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Chairman: Mr. Enrique de MARCHENA
 (Dominican Republic).

AGENDA ITEM 37

Question of South West Africa: report of the Committee on South West Africa (A/3151 and Corr.1, A/C.4/338, A/C.4/L.445/Rev.1, A/C.4/L.446, A/C.4/L.447/Rev.1) (*continued*)

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.445/Rev.1, A/C.4/L.446, A/C.4/L.447/Rev.1) (*continued*)

1. Mr. RAMAIAH (India), referring to a point raised by the Belgian representative at the previous meeting, commented on the third paragraph of the preamble to the Indian draft resolution (A/C.4/L.446), which referred to the recommendation made in paragraph 21 of annex II of the report of the Committee on South West Africa (A/3151 and Corr.), his delegation had felt that instead of seeking advice on certain aspects of the question from the Trusteeship and Legal Committees jointly, as the Committee on South West Africa recommended, it would be preferable to refer the entire question to the Legal Committee. It was essentially a legal matter, since the Union of South Africa had disregarded the advisory opinion of 11 July 1950 of the International Court of Justice,¹ did not recognize the General Assembly's supervisory functions and had violated the terms of the Mandate.

2. Mr. MUNK (Denmark) pointed out that there were rather serious differences of opinion in the Fourth Committee, which might result in a deadlock. None of the draft resolutions provided the constructive solution which had to be found. Moreover, the statement made at the 579th meeting by the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories on behalf of the Secretary-General should be borne in mind. Quite clearly the Secretary-General was already overburdened with work and it would therefore be unfair to adopt either of the draft resolutions (A/C.4/L.445/Rev.1, A/C.4/L.447/Rev.1) which would again refer the matter to him. That did not mean that the possibility of referring the problem to him at some appropriate time and in certain circumstances should be entirely excluded. Taking all the factors into account, he might be able

at such time to consider entering into negotiations with the Union Government.

3. Accordingly, he thought that the Committee should perhaps postpone action on the three draft resolutions before it (A/C.4/L.445/Rev.1, A/C.4/L.446, A/C.4/L.447/Rev.1) and ask the Rapporteur to include in the report a passage to the effect that the Committee had decided to postpone action on the three drafts, on the understanding that the Secretary-General would, in the exercise of his normal functions, give the matter his serious attention.

4. Mr. LOIZIDES (Greece), after welcoming the Japanese representative, said that the members of the Committee were disappointed that no satisfactory text had been presented for their consideration. The Committee must act, however, in order to avoid giving the impression that Member States which did not respect the decisions of the United Nations or refused to co-operate with it might take advantage of its inaction. He therefore felt that by adopting the Philippine draft resolution (A/C.4/L.447/Rev.1) or the Indian draft resolution (A/C.4/L.446) the Committee would be taking a step forward.

5. Mr. SOWARD (Canada) did not believe that any of the three draft resolutions could enlist the support of the entire Committee. Moreover, the Committee must understand the Secretary-General's position and help rather than hinder him. Nothing would be lost by not taking a decision now if that decision would have dubious effects. His delegation therefore welcomed the Danish representative's proposal.

6. Miss BROOKS (Liberia) said that she agreed, in a spirit of compromise, to delete the words "the Assembly resolutions" from operative paragraph 2 of her draft resolution (A/C.4/L.445/Rev.1). She considered that the question of South West Africa was no less important than the other problems facing the United Nations and she saw no reason why it should be relegated to the background, especially as all the members of the Committee had stressed its urgency. She had done everything within her power to effect a compromise but she was bound to follow her Government's instructions.

7. Mr. VELANDO (Peru) said that several members of the Committee had informed him that the amendment to the Liberian draft resolution which he had proposed orally at the 580th meeting would compel them to seek instructions from their Governments, and that they would prefer to vote on the draft resolution as it stood. He would therefore withdraw his amendment.

8. Mr. KIANG (China) said that in the view of his delegation efforts to convince the Union of South Africa must be continued; events might well create a more propitious atmosphere for negotiation in the near future. That being the case, the Indian draft resolution could only hamper efforts to negotiate. His

¹International status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128. (Transmitted to Members of the General Assembly by the Secretary-General under cover of document A/1362.)

delegation also questioned whether the Sixth Committee's opinion would have an immediate bearing upon the solution of the problem. Referring to annex II of the General Assembly's rules of procedure concerning methods and procedures for dealing with legal questions, he expressed the opinion that the Indian draft resolution did not constitute any of the cases provided for in part 1, paragraphs (a), (b), (c) and (d). He would therefore vote against that draft resolution.

9. Turning to the Liberian and the Philippine draft resolutions, he said that as both sought to have the question referred to the Secretary-General, he would prefer to see them combined in a single text. At the 579th meeting, however, the Under-Secretary had given the impression that the Secretary-General had little hope of succeeding in the task which the Committee proposed to entrust to him. The Committee should hesitate before resorting, at the present juncture, to a method it might wish to use later on. Accordingly, he would not support any of the draft resolutions.

10. Mr. HASAN (Pakistan) noted that the Committee had failed to find a solution. None of the draft resolutions offered a positive or immediate answer to the problem. The Indian proposal would bury the question, and presented certain technical difficulties. The other two proposals would add to the heavy burden of the Secretary-General, who had, moreover, indicated that he was not in a position to undertake the task. In the circumstances, the Danish representative's proposal was most sound. By no means was it intended to relegate to the background a problem which all delegations had described as urgent and important. He suggested an addition to the Danish proposal to the effect that the Committee requested the Secretary-General to take such action as he might deem fit and appropriate. If the Danish proposal was not favourably received, however, he would be willing to consider a draft resolution combining the texts of the Liberian and the Philippine proposals.

11. Mr. DORSINVILLE (Haiti) pointed out that he had already referred to paragraph 168 of annex II of the report of the Committee on South West Africa, recording the Committee's final conclusion, and had declared his willingness to consider any constructive solution. He had examined with interest the draft resolutions presented by Liberia and the Philippines, and thought it would be helpful if those two delegations could reach agreement on a joint text. He had been surprised by the Danish representative's proposal, and wondered if it were not further evidence of the tendency, to which he had already drawn attention, to consign the question of South West Africa to oblivion.

12. He had understood from the Under-Secretary's statement that the Secretary-General's commitments would not allow him to devote the proper attention to the task which the Fourth Committee proposed to assign to him, and that it would be better not to set a strict time-limit for the performance of that task, but that the Secretary-General was not by any means refusing to undertake it. That gave the Liberian draft resolution a great advantage: unlike the Philippine draft resolution, it was couched in general terms and set no time-limit on the Secretary-General's work.

13. He was not sure that the Indian draft resolution had any practical value. He thought that it might even

to some extent run counter to the purpose which the Liberian proposal sought to achieve by emphasizing the diplomatic aspect of the problem and relying on the Secretary-General's intelligence and prestige.

14. His delegation would accordingly vote against the Danish proposal; it would abstain if the Indian draft resolution was put to the vote, and would be prepared to vote for the Liberian draft resolution.

15. Mr. CARPIO (Philippines) deeply regretted that none of the draft resolutions met with general approval in the Committee. But a text must somehow be produced on which the Committee could vote. To that end, he wished to propose six amendments (A/C.4/L.449) to the draft resolution presented by the delegation of Liberia (A/C.4/L.445/Rev.1), and to make certain comments on them.

16. Firstly, the word "negotiations" should be deleted from the title, as the content of the draft resolution did not justify its use. A paragraph should however be inserted in the preamble recalling the steps so far taken to settle the question.

17. Secondly, the statement that the Territory of South West Africa remained the only Territory formerly under mandate of the League of Nations that had not been placed under the International Trusteeship System was incorrect. Some of the mandated territories had attained their independence directly, without first being placed under the Trusteeship System. One of the amendments submitted by his delegation sought to take that fact into account. Moreover there were some redundant words which should be deleted. Everyone knew that the mandated territories had been under the League of Nations, and that the International Trusteeship System had been established by the Charter of the United Nations, so that there was no need to mention those facts.

18. Thirdly, the draft resolution should stress the importance of the question of South West Africa, and emphasize that a satisfactory solution must be reached as soon as possible.

19. Fourthly, it was hardly appropriate to assert that a spirit of harmony prevailed in the United Nations, when the members of the Committee could not reach agreement on measures to settle the question. In any case, the idea expressed in the third paragraph of the preamble had already been established in the text of his delegation's first amendment. The paragraph should accordingly be deleted.

20. Fifthly, it was not sufficient to draw the attention of the Secretary-General to the discussions which had taken place in the Fourth Committee. Important discussions on the subject had also taken place in the plenary meetings of the General Assembly, and the Secretary-General would need to take those into account as well. Moreover, the reference to General Assembly resolutions, which had been deleted from operative paragraph 2 at the request of certain delegations, should be restored.

21. Sixthly, it was not sufficient to request the Secretary-General to report at his earliest convenience. The General Assembly should have a report before it at its next session.

22. He did not think that the Indian draft resolution could lead to a constructive solution. There was often considerable delay in the examination of questions by the Sixth Committee. Moreover, although the legal aspects of the question were undoubtedly of great im-

portance, it would seem that the Fourth Committee itself was qualified to study them. He wondered why there was no mention of the advisory opinion of the International Court of Justice in the first paragraph of the preamble to the Indian draft resolution. The "legal remedies", to which reference was made in operative paragraph 1, were presumably an allusion to decisions of the Court. Moreover, that paragraph should also mention the Allied and Associated Powers, whose influence might prove very valuable. Lastly, contrary to what was intimated in the last part of operative paragraph 1, there was no reason to anticipate that the Territory of South West Africa would be placed under the Trusteeship System. His delegation would accordingly vote against the Indian draft resolution.

23. Mr. PERERA (Ceylon) considered the Philippine draft resolution (A/C.4/L.447/Rev.1) unsatisfactory. Furthermore, although he recognized the merits of the Liberian draft resolution (A/C.4/L.445/Rev.1), he would support the Indian draft resolution (A/C.4/L.446) because in his opinion it was the only draft which offered a concrete solution conducive to a settlement of the question of South West Africa.

24. Contrary to the opinion just expressed by the representative of China, he believed that the Sixth Committee was just as competent to examine the matter as the Fourth Committee because all the Assembly Committees had been established under the Charter, which had replaced the League of Nations Covenant. Should the Sixth Committee be unable to provide an answer with respect to legal measures, it would still be possible to consult the International Law Commission.

25. Even though all attempts made in the past eleven years to settle the question of South West Africa had been unsuccessful, the United Nations should persevere in its task. He was therefore opposed to any proposal which would postpone examination of the question or which would have the effect of leaving it unsolved.

26. In conclusion, he regretted the absence of a Member State that had signed the Charter and could co-operate effectively in the Committee's work.

27. Mr. GRILLO (Italy) noted that the head of the Indian delegation, in his statement made at the 578th meeting, had neglected to mention that the Minister of External Affairs of the Union of South Africa had categorically refused to recognize the competence and authority of the United Nations in the question of South West Africa. In those circumstances he did not see what practical purpose the legal measures at the Organization's disposal would serve. The recommendations made by the United Nations were, in fact, binding only if the State concerned recognized the competence of the United Nations as a judge. However regrettable the Union Government's decision might be, it had to be taken into account.

28. He thought that an attempt should first be made to obtain the support of the Union of South Africa, and he would vote for any draft resolution furthering that end. He did not believe the Indian draft resolution would lead to a concrete result, and he considered the Liberian and Philippine proposals unnecessary in

view of the statement made by the Under-Secretary on that matter. He would vote against the Philippine draft resolution.

29. Mr. KHOMAN (Thailand) was of the opinion that the purpose of the Philippine and Liberian draft resolutions had already been achieved because the Secretary-General would make every effort to find a solution. However, since the representative of Liberia had been instructed to urge that her draft resolution be put to the vote and since it would be voted upon first, he wished to propose two amendments (A/C.4/L.450) which were designed to make the text more specific and to take into account the conditions under which the Secretary-General now had to work.

30. Mr. GERIG (United States of America) wished to associate himself with the views expressed by the Danish, Canadian and Pakistan delegations. In view of the differences of opinion which had come to light and of the difficulty of reaching an agreement, it would be wise to postpone consideration of the question of South West Africa. That decision would in no way mean that the Committee was minimizing the importance of the question or that it wished to leave it unsolved. The Secretary-General and the competent United Nations organs would continue to study the problem in the exercise of their duties. If the Thai amendments were incorporated in the Liberian draft resolution, he would vote for it, but he considered the Danish proposal more satisfactory.

31. Mr. RAMAIAH (India) was opposed to the Danish proposal. In view of the gravity of the situation, it would be better to take a decision now.

32. In reply to the representative of Italy, he pointed out that the Union of South Africa was obliged to comply with a decision of the International Court of Justice. In support of that statement he quoted Articles 93 and 94 of the Charter and article 7 of the Mandate. If the Union of South Africa should refuse, which was hardly likely, the question could be brought before the Security Council.

33. Ato YIFRU (Ethiopia) noted that although the International Court of Justice had been consulted three times, no concrete results had been obtained. He therefore understood the reasons which had prompted the Liberian delegation to submit its draft resolution. He thought that adoption of the draft would assist the Committee in making progress towards a solution of the problem, and he would therefore vote for the draft. He would vote against the Danish proposal and would abstain from voting on both the Indian and Philippine draft resolutions. He reserved the right to speak later on the Thai delegation's proposed amendments to the Liberian draft resolution.

34. Mr. JASPER (United Kingdom) wished to associate himself with the views expressed by the Danish, Canadian, Pakistan and Thai delegations. If the Danish proposal were put to the vote, he would vote for it in its present or revised form. He did not think the Philippine draft resolution should be put to the vote, and he would vote against the Indian draft resolution for the reasons he had stated at the 579th meeting. The question of South West Africa required a practical and not a juridical solution.

The meeting rose at 11 p.m.