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**FOURTH COMMITTEE, 1064th
MEETING**

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

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

Requests for hearings (continued)

REQUEST CONCERNING AGENDA ITEM 45 (QUESTION OF THE FUTURE OF RUANDA-URUNDI) (A/C.4/444/ADD.9) (continued)

1. The CHAIRMAN announced that a further request for a hearing from Mr. Munyangaju, representing AP-ROSOMA, had been submitted to the Committee. As the Committee was shortly to take up the question of the future of Ruanda-Urundi, the Chairman proposed that the Committee might wish to dispense with the usual procedure regarding the distribution of the request for an oral hearing before voting.

It was so decided.

2. The CHAIRMAN read the letter (A/C.4/444/Add.9) from Mr. Munyangaju. He said that, if there was no objection, he would consider that the Committee had granted the request.

It was so decided.

AGENDA ITEM 43

Question of South West Africa (continued):

- (a) Report of the Committee on South West Africa (A/4464; A/AC.73/3; A/AC.73/L.14; A/C.4/447; A/C.4/L.652, L.653, L.654, L.655);
- (b) Report on negotiations with the Government of the Union of South Africa in accordance with General Assembly resolution 1360 (XIV)

CONSIDERATION OF DRAFT RESOLUTIONS (A/4464, ANNEX I; A/C.4/L.652, L.653, L.654, L.655) (continued)

3. Mr. BOUZIRI (Tunisia) wished to explain why his delegation had wanted to be included among the

sponsors of draft resolution A/C.4/L.653. He prefaced his remarks by pointing out that the word "Condamne" in the French text of operative paragraph 2 had been translated into English by the word "Denounces". As that word did not, to his mind, correspond to the spirit of the French text, he felt that it should be corrected.

4. The preamble of the draft resolution did nothing more than summarize the background of the problem in moderate terms. In order to support the operative part of the draft, the sponsors recalled the recommendations which had been adopted by the General Assembly and the advisory opinion^{1/} of the International Court of Justice in 1950, and showed how the Union Government had wilfully and consistently ignored those instruments and thus violated the principles of the Charter. The sponsors also wanted to set off those elements of the situation against the Union Government's attitude towards the Territory of South West Africa, where it was applying a policy that was contrary to the interests of the people, and thus contrary to the Mandate. It was accordingly imperative that the Union of South Africa should be condemned for refusing to respect its obligations. The United Nations had so far confined itself to noting that the Union of South Africa had refused to comply with its obligations under the International Mandate of 17 December 1920 for South West Africa; its purpose in so doing had been to exhaust every legal and peaceful means at its disposal. In the meantime, however, the situation had reached the point where a patient attitude was in danger of becoming negative, and of running counter to the inherent purpose of the United Nations. Hence, in operative paragraph 3, the sponsors indicated that the time had come for constructive action through the establishment of a commission that would be able to create the conditions necessary for South West Africa to accede to a wide measure of internal self-government before attaining complete independence.

5. In proposing such constructive action, the sponsors of the draft resolution were doing nothing more than drawing logical conclusions from the numerous points on which all delegations were in agreement, for no one had yet denied that the Union of South Africa was flouting the resolutions of the Assembly or that all the Assembly's efforts had been in vain. No one denied that the situation in South West Africa was steadily deteriorating because slavery and torture were being resorted to there; the crushing indictment of the petitioners was actually directed against a phenomenon that went by the name of colonialism. The colonialism in South West Africa was the most severe that Africa had known, and his delegation did not hesitate to place it in the same category as nazism or fascism. Some countries which still had colonies were guiding them towards independence and were thus proving that their

^{1/} International Status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, page 128.

concept of colonialism was certainly less reprehensible. The reason why he referred to nazism was that the colonialist policy applied by the Union of South Africa was based on the theory, cherished by the followers of Hitler, that one race was superior to another.

6. It would therefore seem that the draft resolution might receive unanimous support were it not for one obstacle—the fact that a complaint by two Member States was pending before the International Court of Justice.^{2/} That the argument must have some merit was evidenced by the support which it was receiving from such delegations as that of the United Kingdom. From the legal point of view, however, other delegations had already shown that the *sub judice* rule was not applicable, if only because the parties in the judicial proceedings and in the present instance were not the same, so that the General Assembly was fully justified in dealing with, and settling, the matter. Such action would in no way, as was feared by some, weaken the rule of law but would rather strengthen it by putting an end to the violations to which it had been subject for the past forty years.

7. Another argument that might be brought to bear against the draft resolution was the bond of solidarity between the Union of South Africa and other countries. Although his delegation did not as a matter of principle object to certain forms of solidarity that were justified by a common past or a similar world outlook, it did take exception to moral and material support which perpetuated the subjugation of a people or which had made it possible for an unjust war to be waged along the Tunisian frontier for a period of seven years. A country which, by a passive attitude, gave indirect support to the Union of South Africa ran the risk of being contaminated by the criminal principles which the Committee had unanimously condemned.

8. He pointed out that although the great Powers might not need the United Nations, the smaller countries keenly desired to increase its authority and were anxious for it to make the principles of the Charter prevail. Although he was determined to remain calm, the situation in South West Africa gave just cause for anger and indignation. He called on all delegations which might still be vacillating to take no further account of juridical and moral quibbles and to give their support to the draft resolution.

9. Mr. BRAIMAH (Ghana) introduced draft resolution A/C.4/L.652, which had been submitted by Ghana together with Nigeria and Sudan. That draft merely recalled General Assembly resolution 1361 (XIV) concerning the legal action open to Member States to submit to the International Court of Justice any dispute with the Union of South Africa relating to the interpretation or the application of the provisions of the Mandate for the Territory of South West Africa. He drew the Committee's attention to a resolution on South West Africa which had been unanimously adopted by the Second Conference of Independent African States, held at Addis Ababa in June 1960, and in which, after recalling General Assembly resolution 1361 (XIV), they had concluded that proceedings should be brought before the International Court of Justice with regard to the Mandate and had taken note of the intention of Ethiopia and of Liberia to give effect to that desire

by lodging a complaint. Thus, the States which had participated in that conference whole-heartedly supported Ethiopia and Liberia and felt that the action taken in that regard should be duly noted by the General Assembly. At the 1063rd meeting the Mexican representative had expressed doubt whether a conflict in law under article 7 of the Mandate existed between Ethiopia and Liberia, on the one hand, and the Union of South Africa, on the other. That, however, was a question to be settled by the International Court of Justice.

10. He said that the sponsors of the draft resolution would be glad to consider any amendments to it.

11. Mr. CARPIO (Philippines) said that, although he was not proposing a formal amendment, he wondered whether the General Assembly, when noting that an application had been filed, should not express satisfaction; the words "and commends the action of these two Governments" might be added at the end of operative paragraph 3.

12. Mr. MORSE (United States of America) thought that to meet the views of the Philippine representative the words "with approval" might be added after the word "notes" in operative paragraph 3.

13. Mr. DIALLO (Mali) thanked the representative of Ghana for having explained the scope of the draft resolution (A/C.4/L.652). In view of that explanation, he would be able neither to oppose nor to support the draft resolution and would therefore abstain when it was put to the vote. He would have unhesitatingly supported the draft resolution if it had been likely to have any practical effect on the outcome of the case brought before the International Court of Justice. The Committee had rejected the motion for adjournment of the debate proposed by the delegation of the Union of South Africa (1049th meeting), although some delegations considered that the Committee should await the decision of the Court; it therefore seemed contradictory to make no positive proposal to the Court on the one hand, and on the other, to ask the General Assembly, in draft resolution A/C.4/L.653, to revoke the Mandate. Moreover, there was no need for the General Assembly to pay compliments to the International Court of Justice, which was an organ of the United Nations. Nor was it necessary to commend Member States for having taken action in a matter which ultimately would have to be decided by the General Assembly itself, since it alone was competent purely and simply to revoke the Mandate, as should be done.

14. In reply to a question by Mr. CABA (Guinea), the CHAIRMAN announced that he intended to put draft resolution A/C.4/L.652 to the vote first, since the Committee had already decided, on the proposal of the representative of Bulgaria, to leave the vote on the draft resolution in Annex I of the report of the Committee on South West Africa (A/4464) to the last and, in accordance with rule 121 of the rules of procedure, it could not vote immediately on draft resolution A/C.4/L.653.

15. Mr. SALAMANCA (Bolivia) pointed out that that draft resolution was the one that went furthest in substance, since by providing for the establishment of an administrative commission for South West Africa it assumed that the Mandate would be revoked. It should thus be voted on first, in accordance with rule 131 of the rules of procedure.

^{2/} I.C.J., *South-West Africa Case, Application instituting proceedings*, (1960, General List, No.47).

16. Mr. KANAKARATNE (Ceylon) did not agree with that interpretation of rule 131, which applied only to voting on amendments. He asked the representatives of Bolivia and Bulgaria to reconsider their attitude.

17. Mr. BRAIMAH (Ghana) withdrew his delegation's original draft resolution (A/C.4/L.652). He would submit a revised text later, in the light of the amendments proposed by certain members of the Committee.

18. Mr. CABA (Guinea) emphasized that the draft resolution submitted by his own and other African delegations (A/C.4/L.653) proposed bold solutions for the final settlement of the question of South West Africa. It raised a political problem and offered a political solution which was entirely different from the legal solution which might be expected from the International Court of Justice. It should therefore be put to the vote first.

19. The three-Power draft resolution (A/C.4/L.652) did not envisage any solution and merely took note of the existing situation. Hence it was in no way urgent and he was glad that the representative of Ghana had decided to withdraw it provisionally.

20. With regard to the draft resolution in Annex I of the report of the Committee, the delegation of Guinea, together with other African delegations which were seeking a practical solution, for which the people of South West Africa had been waiting for fourteen years, could no longer admit that a Government which violated the principles of the Charter and the Universal Declaration of Human Rights should hold a mandate which was directed exclusively against that people. Operative paragraphs 4, 5 and 6 of the draft resolution in question specifically mentioned the Mandatory Power. It should not therefore be put to the vote first.

21. If the Committee rejected draft resolution A/C.4/L.653, that would mean that the majority of members considered that the Union Government continued to hold the Mandate and in that case the delegation of Guinea would reserve the right to propose amendments to the three-Power draft resolution (A/C.4/L.652).

22. Mr. KUCHAVA (Union of Soviet Socialist Republics) and Mr. GRINBERG (Bulgaria) supported the representative of Guinea. It would indeed be logical first to consider the fundamental political questions raised in the draft resolution submitted by Guinea and other African States.

23. Mr. SALAMANCA (Bolivia) said that he was not satisfied by the explanations he had heard. The Committee had before it two equally important draft resolutions, one, which was political in nature, submitted by the delegation of Guinea and others, the other, which related to the legal aspect of the question, submitted by Ghana and two other delegations. The adoption of the first would automatically entail the rejection of the second, since it could hardly be assumed on the one hand that the Mandate had been revoked and on the other hand that it remained in force. One of those two propositions was valid, but certainly not both. The Committee must either accept the opinion of the Court or else adopt the Guinean draft resolution and revoke the Mandate; if it chose the latter solution, political action would have prevailed over legal action.

24. However that might be, the question should be carefully examined and the Committee was not yet in

a position to decide on the order in which the various draft resolutions should be put to the vote.

25. Mr. JUNG (India) said that, in view of the importance of the questions raised in draft resolution A/C.4/L.653, a full debate was necessary and delegations would have to consult their Governments.

26. Mr. KANAKARATNE (Ceylon) agreed, especially since further draft resolutions might yet be laid before the Committee.

27. Mr. BRAIMAH (Ghana) stated that his delegation and that of India had just submitted a very important draft resolution on the question of South West Africa (A/C.4/L.655).

28. Mr. CUEVAS CANCINO (Mexico), supported by Mr. TAYLHARDAT (Venezuela), asked the representatives of Guinea, Bulgaria and the USSR not to press for a decision on the order in which the various draft resolutions should be put to the vote, since such a decision might bind the Committee.

Mr. Pachachi (Iraq) took the Chair.

29. Mr. BLUSZTAJN (Poland) formally proposed that the Committee should decide to begin its examination of draft resolution A/C.4/L.653. If it was not prepared to do so, it would have to adjourn the debate.

30. Mr. MORSE (United States of America) said that he would have been ready to vote on draft resolution A/C.4/L.652. His delegation endorsed the action taken by Ethiopia and Liberia, since it would enable the International Court of Justice to be informed of the facts which had been brought to light during the debates in the Fourth Committee, to which the Court would undoubtedly attach considerable weight. The United States delegation therefore felt that the Committee should adopt the draft resolution on the subject submitted by Ghana, Nigeria and Sudan.

31. On the other hand, it would have to consult its Government before voting on draft resolution A/C.4/L.653, which raised a number of problems. He doubted whether the General Assembly would contribute to the success of the cause it was defending by uttering a denunciation. In particular, operative paragraph 3 raised a number of difficulties. It might be asked whether the General Assembly had the right to decide that the Mandate no longer existed, and where the sovereignty over South West Africa lay. The General Assembly should not prejudge those legal questions, which had been brought before the International Court of Justice.

32. In emphasizing those problems the United States delegation was not in any way supporting the position adopted by the Union of South Africa. Indeed, it considered that the policy of the Government of that country was out of place in the modern world, where tensions were likely to give rise to a general catastrophe, and where all peoples demanded the freedom to which they were entitled. The United States delegation merely wished to point out that the draft resolution was premature, since it tended to prejudge the outcome of a case laid before the International Court of Justice. The United States delegation ardently hoped that the judgement of the Court would dispel all remaining doubts, so that each Member of the United Nations would be able to see clearly what the legal position was.

33. The CHAIRMAN noted that the Committee had before it four draft resolutions, one of which (A/C.4/L.652) was to be redrafted. It had already decided that the draft resolution in Annex I to the report of the Committee on South West Africa would be put to the vote after draft resolution A/C.4/L.653. Since the Committee would in any case be interrupting its examination of the question of South West Africa in order to take up the question of the future of Ruanda-Urundi at its next meeting, there was no point in prolonging the procedural debate. He therefore proposed that the Committee should not decide on the order in which it would take up the various draft resolutions until it could resume the examination of the question of South West Africa.

It was so decided.

34. The CHAIRMAN said that at its next meeting the Committee would hear a statement by the Belgian representative on the situation in Ruanda-Urundi. The Committee's subsequent schedule would depend on the time which it would devote to the study of that question, but in the meantime it should not forget that it would have to take a decision on the question of Western Samoa before Christmas. Furthermore, it should take into account a point concerning the examination of the report of the Trusteeship Council to which the United Kingdom representative had wished to draw the Committee's attention.

35. Sir Andrew COHEN (United Kingdom) said that a question had arisen in connexion with the Southern Cameroons plebiscite which had to be dealt with before Christmas. A difference of opinion had arisen concerning the interpretation to be given to one of the questions which would be asked in the plebiscite to be held in the Southern Cameroons on 11 February 1961. In view of the imminence of that consultation, and the need to proceed with the public enlightenment campaign without delay, and since the United Nations Plebiscite Commissioner, the Cameroons political leaders at a recent meeting in London, and the United Kingdom itself, were all anxious that the United Nations should be appraised of the different viewpoints and be asked to give an authoritative ruling without delay. He asked that the Committee should organize its work in such a way as to be able to decide that point before Christmas. The items of Ruanda-Urundi and of Western Samoa were, of course, urgent, but he hoped there would be sufficient time for the point to be taken immediately after these items.

36. The CHAIRMAN said that the Secretariat would draw up a provisional time-table which would be submitted to the Committee at a subsequent meeting. He proposed that the Committee should take up the question of Western Samoa after studying that of Ruanda-Urundi, which would no doubt leave it some time for settling the question of the Southern Cameroons before Christmas.

37. Sir Andrew COHEN (United Kingdom) said that he accepted that solution but hoped that the examination of the questions of Ruanda-Urundi and of Western Samoa would be fairly rapid.

38. Following a suggestion by Mr. RASGOTRA (India), Sir Andrew COHEN (United Kingdom) said that before the debate on the question of the plebiscite in the Southern Cameroons, his delegation would consider submitting a memorandum to the Committee in order to facilitate its work.

39. Mr. CABA (Guinea) agreed that the order of priority of the draft resolutions on the question of South West Africa should be decided at a later date but he wished to place on record his delegation's position on certain points raised during the debate. Firstly, those who used the action initiated by Ethiopia and Liberia before the International Court of Justice as a pretext for requesting the Committee to await the Court's judgement seemed to forget that Ethiopia and Liberia had acted on behalf of all the African States with which—both at New York and at Addis Ababa during the Second Conference of Independent African States—they had agreed on the details of the suit. It was not right that a step which they themselves had decided to take, after the General Assembly had refused to do so at its fourteenth session, should be used against them. The African States were well aware that the proceedings of the International Court of Justice were not rapid and that even in a far-reaching judgement the Court could only rule that the Union had failed to comply with the provisions of the Mandate. Moreover, the racist Government of the Union of South Africa, supported by the imperialist Powers, could always contest such a judgement by invoking the provisions of Article 60 of the Statute of the International Court of Justice.

40. It was for that reason that the African States must maintain a united front and beware of those who wished to divide them, as had already happened in the Congolese crisis. His delegation could not understand the attitude of the United States delegation, which, while claiming not to support the Union of South Africa, advised the Committee to await the Court's decision, in other words, to recognize tacitly that the Mandate should continue to be exercised by the Union. To leave the Mandate to the Union would be tantamount to killing South West Africa. An oral denunciation of the Union was not enough; the General Assembly must act if it did not want to be outstripped by events. Were the General Assembly to decide that all the colonial territories should become independent before the end of 1961, would it deny the people of South West Africa the right to independence, on the pretext that the judgement of the Court should be awaited. The Bolivian representative had put the problem clearly. The time had come to make a choice. If the Committee wanted the provisions of the Charter, the principles of the Universal Declaration of Human Rights and the prestige of the United Nations to be preserved, it should adopt draft resolution A/C.4/L.653. All the small countries struggling to consolidate their independence would be sure to vote in favour of it. The time for raising legal issues which buttressed the position of the Union of South Africa had passed. He therefore asked the sponsors of draft resolution A/C.4/L.652 to withdraw their text, which did not introduce any new element since everyone was aware of the action taken by Ethiopia and Liberia but was likely—by postulating that the Mandate was still in existence—to initiate a procedure which the colonialist Powers would not fail to use to their own advantage. He would not like certain delegations to have to regret their action, as they were already regretting the attitude which, owing to lack of adequate information, they had adopted on the Congolese question. He hoped that his appeal would be heeded and that all the small Powers would take care not to fall into the trap that was being set for them.

41. Mr. EDMONDS (New Zealand) stated that the organization of the Committee's work was a matter of great interest to him, because the Prime Minister of Western Samoa had expected to be present at the Committee's discussions towards the middle of November and the people of the Territory were becoming somewhat impatient over the fact that the Committee had not yet embarked upon the examination of the question of their future. His delegation hoped that the Committee would be able to conclude its study of the question of Ruanda-Urundi within the next fortnight, so that it could complete that of Western Samoa before Christmas, particularly since the Prime Minister of the Territory would probably be unable to come to New York after that date.

42. Mr. BOUZIRI (Tunisia) hoped that the timetable which would be drawn up bearing in mind the remarks by the representatives of the United Kingdom and New Zealand would provide for an early resumption of the examination of the question of South West Africa. The Committee should take a decision on that distressing problem as soon as possible. Draft resolution A/C.4/L.653 admittedly raised some serious problems on which delegations might have to consult their Governments, but as the importance of those problems was recognized they should be studied immediately after the examination of the question of Ruanda-Urundi.

43. Mr. MORSE (United States of America) said that he had had no desire to set a trap; he was merely trying to promote the adoption of an orderly procedure that would guarantee to the people of South West Africa the possibility of enjoying the freedom which had been denied to them for so long. The only reason he had criticized operative paragraph 3 of draft resolution A/C.4/L.653 was that the text sought to put an end to the Mandate, whereas the International Court of Justice, in its advisory opinion of 1950, had stated that the Mandate remained in existence. There had, of course, been developments since then and the Court might have changed its views, but that was the precise justification for the action which Ethiopia and Liberia had taken not only on behalf of the African States but on behalf of mankind as a whole. By requesting the Committee to adopt draft resolution A/C.4/L.653, Guinea seemed to be letting down two African States and, moreover, seeking to make the Court take a purely academic decision, since the General Assembly would already

have adopted a resolution designed to settle the question. Precipitate action did not necessarily promote a cause. The General Assembly might well adopt other resolutions which would not prejudice the issue. For instance, it might recommend that a visiting mission should be sent to the Territory; that would be recognizing the obligations both of the United Nations and of the Union of South Africa towards the people of South West Africa and might be conducive to good results.

44. Mr. KRIGA (Chad) stated that his country was joining the sponsors of draft resolution A/C.4/L.653.

45. The CHAIRMAN pointed out that since the Committee had decided to postpone the examination of the question of South West Africa in order to deal with that of Ruanda-Urundi, it could not settle the problems concerning the draft resolutions until the debate had been resumed.

46. Mr. CABA (Guinea) did not see why the Committee should interrupt its debate on the only question that was still causing it difficulties. All indications were that Ruanda-Urundi and Western Samoa were on the road to independence. The Committee should pursue its debate on South West Africa.

47. The CHAIRMAN recalled that the Committee had already decided to interrupt the examination of the question of South West Africa in order to deal with that of Ruanda-Urundi, on which—as also on the question of Western Samoa—it must take a decision before Christmas. Nevertheless, the Committee might perhaps continue the examination of the question of South West Africa after hearing the statement by the Belgian representative on Ruanda-Urundi, since the petitioners from that Territory would apparently not be ready to address the Committee before 29 November.

48. Mr. KUCHAVA (Union of Soviet Socialist Republics) formally proposed that the examination of the question of South West Africa should be continued on Saturday, 26 November 1960.

49. Mr. CARPIO (Philippines) formally moved the adjournment of the meeting.

The motion was adopted by 36 votes to 11, with 8 abstentions.

The meeting rose at 1.20 p.m.