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Chairman: Mr. Luciano JOUBLANC RIVAS
(Mexico).

AGENDA ITEMS 31 AND 33

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (*continued*):

- (a) Information on social conditions;
- (b) Information on other conditions;
- (c) General questions relating to the transmission and examination of information;
- (d) Offers of study and training facilities under General Assembly resolution 845 (IX) of 22 November 1954

Question of the renewal of the Committee on Information from Non-Self-Governing Territories: report of the Committee on Information from Non-Self-Governing Territories (*continued*)

DRAFT REPORT OF THE FOURTH COMMITTEE (A/C.4/L.407)

1. Mr. MASSONET (Belgium), Rapporteur, presented his report on agenda items 31 and 33 (A/C.4/L.407).
2. Mr. CORTINA (Argentina) objected to the reference in paragraph 3 to "the Falkland Islands and dependencies (Islas Malvinas)". In reserving his

Government's position with regard to its sovereignty over those Territories he had not referred to them in just that way, as his Government categorically denied the existence of that so-called relationship of dependency. The Committee's report should be completely objective. He therefore suggested that the phrase in question should read: "the Islas Malvinas (Falkland Islands), the South Georgia and the South Sandwich Islands and the Argentine Antarctic". Thus, the islands would be named and the term "dependencies" avoided.

3. Mr. GIDDEN (United Kingdom) pointed out that two separate Territories were involved: the Falkland Islands and the Falkland Islands Dependencies. That was the nomenclature adopted by his Government, which administered the Territories. He wondered if it would meet the Argentine representative's point of view if that form of words were adopted, the term "Dependencies" being spelt with an initial capital letter, thus eliminating any objectionable connotations.

4. Mr. CORTINA (Argentina) could not agree. He did not wish to provoke a debate on the matter and hoped that a formula could be found that would be acceptable both to his delegation and the United Kingdom delegation.

5. In reply to a question from Mr. GIDDEN (United Kingdom), Mr. KUNST (Secretary of the Committee) said that the 1954 report (A/2794) had referred only to the "Falkland Islands (Islas Malvinas)", all reference to the Dependencies being omitted.

6. Mr. CORTINA (Argentina) said that he would be prepared to follow the previous year's example provided that, in the Spanish text, the words "Islas Malvinas" appeared first and the words "Falkland Islands" second.

7. Mr. GIDDEN (United Kingdom) agreed.

It was so decided.

8. Mr. DIPP GOMEZ (Dominican Republic) requested that his country's representative should be included in the list of speakers in paragraph 46.

9. Mr. MASSONET (Belgium), Rapporteur, said that that would be done.

The Rapporteur's report (A/C.4/L.407) was adopted subject to those amendments and to minor drafting changes.

**Requests for hearings (A/C.4/306, A/C.3/311)
(*continued*)**

10. The CHAIRMAN drew attention to the request for a hearing contained in document A/C.4/311. He assumed that the petitioner wished to be heard in connexion with the item on the Togoland unification

problem and the future of Togoland under British administration. He proposed that the Committee should consider the request.

There being no objections, the request was granted.

11. Miss ROESAD (Indonesia) drew the Committee's attention to document A/C.4/306. The Committee had granted hearings to the petitioners in question but had taken no action on their request that it should intervene in their passport and visa difficulties so that they could reach New York.

12. The CHAIRMAN wondered whether the representatives of the United Kingdom and the United States could throw any light on the matter.

13. Mr. BELL (United States of America) said that, as far as he knew, the petitioners in question had not applied for a United States visa. If such an application were made, it would receive the treatment that his Government had always given to such applications.

14. Mr. GIDDEN (United Kingdom) presumed that the petitioners were either French citizens or citizens of the Cameroons under French administration. They were not British subjects or British protected persons. Hence, it was out of the question to grant them British passports as they requested. With regard to the movement of French Cameroonian subjects who might, for one reason or another, be in the Cameroons under British administration, there was nothing to prevent their departure from the Territory at any time nor could any legal power prevent them from leaving. Transit between the Cameroons under British administration and the Cameroons under French administration was free.

15. In reply to a question from Miss ROESAD (Indonesia), Mr. GIDDEN (United Kingdom) said that he was advised that none of the persons concerned fell into a category which could be issued with British travel documents other than passports.

16. Miss ROESAD (Indonesia) was most concerned about the situation that had arisen. It should be possible for the Committee to do something to facilitate the petitioners' appearance in New York. Unfortunately, the United Kingdom authorities, in whose jurisdiction they now were, were unable to help them. She wondered whether it would be possible for the Secretariat to give them United Nations travel documents.

17. Mr. COHEN (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) explained that a *laissez-passer*, the official United Nations travel document, could be issued only to an official of the United Nations or of one of the specialized agencies on official mission outside the Headquarters area.

18. As soon as the Committee granted a hearing, the Secretariat advised the petitioners; it also advised the United States delegation that petitioners would appear at the appropriate consular office to request visas. That was all the Secretariat could do.

19. Miss BROOKS (Liberia) proposed that further consideration of the matter should be postponed in order to give the Chairman an opportunity to explore every possibility of helping the petitioners to reach

New York. It was most regrettable that petitioners who had been granted a hearing should be unable, owing to passport difficulties, to appear.

20. Mr. HARARI (Israel) agreed. The various authorities concerned should do everything in their power to enable the petitioners to take advantage of the hearings granted them.

21. Miss ROESAD (Indonesia) supported the Liberian representative's proposal. The Committee was apparently not in a position to make any useful suggestions at that juncture.

The Liberian proposal was adopted.

22. Mr. BOZOVIC (Yugoslavia) drew the Committee's attention to a recent petition from the Union des populations du Cameroun (T/PET.5/821) from which it would appear that, quite apart from difficulties preventing the petitioners from appearing before the Committee, those petitioners might be unable to put their case to the 1955 United Nations Visiting Mission. The language of the petition was somewhat confused, but it would seem that the Visiting Mission had made some statement regarding the hearing of petitioners in the Territory. Further information would be welcome.

23. Mr. COHEN (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) explained that no official report had yet been received from the Visiting Mission on the events to which the Yugoslav representative had referred. As soon as such a report was received, he would inform the Yugoslav representative.

AGENDA ITEM 30

Question of South West Africa (*continued*):

(b) Report of the Committee on South West Africa (A/2913 and Add.1 and 2; A/C.4/308) (*continued*)

24. Mr. SERAPHIN (Haiti) said that his country was united by special ties of race and history to the indigenous peoples of Africa and could therefore not remain indifferent to the situation which prevailed in the former Mandated Territory of South West Africa. Lest it might be thought prejudiced in its approach to the question, he would note at the outset of his statement that his delegation's comments were based exclusively on the facts as set forth in the report of the Committee on South West Africa (A/2913 and Add.1 and 2). In the light of those facts, it was clear that in many respects the policy of the South African Government towards South West Africa was a flagrant violation of the basic principles of the Charter and of the Covenant of the League of Nations. The actions of that Government in South West Africa amounted to a positive misuse of the international Mandate, for far from preparing the indigenous peoples of South West Africa for the achievement of the aims set forth in the Covenant and in the Charter, it was in fact preparing South West Africa to become a fifth province of the Union.

25. Paragraph 31 of the report of the Committee on South West Africa on conditions in the Territory (A/2913, annex II) showed that in accordance with the South West Africa Affairs Amendment Act, 1949, South West Africa was represented in the Union

House of Assembly by Union nationals of European descent elected by European voters in South West Africa. Paragraph 38 noted further that the Legislative Assembly of South West Africa consisted entirely of Union nationals of European descent elected exclusively by Union nationals residing in South West Africa. The Haitian delegation must protest against such a mockery of parliamentary representation whereby the indigenous inhabitants of South West Africa were represented solely by Europeans whose interests had nothing in common with theirs. It reserved its opinion with regard to the legal aspects of the system, on the grounds that its operation was likely to hamper the development of the Territory as a separate political entity.

26. In regard to the question of land and land tenure, paragraphs 85 and 88 made it clear that there was no land privately owned by indigenous inhabitants anywhere in the Territory and that land which they occupied could be alienated for the benefit of the European population without regard to their interests, wishes and attachment to the land. The Haitian delegation must condemn that policy, which was incompatible with the spirit and the letter of the Charter and favoured the interests of the Europeans to the detriment of the indigenous inhabitants.

27. A black picture was given of the material welfare of the indigenous inhabitants in paragraphs 119 and 123 of the report. Part IV, on social conditions, showed that the social policy adopted in the Territory by the South African Government was incompatible with the Universal Declaration on Human Rights and with the principles of the Mandates System. The position with regard to education especially, which was one of the most important fields, left a great deal to be desired, particularly when it was recalled that the indigenous inhabitants were supposed gradually to be prepared to assume increased responsibilities in matters of government.

28. It was true that the South African Government had brought about a number of improvements in hygiene and public health, in the application of certain international recommendations in regard to labour and in soil conservation. However, all those measures were of utility to the public as a whole and bore no special relation to the welfare of the indigenous inhabitants.

29. The Haitian delegation would vote in favour of the adoption of the report of the Committee on South West Africa although it regretted that the conclusions which the Committee had arrived at had not led it to make any recommendations. He hoped that the Fourth Committee would use those conclusions as a basis for recommendations of its own regarding South West Africa. He also hoped that the South African Government would not persist in its obstinate refusal to co-operate with the United Nations and to recognize the Organization's competence in the matter of South West Africa, and would at last reconsider its position. History would not stand still, and the day was bound to come when the peoples of South West Africa would use deeds, not words, to claim their equal rights. He recalled the epic struggle of Haiti and warned the Committee that the same drama might well be re-enacted on the African scene, if steps were not taken in time for the peaceful emancipation of its dependent peoples.

30. Mr. PIMENTEL BRANDAO (Brazil) noted that the Union of South Africa had resisted all the efforts of the General Assembly in defence of the principles of humanity and human rights. It might be thought that there was little use in repeating the arguments of the last ten years. Nevertheless, the Brazilian delegation wished to explain the vote which it would cast on the report of the Committee on South West Africa.

31. Despite the most friendly relations Brazil had long maintained with South Africa, it considered itself bound after signing the Charter to accept all the obligations contained therein. As a member of the Committee on South West Africa, Brazil had bent every effort to assist the General Assembly in finding an acceptable solution to a problem which had perplexed the United Nations for ten years. From the legal aspect, the problem had changed little in that time, and the 1950¹ and 1955² advisory opinions of the International Court of Justice had served only to emphasize the fact that the General Assembly had chosen the right path from the start. Together, the discussions in the General Assembly and the advisory opinions of the International Court of Justice formed an almost unanimous body of opinion on the question as a whole, which a vast majority in the United Nations had accepted and which the Union of South Africa had been alone in opposing.

32. Although no progress had been made in settling the problem, it must be recognized that the Committee on South West Africa had carried out its difficult and unrewarding task with great skill. The Committee's report was the only positive and substantial contribution to the settlement of the problem, and the Brazilian delegation would vote in favour of its adoption.

33. Mr. AZIZ (Afghanistan) said that despite the fact that its task had been rendered more difficult by the failure of the Union of South Africa to co-operate with it, the Committee on South West Africa had succeeded in presenting an admirably clear report. The inaccuracies which the South African representative had complained of might well have been remedied if the South African Government had provided the required information and a South African representative had taken part in the Committee's deliberations.

34. Little progress had been made towards the settlement of the problem of South West Africa in the ten years in which the question had been on the agenda of the General Assembly. However, at the current session, the most recent advisory opinion of the International Court of Justice had made the way clear at last for action by the United Nations. The delegation of Afghanistan had never doubted that the United Nations was competent to act in the question of South West Africa, but it was nevertheless gratifying that the International Court of Justice had upheld the view of the majority with regard to voting procedure. The Court had advised long before that the South African Government was bound by the terms of the Mandate

¹ *International 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 by document A/1362).

² *South-West Africa—Voting Procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955*, p. 67 (Transmitted to Members of the General Assembly by the Secretary-General by document A/2918).

to submit annual reports and to transmit petitions from the Territory of South West Africa to the United Nations. The South African Government now stood alone in opposing the view of the majority in the United Nations and of the highest international legal authority.

35. The delegation of Afghanistan approved the terms of the report in general and would vote in favour of its adoption. He drew attention to the regretful conclusions of the Committee on South West Africa as set forth in paragraph 198, annex II, of document A/2913. He noted with pleasure that for the second year in succession, a comprehensive report on the situation in South West Africa had been made available to the General Assembly, on the basis of official information, despite the fact that the South African Government had persistently refused to co-operate with the Committee on South West Africa; and that provision had been made to receive petitions from the Territory, thus establishing a direct link between the United Nations and the unfortunate inhabitants of the Territory. He hoped that the time was not far distant when the South African Government would recognize its error and would join the rest of the United Nations in helping the peoples of South West Africa to achieve the equality and freedom for which the Charter provided.

36. Mr. FOROUGH (Iran) said that it was clear from Article 22, paragraph 1, of the League of Nations Covenant that the Mandates System had been intended for the betterment of all peoples in the mandated territories. The Union of South Africa could not, because the Mandates System had lapsed, regard itself as freed from the responsibilities imposed upon it by Article 22 of the Covenant. The Covenant and the United Nations Charter were multilateral agreements which, like any other international treaty, were subject to interpretation. On the question of South West Africa an interpretation had already been given by the competent judicial organ of the United Nations, the International Court of Justice. The Members of the United Nations could not challenge the Court's authority on such a clear issue without challenging the authority of the Organization itself.

37. It was clear from the report of the Committee on South West Africa that all the members of the Executive Committee of the Territory were of European descent; that non-Europeans were employed only in the lower categories of the Public Service; that the non-European inhabitants had no direct representation in Parliament; that no non-European could sit in the Legislative Assembly or vote in an election for that Assembly; that the mining enterprises were owned by extra-territorial investors; that residential restrictions, racial discrimination in marriage and restrictions on freedom of movement were practised; that there was discrimination in educational facilities and that there were no vocational schools except for the teaching profession; and that the specialized agencies had been unable to help the people of that area since the South African Government had not requested their assistance. It seemed unlikely that that Government considered South West Africa to be self-sufficient, and any steps taken by the Government to obtain assistance for the Territory would greatly help the welfare of the inhabitants.

38. That life must be almost intolerable for non-Europeans in the Territory could also be seen from

the letter from the Reverend T. H. Hamtumbangela reproduced in annex VIII to the Committee's report. Such a state of affairs was deplorable in a Territory that had been for nearly four decades under the administration of a Mandatory Power. It seemed that both the spirit and the letter of Article 22 of the Covenant had been forgotten.

39. According to Mr. Hamtumbangela's letter, the non-European peoples of South West Africa were willing to accept a mandate or trusteeship agreement voluntarily. Steps should be taken urgently to help those 400,000 human souls before it was too late. In that connexion he drew attention to the statement made by the Secretary-General in his annual report for the year 1954-1955 (A/2911, p. xiv) that in the next ten years the peace and stability of the world would be strongly affected by the evolution in Africa and by the manner in which the economic and social advancement of the African people was assisted by the rest of the world.

40. The Fourth Committee's duty was clear: it must use every means at its disposal to help the people of South West Africa attain the dignity to which every human being was entitled. To solve international problems, conciliatory methods were necessary, and the Fourth Committee should leave nothing untried.

Mr. Kaisr (Czechoslovakia), Vice-Chairman, took the Chair.

41. Mr. KHADRA (Saudi Arabia) expressed the view that the Committee on South West Africa had carried out its work admirably notwithstanding the serious handicap under which it had laboured in consequence of the refusal of the Government of the Union of South Africa to co-operate in its activities. The difficulties from which the Committee had suffered had not been lessened by the uninformative character of the responses of the specialized agencies to the request for information, made by the Secretary-General, in accordance with paragraph 7 of General Assembly resolution 851 (IX). It had therefore had to depend on information based on official documents issued by the South African Government and the Territory of South West Africa and on other information drawn from the various media of communication.

42. The question inevitably arose of the exact status of the Territory of South West Africa. The area had been entrusted to the Union of South Africa as a "C" Mandate in accordance with Article 22 of the League of Nations Covenant. The South African Government had administered the area in conformity with the spirit of the Mandate, notwithstanding the fact that in the years preceding the outbreak of the Second World War its co-operation with the Council of the League as far as South West Africa was concerned had been gradually diminishing. The South African representative had repeatedly stated that the Mandate over South West Africa had lapsed. That could have been the case only if South West Africa had achieved independence or if it had come to be administered in accordance with Article 77 of the United Nations Charter, or again if it were regarded as an integral part of the Union. The latter possibility, however, was rejected by the South African Government, despite some evidence that the Territory had

been incorporated in fact though not in name. The South African Government affirmed that South West Africa continued to be administered in the spirit of the Mandate notwithstanding the fact that it refused to recognize any obligations arising from the Mandate. Obviously, however, if that Government's obligations under the Mandate had ceased to exist its rights and privileges would also have lapsed.

43. It could not be denied that although some progress had been achieved during the past nine years there had been many setbacks. He welcomed the change in the South African Government's attitude from the one it had taken up at the fourth session. However, that Government had come to the conclusion that no useful purpose would be served by further negotiation with the Committee on South West Africa and had withdrawn its offer to enter into an agreement with the three remaining Principal Allied and Associated Powers. The situation was virtually a stalemate.

44. It was regrettable that the South African Government had rejected the advisory opinion of the International Court on the grounds that the degree of supervision to be exercised was in excess of that under the Mandate. The South African Government had stated that while the members of the Permanent Mandates Commission were individuals selected on the basis of their competence, the members of the Committee on South West Africa were government representatives. Another argument had been that the decisions of the Council had been unanimous while those of the General Assembly were not. The International Court of Justice had answered that contention by pointing out that the point at issue was one of procedure and not of substance. The important consideration, however, was that the decisions of the Council of the League of Nations had been binding, while those of the General Assembly were recommendations. The degree of supervision contemplated was therefore less rather than more than that envisaged by the International Court of Justice.

45. The South African representative had asserted that the Committee, sitting in New York, was in no position to pronounce judgement on South West Africa. That argument would not hold water, in view of the fact that the South African Government

had refused to be represented on the Committee, or to transmit reports on South West Africa.

46. If, as affirmed by the South African Government, the Territory of South West Africa was being administered in the spirit of the Mandate, it was to be presumed that the principle of the sacred trust would be applied there.

47. It had been stated that the indigenous inhabitants of South West Africa constituted 81 per cent of the whole population. The question was whether that overwhelming majority of the people were being ruled in their best interests, and the answer was undoubtedly in the negative. All the services and facilities provided by the administering Power were intended to further the interests and well-being of the European settlers. The indigenous inhabitants did not participate in the political development of their own land; their participation in the economic field was confined to that of labourers; the educational and social services were not designed in their interests. Racial segregation and discrimination was the declared policy of the administering Power. All those facts led inevitably to the conclusion reached by the Committee on South West Africa and set forth in paragraph 198, annex II, of its report.

48. In conclusion he would assure the South African representative that the majority of the members of the Committee desired to live up to their obligations as faithful Members of the United Nations in the light of the advisory opinion rendered by the International Court of Justice on 11 July 1950 and the subsequent resolutions adopted by the General Assembly. There were no grounds for the contention that the majority of the Assembly wanted the right of supervision and accountability in the case of South West Africa to be equivalent to that under the Trusteeship System. His delegation was firmly determined to abide by the letter and spirit of the advisory opinions of the International Court of Justice and nothing would deflect it from such a course.

49. His delegation would be glad to endorse the findings of the Committee on South West Africa in its second annual report.

The meeting rose at 12.45 p.m.