



C O N T E N T S

	Page
Agenda item 30:	
Question of South West Africa ( <i>continued</i> ):	
(b) Report of the Committee on South West Africa ( <i>continued</i> ) .....	179
Agenda item 13:	
Report of the Trusteeship Council ( <i>continued</i> ) .....	180
Agenda item 30:	
Question of South West Africa ( <i>continued</i> ):	
(b) Report of the Committee on South West Africa ( <i>continued</i> ) .....	180

**Chairman: Mr. Luciano JOUBLANC RIVAS  
(Mexico).**

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) (*con-  
tinued*)**

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.408,  
A/C.4/L.411, A/C.4/L.412) (*continued*)

1. The CHAIRMAN, recalling that the Committee had voted at the previous meeting on the draft resolution in document A/C.4/L.408 and on the amendments submitted to it (A/C.4/L.411, A/C.4/L.412), invited delegations to explain their vote.
2. Mr. BOROAH (India) said that his country was one of the sponsors of the draft resolution in document A/C.4/L.408, first, because it was unwilling, whenever South West Africa was under discussion, to abandon the fundamental principles of the United Nations and, secondly, because it wished to take a conciliatory line.
3. Turning to the amendments in documents A/C.4/L.411 and L.412, he pointed out that they did not affect the substance of the proposal. He therefore had had no difficulty in accepting them. Whatever the opinion of the representative of the Union of South Africa might be, he did not think that the amendments went beyond the terms of the Mandate.
4. Mr. SAAB (Lebanon) explained that he had voted for the draft resolution because it provided a reasonable and equitable solution of a problem which the United Nations had been studying for many years without result.
5. Mr. BELL (United States of America) said that he had abstained from voting on the amendments in documents A/C.4/L.411 and L.412, because they might have the effect of intensifying the opposition of the Union of South Africa. He concurred, however, in the general sense of the draft resolution, as amended, and

had accordingly voted for it. His delegation trusted that the parties concerned would succeed in negotiating a solution that would be in the interest of the people of South West Africa, the Union of South Africa and the United Nations.

6. U ON SEIN (Burma) regretted that the South African Government had paid no heed to public opinion as represented by the international community or to the 1950 advisory opinion of the International Court of Justice.<sup>1</sup> Burma could not subscribe to the thesis put forward by the Union of South Africa and deplored the fact that the resolutions hitherto adopted by the United Nations had not achieved their purpose. The United Nations had a legitimate interest in the welfare of the inhabitants of South West Africa, who were living under unfavourable political, economic and cultural conditions.

7. Burma was opposed to the annexation of South West Africa. It upheld the previous resolutions of the General Assembly and the advisory opinion of the International Court of Justice. It objected to the racial segregation to which the inhabitants of the Territory were subjected. Lastly, it desired South West Africa to be placed under the International Trusteeship System. Those were the principles that had determined the Burmese delegation's vote on the various draft resolutions.

8. Mr. S. S. LIU (China) said that he had been prepared to support the original text of the draft resolution in document A/C.4/L.408. As, however, he had been unable to vote for the amendments and as they had been adopted, he had been obliged to abstain on the draft resolution as a whole.

9. Mr. CHAMANDI (Yemen) explained that he had voted for the draft resolution in document A/C.4/L.408, which safeguarded the rights of the people of the Territory and would facilitate a solution of the problem by the Committee on South West Africa. He appealed to the goodwill of the Union of South Africa and hoped that it would find it possible to accept the draft resolution, which could not but promote the interests of all the parties concerned.

10. Mr. TURGEON (Canada) recalled that, although the opinions of the International Court of Justice were not binding, his Government regarded them as authoritative expressions of international law. Canada had accordingly voted for General Assembly resolution 749 A (VIII), establishing the Committee on South West Africa in order to give effect to the Court's opinion of 1950. He would emphasize in that connexion that, until such time as an agreement was reached between the United Nations and South Africa, the Committee on South West Africa was to follow procedures in regard to petitions concerning conditions

<sup>1</sup> *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).

in that Territory that approximated as closely as possible those followed by the Permanent Mandates Commission. For that reason, the Canadian delegation had pressed at the ninth session for a clarification of the voting procedure adopted for the Committee's consideration of reports and petitions on that Territory (resolution 844 (IX), special rule F). Its concern that the decisions of the Fourth Committee and of the Committee on South West Africa should not derogate from the Court's original ruling on South West Africa was therefore understandable.

11. The Canadian delegation had therefore felt compelled to vote against paragraph 2 of the amendments in document A/C.4/L.411 because it would give the United Nations more extensive control over South West Africa than the Court had envisaged in its opinion of 1950. Like a number of other delegations, the Canadian delegation also believed that it was necessary in the interest of the peoples of South West Africa to obtain the administering Power's co-operation, and that was why it had voted against the amendment in paragraph 1 of document A/C.4/L.411. The Canadian delegation had accordingly abstained on the draft resolution as a whole, and the remarks just offered would guide it in its attitude towards the future activities of the Committee on South West Africa.

12. While he regretted that he could not subscribe to all the conclusions of the Committee on South West Africa—a fact which explained his delegation's abstention on the amendment contained in document A/C.4/L.412—he paid a tribute to its conscientious and painstaking efforts as well as to its evident concern for the well-being of the peoples of South West Africa.

13. Miss SHELTON (Cuba) recalled that her Government had consistently supported the Committee on South West Africa and had always wished to see South West Africa placed under the Trusteeship System. That was why the Cuban delegation had voted for the draft resolution and for the amendments to it. It hoped for a change of heart in the Union of South Africa.

#### AGENDA ITEM 13

#### **Report of the Trusteeship Council (A/2933, A/C.4/L.389) (continued)**

14. The CHAIRMAN invited the Committee to consider the draft resolution in document A/C.4/L.389, submitted by El Salvador.

15. Mr. EGUIZABAL (El Salvador) said that his delegation's draft resolution no longer served any useful purpose at the present stage of the Committee's work. He wished, however, to make clear that its purpose had been to facilitate the Fourth Committee's work and not to pass judgment on the work of other bodies. He would not press the draft resolution, but requested that the documents of the Trusteeship Council relating to the attainment by the Trust Territories of the objective of self-government or independence (T/L.500, T/L.579 and Add.1, T/L.591, T/L.602, T/L.609, T/L.617) should be made available to members of the Committee.

*There being no objection it was so decided.*

#### 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) (continued)**

#### QUESTION OF THE ADMISSIBILITY OF ORAL HEARINGS (A/2913/Add. 2)

16. The CHAIRMAN invited the Committee to consider the report (A/2913/Add.2) on the admissibility of oral hearings on South West Africa. As the Committee on South West Africa stated in paragraph 4 of that report, it had received a request for a hearing from a person who stated that he was an indigenous inhabitant of the Territory. That was the first such request that the Committee on South West Africa had received. As the Committee was bound to adhere as closely as possible to the procedure of the former Mandates System, he briefly summarized that procedure as outlined in paragraph 6 of the report.

17. Mr. ESPINOSA Y PRIETO (Mexico) said that in the present case his delegation took the advisory opinion of the International Court of Justice as its guide. It felt that the Committee on South West Africa should also do so as far as possible, in order to remove all doubt as to the legality of the procedure followed.

18. It would be wise to make that procedure similar to that of the Mandates Commission, which meant that only petitions in writing would be accepted. However, as suggested in document A/2913/Add.2, petitioners would be able to have informal interviews with the Chairman or members of the Committee on South West Africa.

19. Miss BROOKS (Liberia) thought that the conclusion to be drawn from paragraph 6 of document A/2913/Add. 2 was that it would be the Chairman of the Committee on South West Africa who would interview petitioners and report to the Fourth Committee on such interviews.

20. Mr. BELL (United States of America) associated himself fully with the statement by the Mexican representative. The General Assembly would be wise to adhere strictly to the advisory opinions given by the International Court of Justice in 1950 and in 1955<sup>2</sup> with regard to South West Africa.

21. When the General Assembly, in its resolution 844 (IX), had adopted special rules of procedure for the examination of reports and petitions relating to South West Africa, it had not dealt explicitly with the question of oral hearings. It had, however, stated in that resolution that, in adopting those special rules, it had had in mind the 1950 advisory opinion of the Court and that it had desired to apply, as far as possible, the procedure followed in the matter by the Council of the League of Nations.

22. As the Committee on South West Africa had pointed out, there had been no provision for oral hearings in the rules of procedure of the Permanent Mandates Commission. Moreover, although members of the Permanent Mandates Commission were individually entitled to hear persons who applied to them for an interview, the Commission itself had not considered it its duty to hear petitioners. Nor had the Council of the League of Nations ever heard petitioners.

<sup>2</sup> *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).

23. His delegation therefore agreed that, if the General Assembly decided to hear petitioners concerning South West Africa, it would not be complying with the advisory opinion given by the International Court of Justice in 1950. In taking a position against oral hearings in the case of South West Africa, his delegation wished to make clear that it had no intention of denying to the people of that Territory the right to present their grievances to the United Nations. It supported that right, and for that reason had participated in the examination of petitions from the Territory and had supported draft resolutions containing recommendations on the problems raised in those petitions. Moreover, the United States representative in the Committee on South West Africa had expressly stated that he favoured inviting the petitioner in question, Mr. Getzen, to submit his views concerning the Territory in writing.

24. His delegation felt, however, that if the General Assembly decided to hear petitioners present their problems orally, it would seriously weaken the position it had taken up in its efforts to establish an effective system of international supervision over the administration of South West Africa. Thus, much as it sympathized with Mr. Getzen's desire to be heard, it felt that it would be in the interests of the people of South West Africa if the Assembly took the same position as the Committee on South West Africa and decided to ask Mr. Getzen and other petitioners interested in that Territory to submit their views in writing. By so doing, the General Assembly would better enable the United Nations to promote the advancement of the people of that Territory on a regular basis.

25. Mr. KHOMAN (Thailand) said that in the Committee on South West Africa his delegation had taken the same position as some other delegations, that of Mexico in particular. It felt that from a legal point of view it was preferable to adhere to the advisory opinion of the International Court of Justice. From a practical point of view, it likewise considered that the present circumstances did not require the Committee on South West Africa to grant hearings; it was sufficient for it to receive petitions in writing. The same applied to the Fourth Committee.

26. Miss ROESAD (Indonesia) recalled that her delegation had always upheld the principle of granting hearings to the inhabitants of all Trust Territories. It did not think it proper to make an exception in the case of the peoples of South West Africa. Like other delegations, however, it felt that the General Assembly should adhere to the advisory opinion of the Court and follow the procedure of the former Mandates System. It therefore accepted the suggestion in paragraph 6 of document A/2913/Add. 2 that the Chairman of the Committee on South West Africa should hear petitioners or their representatives. The Fourth Committee should be informed of the results of those hearings through a report by the Committee on South West Africa.

27. Mr. HARARI (Israel) pointed out that the Permanent Mandates Commission was very different from the Committee on South West Africa. That Commission had been composed of specialists who did not represent their Governments, but sat permanently in their individual capacity. The Covenant of the League of Nations contained no provisions concerning petitions; such provisions were the subject of a paragraph in each Mandate. Moreover, the rules of procedure

of the Mandates Commission had been adopted some thirty years previously, and he wondered whether that body would adopt the same rules of procedure today having regard to the considerably changed outlook on such matters.

28. While he felt that the solution proposed by the Mexican representative was the best, he wondered how it would be possible to reconcile the opinion of the International Court of Justice with the task that now had to be done. Moreover, it was not sufficient, in order to come as close as possible to the procedure of the Mandates Commission, merely to authorize the Chairman of the Committee on South West Africa to receive petitioners. That Commission had reported to the League of Nations. He wondered who would report to the General Assembly on the informal interviews granted to petitioners.

29. His delegation felt that the situation was becoming increasingly confused as a result of the fact that South West Africa was regarded neither as a Trust Territory nor altogether as a mandated territory, and as a result of the adoption of compromise solutions. It would therefore abstain when a vote was taken.

30. Mr. S. S. LIU (China) agreed with the representatives of Mexico and the United States. In view of the fact that the General Assembly had requested two advisory opinions on South West Africa from the International Court of Justice, the Chinese delegation was of the opinion that the Assembly should act in conformity with the opinions of the Court, which had expressed itself very clearly on the question of procedure in stating that the methods to be applied by the Committee on South West Africa and the General Assembly should conform as far as possible to the procedure followed by the League of Nations.

31. The Chinese delegation had abstained from voting in favour of the rules adopted by the General Assembly at its ninth session (resolution 844 (IX)) because, in permitting the examination of petitions and reports without the participation of the Union of South Africa, the General Assembly had clearly deviated from the line of action required by the advisory opinion of the Court. The same could be said in the present case.

32. If, therefore, the General Assembly wished to give effect to the Court's advisory opinion, it must decide that requests for hearings concerning the Territory of South West Africa were not admissible.

33. Mr. JASPER (United Kingdom) reminded the representative of Israel that the Council of the League of Nations had considered the question of hearings at the first meeting of its forty-fourth session, on 7 March 1927.<sup>3</sup> The Fourth Committee might perhaps think it advisable to have the text of the record of that meeting of the Council distributed to its members. During the meeting, the Council had examined a report by the rapporteur and had decided not to press the question or oral hearings further.

34. Since other delegations had already admitted that the views of the Mandates Commission and the Council of the League of Nations were important in that connexion, and since, in its advisory opinion, the International Court of Justice had stated that the procedure to be followed should conform as far as possible to the procedure followed by the organs of the League

<sup>3</sup> League of Nations, *Official Journal*, 8th Year, No. 4, p. 348.

of Nations, he hoped that the decision taken by the Council of the League of Nations in 1927 dispelled the Israel representative's misgivings regarding the confusing results of following a procedure adopted shortly after 1920.

35. The United Kingdom delegation was therefore of the opinion that the method recommended by the Court was the wisest and most constructive, and it hoped the Committee would not press the question of the admissibility of requests for hearings.

36. Mr. RIVAS (Venezuela) said he agreed to some extent with the representative of Israel. Ideas on the administration of dependent territories were no longer the same as in the time of the League of Nations. Hence, it was difficult to apply a system analogous to the Mandates System.

37. The delegation of Venezuela was, however, prepared to respect the opinion of the delegations of Mexico, Thailand and the United States, which were members of the Committee on South West Africa, and consequently to support the proposal that hearings should not be granted. But it wondered how the General Assembly was going to make a recommendation to that effect to the Committee on South West Africa. In its opinion, the only practical course would be either to recommend an amendment to rule XIV (c) of the provisional rules of procedure adopted by the Committee on South West Africa on 11 February 1954 (A/2666 and Corr. 1, annex II), or to give the Committee explicit instructions in the matter.

38. Mr. RYCKMANS (Belgium) said that the Permanent Mandates Commission had not granted hearings properly so-called; while it had been understood that the members of the Commission could interview petitioners, it had been the Chairman's duty to inform petitioners that their statements could not be officially recognized.

39. Mr. HARARI (Israel) pointed out, with reference to the United Kingdom representative's statement, that it had been in 1927 that the Council of the League of Nations had studied the question; it would perhaps have reached different conclusions today, when the community of nations had decided to replace the Mandates System by a Trusteeship System in order to take account of the evolution of ideas in the world.

40. Miss BROOKS (Liberia) maintained that paragraph 6, to which the Chairman had referred, did not mean that requests for hearings were inadmissible.

41. Mr. SAAB (Lebanon) said his country was anxious to facilitate a solution of the problem represented by South West Africa. The Territory was, however, a former mandated territory, and as he knew from experience the defects of the Mandates System so far as hearings were concerned, he could not agree to the retention of that system. To apply the procedure followed by the Permanent Mandates Commission would be to risk remaining static in a dynamic situation. Furthermore, he questioned the wisdom of adhering strictly to an opinion of the International Court of Justice which was not accepted by all the parties concerned. The Lebanese delegation would therefore abstain.

42. Mr. SOLE (Union of South Africa) described his country's position in the matter. In the first place, the Union of South Africa did not recognize

the competence of the United Nations to consider petitions, whether written or oral. In the second place, the system established by the Charter made no provision for oral petitions except in the case of Trust Territories. Lastly, there had undoubtedly been no provisions for hearings in the procedure applied by the League of Nations, and the Permanent Mandates Commission in particular had not granted any hearings properly so-called. As the representative of Belgium had pointed out, interviews between members of the Permanent Mandates Commission or its Chairman and petitioners had been of a private nature and could not be officially recognized. Moreover, the terms of the Mandates had differed considerably, according to whether they were "A", "B" or "C" Mandates, while the possibility of hearings had arisen in the case of "A" Mandates, they had never come into question in the case of "C" Mandates.

43. The CHAIRMAN invited members of the Committee who might be considering submitting a draft resolution to do so.

44. Mr. RYCKMANS (Belgium) did not think a draft resolution was necessary. The Committee on South West Africa had asked the Fourth Committee to say whether or not requests for hearings were admissible. It was enough to put the question to the vote.

45. Mr. RIVAS (Venezuela) disagreed. If requests for hearings were not in future to be referred to the General Assembly, special permission would have to be obtained from the Assembly to amend section D of the provisional rules of procedure of the Committee on South West Africa.

46. Mr. KHOMAN (Thailand) observed that the Chairman and members of the Committee on South West Africa would always be able to interview anyone they wished, without obtaining the permission of the Fourth Committee. What the Committee on South West Africa had asked the Fourth Committee to do was to decide whether requests for official hearings were admissible. The point now at issue was whether the Committee should take a decision by a simple vote or by a vote on a draft resolution. He himself would prefer the meeting to be adjourned so that a draft resolution could be prepared.

47. Mr. RIFAI (Syria) recalled the position taken by his delegation in the Committee on South West Africa. While Syria had not considered that Mr. Getzen should be given a hearing, it had not committed itself on the general principle of the admissibility of requests for hearings by the Committee on South West Africa or the General Assembly. It should be emphasized that the International Court of Justice had not expressed the view that the United Nations should strictly apply the Mandates System; in its advisory opinion it had given in 1950, it had said that the degree of supervision to be exercised by the General Assembly should conform "as far as possible" to the procedure followed by the Council of the League of Nations. Again, in 1955 instead of calling upon the United Nations to observe the unanimous rule applied by the Council of the League of Nations, the Court had authorized the United Nations to apply the two-thirds majority rule.

48. He would like to have time to study the question more thoroughly so as to clarify his views and present a draft resolution in the afternoon.

49. Mr. VERGARA (Chile) said he would not like to cast a hasty vote which might be prejudicial to the objective of emancipation laid down in the Charter. He formally moved the adjournment of the meeting.

*The motion was adopted by 29 votes to none, with 16 abstentions.*

The meeting rose at 12.20 p.m.