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UNITED NATIONS
Department of Public Information
Press Division
Lake Success, Nassau County, New York

Fourth Committee
Third Meeting

(AM) Summary
Press Release GA/T/69
26 September 1947

COMMITTEE MAJORITY URGES SUBMISSION
TRUSTEESHIP AGREEMENT ON SOUTH WEST AFRICA

As the Trusteeship Committee's debate on the political future of the mandated territory of South West Africa went into its second day, all speakers were in agreement on the desirability of the submission of a trusteeship agreement for that territory by the mandatory power, the Union of South Africa, and in voicing regret that the Union government had not yet complied with a General Assembly resolution asking it to do so.

There were, however, two schools of thought as to whether the Union government was under legal obligation, under the Charter, to place South West Africa under trusteeship.

The representatives of the Soviet Union, Cuba, Iraq, Syria, Haiti, Byelo-Russia, Egypt and the Ukraine subscribed to the thesis that such an obligation did in fact exist. The representative of France, agreeing with the representatives of the United States, Netherlands and Denmark (who had spoken previously), held that there was no legal obligation but rather a moral one for South Africa to submit a trusteeship agreement on South West Africa.

Debate on the South West African question will be resumed when the Trusteeship Committee reconvenes at 11:00 AM tomorrow (27 September 1947).

(For a chronological and more detailed account of today's meeting see Takes One through Six, attached)

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Fourth Committee
3rd Meeting

(AM) TAKE #1
Press Release GA/T/69
26 September 1947

TAKE NUMBER ONE
COMMITTEE 4

With its Vice-Chairman, Mr. Kuzma V. Kiselev (Byelo-Russia) presiding in the absence of Chairman Sir Carl Berendsen (New Zealand), the Trusteeship Committee met this morning to continue its consideration of the political future of the mandated territory of South West Africa (Documents A/334 and A/334/Add.1).

Sir Maharaj Singh (India) spoke first in connection with Document A/C 4/94, a summary of three communications from the Reverend Michael Scott of South Africa and South-West Africa.

Sir Maharaj asked for early distribution among the delegations of the full texts of the three communications, a proposal which was adopted after having been seconded by the representative of the Union of South Africa, Mr. H.G. Lawrence.

The Committee then resumed its debate on South-West Africa, the first speaker on the subject this morning being Mr. Boris E. Stein (USSR).

He tarmed the Union Government's refusal to submit a trusteeship agreement for South-West Africa "flagrant disobedience" of the General Assembly's Resolution and a violation of the Charter. He agreed with the thesis of India and the Philippines that there existed a legal obligation under the Charter to place mandated territories under trusteeship.

Mr. Stein said he was opposed to consulting the International Court of Justice on this point because there seemed to be no need for it. Such a step might moreover, he said, serve the Union Government as a pretext for further delay. He also opposed the United States' suggestion that the information submitted by South Africa on South-West Africa be considered separately by the 4th Committee, since that would indirectly sanction South Africa's non-compliance with the General Assembly. The information, Mr. Stein said, should be treated like any other information on non-self-governing territories.

In conclusion, Mr. Stein supported the demand already expressed by India, Poland, Yugoslavia and others, for a resolution calling on South Africa for the speedy submission of a trusteeship agreement.

END OF TAKE #1

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(AM) Take #2
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TAKE #2
COMMITTEE FOUR

Cuba's representative in the committee, Dr. J.E. Meyer summed up the gist of the debate to date, dwelling in particular on the opposing views regarding the obligatory or non-obligatory character of the Charter terms relating to the transfer of mandated territories to the Trusteeship System. He said Cuba, at first glance favored the former of the two view points, but suggested that the opinion of the Legal Committee be sought on the subject.

Dr. Meyer supported the United States suggestion that the Assembly express its gratification that South Africa did not incorporate South West Africa. But, he said, the Assembly should emphatically request South Africa to submit speedily a trusteeship agreement.

As for giving special treatment to the information submitted by South Africa, Dr. Meyer expressed views similar to those of the Soviet Representative. He also called for an end of discrimination in South Africa, wherever it might now exist.

The representative of Iraq, Mr. Awni Khalidy, said that whatever the legal position might be, there could be no doubt that South Africa was in the wrong morally. General Assembly resolutions must be obeyed, he said, if the authority of the United Nations were to be upheld.

As for the legal side of the situation Mr. Khalidy said the United Nations had become heir in every sense of the word to the League of Nations. Therefore, he contended, South Africa was bound to submit a trusteeship agreement, as all the other mandatory powers had done.

What he asked, would be the position of South West Africa if it did not become a trust territory since the mandate system no longer existed? And what, he went on, of the eventual advancement of the peoples of the territory toward self-government or independence?

He maintained that the best way to help the South West Africans to those goals was through the trusteeship system. If the inhabitants of South West Africa do wish incorporation into South Africa, then that wish should be ascertained by the United Nations, under the Trusteeship System.

(End of Take #2)

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Press Division
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Fourth Committee
Third Meeting

(AM) Take #3
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TAKE #3
Committee Four

Mr Khalidy also said he felt that the United States Representative had been too mild in his criticism of the Union government and in the course of action by the Committee which he proposed.

The mere expression of regret over / ^{South} Africa's failure to submit a trusteeship agreement, the representative of Iraq said, was not enough.

The Representative of Syria, Emir Adel Arslan, expressed himself in similar terms to the Iraq Representative. There were he said, three aspects of the question: (1) Was the Assembly resolution legally valid? If the answer were "yes", then the resolution would be legally binding.

(2) If the resolution were not legally binding, what would be the situation?

(3) If the resolution were legally binding, how could the Assembly bring about South African compliance with the resolution?

Taking point (2) first, Mr Arslan said no U.N. member had obligations beyond those expressed in the Charter. If the resolution were not legally binding, then, Mr Arslan submitted, not South Africa, but the General Assembly itself, would be in the wrong. Resolutions not based squarely on the Charter endanger the entire U.N., Mr. Arslan declared.

However, turning to his point (1), the Syrian representative declared that the resolution in question had been legally proper and binding. The League of Nations, he pointed out was defunct and there could be no mandate when the authority which issued the mandate no longer existed.

Even were this not so, Mr. Arslan contended, the provisions of the Charter -- under Article 103 -- must prevail. Mandated territories, Mr. Arslan declared, must be placed under trusteeship (unless they have already achieved independence): this being an obligation rather than a choice. He cited several Charter provisions (Articles 78, 80) in support of his view.

Taking up his own Point 3 (above), Mr. Arslan suggested giving South Africa a time limit within which to comply with the resolution.

(End of Take No. 3)

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(AM) TAKE #4
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26 September 1947

TAKE # 4
COMMITTEE FOUR

French representative Rene Mayer held to be identical the duties of the administering powers with regard to the welfare of the inhabitants of both non-self-governing and trust territories, whatever the legal differences between the two systems. He added that it was not to be presumed that an administering power would be less concerned with the welfare of a non-self-governing people simply because no trusteeship agreement existed.

Mr. Mayer agreed with the representatives of the United States, Denmark and the Netherlands who held that there was no legal obligation to submit a trusteeship agreement for mandated territories. He quoted Article 77 (2), and other articles of the Charter in support of his views on this matter.

As for moral obligation, Mr. Mayer agreed that it was "highly desirable" to have mandated territories placed under trusteeship. No doubt, he added, the authors of the Charter had just this in mind when they wrote the relevant provision of that document.

Mr. Mayer also agreed with the United States that it was a matter of satisfaction to find that South Africa had not carried out the proposed incorporation of South West Africa with the Union. He considered it a matter of regret, however, that South Africa had not yet submitted a trusteeship agreement.

On this point, Mr. Mayer said, the invitation of the Assembly should be kept open, reliance being placed on moral force to bring about eventually a positive result.

(END OF (AM) TAKE #4)

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