationship which existed between the League of Nations Covenant and the United Nations Charter provided a background to the development of the problem. Article 23 (b) of the Covenant, under which the Members of the League of Nations undertook to secure just treatment of the native inhabitants of the territories under their control, was matched by a whole chapter of the Charter, namely Chapter XI, on Non-Self-Governing Territories. After quoting the terms of General Assembly resolution 9 (I) of 9 February 1946 regarding Mandated Territories, she recalled that on 18 April 1946 the Assembly of the League of Nations had adopted a resolution^{1/} recognizing the principles set forth in Chapters XI, XII and XIII of the Charter and noting the desire of the Mandatory Powers to continue to administer their territories in accordance with the obligations contained in the Mandates until other arrangements could be made with the United Nations. The Union of South Africa had been one of the Mandatory Powers referred to in the resolution, and on 9 April 1946 the representative of that country had declared before the Assembly of the League not only that it was his Government's intention to continue to administer South West Africa in accordance with the obligations of the Mandate, but also that the dissolution of the League would in no way diminish the obligations of his Government under the Mandate, which it would discharge until such time as other arrangements were agreed upon concerning the future status of the Territory. Subsequently, all the Mandatory Powers had placed the territories they administered under United Nations trusteeship, with the exception of the Union of South Africa, which had expressed its desire to continue to administer South West Africa in accordance with the principles of the Mandates System.

^{1/} See League of Nations, *Official Journal*, Special Supplement No. 194, pp. 278-279.

7. Contrary to the intention it had thus expressed, the Union Government had later tried to annex the Territory, with the result that the General Assembly had been led to adopt resolution 65 (I) of 14 December 1946, refusing to accede to the proposed annexation and recommending that South West Africa should be placed under the International Trusteeship System. In a letter of 23 July 1947 (A/334), the Union Government had informed the United Nations that it would continue to administer South West Africa in the spirit of the Mandate, but it had later argued that since the League of Nations had ceased to exist the Mandate had lapsed. That theory had led the General Assembly to ask, in its resolution 338 (IV) of 6 December 1949, for an advisory opinion from the International Court of Justice on the international status of South West Africa, the Union's obligations towards that Territory, the applicability of the provisions of Chapter XII of the Charter and the Union's competence to modify the international status of South West Africa. In its opinion of 11 July 1950,^{2/} the Court had ruled that the Union continued to have international obligations toward South West Africa, that it could not alter the status of the Territory unilaterally and that the normal way to alter that status was to place the Territory under United Nations trusteeship.

8. Turning to an examination of the conditions which had given rise to the establishment of the Good Offices Committee, she recalled that at the eleventh session of the General Assembly many delegations, including the Liberian delegation, had expressed their concern at the failure of the Union Government to accept the opinions of the International Court of Justice; at its continued failure to participate in the deliberations of the Committee on South West Africa and the Fourth Committee; at its failure to transmit information concerning South West Africa; at its failure to administer the Territory in accordance with the spirit of the Mandate; the fact that, after thirty years of tutelage, the indigenous inhabitants were still practically illiterate and could not hope to attain independence unless steps were taken to ensure an adequate level of education; at the fact that the Union Government persisted in its policy of *apartheid*; at the fact that the indigenous inhabitants were deprived of their lands and that their level of living was very low; and finally, at the fact that, for the third consecutive year, the Committee on South West Africa had concluded that conditions in the Territory were far from meeting the standards implicit in the Mandates System. It was in those circumstances that the Liberian delegation had submitted a draft resolution which had subsequently been adopted by the General Assembly as resolution 1059 (XI). At the twelfth session, her delegation had noted with grave concern that the Secretary-General had given no consideration to that resolution, and it had supported General Assembly resolution 1143 (XII) establishing the Good Offices Committee and defining that Committee's terms of reference.

9. It was difficult to understand why the Good Offices Committee had seen fit to drop the concept of an international status deriving from the Mandate and to

entertain the possibility of partition, thus clearly exceeding its terms of reference. That proposal was tantamount to asking the General Assembly to deny to the people of South West Africa their fundamental rights guaranteed under the League Covenant and the United Nations Charter, to reject the opinions of the International Court of Justice, to disavow its own resolutions and to condone the policy of *apartheid* followed by the Union Government. After recalling the criticisms leveled against the proposal by the representatives of Mexico and Panama at the 754th meeting, she declared that her delegation opposed and would continue to oppose the idea of partition and that it could not accept the Good Offices Committee's proposal for a study of the subject. To approve such a proposal would imply acceptance of partition. It was alarming that the Union Government had shown no intention of changing its policy with respect to South West Africa. That problem was likely to endanger international peace and security if the United Nations, including particularly the three remaining Principal Allied and Associated Powers, did not concert their efforts to settle it.

10. In the hope that the Union Government would come to heed world opinion and review its policy, she proposed that the Good Offices Committee should continue its work and that its membership should be increased from three to five. One of the new members should be chosen from among the African States and the other from either the Latin American or Asian States. The terms of reference should be slightly amended so as to ensure continued recognition of the entire Territory's international status, preferably by means of a trusteeship agreement.

11. Mr. EILAN (Israel) recalled the efforts which the General Assembly had made over a period of twelve years to solve the South West African problem, in particular by adopting numerous resolutions and asking for advisory opinions from the International Court of Justice. In view of the failure of those efforts as well as of resolution 1059 (XI) adopted by the General Assembly on the initiative of the Liberian delegation, many delegations, including that of Israel, had wondered whether it would not be advisable to try a fresh approach and to undertake diplomatic negotiations with the Union Government, which had withdrawn from the deliberations of the General Assembly. At its twelfth session, the Assembly had accordingly, by a large majority, adopted resolution 1143 (XII) establishing the Good Offices Committee.

12. The Good Offices Committee's report was, in fact, an interim report on a particular phase of its negotiations with the Union Government. The report was concerned, on the one hand, with legal questions and, on the other, with strictly practical questions. His delegation felt that the legal questions were of the greatest importance, inasmuch as they involved the very substance of a relatively new concept in international relations, that of the sacred trust of civilization. The Committee stated in paragraph 14 of its report that it understood the expression "international status" employed in resolution 1143 (XII) to mean a "status which derived from the Mandate" and to signify, according to the advisory opinion of the International Court of Justice in 1950, that "the Union was not entitled to modify that status acting alone". It should be pointed out, however, that the Good Offices Committee appeared to have departed

^{2/} 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).

from the advisory opinion of 1950 and, to some extent, from those of 1955^{3/} and 1956,^{4/} by speaking in paragraph 14 only of "the transmission of information of some kind concerning the administration of the Territory", without specifying to whom such information should be transmitted or what action should be taken on it. It was also regrettable that the Good Offices Committee had not referred to the concept of the sacred trust of civilization, to which the Court had attached very great importance in its opinion of 1950.

13. On the whole, the Good Offices Committee had felt that it should not approach its task from a strictly legal angle but should pursue every available means of negotiation and conciliation, as prescribed in the second paragraph of the preamble to resolution 1143 (XII). After recalling that the advisory opinions of the International Court of Justice were not binding and that in the past the General Assembly had sometimes adopted decisions which were not entirely in accordance with the Court's opinions, he pointed out that if the Good Offices Committee had diverged from the legal position as previously ascertained by the Court and accepted by the General Assembly, such an approach had not been entirely inconsistent with a legal situation rooted in an advisory opinion, which, as such, had no binding force.

14. He briefly examined the Union Government's position as outlined in the Good Offices Committee's report and noted that it diverged from the Court's opinion on a number of essential points, particularly on the question of hearings of petitioners and the lapse of the Mandate following the dissolution of the League of Nations. With regard to the Union's refusal to admit that the United Nations could be a party to an agreement on the future status of the Territory (A/3900, para. 43), he recalled the Court's opinion that the international status of South West Africa was real and statutory, not personal or contractual, and that its continuation therefore did not depend on the existence or non-existence at the present time of the parties which had originally been responsible for the allocation of the Mandate.

15. As far as a possible partition of the Territory was concerned, a decision adopted to that effect by the General Assembly, with the required majority, was not to be challenged in law. The question was whether the Good Offices Committee should be encouraged to continue to examine the possibility of such partition with the Union Government. On that point, his delegation associated itself with the criticisms levelled by the majority of the members of the Fourth Committee. It should not, however, be forgotten that, if the possibility of partition were to be contemplated in principle, all the United Nations would have to do would be to ask the Good Offices Committee to inform the Union Government of the conditions under which it might conclude an agreement with that Government for placing part of the Territory under trusteeship. The

real difficulty was that the United Nations could not approve the annexation of the other part of the Territory.

16. He regretted the atmosphere of bitterness, and indeed of veiled hostility, which had characterized the Fourth Committee's debates while the South African delegation had been participating and which had led to that delegation's withdrawal. The Good Offices Committee should be encouraged to continue its efforts, taking into account the General Assembly's attitude to certain aspects of its report, in the hope that those efforts would eventually make it possible to reintroduce the principle of the sacred trust of civilization into the administration of the Territory.

17. Mr. LONGDEN (United Kingdom) said that his Government had no preconceived notion regarding any particular solution of the human problem raised by South West Africa except that it should be solved in the manner most beneficial to the interests of the majority of the Territory's inhabitants. However, the United Kingdom Government apparently differed from members of the Committee in thinking that that aim could be achieved only if a solution could be found that was acceptable to both the United Nations and the Union Government. The most important consideration was the future of 450,000 non-Europeans and 60,000 Europeans. How could the welfare of those people best be ensured?

18. In reply to some members of the Fourth Committee who had said that the British Crown bore a special responsibility for the settlement of the question, he recalled that the Union of South Africa had already possessed an international identity independent of the United Kingdom when it had been asked in 1920 to administer the Mandate over the Territory of South West Africa on behalf of the British Crown. Its allegiance to the Crown implied no idea of subordination, as had been clearly set forth at the Imperial Conference of 1926, which had stated that the United Kingdom and the Dominions were autonomous communities, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs. It would be unconstitutional for the United Kingdom Government to give advice to the Crown in regard to Dominion matters contrary to the advice of the Dominion Ministers. The Union of South Africa had thus been a separate Member of the League of Nations when it had assumed the Mandate, and subsequent constitutional arrangements within the British Commonwealth, including the Statute of Westminster of 1931, had not changed the situation regarding the Mandate.

19. The legal status of the Territory had been defined by the International Court of Justice in its advisory opinion of July 1950. According to that opinion, the Union of South Africa continued to be under the international obligations stated in Article 22 of the League Covenant and in the League Mandate; the supervisory functions of the League could be exercised by the United Nations, which could, for example, receive reports and petitions, but the degree of international supervision should not exceed that which had applied under the Mandates System, and such supervision should conform as far as possible to the procedure followed in the matter by the Council of the League of Nations; on the other hand, the Union Government was under no legal obligation to place

^{3/} South-West Africa—Voting Procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955, p. 67. Transmitted to Members of the General Assembly by a note of the Secretary-General (A/2918).

^{4/} Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956, p. 23. Transmitted to members of the General Assembly by a note of the Secretary-General (A/3147).

the Territory under the Trusteeship System, although it had not the competence to modify the international status of the Territory, acting alone. The Union Government, for its part, argued that no organization was entitled to intervene in South West Africa and that it had the right to administer South West Africa as though it were an integral part of the Union. Thus, the Fourth Committee had been faced with a deadlock since 1946. None of the resolutions adopted in the last twelve years had yielded any positive results, for the simple reason that there must be two parties to any negotiation. Their only effect had been that the Government of the Union of South Africa had decided to withdraw from the debates in the Committee.

20. Yet the Union's co-operation was indispensable if a final settlement was to be achieved. The United Kingdom had therefore welcomed the decision of the General Assembly, adopted by a majority of fifty to ten, to establish a Good Offices Committee for the purpose of discussing with the Union Government the basis for an agreement which would continue to accord to the Territory an international status. The Charter itself recommended that the parties to a dispute should seek a settlement by negotiation and conciliation, and in the introduction to his report for 1957 (A/3594/Add.1), the Secretary-General had recalled that the United Nations was not a world Government but was an instrument for negotiation between States. The United Kingdom delegation thanked the Good Offices Committee for the way in which it had discharged its task. It had been able to obtain the confidence of the Union, which had shown a desire to find an acceptable basis for agreement. The Committee's report and the replies given at the 752nd meeting by its Chairman to the questions he had been asked should leave no legitimate doubt as to what had happened.

21. The Good Offices Committee had considered all possibilities, guided by the test of whether they were acceptable both to the United Nations and the Union Government. It had borne in mind that the United Nations, which would decide the issue in the last resort, would be unable to approve any solution contrary to the welfare and the wishes of the majority of the Territory's inhabitants. The Committee had thus been led to submit two suggestions, either a reconstruction of the Mandates System with ultimate responsibility to the United Nations or an international trusteeship system. It had also examined other solutions, without, however, being prepared to propose, still less to recommend, them. It had confined itself in its report to noting that the Union Government had rejected the first two solutions but that it had been prepared to accept arrangements reproducing the arrangements of the Mandates System on condition that the second party to the agreement was not the United Nations but the three remaining Principal Allied and Associated Powers. In that connexion, the United Kingdom Government wished to point out that while at present it favoured no particular solution, if the Union and the United Nations could reach an understanding on such a solution, the United Kingdom as one of the Allied and Associated Powers would agree, albeit reluctantly, to consider carrying out the responsibilities which might be entrusted to it.

22. Since neither of the Good Offices Committee's proposals had proved acceptable, the Union's rep-

resentatives had asked the Committee whether it had considered other solutions. The Committee had responded by reading out the list mentioned in paragraph 47 of the report. The Union had expressed the view that the possibility of partition merited further consideration, even though it meant that the United Nations would be the second party to an agreement, in order that a compromise might be found.

23. The Union Government, it must be recognized, had given real proof of a spirit of conciliation: it had agreed to negotiations with a committee established by the United Nations; it had declared its willingness to place at least part of the Territory under United Nations trusteeship; and it would have heard the petitioners and fully participated in the debate if the Fourth Committee had agreed to hear the petitioners only on the sub-item (b) of agenda item 39. In 1957, no one would have anticipated such a change of attitude, and it was regrettable that some representatives should not have acknowledged it more generously. The representatives who demanded that the Union should comply with nothing short of the Fourth Committee's wishes would, of course, think differently. In the event of such compliance, however, there would be no need to negotiate. The fact remained that the Union had made concessions.

24. The Good Offices Committee had recognized that, by considering the possibility of partition, it would exceed its terms of reference, but it had felt that in the absence of an agreement which would continue to accord an international status to the Territory, partition would confer such status on part of the Territory and enable most of the Bantus to enjoy the benefit of the Trusteeship System. It had therefore done well to give an objective account of the negotiations, leaving it to the General Assembly to decide whether to act on the suggestion in paragraph 52 of the report, to ask the Good Offices Committee to continue its efforts, or to decide that the Committee had failed and that the United Nations was where it had been at the beginning of the twelfth session.

25. The Fourth Committee must now consider what recommendations it should make to the General Assembly. Unfortunately, the Union Government at the very outset of the debate had decided not to participate in the vital debate because the Fourth Committee had decided at its 747th meeting, by a large majority, to grant hearings to the petitioners on sub-item (a) of agenda item 39. The Union representative had warned the Fourth Committee that it might take that step owing to public opinion in South Africa on the subject of petitions. The United Kingdom delegation had voted against the granting of hearings to the petitioners because, first, it considered that those petitions were not legally justified in the light of the 1950 advisory opinion of the International Court of Justice; secondly, because the hearing of the petitioners might lead to the withdrawal of the Union, whose evidence would have been more useful than that of the petitioners, who had made no new contribution; and lastly, because it had felt that, even if they represented all the non-European inhabitants of the Territory, the petitioners could not have consulted the people on proposals which did not yet exist and it was therefore irrelevant to hear them on the Good Offices Committee's report. The Fourth Committee was already familiar with the views of Mr. Scott, who had repeated what he had said

before the Committee on South West Africa, that in his opinion partition could in no circumstances be considered as a possible solution.

26. It was wholly untrue to suggest that the United Kingdom delegation did not care about the views of the Territory's inhabitants. It had already affirmed that the inhabitants would have to be consulted before a decision was taken on any change in the status of the Territory. Until the exact nature of the proposals was known, however, it would be premature to ask for their views.

27. The Good Offices Committee had felt unable to give an opinion on the proposal relating to the three remaining Principal Allied and Associated Powers, but it had expressed the view that some form of partition might provide a basis for agreement. The Government of the United Kingdom had no intention of committing itself at the present stage of the discussion, since neither the details of a possible partition plan nor the inhabitants' wishes were known. It would, however, approach a consideration of the suggestion without fear, even if the plan might involve the transfer of part of the population and the annexation of part of the Territory, since nothing would be done in any case until the inhabitants had been consulted and given their consent. Mr. Scott himself had criticized the Union Government for delaying the reunification of the Herero tribes, a measure which could not have been carried out without a transfer of population.

28. The United Nations wanted the Territory to be placed under the Trusteeship System, and the non-European inhabitants had been said to be anxious to have the Trusteeship System applied to the whole of the Territory. There could be no question of imposing the proposed solution on them without their consent, but it was very questionable whether the United Nations would be justified in repudiating an investigation which might result in extending the benefits of the Trusteeship System to some of the inhabitants merely because the System would not be applied to the whole of the Territory. The United Nations should therefore reserve its judgement until concrete proposals were available. The Committee should weigh what would happen if the work of the Good Offices Committee were rejected. In the absence of a solution, the inhabitants of South West Africa would continue indefinitely to be administered as an integral part of the Union; for sanctions would not benefit them in any way.

29. The United Kingdom delegation therefore considered that the General Assembly might, without committing itself, invite the Union Government to submit definite proposals at the fourteenth session. The Chairman of the Good Offices Committee had indicated at the 752nd meeting that a formal invitation to the Union was not an essential condition, but the Union Government would quite naturally want to know whether the results of a long and difficult inquiry would at least be considered.

30. If a majority of the Fourth Committee rejected the suggestion of the Good Offices Committee, the General Assembly would do well to invite the present members of the Good Offices Committee to resume discussions with the Union Government, with the same terms of reference, and to submit a further report at the fourteenth session, taking into account the

views expressed during the current debate. It was to be hoped that the members of the Good Offices Committee would accept those new responsibilities and that the Union Government would again agree to receive the Committee.

31. Mr. AKO-ADJEI (Ghana) hoped that, in spite of the complexity of the problem, a satisfactory solution could be found which would be based on the principles of the Charter.

32. The representative of the Union of South Africa had stated at the 748th meeting that the Fourth Committee was responsible for the breaking off of negotiations. Actually, the United Nations, and in particular the Fourth Committee, had been trying for years to settle the question in a just and satisfactory way for all the parties concerned, both the indigenous inhabitants of the Territory and the inhabitants of non-African origin. Those efforts had failed because of the intransigent attitude of the South African Government.

33. The new approach to the problem assumed that the Union Government would recognize the international status of the Territory, which was not a part of the Union of South Africa. The term "international character" used by the Union Government could only be a synonym for the term "international status". General Assembly resolution 1143 (XII) establishing the Good Offices Committee had stressed the idea of international status; nevertheless efforts had recently been made by the Union Government's Minister of External Affairs to persuade the Fourth Committee to accept a different interpretation. The delegation of Ghana wished to congratulate the members of the Fourth Committee on the moderate way in which they had approached the difficult problems raised by South West Africa, and it hoped that the Committee's deliberations would continue to be marked by the same spirit of understanding and goodwill. By abandoning the people of South West Africa to their fate, the United Nations would lose much of its prestige in Africa and Asia.

34. The Good Offices Committee's terms of reference had been clearly defined in General Assembly resolution 1143 (XII). That Committee had resolved to give to those terms of reference the most liberal possible interpretation so that it would be able to put forward on its own account a reasoned set of proposals and consider any other proposals which might be forthcoming from the Union Government. In those conditions, the Committee might have deemed it advisable to consult the inhabitants of the Territory, since their fate was at stake and their views might have proved even more important than any consultations with the Union Government.

35. In its report, the Good Offices Committee had suggested that the General Assembly should consider the possible partitioning of the Territory. That idea had first been advanced by the Anti-Slavery Society, and a communication of 28 May 1956 from that Society (A/3151, annex IV) contained a proposal whereby the part of the Territory not annexed to the Union should be placed under the administration of some other Government that would act in accordance with the United Nations Charter. That plan, therefore, had been quite different from that of the Good Offices Committee and, even if not acceptable, had at least

had the merit of being a sincere attempt to improve the lot of a portion of the African population concerned.

36. According to the Good Offices Committee, its report did not contain any proposal for partition but merely recommended the General Assembly to invite the Union to investigate the practicability of partition. However, the Minister of External Affairs of the Union of South Africa had clearly stated that the only specific proposal had been that of partition. Moreover, although the Committee had been of the opinion that partition could be considered at the present stage only in principle and that it could not submit any observations on that subject, it had added, in paragraph 52 of its report, that in its view some form of partition under which a part of the Territory would be placed under trusteeship might provide a basis for an agreement.

37. In the view of the delegation of Ghana, the idea of partition could not be considered even in principle, for it was inconsistent with the principles on which the Trusteeship System was based, as well as with the spirit of the Mandates System; it was inconsistent with the hopes of the Africans as well as with the hopes of those non-Africans whose only desire was to put an end to the injustices from which the African peoples had been suffering for centuries. As the position of the United Nations on the question had always been clear, and as the 1950 opinion of the International Court of Justice had laid stress on the principle of non-annexation and on that of the sacred trust of civilization, it was surprising that the Committee had made the suggestion contained in its report. It was time that the former League of Nations Members, now Members of the United Nations, and the people of South West Africa expressed their views. The people of South West Africa, through the petitioners, had expressed the desire to be freed from oppression, but if the partition proposal were accepted, the Hereros would become entirely subject to the authority of a country whose racial policy they did not accept.

38. As the only idea proposed by the Good Offices Committee had been that of partition, his delegation would have no option but to vote against its report. But all the possibilities had not yet been exhausted. If further negotiations were to fail, it would be necessary to consider what action could be taken to ensure that the Union respected its obligations towards the international community, and in that connexion the three remaining Principal Allied and Associated Powers would have a part to play. The situation was not, however, a hopeless one; the efforts of the United Nations had induced the Union of South Africa to resume its participation in the discussions. That was an achievement which encouraged further efforts and showed that the United Nations had begun to exercise some influence on the Union Government.

39. The people of Africa were interested in the question because they had the same democratic ideals as the other peaceful peoples of the world and because they considered that freedom was indivisible. A settlement of the problem would have wide repercussions on the future of racial relations on the African continent, where the various peoples were becoming more and more aware of their rights. If the problem was not solved, a time would soon come when all the peoples of Africa would energetically demand eman-

cipation and an end to their humiliations. Nevertheless, tolerance, goodwill and mutual understanding should make it possible to build a new society in Africa on a basis of freedom and justice.

40. Mr. SZALL (Hungary) said that the reservations which had led the Hungarian delegation to vote against the establishment of the Good Offices Committee had been justified by that Committee's report and by the statements made by its Chairman and by the Minister of External Affairs of the Union of South Africa. The Committee's so-called new approach had amounted to nothing more than a reiteration of the annexation proposal made by the Union in 1946^{5/} and rejected by the General Assembly in resolution 65 (I). It amounted to a return to the colonialist methods of the days of the League of Nations and would create a precedent which some States would use as an excuse for reducing peoples to colonial status through annexation at a time when the peoples living under colonialism were liberating themselves.

41. It had been clear from the beginning of the procedural debate that the Committee's good offices had only benefited the Union Government and the colonial Powers, who had tried by every means to prevent the petitioners from being heard by the Fourth Committee. The delegation of the Union of South Africa had been so confident of success that it had made its attendance conditional upon the decision not to hear the petitioners. The vote, however, had shown that the majority of Member States remained loyal to the principles of the Charter.

42. The Hungarian delegation categorically opposed the Good Offices Committee's proposals and insisted that they could be properly assessed only if, as the Committee had failed to do, the opinions of the people of the Territory were taken into account. In the conviction that the report of the Good Offices Committee could not be examined without reference to the situation in the Territory, he would discuss briefly certain aspects of the report of the Committee on South West Africa (A/3906 and Add. 1).

43. The position of the non-European population of the Territory had not improved since the previous reports. The indigenous inhabitants were still deprived of the most elementary political rights. Systematic "re-settlement" or, in other words, segregation of the indigenous inhabitants, which amounted to purposeful genocide, continued. The economic situation of the Africans was still deplorable. All the valuable land belonged to the European population, and the Africans were paid starvation wages. Public health and education presented an equally dismal picture: out of twelve hospitals in the Police Zone, only two were open to Africans, and, outside the Police Zone, there was virtually no public health service at all.

44. It was therefore obvious that the Government of the Union of South Africa was oppressing and exploiting the indigenous inhabitants to an increasing extent and was attempting forcibly to decrease their number. It was clear that it could only do so because it enjoyed overt and tacit support from the great colonial Powers.

45. The United Kingdom supported the Union Government because it had for decades been directly interested in the Territory's mineral wealth. The United

^{5/} See A/123.

States was also directly interested in maintaining the most backward conditions in South West Africa. The support which it gave the Union was, however, less obvious because it was pursuing a double-faced policy that was evident in the fact that although it had been a member of the Good Offices Committee it also belonged to the Committee on South West Africa, which had explicitly condemned the Union of South Africa. The apparent contradiction could be explained by the so-called theory of interdependence applied by the United States in its foreign policy. In other words, the interdependence between the Union's interests as a colonial oppressor and those of the United States were so close that they could in both cases be regarded as almost identical. In 1946 the United States had still been of the opinion that the Union should not annex South West Africa, but in 1950 it had concluded a contract which made the uranium mines of the Union of South Africa available to it, and, in 1957, American companies had taken over important lead, zinc and copper mines in South West Africa, where they were exploiting African labour.

46. The desire of the people of the Territory, as expressed in the statements of petitioners and in written petitions received by the United Nations, was to be placed under United Nations trusteeship. It should also be noted that in the spring of 1958 the Conference of Independent African States meeting at Accra had adopted a resolution concerning the future of African peoples who still had dependent status and had called upon the administering Powers to respect the Charter of the United Nations in that respect.

47. In the opinion of the Hungarian delegation it was inadmissible for a State whose policy of racial discrimination was condemned by the majority of the Member States to refuse to meet the obligations which it had assumed. The General Assembly had thus far adopted eleven resolutions to no avail, and there would be no point in repeating them. The only way to solve the problem, in the interests of both the Africans and the United Nations, was to terminate the administration by the Union by revoking the Mandate and to guarantee the right of the people of the Territory to self-determination by placing South West Africa under the Trusteeship System.

48. Mr. NAJJAR (Lebanon) said that his delegation regretted the departure of the Union of South Africa. In his view, the return of the Union would be facilitated, not by a compromise on questions of principle, but rather by moral pressure which, if applied firmly and single-mindedly, could not be resisted for long.

49. The countries of the Middle East understood from experience what the Mandates System, that modern version of colonialism, was. In their fight for independence they had been inspired by their memories of a brilliant civilization. Those who could not draw their inspiration from that source should be given the opportunity of participating in the common heritage embodied in the United Nations, a heritage which had awakened their hopes. The rapid pace of world development imposed on the United Nations the obligation to keep seeking new ways of settling the problem posed by the right of peoples to self-determination and by the birth of new nations. If the United Nations did not defend the legitimate rights of such people, it would weaken the very foundations on which it was built.

50. He referred to the appearance of a new term in the vocabulary of international politics—the concept of the "vacuum" alleged to exist in certain countries, which were therefore regarded as in need of protection. It involved attempts by the strong to interfere in the affairs of the weak, but those who were strong should not be permitted to usurp the authority of the United Nations to that end. Any co-operation there might be with the Government of the Union of South Africa should be based solely on the interests of the Africans and the need to prepare them for independence.

51. In order to minimize the importance of the petitions that had been submitted, the allegation had been made that the petitioners represented only a minority. That was an argument which had often been used by the Mandatory Powers. Where there was no democratic government, the majority could always be reduced to silence.

52. Turning to the question of partition, he recalled the history of the Mandate for Syria. The partition of Syria into five states by the Mandatory Power had been intended to prolong foreign domination but had actually had the opposite effect. The policy of attempting to divide and rule had brought to an end the tensions and rivalries which had formerly existed between the component parts of Syria and had welded them together in a common front which had dealt the Mandate a fatal blow. With regard to the transfers of population which would accompany the annexation of a part of South West Africa, it was sufficient to recall the dire fate of the million Arabs who had been driven out of Palestine and made to live in camps. It was likewise unthinkable that the number of Africans subject to the racial laws of the Union of South Africa should be further increased by annexation.

53. The Lebanese delegation considered that South West Africa should be dealt with as a unit, and it was confident that the United Nations would not abandon its responsibilities and its sacred trust by making, on grounds of political expediency, concessions incompatible with the interests of the people.

54. Mr. BOZOVIC (Yugoslavia) recalled the circumstances in which the Good Offices Committee had been set up. As the Committee's terms of reference had lacked precision and clarity and as Yugoslavia had had misgivings about the way in which its membership had been determined, it had at that time abstained. It had acted in that way so as not to block the efforts of those who were seeking to facilitate the return of the Union of South Africa.

55. The Union Government had regarded the General Assembly's goodwill as a sign of weakness and had felt that the time was ripe for imposing conditions which would amount to a complete capitulation on the part of the United Nations. It had asked the United Nations to regard the people of South West Africa as a bargaining factor and to refuse to hear their representatives when they described the inhuman conditions in which those people lived and when they opposed the partition of their country.

56. The General Assembly had shown moderation over a period of twelve years, but there was a limit to its goodwill. It could not, without violating the rights of a people placed under international protection, prevent the representatives of the indigenous inhabitants from

making known their views on the report of the Good Offices Committee, which contained ideas of vital importance to their country. By its withdrawal, the Union of South Africa had once again demonstrated its intolerance and would be condemned by all.

57. He emphasized that his criticisms of the Committee's report would not be addressed to its members personally or to their countries. He regretted that in its desire to bring about conciliation at all costs, the Committee had not only exceeded its terms of reference but had acted contrary to the principles by which the General Assembly had hitherto been guided. No matter how liberally its terms of reference might be interpreted, the Committee's conclusions were not in conformity with either the provisions of the Charter or the advisory opinions of the International Court of Justice.

58. The Union's proposal concerning the three remaining Principal Allied and Associated Powers was based on an unacceptable legal fiction. Yugoslavia was firmly opposed to the idea of allowing the major Powers to solve international problems between themselves. In the present case, such a course would undermine the foundations of the United Nations and the new juridical order established by the Charter. With respect to the special responsibilities of the United Kingdom that country had had, at the time of the constitutional arrangements of 1931, a legal obligation to ensure that the Mandate would be carried out in the spirit in which it had been conceived.

59. In connexion with the possibility of reproducing the Mandates System, the Yugoslav delegation thought that at the present stage of the political, social and economic development of South West Africa, the solution most consistent with the Charter would be to place the Territory under trusteeship with special safeguards which, in view of the Union's racial policy, would guarantee that the rights of the people would be protected in fact as well as in principle.

60. The proposal for partition and annexation contained in the Committee's report was not a new approach but rather an attempt to apply the annexation proposal which had been rejected by the General Assembly in 1946. The serious thing in the present case was that the Committee appeared to have taken the initiative in making that proposal. The Committee suggested that the General Assembly should invite the Union Government to investigate the practicability of partition, which the latter would seemingly agree to do as a sacrifice, and almost against its will, in order to prove its good intentions. That solution was unacceptable to Yugoslavia. The mere fact that it was rejected by the people of South West Africa was enough to discredit it. To accept that solution would be to introduce auction bidding into international morality, to revert to the time when the fate of nations was decided by drawing a line of partition on a map, to give formal recognition to the Union's segregation policy and to reward those who had adopted the practice of presenting ultimatums.

61. The discussion had shown that the idea of partition was not supported by the Fourth Committee. The Yugoslav delegation thought that the General Assembly should be unrelenting in its efforts to find a solution which would take into account the interest of the people, the interests of international peace and the

interests of the Union of South Africa to the extent that those interests were not contrary to the Charter and the obligations incumbent on the United Nations to protect South West Africa. It would not object to further negotiations, provided that the Fourth Committee, in any resolution which it might adopt, should state clearly that the Good Offices Committee's suggestions did not constitute a satisfactory starting point and that no proposal could be initiated by a body which the General Assembly had entrusted with negotiations.

62. Mr. LAZRI (Albania) noted with regret that in spite of the General Assembly's patient efforts to secure respect for the principles of the Charter the Union of South Africa was still failing to carry out its obligations. In its report, the Good Offices Committee sought to obtain approval of the partitioning of the Territory and presented that idea in the guise of a new approach. The only thing new about that proposal was the fact that it originated with a committee of the General Assembly. It was perfectly obvious that the annexation of the South of the Territory would only be an initial step which would enable the Union of South Africa to achieve its aim of annexing the North as well.

63. The Albanian delegation had voted against the resolution establishing the Committee, because the membership of the Committee, including as it did two great colonial Powers, was such that there seemed little hope for reaching a solution based on respect for the Charter. Its apprehensions had been only too well founded. The Committee had failed to take the situation and the aspirations of the indigenous inhabitants into account. In the middle of the twentieth century, at a time when colonialism was in full collapse, its suggestions recalled the time when the fate of small nations had been decided at Vienna or Berlin. The proposal that it had made was not only contrary to the interests of the people of South West Africa but was also a violation of the Charter. The Committee was trying to establish a precedent which could be invoked by other States for the purpose of denying the peoples under their administration the right to independence. To admit the practicability of annexation would be to consider slavery a possible form of administration.

64. There was no doubt, therefore, that the Good Offices Committee was unable to work out a positive and satisfactory solution for the United Nations. Moreover, its prolongation would promote the racist policy of the Union of South Africa and strengthen its colonialist demands by encouraging it to shirk its obligations. To place the Territory under trusteeship would be in conformity with the Charter and with the interests of the people, whose living conditions were now the worst in the world. The Albanian delegation would support any proposal leading to steps which would enable the indigenous population to regain its rights.

65. Mr. HILALY (Pakistan) recalled that his delegation had supported the establishment of the Good Offices Committee, because it had thought that the problem of South West Africa could not be solved without the co-operation of the Government of the Union of South Africa. The Fourth Committee had had reason to hope that that Government would join in the new approach to the problem of South West Africa

in a spirit of goodwill. That hope had been in vain; the Union Government had rejected the proposal for an arrangement reproducing the Mandates System and had stated that it would enter into an agreement only with the three remaining Principal Allied and Associated Powers.

66. In the face of that impasse, the idea of partition had been arrived at, although it was not clear whether the Committee had recommended, suggested or merely mentioned it. Such a solution could not in any case be accepted, because, firstly, the Good Offices Committee had clearly exceeded its terms of reference in submitting it; secondly, it was contrary to the Charter and the General Assembly's resolutions; and, lastly, if the legal and the human rights of the indigenous inhabitants of South West Africa could not be restored, it was inconceivable that their fate should be made still worse by permitting the partition of their Territory and the annexation of one part of it by a neighbouring country.

67. Neither the Union of South Africa nor the United Nations could forget that South West Africa was the

only mandated territory which had not yet attained self-government or independence or been placed under trusteeship. The Fourth Committee was aware of the internal difficulties with which the Union Government had to contend, but it was the duty of that Government to influence public opinion in its country so as to bring it into line with the opinion of the rest of the world. When the fate of half a million human beings was at stake, to compromise with principles was unthinkable.

68. The Pakistan delegation hoped that an extension of the Good Offices Committee's terms of reference for one year would open the way to other solutions which would take more account of the interests of the indigenous inhabitants, be more worthy of the great people of the Union of South Africa and prove more consistent with the high principles of the United Nations Charter.

The meeting rose at 6.15 p.m.