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CONTENTS

	Page
Agenda item 39:	
Question of South West Africa (continued):	
(a) Report of the Good Offices Committee on South West Africa	
General debate (continued)	85

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)

GENERAL DEBATE (continued)

1. Mrs. SHELTON (Cuba) said that it had not been a mistake to establish the Good Offices Committee on South West Africa, for its report (A/3900) had revealed what was the present position of the Union Government with regard to South West Africa, and had served as a point of departure for a useful and constructive debate on the problem of reaching an agreement which would continue to accord an international status to the Territory and would ensure the fulfilment of the provisions of article 2 of the Mandate. Although her delegation found the report unsatisfactory, it recognized that the Good Offices Committee had been confronted with an extremely difficult task and felt that its efforts had been commendable. She regretted that the tenor of section B of the report had not been maintained throughout, for it was more closely in line with the discussions which had taken place in the Fourth Committee, the General Assembly's resolutions and the spirit of the United Nations Charter than were the other sections. With regard to the Committee's concluding remarks, she stated that her delegation was resolutely opposed to the partition proposal. Partition, annexation or incorporation of the Territory into the Union of South Africa could be considered only if it represented the freely expressed wishes of the inhabitants.

2. Her delegation would support any draft resolution which was in conformity with those views.

3. Mr. KHADRA (Saudi Arabia) observed that although the Union Government had given assurances that it would continue to administer the Territory of South West Africa in the spirit of the Mandate, its conduct had belied that pledge. It had entirely failed to promote the moral and material well-being and social progress of the inhabitants, in accordance with its obligations under the Mandate. Moreover, it had begun incorporating the Territory into the Union even before the end of the Second World War, and had accelerated that process since the founding of the United Nations.

4. The United Nations had made every effort to co-operate with and accommodate the Union Government in

the search for a solution, culminating in the establishment of the Good Offices Committee at the twelfth session. He would like it to be clearly understood that his position with regard to that Committee's report did not reflect on its members, who had carried out the difficult task entrusted to them to the best of their ability. It was to be regretted that the South African delegation had withdrawn from the discussion, especially as the vote at the 747th meeting which had led it to do so had not been of a substantive character. That action could scarcely be called a manifestation of the conciliatory approach which it had urged or of the good faith which it had claimed the majority of representatives in the Fourth Committee lacked. He hoped that it would reconsider its decision in the light of the situation which had now been created.

5. The Fourth Committee had not, of course, been particularly optimistic with regard to the results which the Good Offices Committee might achieve, for it had been realized from the start that the Good Offices Committee's terms of reference were restricted and that it would be handicapped by the fact that the Union Government would be able in effect to veto any suggestion it might make, as the Good Offices Committee itself implied in paragraph 14 of its report. The Union Government's stand in the matter of placing the Territory under the Trusteeship System, co-operating with the Committee on South West Africa and accepting the advisory opinions of the International Court of Justice was well known.

6. With regard to the substance of the report, the partition proposal was not acceptable on either legal or historical grounds. The experience of many peoples, including his own, had demonstrated the unfavourable consequences of partition. In the present instance, moreover, it would be impracticable, since the Territory's mineral and other resources were in the zone which would be incorporated into the Union. To agree to partition would be to violate the principle of the sacred trust enshrined in both the Covenant of the League of Nations and the Charter of the United Nations and would give legal sanction to the policy of apartheid practised by the Union Government in South West Africa. With regard to the proposal to establish arrangements reproducing the Mandates System, his delegation had serious reservations concerning the competence of the bodies which would be set up in place of the Council of the League of Nations and the Permanent Mandates Commission if that proposal were acted upon.

7. In conclusion, he expressed the hope that the Committee on South West Africa would be permitted to continue its useful work and that no effort would be spared to reach a final solution.

8. Mr. GOMES PEREIRA (Brazil) recalled that his delegation had supported General Assembly resolution 1143 (XII) establishing the Good Offices Committee. The large majority by which that resolution had been

adopted had shown that there was a strong desire to institute discussions with the Union Government on new lines.

9. His delegation felt that the Good Offices Committee had faithfully discharged its mission in ascertaining the possibilities of reaching an agreement with the South African Government. The suggestions in paragraphs 23 and 47 of its report had been made precisely because the Union Government refused to consider any agreement based on trusteeship.

10. Of those suggestions, the one concerning partition had chiefly attracted the attention of the Committee, the majority of whose members were clearly against it. He could not, however, agree with the view that it was the Good Offices Committee which had suggested the idea to the Union Government, especially after listening to Sir Charles Arden-Clarke's statement at the 752nd meeting.

11. The Good Offices Committee, the name of which clearly defined its functions, had carried out its difficult task in a praiseworthy manner. It was now the duty of the General Assembly to express its opinion on the conclusions which that Committee had reached. He deprecated an academic approach. The problem should be faced and an effort made to solve it. Only when specific suggestions had been submitted would it be possible for his delegation to take up a position, bearing in mind the principles set forth in Article 1 of the Charter. His delegation would oppose any decision which did not grant the same rights to the benefits of civilization to all the inhabitants of South West Africa.

12. He much regretted the absence of the South African representative, but hoped that it was due to procedural rather than to substantive reasons and that it would not stand in the way of further discussions.

13. His delegation would support any resolution which conveyed approval of the steps taken by the Good Offices Committee and which empowered that Committee to pursue its negotiations with the Union Government.

14. Mr. BENLER (Turkey) said that his delegation, conscious of its responsibilities under the Charter, was anxious to co-operate in the search for a constructive solution to the problem. It had accordingly welcomed the establishment of the Good Offices Committee, to the members of which he wished to pay a warm tribute. He hoped that their efforts would continue.

15. The great majority of speakers on the suggested partition of the Territory based their arguments on the particular circumstances prevailing in South West Africa, bearing in mind the interests of the inhabitants. Indeed, Chapters XI and XII of the Charter left the Committee no choice in the matter; the interests of the inhabitants were paramount. Each territory should be considered in the light of the particular circumstances prevailing in it, as stipulated in Article 73 of the Charter.

16. He did not feel that a convincing case had been made out for the partition of South West Africa, and, in particular, he could see no evidence that the inhabitants themselves favoured such a development.

17. His delegation would support any efforts already undertaken or to be undertaken which were consistent with the hopes and aspirations of the peoples of South West Africa.

18. Mr. MEIET (Libya) also paid a tribute to the work of the Good Offices Committee. His delegation regretted the withdrawal of the South African representative but feared that the General Assembly, in adopting resolution 1143 (XII), had been too optimistic in expressing its confidence that the Union would wish, in the light of its obligations under the Charter, to co-operate in a further endeavour to arrive at a settlement of the question of South West Africa.

19. In existing circumstances, partition would in his view be a violation of the Charter. It could only be acceptable if the inhabitants of the Territory had freely expressed their desire for it by democratic means under the supervision of the United Nations. The testimony of the two petitioners whom the Committee had heard implied that partition would destroy the Territory's prosperity along with its unity. The condition of the indigenous inhabitants, for whose welfare the United Nations was responsible, called for an immediate solution of the problem. It would have been preferable if the Good Offices Committee had included in its report a description of the inhabitants' present situation and an account of their wishes with regard to their future. He expressed the hope that the Union Government would show its good intentions by co-operating in effecting a speedy settlement of the question.

20. Mr. AMATAYAKUL (Thailand) said that when discussing the well-being and the political, economic and social advancement of the peoples of the Trust and Non-Self-Governing Territories the Committee was dealing not with abstractions but with specific obligations assumed by all Member States which were responsible for the administration of territories whose peoples had not yet attained a full measure of self-government. Moreover, it was bound to raise questions as to the manner in which those obligations were being fulfilled. In the case of South West Africa such questions were particularly acute, since there alone among the Trust and Non-Self-Governing Territories the question was not how the requirements of the Charter should be complied with but whether they should be complied with at all. Not only moral or legal obligations were involved; the matter was one of serious political concern. Many students of the situation were deeply alarmed lest a continued deterioration of the problem should result in tragedy. The delegation of Thailand had been guided by those considerations when at the twelfth session of the General Assembly the Chairman of the Fourth Committee, a member of the Thai delegation, had introduced the proposal for the establishment of the Good Offices Committee (A/C.4/L.492).

21. He paid a tribute to the members of that Committee, who had laid sound foundations and thoroughly surveyed the ground. The work that they had begun should be continued. Much remained to be done and the approach of the Good Offices Committee was the most promising method.

22. Referring to paragraph 30 of the report of the Good Offices Committee, he emphasized that the three positions of principle laid down by the South African Government applied equally to the United Nations. Furthermore, he pointed out firstly that the rights and position of the international community under the Mandate had applied to the whole of the Territory, and secondly that the procedures adopted and actions undertaken by outside parties as distinct from procedures and actions to which the South African Government

would itself be bound would not be within the purview or control of that Government. If the Union of South Africa were to submit information and otherwise enter into relations with what it termed the three remaining Principal Allied and Associated Powers, it would be unable to control the actions of those three Powers, which would be free to transmit such information to the United Nations. For that purpose a suitable committee might be set up which, if the member States were all Members of the United Nations, might easily become a United Nations committee. Alternatively, there would be nothing to prevent the United Nations from agreeing with the three Allied and Associated Powers that whatever functions those States exercised in respect of South West Africa should be exercised on behalf of the United Nations and in close contact with the United Nations organ to be set up for the purpose. Any such solution would be consistent with the rather formal conditions laid down by the Union of South Africa. Surely a straightforward approach would be more honest and more advisable.

23. Referring to paragraph 34 of the Committee's report, he suggested that the Union Government might be invited to outline the measures it would contemplate taking with a view to translating articles 2 to 5 of the Mandate into reality. Moreover, since the Union Government, despite its declared refusal to accept the United Nations as the second party to an agreement concerning the Territory, had in fact been negotiating with the United Nations, the General Assembly was surely entitled to raise the question of Article 73 of the Charter. The Good Offices Committee had dismissed the suggestion of the applicability of Article 73 as inconsistent with the international status of the Territory. That might have been true if the transmission of information under that paragraph were to supplant all other obligations under the Mandate and the Charter, but Articles 73 and 74 of the Charter applied to all Non-Self-Governing Territories. Whether or not the obligations under Articles 73 and 74 exceeded those under the Mandate, the Union Government as a Member of the United Nations could not eschew them, since it had subscribed to them long after the establishment of the Mandate. There again was a wide field that might be explored together with the Union Government.

24. With regard to the idea of partition, he maintained that there was nothing inherently reprehensible in raising the issue provided all the safeguards of the Mandates System were applied to the entire Territory. On that understanding, presumably there would be no in-

superable objection to adding the safeguards of the International Trusteeship System to at least part of the Territory.

25. Alternatively, most delegations would probably be able at least to study a partition proposal that would divide the Territory and its economic resources on a population basis, since that would mean that the bulk of the land and resources would fall under trusteeship and that the full safeguards of the Mandates System would apply to the remainder of the Territory. On the other hand, no solution that was inequitable or that included provision for apartheid could be acceptable. In short, partition might be conceivable if it afforded good conditions in one part of the Territory and better ones in another part; it was utterly repugnant if it meant bad conditions in one part of the Territory and better ones in another part.

26. It might be objected that what he had said was mere conjecture, since the details of the partition proposal had not been worked out. The Union Government was, however, always free to elaborate details of the scheme. The United Nations was also free to examine the idea from its point of view. The Fourth Committee might even ask the Secretariat or the Committee on South West Africa to undertake a study in order to ascertain what kind of partition scheme, if any, would conform with the requirements of the Charter, the relevant General Assembly resolutions and the advisory opinions of the International Court of Justice. In any event his delegation felt that all possible alternatives should be examined. Any future consideration of the idea of partition must be based on the premise that if any part of the Territory were not to be placed under trusteeship it must still be fully safeguarded.

27. In short, there was still a good deal of work to be done. As one delegation had pointed out, that applied with particular force to the Union Government. The time had come for that Government to undertake a comprehensive review of its position with regard to the future of South West Africa and its implications in the light of the newly emerging shape of the international community, especially in Africa. If the Union Government really felt that the Mandate had lapsed, then so had South Africa's only claim to legal authority with regard to the Territory and its people. Once the source of its authority had lapsed, the Union had no alternative but to withdraw from the Territory and place it again at the disposal of the signatories to the treaty under which the Mandate had been granted.

The meeting rose at 12.5 p.m.