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Chairman: Mr. LUCIALDO JOUBLANC RIVAS
(Mexico).

Requests for hearings (continued)

1. The CHAIRMAN announced that he had received a telegram containing a request for a hearing from Mr. Wellington Kumah, who wished to make a statement on behalf of the Akan Krachi Electoral Constituency, Togoland under British administration. He suggested that, in accordance with the Committee's usual practice, the telegram should be circulated to the members of the Committee.

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; A/C.4/308) (continued)

2. Mr. ESPINOSA Y PRIETO (Mexico) stressed the importance of the questions concerning South West Africa and also the arduousness of the prolonged debate on the subject, in which his delegation, representing as it did a Member of the United Nations, felt bound to participate. The problem was not insoluble, but it would not settle itself along the lines advocated by the Union of South Africa. The United Nations, which was still concerned with the question, could not abandon it until the demands of law and logic had been met. Any decision taken as a result of weariness would be suicidal; and even if the Organization ceased to exist, its obligations would remain, as had been apparent in the case of the League of Nations.

3. He paid a tribute to the representative of the Union of South Africa, an accomplished diplomat who had the burdensome task of defending an untenable position with no weapons other than feeble and threadbare arguments which had many times been refuted. In his statement at the 491st meeting, Mr. Sole had tried to attribute to the League of Nations intentions completely incompatible with the proven fact which the International Court of Justice had

established in its advisory opinion of 1950,¹ namely, that the Union of South Africa was still bound by the international obligations set forth in Article 22 of the League of Nations Covenant and by the Mandate for South West Africa. He had said that after the outbreak of the Second World War there had been every justification, on security grounds alone, for the annexation of South West Africa to the Union. That statement seemed all the more surprising in that the Territory in question had been placed under League of Nations mandate and, in the interests of the population, had been entrusted to the Union of South Africa. The view that war was a justification for the annexation of adjoining territories was indefensible.

4. He pointed out that the members of an organization founded on law were bound to respect the principle of *res judicata*. The International Court of Justice had given two advisory opinions—in 1950 and in 1955²—defining the status of the Territory of South West Africa, the obligations of the Union of South Africa towards it, and the jurisdiction and competence of the United Nations in the question. Furthermore, the General Assembly had adopted ten resolutions expressing the will of the community of nations in face of an attitude on the part of the Union of South Africa which was to be regretted, but which could be changed by the Union without loss of prestige.

5. He outlined the unfortunate consequences of that situation for all the parties concerned. In the first place, the question might be asked how a Mandatory Power could earn the respect of the inhabitants under its administration if it placed itself in an untenable position before the community of nations, a position which was brought to its attention every year. Secondly, the existence of such a centre of infection, despite the friendly relations existing between the South African and other delegations, including in particular the Mexican delegation, was giving rise to public statements, Press *communiqués* and individual expressions of opinion which were most unfortunate. Lastly, the conflict seemed to be making public opinion forgetful of the advantage and the good example which the world might draw from a country as advanced as the Union of South Africa, and from the spirit of hard work, self-denial and solidarity which had been required to build up the great cities and the industries of the Union.

6. He went on to consider the report of the Committee on South West Africa (A/2913 and Add.1 and 2). Perhaps it was somewhat rash to comment, in the

¹ *International status of South-West Africa, Advisory Opinions I.C.J. Reports 1950*, p. 128 (transmitted to the 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 the Members of the General Assembly by the Secretary-General by document A/2918.)

presence of a citizen of the Union of South Africa, on a report on South West Africa drawn up in New York. Mr. Sole had pointed out glaring errors in the report, but the blame should not be placed on its authors. Reports on the Territory would never be complete until the delegation of South Africa helped the United Nations to prepare them. The representative of the Union of South Africa, even while maintaining his Government's position, had contributed to the debate by making some very pertinent criticisms. That might perhaps be an indication that his delegation was not going to continue much longer its refusal to co-operate. His statement in the discussion on information from Non-Self-Governing Territories (475th meeting) had shown him to be well informed on the subject and had given the Mexican delegation a clearer understanding of the situation in South West Africa. It was to be hoped that he would expand his comments on and objections to the report of the Committee on South West Africa.

7. During the second statement he had made at the 491st meeting of the Committee, the South African representative had repeated certain affirmations which justified the conclusion that the South African Government was not undertaking the incorporation of the Territory of South West Africa. The official nature of that statement and the sincerity with which it had been made deeply impressed the Mexican representative. Unfortunately, many sections of the report on conditions in the Territory (A/2913, annex II) provided overwhelming proof of a movement which seemed to contradict Mr. Sole's assertions. From the point of view of racial discrimination, land tenure, labour laws, exploitation of the most profitable sectors of the economy, the right to vote and hold office, basic rights and indeed all aspects of life, there was evidence that an unremitting policy of material incorporation was being imposed which thrust aside the indigenous inhabitants, who were considered as inferior beings, in favour of persons continually arriving from the Union. In his statement, the South African representative had spoken of the interests of the inhabitants of South West Africa without distinction as to race. The report, however, contained alarming information about the situation of the indigenous inhabitants of the Territory. Unless corrected by the South African representative, that information would justify the conclusion that the South African Government was trying to prevent international supervision of the Territory because it was aware that inadmissible acts were being committed there.

8. The situation should be viewed objectively. A policy of *de facto* incorporation would not only be contrary to the principles of the United Nations and in contradiction with Mr. Sole's statement but might also be actually impossible to carry out. The Committee's report showed that the principal resources all found their way into European hands, but the increase in the European population seemed small. There were still eight indigenous inhabitants to each foreigner in the Territory. All legal, moral and material arguments indicated that the international régime established for South West Africa more than thirty years before should be maintained.

9. If the United Nations was watching the Union of South Africa, the Union of South Africa was also

watching the United Nations, as had been apparent from the Press in that country the previous year. The South African representative had no doubt followed with interest the Committee's last debate, during which the great power of one Member State had been displayed, and had noted the decision that the majority had had to take to avoid a situation which would have satisfied only those who hoped to see the United Nations falter.

10. The United Nations would never depart from what was legally right. On the contrary, its example, its patience and its strong moral influence would bring back to the law anyone who departed from it. The Organization's strength lay in its harmony and not in the desperate force of any of its Members. Any challenge to the principles of society, any attitude which would seek to withhold or diminish the co-operation which the Organization might expect from each Member could be fatal.

11. The range of peaceful solutions was very broad and certainly included a method of settlement which would not lower the prestige of Members or wound their legitimate pride or self-esteem. The Fourth Committee should continue to act towards the Union of South Africa as it had done so far, namely, with all the moderation and all the understanding which were due to a distinguished Member State whose co-operation was desired by all.

12. He therefore wondered whether the time had not come for the United Nations to adopt one of the many means at its disposal to put an end to a difficulty which had arisen between men of goodwill. Without submitting a formal proposal from his delegation, he offered the personal suggestion that a special committee of the United Nations might exercise international supervision over the Territory without any objection from any of the parties concerned. The organ in question should of course be the Committee on South West Africa, but its composition would have to be modified. It should include, on the one hand, the United States, France, the United Kingdom and the Union of South Africa, and, on the other, four non-administering Powers upon whom it would be easy to agree. That Committee, and not the Trusteeship Council, would exercise supervision for a period of two or three years. Then, on the basis of the experience acquired and a recommendation from the committee, the General Assembly and the Union of South Africa might conclude a trusteeship agreement. In that way, the prestige and authority of the United Nations, as well as the legitimate pride and prestige of the Union of South Africa, would be safeguarded.

13. In making such a suggestion he did not contest the undoubted legality or the effectiveness and authority of the present Committee on South West Africa, but was merely trying to secure the co-operation that was desired by all and to help remove from the agenda a particularly delicate item.

14. Mr. PIMENTEL BRANDAO (Brazil) pointed out that in paragraph 8 of annex II of its report, the Committee on South West Africa drew the attention of the General Assembly to the fact that the official listing of the Territory in the Universal Postal Union had been changed in 1954, on the initiative of the

Union of South Africa, from a "Territory under Mandate" to a "Territory administered by the Union Government". The Committee considered that that change in the listing should not be regarded as in any sense a change in the status of the Territory, which remained a territory held under the Mandate of 17 December 1920, as described in the 1950 advisory opinion of the International Court of Justice (p. 143). He wondered whether a representative of the Universal Postal Union should not be summoned and asked to rectify that mistake.

15. Mr. COHEN (Under-Secretary for Trusteeship and Non-Self-Governing Territories) said that the specialized agencies were always invited to send representatives to General Assembly sessions. As far as he knew, the Universal Postal Union did not have a representative at the present session. However, the Secretariat possessed ample documentation, which was at the Brazilian representative's disposal. If that was insufficient, the Secretariat could ask for additional information from the UPU.

The meeting rose at 4.50 p.m.