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Chairman: Mr. L. N. PALAR (Indonesia).

AGENDA ITEM 38

- Question of South West Africa (continued):**
- (a) Report of the Good Offices Committee on South West Africa (A/4224);
 - (b) Report of the Committee on South West Africa (A/4191, A/C.4/413, A/C.4/422, A/AC.73/L.13);
 - (c) Study of legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa in respect of the Territory of South West Africa (A/3625; A/3906, part II; A/4191, para. 8; A/AC.73/2)

GENERAL DEBATE (continued)

1. Mr. VAN DER WATH (Union of South Africa), continuing the statement he had begun at the previous meeting, said that he would deal with the question of land alienation. In paragraph 73 of its report (A/4191) the Committee on South West Africa referred to the closing of the smaller Native reserves which were surrounded by European farms. In that connexion he would inform the Committee that the Administration of South West Africa knew nothing about the alleged closure of the three reserves, Soromas, Gibeon and Neuho, which were mentioned in paragraph 74 of the report.
2. The general allegation was a more serious one in so far as it implied bad faith. In an effort to put the problem in its right perspective he would deal first with the general problem presented by the smaller Native areas and subsequently with the other two areas mentioned in the report, namely, Aukeigas and Hochanas.
3. Originally small reserves had been proclaimed in various areas in an effort to accommodate the relatively small groups living in the areas concerned. The Natives concerned had insisted on that and the areas had at the time been considered adequate for the groups in ques-

tion. Two significant developments had, however, upset those calculations: first, the total stock in the areas had increased considerably, leading to over-grazing and consequent soil erosion; secondly, there had been a substantial increase in the total population as a result of improved health services and economic standards. The Administration had therefore come to the conclusion that the status quo could not be allowed to continue. Three alternative solutions had accordingly been examined.

4. The first had been the acquisition of additional land adjacent to the existing area. That had unfortunately proved to be not only the costliest but also the most difficult solution. Many of the adjoining farmers had refused to sell their property and, even if the land could have been purchased, it had been prepared for European farming and the cost was much higher than that of land available in unoccupied areas. Furthermore, the improvements, which would have had to be paid for, were not necessarily of great value for the different type of farming engaged in by the inhabitants of the reserve. The Administration had therefore abandoned large-scale efforts in that direction.

5. The second alternative had been a continuation of the status quo in the hope that with the increase of population and livestock some of the inhabitants would be willing to move to other available areas. That possibility had also proved impracticable, since it would have brought about a dispersal and disintegration of the tribes concerned.

6. The third possibility had been the acquisition of new land in areas where there was ample scope for future development and extension of the boundaries. In the opinion of the Administration that offered the best solution. For the same cost more and better land could be made available in the at present uninhabited regions than in those already occupied. It was the policy of the Administration to consult the groups concerned before embarking upon such a scheme, which could be successfully accomplished only if the inhabitants realized that it would be to their ultimate benefit. Once the Administration had satisfied itself on those points, new land was acquired and the existing land was sold and the proceeds used to offset part of the cost of the newly acquired areas. Invariably the Administration had to contribute towards the cost of the land, the cost of moving and the preparation of the new areas.

7. He assured the Committee that the Administration's efforts to solve the problems presented by the so-called small Native areas had nothing whatsoever to do with the Union Government's policy of "apartheid". The Administration was convinced that by acquiring new land where there was sufficient scope for future development it was acting in the interests of the inhabitants concerned. Accusations of mass removals, hardships, unjustified alienation of land and so on merely added to the problems of the Administration.

8. With regard to the general question of land allocation, he pointed out that when the Union had taken over the control of South West Africa only approximately 1 million hectares of land had been occupied by Native tribes under German treaties. In addition Ovamboland, the Okavango and a small portion of the Kaokoveld had been for practical purposes treated as Native territories. The rest of the tribes had been scattered over the country with no fixed place of abode.

9. The commission appointed by the Administrator during the first year of the Mandate to investigate and report, *inter alia*, on the setting aside of land for the Native population of the Territory had recommended, first, that Native reserves should be created for those inhabitants who had had to be moved from temporary reserves and for those who had no fixed place of abode; secondly, that land occupied by Native inhabitants under German treaties should continue to be so occupied; and, thirdly, that an additional area should be earmarked for future extension as reserves or as alternative Native areas in case of unsuitability of land allocated to tribes under the first recommendation. In practice those recommendations had meant an increase of the land allocated to Native inhabitants to approximately 10.5 million hectares, excluding Ovamboland and the Okavango. Today the total land reserved for Non-Europeans amounted to approximately 22.25 million hectares.

10. One of the main reasons for proclaiming by law the Native areas was to ensure land for the Native inhabitants for the future. No European could purchase land in those areas and no proclaimed Native land could be sold or alienated without the consent of the Natives concerned and the approval of both Houses of the Union Parliament. The legislation creating reserves and prohibiting the sale of land in those reserves was an essential protection for the Non-European community.

11. He would next deal with specific opportunities about which the Committee on South West Africa had commented in the past and again in its present report.

12. Much had been said about the insufficiency of land allocated to the Hereros. The question was a very old one dating back to the beginning of the Mandate. Since the Hereros had repeatedly claimed all land which had ever been occupied by them, even in the days when they had moved from place to place with their cattle, a solution which would satisfy all Hereros had been impossible. The Administration was, however, satisfied that the great majority of them did not share the dissatisfaction expressed by Chief Hosea Kutako, who, incidentally, was not the Paramount Chief of all the Hereros but the head of the Aminuis Hereros.

13. In 1933 the Administrator of South West Africa had informed the Hereros that, in order to ensure a sufficiency of land for them once the area set aside had been fully occupied, he had reserved all the country east of the Waterberg and Otjituo Reserves and north of the Epukiro Reserve for the use of Natives. Since then Crown land amounting to a total of 1,349,000 hectares had been added to the already existing reserves. All those areas were inhabited by Hereros. An analysis of the position today showed that a total of 15,000 Hereros, of whom less than 5,000 were adult males, occupied almost 4 million hectares with at least 200 watering points. Within that area they owned 176,500 head of cattle, or an average of just over thirty-five per male adult. Furthermore, there were still areas of unused land which would become available

for use by the inhabitants when more water points became available.

14. A great deal had been said about the Administration's proposal to cut up the area between the Aminuis Reserve and the Bechuanaland border into European farms. The position was that some years previously the Executive Committee of the South West Africa Administration had decided to drill for water in the area and twenty-two boreholes had been drilled at considerable cost. Subsequently, however, the Administrator in Executive Committee had decided that the area should remain as an area where grazing could normally be spared and in times of drought made available to farmers. It had also been decided that applications by Bantus resident in the Aminuis Reserve would receive the same consideration as would be accorded to European farmers.

15. With reference to the final recommendation in paragraph 143 of the report of the Committee on South West Africa, he pointed out that the group of Hereros in question had left the Territory in 1904 and had resided outside South West Africa throughout the period of the League of Nations. Surely such a claim could hardly be pressed fifty-six years after the group in question had permanently left South West Africa.

16. The report of the Committee on South West Africa devoted considerable attention to the question of Hoachanas. The present inhabitants claimed the area as their inalienable property on the basis of a book written by the late German Governor Leutwein, in which he stated that in 1902 Hoachanas, consisting of an area of 50,000 hectares, had been proclaimed a Native reserve for the Rooinasie Namas. A German Imperial Proclamation of 26 December 1905 had however been issued relating to the confiscation of the property in question and had been followed on 8 May 1907 by a notice issued by the Governor of German South West Africa referring *inter alia* to that confiscation. On 11 September 1907 a notice in the *Kolonialblatt* 981 had finally confirmed the proclamation and the preceding notice. That had been the legal position when the Union had taken over the Mandate in 1920.

17. The commission to which he had already referred, appointed in 1921 to examine and report upon the allocation of land to Native inhabitants, had recommended the closure of certain small temporary reserves, including Hoachanas, and had also recommended that land should be made available to the persons resident in Hoachanas, in the Gibeon district or at Aminuis. Because of practical difficulties the projected move had not been carried out but it had been considered periodically since 1931, several possible areas having been offered to the Hoachanas inhabitants. In 1956 it had been decided that the situation could no longer continue on a temporary basis and a commission had been appointed to acquire land for the Rooinasie. The only undertaking Administration officials had given that group of inhabitants had been to the effect that those who had lived in the area during the German occupation could continue to reside there and use the grazing during their lifetime. The commission had recommended the purchase of Itzawisis, and the Rooinasie had been offered permanent title to that area of 17,000 hectares. The matter had been discussed with the Hoachanas headmen, who had concurred. The property had therefore been acquired and the Hoachanas people had started moving to their new home. Some, however, had later refused to leave Hoachanas and it was as a result of that that the existing difficulties had arisen.

18. The move to Itzawisis offered a number of advantages: the new area was larger than Hoachanas; it adjoined the large Nama territories of Berseba and Tses; it was close to two railway sidings on the main line, so that medical services were more easily available; it was only twenty-three miles from the headquarters of the welfare officer; grazing was good, particularly for small stock; a dam had been built and a borehole yielding a sufficient water supply had been equipped with the necessary plant, and more dams were contemplated and further boreholes would be drilled to provide for future needs; the inhabitants could make their purchases from a shop on an adjoining farm. In view of the fact that the new area had been described as a desert, he would point out that the income of the inhabitants of the adjoining Berseba area was higher than that of any other group in the Native areas.

19. The Reverend Markus Kooper had been the leader of the group that had refused to move. After protracted negotiations court proceedings had been introduced in order to test the Administration's claim that with the exception of certain usufruct rights the Community had no title to the land. On 21 July 1958 the High Court of South West Africa had decided that Hoachanas was Crown land and that Markus Kooper was an unlawful resident there; the court had therefore granted an eviction order. On 29 July 1958 the magistrate of Rehoboth had explained to the people of Hoachanas the meaning of the court's decision and its consequences. The eviction order had not been executed immediately and in September 1958 the Administration had decided that the removal of the rest of the people of Hoachanas would be postponed until sufficient water had been opened up at Itzawisis. As a result, however, of the attempts of Markus Kooper to incite the inhabitants to refuse co-operation, the Administration could no longer delay execution of the court order against him and it had been executed on 29 January 1959. He and his family and household belongings had been conveyed by lorry to Itzawisis and the welfare officer of the Tses Reserve had been asked to assist him. Two tents had been placed at his disposal as temporary housing and he had been supplied with rations. He had also been offered facilities for the removal of his animals at Administration cost, but since he and his friends had refused to identify the livestock in question it could not be transferred. Full reports had been made available to the Administration by the magistrate and by the single police officer supervising the removal. While force had had to be used, nobody had been injured and no blood had been shed.

20. Another instance of the so-called displacement of Non-European peoples from their traditional lands cited by the Committee on South West Africa referred to the Aukeigas Native Reserve. The facts were that that small Native reserve had become overcrowded and overstocked, with the result that the inhabitants could no longer subsist from the soil and the Administration had been compelled to intervene. It had been decided to recommend to the Natives that they should move to Crown land adjoining the Okombahe Native Reserve. Representatives of the Aukeigas people had been taken to Cape Town to give evidence before a select committee of Parliament and they had approved of the exchange of land. The matter had been laid before both Houses of Parliament and Aukeigas had been de-proclaimed as a Native reserve and had become Crown land, while the boundaries of the then existing Okom-

bahe Reserve had been extended by proclamation. The people had in fact been impatient to move, but more water had first to be opened up in the new area and some of them had remained behind. Unfortunately, despite the expenditure of many thousands of pounds, the efforts to drill water had been unsuccessful and it had not been possible to move those remaining inhabitants. Conditions at Aukeigas had grown worse and the Administration had decided to seek land elsewhere. A commission had been appointed and an effort made to purchase private land adjoining Okombahe. Eventually two farms, known as Sorris-Sorris, had been bought for £35,000 and proclaimed a Native reserve. The balance of the Aukeigas people had then agreed to move there and Aukeigas had been vacated and subsequently sold by public auction. There had been no question of land alienation. The action of the Administration had been solely in the interests of the Aukeigas people and nothing had been done at any time that had not met with their whole-hearted approval.

21. With regard to the land in the Rehoboth Community referred to in paragraphs 140-142 of the report, he explained that under the German régime certain public buildings had been erected there for official purposes and that the ownership of those buildings and of the land on which they were erected had devolved upon the Administration of the Territory when the Union of South Africa had taken over from the Germans. The area had then been found to have been surveyed and its boundaries demarcated by beacons. There had never been any doubt that the land belonged to the Administration, even though title to it, as in the case of any Crown land, had not been registered in the Administration's name. When it had become necessary a few years earlier to erect at Rehoboth a magistrate's residence and office and accommodation for the Roads Department, it had been found that the Rehoboth Community had trespassed on the property by erecting a school and certain other buildings there and that it was laying claim to the property. It had disputed the Administration's right to erect the proposed buildings, even though they would serve the Community, and the Administration had finally had to clarify the question of title to the property. After the land on which the Rehoboth people had erected buildings had been surveyed, the Administration had had it transferred to the Community and had then had the rest of the property registered in its own name. The new buildings were now being erected. It would have seemed more logical if the Rehoboth people, who in other matters co-operated with the Administration, had offered to assist in the erection of buildings which would be of benefit to them rather than obstructing its efforts.

22. Paragraph 75 of the report stated that after the transfer of Native administration to the Union Government it had been found that a number of Native locations were not correctly situated and, in accordance with the requirements laid down by the present Prime Minister, should be moved so as to leave a buffer zone between them and the European-inhabited areas. It was true that the establishment of new townships was being carried out in accordance with the approved policy of the Department of Bantu Administration and Development, but it should be pointed out that the policy of establishing such townships some distance away from European-inhabited areas was one which had been followed in the Territory for a very long time and which accorded with the wishes of the Natives themselves. It was therefore incorrect to suggest that the policy

had been introduced pursuant to the transfer of Native administration in 1955.

23. He would like to explain further with regard to the proposed transfers that the rapid growth of the urban population had resulted in a deterioration of housing and sanitary conditions which necessitated careful re-planning of both Native townships and European-inhabited areas. In many instances the new plans provided that the Native townships should remain where they were, transfers being envisaged for the most part only where Natives were living in overcrowded and unhealthful areas. Large loans at a very low rate of interest and repayable over a period of thirty years had been made available for the proposed improvement of living conditions in Native townships, which would include the provision of various social amenities. The transfers had been approved only after careful consideration.

24. In the case of Windhoek the Native township of Katutura would be within walking distance of the large new industrial area which it had been found necessary to establish. The area selected for it was one of the best residential areas in Windhoek. In the existing Native locations Natives were already divided on the basis of ethnic groups, a policy which was applied in accordance with their own customs and wishes. The statement that the inhabitants of the Windhoek Location had not been consulted about the proposed new township was incorrect, for the question had been periodically discussed with the Bantu Advisory Board from 1953 to 1957, in which year one of the members of the Board had stated that the lay-out plan and the cost of the houses met with the Board's approval and that the Board realized that progress was being made and that the Natives concerned could not remain where they were. Pursuant to that statement the final plans had been put in operation and had now reached an advanced stage. Considerable expense had been incurred and the required accommodation was now becoming available for occupancy. The municipal authorities were in daily contact with the inhabitants concerned and were convinced that only a small minority, including some Hereros, were opposed to the plan, whereas the Ovambo and Damara ethnic groups in particular were eager to move as soon as possible. Abandonment of the scheme at the present stage would entail a financial loss of £1.5 million; still more serious, it would mean that the housing so urgently needed by the inhabitants concerned could not be provided for years to come, if, indeed, it could be provided at all. In the circumstances, abandonment of the scheme was inconceivable.

25. He would continue his statement the following day.

26. Mr. TAYLHARDAT (Venezuela) observed that the documentation before the Committee and the statements made by the South African representatives and by the petitioners all showed that the situation in South West Africa was still essentially what it had been in 1946, when the General Assembly had first considered it. There was no need for him to dwell on social, economic and political conditions in the Territory for the petitioners had described them in detail and in doing so had corroborated the conclusions set forth in the report of the Committee on South West Africa. He would like, however to outline his delegation's views on the South West African problem as a whole.

27. One of the petitioners had said that at times the people of the Territory had the impression that their

problem was being approached by the United Nations from the standpoint of convenience rather than of principle. That was not the case, for the States represented in the General Assembly had from the outset been trying to ensure that the principles enshrined in the Charter of the United Nations were applied in the Territory. Nevertheless, it should be recognized that if after thirteen years the discussion of the problem had still produced no positive results it was only natural that the people of South West Africa should begin to lose faith in the United Nations. It was, of course, the unco-operative attitude of the Union Government, determined as it was to impose its policy of racial segregation on the Territory and ultimately to annex it, that had led to the present impasse, for in the light of that Government's flagrant disregard of the General Assembly's resolutions it was beginning to seem that nothing more could be done to bring about their application. Yet the Assembly, far from acknowledging defeat in the face of that intransigent attitude, should continue to explore any new avenues that might lead to a solution.

28. He did not think it would serve any useful purpose to extend the life of the Good Offices Committee on South West Africa, for although his delegation had the greatest respect for the fair and impartial manner in which its members had carried out their task it had the impression that the only basis on which the Union Government was willing to negotiate was that of partition, an alternative which the General Assembly had, at its thirteenth session, rejected once and for all. His delegation was convinced that the proper solution would be to place the Territory under the International Trusteeship System. In that connexion, he drew attention to paragraph 6 of annex I of the report of the Sub-Committee on Legal Questions (A/AC.73/2), which set forth a question proposed by the Philippine representative as a possible subject of study by the Secretariat. That question concerned the compulsive actions or sanctions which the General Assembly might take in the light of the Union Government's continued defiance of the General Assembly resolutions and the advisory opinions of the International Court of Justice. The Sub-Committee had reached the conclusion that it could not ask the Secretariat to make such a study without obtaining the express authorization of the General Assembly. His delegation was of the opinion that the proposed study might be useful and that it might be well for the Assembly to give the Committee on South West Africa the required authorization so that the Fourth Committee could have the benefit of its findings at the next session.

29. In conclusion, he stated that his delegation would support any measure designed to solve the problem of South West Africa in accordance with the terms of Chapter XII of the United Nations Charter.

30. Miss POHJALA (Finland) noted that Finland's term of office as a member of the Committee on South West Africa would expire in the current year and that Finland would conclude its work on the Committee at that time. The comments made by Mr. Louw, the South African Minister of External Affairs, on what he had called inaccuracies in the report of the Committee on South West Africa had served to point up the difficulties that Committee experienced in trying to compile reports without receiving any information from the authorities most closely concerned with the administration of the Territory. Indeed, the Committee on South West Africa would be the first to recognize that

the documentation provided by the Secretariat and the statements of petitioners, valuable though they were, did not constitute adequate sources of information. She had therefore noted with satisfaction the South African Minister's statement that he was prepared to recommend to the Union Government that it should henceforth make certain information regarding the Territory available to the United Nations.

31. In addition to drawing up annual reports, the Committee on South West Africa had the task of negotiating with a view to reaching a solution on the question of South West Africa. Her delegation had always tried to bring to that task a spirit of conciliation and moderation, for it was convinced that the best way to settle international problems was to narrow the existing differences rather than sharpening them or creating new ones. The effort to find a solution acceptable to both sides had led to the establishment of the Good Offices Committee in 1957. Although that body had admittedly not succeeded in achieving positive results, her delegation felt that discussions still represented the best means of exploring the possibilities of a negotiated settlement. The report of the Good Offices Committee (A/4224) showed that the Union was still willing to continue negotiations with that Committee for the purpose of arriving at an arrangement acceptable both to the Union and to the United Nations, and the Minister of External Affairs had suggested that the door to a negotiated settlement should be left open. The fact that discussions with the Union Government had not yet produced a basis for agreement did not warrant the conclusion that their continuance would be unjustified. On the contrary, they should be pursued with even greater vigour and determination.

32. Mr. EDMONDS (New Zealand) said that, as his delegation had not intervened in the general debate on South West Africa for several years, he would like to explain the general principles that determined its approach to that problem.

33. New Zealand's acceptance of the 1950 advisory opinion of the International Court of Justice^{1/} meant that it concurred in the view that the supervisory functions of the League of Nations under the Mandate for South West Africa had devolved upon the United Nations. The inability of the South African Government to accept that advisory opinion and its insistence that the Mandate had lapsed were the cause of an impasse which had so far resisted all attempts at a solution, despite the good will shown by both sides in their repeated efforts to reach agreement. His delegation, standing squarely on the 1950 advisory opinion, had encouraged all attempts at negotiation and had opposed condemnatory resolutions which it thought more likely to hinder than to promote efforts to solve the key problem, namely, to bring the Union Government and the United Nations together on a basis which would guarantee both the international status of the Territory and the rights and liberties of its inhabitants. It did not see how that objective could be attained without the co-operation of the Union Government; hence it felt that all concerned should approach the problem in a spirit of moderation and should be careful not to prejudice or destroy such chances of co-operation as still existed.

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

34. Because it accepted the International Court's opinion that the Union Government was under no legal obligation to place the Territory under trusteeship his delegation had abstained on resolutions calling upon that Government to take such action, although it sympathized with the objective of those resolutions. Nevertheless, it felt that it should be possible to work out, within the framework of that opinion, effective arrangements which would give reality to the principle of international accountability. It had therefore supported resolutions seeking from the International Court advisory opinions which would clarify legal issues concerning the application of that principle to South West Africa. Similarly, it had warmly supported General Assembly resolution 1143 (XII) establishing the Good Offices Committee, and at the thirteenth session had voted in favour of General Assembly resolution 1243 (XIII) providing for the continuation of the Committee because it had felt that, although the Committee's new terms of reference were more restrictive and in some respects less clear than they had been the year before, every possible avenue of negotiation should be fully explored. It could not but regret, therefore, that the Union Government had found it impossible to accept the formula proposed by the Good Offices Committee (A/4224, para. 10) as a framework within which future negotiations might take place, a formula which seemed to his delegation to be eminently reasonable and consonant with the 1950 advisory opinion of the International Court. He had noted with satisfaction, however, the expression of hope by the South African Minister of External Affairs that the door to negotiation would be kept open.

35. The Union Government undoubtedly realized that successful negotiation would entail concessions on both sides; it was therefore to be hoped that its juridical position with regard to the question of South West Africa would not prove so rigid as to constitute an insuperable obstacle to a satisfactory and practicable compromise. To accept the suggestion that the question was one which could not be solved by negotiation, either wholly or in part, would augur ill for negotiations on other more complex, extensive and important international issues. In all such negotiations, whether within the United Nations or outside it, the role of the United Nations was to try to bring opposing parties together rather than to exacerbate existing differences of opinion. He was pleased that the South African delegation was present in the Committee at the current session and that the Minister of External Affairs had expressed his willingness to recommend that his Government should forward certain official documents to the United Nations. It was to be hoped that those signs of willingness to co-operate with the Committee would be encouraged and would in time lead to significant results.

36. His delegation had often made clear its views on "apartheid" in addressing the Special Political Committee and he would therefore confine himself to stating that the Government and people of New Zealand were firmly opposed to policies based on principles of racial segregation and discrimination. Concepts of racial superiority could not, in their view, provide any lasting solution to the problems of a multiracial society and seemed particularly out of place in a Territory the international character of which was acknowledged by the Union Government itself.

37. Mr. ESPINOSA Y PRIETO (Mexico) said that members of the Committee had been deeply impressed by the statements made by the petitioners Mr. Beukes and Mr. Kozonguizi and regretted the attempts made by the South African representative to counteract the effect which those statements were bound to have on the Committee. Special thanks were due also to the petitioners Mr. Lowenstein, Mr. Bundy and Mr. Bull, who had made a most valuable contribution to the discussions; moreover, they had demonstrated the serious effect on world opinion caused by events in the Territory and what they had had to say would undoubtedly have wide repercussions.

38. The question of South West Africa had for many years aroused deep emotions among members of the Committee, regardless of nationality or ideology, and each member of the Committee knew that a step taken without due consideration could give rise to actions which would destroy the very principles of the United Nations and open the way to its dissolution. One member of the Committee, two years previously, had suggested that the United Nations should send an army into the Territory; other representatives, conscious of the fact that the Organization had no means of action open to it except those set out in the Charter, became discouraged and felt that no argument was of any avail against the obstinate repetition of views which had no foundation in fact. The Committee should steer carefully between those two extremes. As a body, the General Assembly could not despair; it knew that its cause must triumph in the end. If the Committee yielded to feelings of despair or irritation, there was a danger that it might take some action which was outside its terms of reference, thus providing the Union of South Africa with a pretext for continuing its own illegal action. Another danger lay in the suggestion that, as a conciliatory gesture towards the Union, the Committee should not pass its customary resolutions maintaining the juridical position of the United Nations and its determination to abide by its principles.

39. The passage of time had shown those dangers to be exaggerated. In fact, the Union's case against the United Nations was constantly becoming weaker. All the European Powers were entering into new relationships with the peoples of Africa and the Union's illusion of domination by the European race had to be set against a background in which the whole continent of Africa was liberating itself at ever-increasing speed. The Union had had recourse even to force, but it knew that in the modern world it must make use of reasoning. Yet every argument advanced, whether in connexion with the status of the Territory or with the family relationships of a petitioner, had turned to its disadvantage.

40. At the previous session, his delegation had been in favour of renewing the Good Offices Committee for a further year, not because it had had any particular hope that the question of South West Africa would thereby be solved but in order to give that Committee an opportunity to rectify an error. At the previous session the first mention of partition had come from the Chairman of the Good Offices Committee, and the Union had adopted an attitude suggesting that it was indifferent to the idea but was willing to allow itself to be persuaded into annexing one half of the Territory. Now, however, the Chairman of the Good Offices Committee had made the position clear in an exchange of letters with the Union Government, and the reply from the

Minister of External Affairs and the latter's strong advocacy of partition made it clear which party was in fact interested in that ill-conceived suggestion. It was now obvious that when, at the twelfth session, the Chairman of the Fourth Committee himself had presented the draft resolution calling for the establishment of the Good Offices Committee, all that the Union Government had in fact had in mind was partition; that had been the idea behind the so-called new approach.

41. He recalled the very active part played by Mr. Longden, the then United Kingdom representative, in setting up the Good Offices Committee and the assurances which that representative had given. The General Assembly had not selected individuals as members of the Good Offices Committee; it had named Brazil, the United Kingdom and the United States of America, and consequently the Governments of those countries assumed responsibility for the negotiations. He wished to remind the Committee of that point in view of Mr. Louw's statement, in his letter of 15 May 1959 to the Chairman of the Good Offices Committee (A/4224, annex II), that the Union Government had noted with interest that, in adopting resolution 1350 (XIII) in connexion with the future of the Cameroons under United Kingdom administration, the General Assembly had had no objection to the two principles of partition and annexation. That statement was too serious to be ignored and it revealed how the solution of one United Nations problem was liable to affect the others. Mr. Espinosa y Prieto was far from feeling that the problem of the Cameroons had been handled in the best way from the beginning. Mr. Louw's implication made it necessary to remind the Administering Authorities and the Trusteeship Council's visiting missions that all issues must be settled on strictly logical grounds regardless of any considerations of pride or any desire to impose a solution. Mr. Louw was free to interpret the word annexation as he saw fit, but in fact he knew very well that the inhabitants of the Northern and Southern Cameroons under United Kingdom administration were being allowed to decide of their own free will which of two fully independent African States they wished to join. It was surely obvious that there was no parallel between the case of those Territories and that of South West Africa. All that had been suggested where South West Africa was concerned had been partition associated with annexation based on inequality and racial discrimination, in violation of the fundamental principles of the United Nations.

42. The United Nations was entitled to expect the United Kingdom to take a definite stand in support of the cause championed by the Committee instead of indulging in the involved accounts of past events by which it usually explained its abstention on the matter. The United Kingdom was in fact in a very delicate position, since the Mandate for South West Africa had been conferred on His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa. At that time there had been a South African Government but the Union had not been fully constituted as an independent State. At the 763rd meeting of the thirteenth session, the United Kingdom representative had attempted to explain that point by referring to the way in which the independence of the members of the Commonwealth had been defined in the Imperial Conference of 1926. That, however, had been six years after the signing of the Mandaté.

43. With regard to legal action, his delegation was far from suggesting that further advisory opinions

should be sought; indeed it was now well established that at any rate the States Members of the United Nations which had been members of the League of Nations could take the case of South West Africa to the International Court of Justice for compulsory jurisdiction under article 7 of the Mandate. Such action had not as yet been taken, because the General Assembly had been led to believe that the atmosphere was improving and that the Union would adopt a constructive attitude. It would, however, be a mistake to assume that none of the eighty-two Member States would take that course for fear of antagonizing South Africa. It was not a hostile act to take a case before the Court. Moreover, since such a step, although approved by the United Nations, could be taken only by an individual State, the General Assembly would consider that any State doing so would be rendering a service to the Organization.

44. If it was accepted that in certain cases there were legitimate regional interests that could not be denied, it was obvious that it would be of great advantage to the United Nations if the case were brought before the Court by the African States, which had recently been of such great service to the General Assembly in the question of the Cameroons under United Kingdom administration. It was possible that Member States from other continents would then be prepared to join them in an action which the Union could hardly resent since it was a normal legal procedure allowed for under the Mandate. If, however, there existed clear evidence of good will on the part of the Union towards solving the problem, action before the Court should be kept in abeyance and negotiations should take place, always providing that there were no such surprises as those contained in the so-called new approach.

45. The Union's position over the question of South West Africa had weakened, and the South African people could not be unaware of the damage done to the international position of their country. No one enjoyed seeing his country condemned by world public opinion; every-

one wished the highest members of his Government to be held in respect abroad. No one in the Union would enjoy seeing the allegations made by his Minister of External Affairs refuted by the Rapporteur of the Committee on South West Africa or by a petitioner.

46. Despite the atmosphere of irritation in the Committee, there was a positive factor, namely, that the Committee was discussing the matter. He welcomed the presence of Mr. van der Wath; the mere fact that he had lived so long in the Territory surely made it impossible for him not to be aware of the rights of the inhabitants.

47. In conclusion, he would revert to a suggestion which he had made to the Committee during the tenth session (495th meeting), to the effect that supervision over the affairs of the Territory could be exercised by a committee consisting of the United States, France, the United Kingdom, the Union of South Africa and four other States to be chosen from among the States which were not administering Powers. The committee would operate for a period of two or three years, at the end of which, on the basis of a recommendation by the committee, a trusteeship agreement would be signed.

Requests for hearings (continued)

REQUESTS CONCERNING AGENDA ITEM 13 (REPORT OF THE TRUSTEESHIP COUNCIL) (continued)

48. The CHAIRMAN said that a request for a hearing concerning conditions in the Trust Territory of the Cameroons under French administration had been received from Mr. Silas Mbong, a member of the Legislative Assembly. He assumed that the Committee would wish the request to be circulated.

It was so decided.^{2/}

The meeting rose at 5.15 p.m.

^{2/}The request was subsequently circulated in document A/C.4/409/Add.5.