



United Nations

GENERAL ASSEMBLY

GENERAL

A/1130

2 December 1949

ENGLISH

ORIGINAL: SPANISH

Fourth session

Item 34 of the agenda

QUESTION OF SOUTH WEST AFRICA

Report of the Fourth Committee

Rapporteur: Dr. E. DE MARCHEMA (Dominican Republic)

1. The question of South West Africa was referred to the Fourth Committee by the General Assembly at its 224th meeting on 22 September 1949.
2. The general debate on this item was opened at the 128th meeting of the Committee on 18 November 1949 and continued until the 138th meeting on 26 November 1949.
3. During the general debate, the question arose as to whether certain communications relating to South West Africa received by the Chairman of the Fourth Committee and the Secretary-General should be circulated as Committee documents and whether a hearing should be granted to one or more representatives of the indigenous inhabitants of South West Africa, upon request.
4. A proposal of the delegation of the Dominican Republic to postpone consideration of the question whether these communications should be circulated and whether a hearing should be granted to representatives of the indigenous inhabitants of South West Africa, until the conclusion of the general debate on the particular item of the agenda, was rejected by 16 votes to 16, with 11 abstentions.
5. The delegation of Cuba proposed that the Fourth Committee should request the Secretary-General to circulate those parts of communication No. X 755 listed in document SG/CRO/228 and of communication No. X 814 listed in document SG/CRO/230 which related to the request of the Reverend Michael Scott for an oral hearing. The Committee adopted the Cuban proposal by a roll-call vote of 28 to 6, with 9 abstentions, as follows:

In favour: Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, France, Greece, Guatemala, Haiti, India, Iraq, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yemen, Yugoslavia.

/Against:

Against: Argentina, Australia, Belgium, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Canada, Denmark, Dominican Republic, Netherlands, New Zealand, Norway, Peru, Sweden, Venezuela.

6. In pursuance of the above decision, the relevant portions of these communications were circulated in document A/C.4/L.57.

7. The delegation of Guatemala submitted a proposal, the revised text of which (A/C.4/L.56/Rev.1) incorporated three amendments submitted previously by the delegation of India. The proposal read as follows:

"The Fourth Committee,

"Considering that representatives of the indigenous population of South West Africa have asked the Committee to grant them a hearing at which they may state their points of view with respect to the position of that territory,

"Considering that it is desirable to obtain all the information available on this important subject,

"Decides to grant a hearing to one or more representatives of the indigenous population of South West Africa who can provide due evidence of their status by submitting suitable credentials; and

"Establishes a sub-committee of seven members to study such credentials and to report to the Committee as soon as possible, and not later than the end of this week."

8. The delegation of the United States of America submitted an amendment to delete the first two paragraphs and to amend the first paragraph of the operative part to read as follows:

"Decides to grant a hearing, by written statement filed with the Secretary-General and circulated to the Committee, to one or more representatives of substantial elements of the population of South West Africa who can provide due evidence of their status by submitting suitable credentials;"

9. The delegation of Haiti submitted an amendment to the United States amendment to the effect that the word "indigenous" be inserted before the word "population", and to add the following words at the end of the text after the word "credentials": "Where necessary the Committee may permit the representatives concerned to make oral statements".

10. The draft proposal and the amendments thereto were voted upon at the 134th meeting.

/The first

The first and second paragraphs of the Preamble: The United States proposal to delete the first two paragraphs was adopted by 27 votes to none, with 15 abstentions.

Paragraph 1 of the operative part: The amendment of the delegation of Haiti to insert the word "indigenous" before the word "population" in the United States amendment was adopted by a roll-call vote, of 27 to 12, with 8 abstentions, as follows:

In favour: Afghanistan, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, France, Guatemala, Haiti, India, Iraq, Liberia, Mexico, Pakistan, Philippines, Saudi Arabia, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Canada, Colombia, Greece, New Zealand, Peru, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, Israel, Netherlands, Norway, Poland, Sweden, Uruguay, Venezuela.

The amendment of the delegation of Haiti to add the following words at the end of the United States amendment: "Where necessary the Committee may permit the representatives concerned to make oral statements" was adopted by a roll-call vote of 20 to 15, with 12 abstentions, as follows:

In favour: Afghanistan, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Egypt, Guatemala, Haiti, Iraq, Liberia, Mexico, Pakistan, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Canada, Colombia, France, Greece, Netherlands, Norway, Peru, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, Dominican Republic, Ecuador, India, Israel, New Zealand, Philippines, Poland, Thailand, Union of Soviet Socialist Republics, Uruguay, Venezuela.

The United States text, as amended, was rejected by a roll-call vote of 20 to 19, with 8 abstentions, as follows:

In favour: Brazil, Burma, Chile, China, Cuba, Ecuador, Egypt, Guatemala, Haiti, India, Iraq, Liberia, Mexico, Pakistan, Philippines, Saudi Arabia, Syria, Uruguay, Yemen.

/Against:

Against: Argentina, Australia, Belgium, Byelorussian Soviet Socialist Republic, Canada, Colombia, Czechoslovakia, France, Greece, Netherlands, Norway, Peru, Poland, Sweden, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Afghanistan, Denmark, Dominican Republic, Israel, New Zealand, Thailand, Venezuela, Yugoslavia.

Paragraph 1 of the operative part was adopted by a roll-call vote of 25 to 15, with 6 abstentions, as follows:

In favour: Afghanistan, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Egypt, Guatemala, Haiti, India, Iraq, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Canada, Colombia, France, Greece, Netherlands, Norway, Peru, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, Dominican Republic, Israel, New Zealand, Thailand, Venezuela.

Paragraph 2: Paragraph 2 was adopted by a roll-call vote of 25 to 14, with 7 abstentions, as follows:

In favour: Afghanistan, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Egypt, Guatemala, Haiti, India, Iraq, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Canada, Colombia, France, Greece, Netherlands, Norway, Peru, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Brazil, Denmark, Dominican Republic, Israel, New Zealand, Thailand, Venezuela.

The draft resolution, as amended was adopted as a whole by a roll-call vote of 25 to 15, with 6 abstentions, as follows:

/In favour:

In favour: Afghanistan, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Egypt, Guatemala, Haiti, India, Iraq, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Canada, Colombia, France, Greece, Netherlands, Norway, Peru, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, Dominican Republic, Israel, New Zealand, Thailand, Venezuela.

The text of the resolution as amended (A/C.4/L.60) read as follows:

"The Fourth Committee

"Decides to grant a hearing to one or more representatives of the indigenous population of South West Africa who can provide due evidence of their status by submitting suitable credentials; and

"Establishes a Sub-Committee of seven members to study such credentials and to report to the Committee as soon as possible, and not later than the end of this week".

11. In accordance with the decision taken by the Committee the Chairman nominated the following members to the Sub-Committee: Egypt, France, Guatemala, India, Poland, Union of South Africa, United States of America.

12. The representative of the Union of South Africa informed the Committee that he was unable to consent to sit on the Sub-Committee since his Government considered that his acceptance might be interpreted as acquiescence in the principle embodied in the decision adopted by the Committee.

13. The representative of France stated that, since the delegation of the Union of South Africa would not participate in the work of the Sub-Committee, his delegation also would not take part in its work.

14. The Sub-Committee as finally constituted was composed of the following members: Colombia, Dominican Republic, Egypt, Guatemala, India, Poland, United States of America.

15. The Sub-Committee met on 25 November 1949, and considered the only request before it, from the Reverend Michael Scott, for a hearing before the Fourth Committee. After examining his credentials the Sub-Committee unanimously took the following decision:

/"Sub-Committee

"Sub-Committee 7, in accordance with the provisions of the resolution adopted by the Fourth Committee at the 134th meeting (A/C.4/L.50) has examined the credentials of the Reverend Michael Scott as representative of certain groups of the indigenous population of South West Africa and has found that they are in suitable order and should be given full faith and credit".

16. The Committee considered the report of Sub-Committee 7 (A/C.4/L.62) at its 136th and 137th meetings.

17. The delegation of the Union of South Africa submitted the following proposal:

"In accordance with the provisions of rule 105, the South African delegation formally moves the adjournment of discussion on the report of the Sub-Committee, established by the Fourth Committee to study the credentials submitted by one or more representatives of the indigenous population of South West Africa until the General Assembly has considered and pronounced itself upon the resolution contained in document A/C.4/L.60".

18. Objections were raised in the Committee that the South African proposal did not fall under rule 105 of the rules of procedure of the General Assembly and that it was in effect a request for a reconsideration of the decision already taken by the Committee, in which case rule 112 should apply. The representative of the Union of South Africa appealed to the Chairman for a ruling. The Chairman ruled that the proposal was out of order under rule 105, but could be considered under rule 112. In view of this ruling, the proposal was not put to the vote.

19. The representative of the Union of South Africa stated that his delegation would not participate in the consideration of the report of the Sub-Committee, nor in the vote thereon.

20. The delegation of the United States of America proposed reconsideration of the resolution set forth in document A/C.4/L.50 under rule 112 by submitting an amendment to add the following words to the first paragraph after the word "credentials": "said hearing to be (a) by written statement filed with the Secretary-General and distributed to the Committee, (b) by oral hearing before a sub-committee of seventeen members appointed by the Chairman". This proposal was rejected by 22 votes to 18, with 5 abstentions, not having obtained the two-thirds majority required under rule 112

/21. The representative

21. The representative of France introduced the following proposal:

"In accordance with the provisions of rule 112, the French delegation formally moves the adjournment of discussion on the report of the Sub-Committee, established by the Fourth Committee to study the credentials submitted by one or more representatives of the indigenous population of South West Africa, until the General Assembly has considered and pronounced itself upon the resolution contained in document A/C.4/L.60."

The proposal was rejected by 28 votes to 12, with 4 abstentions.

22. The report of the Sub-Committee was approved by a roll-call vote of 31 votes to 4, with 9 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Burma, Byelorussian Soviet Socialist Republic, China, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Guatemala, Haiti, India, Iraq, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yemen, Yugoslavia.

Against: Belgium, Greece, Netherlands, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Canada, France, Israel, New Zealand, Norway, Peru, Sweden, Venezuela.

23. The Committee decided, by 29 votes to none, with 11 abstentions, to grant an oral hearing to the Reverend Michael Scott at the next meeting.

24. The representative of the Union of South Africa stated that, as his presence at the hearing might be interpreted as acceptance of the decision of the Committee, his delegation would not attend the hearing of the Reverend Michael Scott.

25. At the 138th meeting of the Committee the Reverend Michael Scott made an oral statement.

26. The delegation of the Philippines proposed that certain annexes referred to in the statement of the Reverend Michael Scott should form part of the official records of the General Assembly. The proposal was adopted by a roll-call vote of 35 to none, with 9 abstentions, as follows:

In favour: Afghanistan, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, France, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela, Yugoslavia.

/Against:

Against: None.

Abstaining: Australia, Belgium, Canada, Denmark, Dominican Republic, Greece, Peru, Turkey, United Kingdom of Great Britain and Northern Ireland.

27. At the 139th meeting, the representative of the Union of South Africa stated that, in the light of what had taken place in the Committee, his Government had instructed him to withdraw the South African delegation from all further discussion in the Fourth Committee on this item.

28. During its 139th and 140th meetings, the Committee considered three draft resolutions and amendments thereto. These draft resolutions fell into two groups:

I. A proposal concerning the submission by the Government of the Union of South Africa to the United Nations of reports on South West Africa.

II. Two proposals concerning a request to the International Court of Justice for an advisory legal opinion on the international status of South West Africa and on the international obligations of the Union of South Africa in respect of the Territory.

1. SUBMISSION BY THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE UNITED NATIONS OF REPORTS ON SOUTH WEST AFRICA

29. The delegation of India submitted the following draft resolution (A/C.4/L.53):

"Whereas the General Assembly noted in resolution 141(II) of 1 November 1947 that the Government of the Union of South Africa had undertaken to submit reports on its administration of the territory of South West Africa for the information of the United Nations,

"Whereas in resolution 227(III) of 26 November 1948 the General Assembly recommended that the Government of the Union of South Africa continue to supply annually information on the administration of the territory of South West Africa,

"Whereas the Government of the Union of South Africa in a letter to the Secretary-General of 11 July 1949, which was transmitted to the Member States, stated that no further reports would be forwarded,

"Whereas the Trusteeship Council in resolution 111(V) of 21 July 1949 has called to the attention of the General Assembly the decision of the Government of the Union of South Africa not to transmit further reports and has informed the General Assembly that this decision precludes the Trusteeship Council from exercising further the functions envisaged for it in resolution 227(III) of 26 November 1948,

"The General Assembly

1. Expresses regret that the Government of the Union of South Africa has repudiated its previous assurance, referred to in resolution 141 (II) of 1 November 1947, to submit reports on its administration of the territory of South West Africa for the information of the United Nations;

2. Invites the Government of the Union of South Africa to resume the submission of such reports to the General Assembly."

30. At the suggestion of the representative of Canada, the representative of India amended paragraph 1 of the operative part by replacing the words "repudiated its previous assurance" by the words "withdrawn its previous undertaking".

31. The delegations of the Union of Soviet Socialist Republics and of Guatemala submitted amendments set forth in documents A/C.4/L.61 and A/C.4/L.63 respectively as referred to below.

32. The Committee voted upon the draft resolution and the amendments thereto as follows:

The Preamble: The preamble was adopted by 44 votes to 1, with 1 abstention.

Paragraph 1 of the operative part: The delegation of the Union of Soviet Socialist Republics proposed (A/C.4/L.61) the insertion of the following new paragraph 1 before paragraph 1 of the operative part:

"1. Notes that the measure taken by the Union of South Africa in adopting a law for the association of South West Africa with the Union of South Africa constitutes a violation of the United Nations Charter."

The amendment was rejected by a roll-call vote of 17 to 12, with 17 abstentions, as follows:

In favour: Afghanistan, Byelorussian Soviet Socialist Republic, Czechoslovakia, Guatemala, Haiti, Liberia, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Against: Australia, Belgium, Canada, Cuba, Denmark, France, Greece, Netherlands, New Zealand, Norway, Peru, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Argentina, Brazil, Chile, China, Colombia, Dominican Republic, Ecuador, Egypt, India, Iran, Iraq, Lebanon, Mexico, Pakistan, Philippines, Syria, Thailand.

/The delegation

The delegation of the Philippines orally proposed an amendment to replace the words "withdrawn its previous undertaking" by the words "repudiated its previous assurance". The amendment was adopted by a roll-call vote of 25 to 14, with 7 abstentions, as follows:

In favour: Afghanistan, Brazil, Byelorussian Soviet Socialist Republic, Chile, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Belgium, Canada, France, Greece, Netherlands, New Zealand, Norway, Peru, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Argentina, China, Denmark, Dominican Republic, Thailand, Venezuela, Yemen.

Paragraph 1, as amended, was adopted by a roll-call vote of 31 to 11, with 4 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Australia, Belgium, Canada, France, Greece, Netherlands, Norway, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, New Zealand, Peru, Thailand.

Paragraph 2: The delegation of Guatemala submitted an amendment (A/C.4/L.63) to insert the following as paragraph 2 of the operative part:

"Reiterates in their entirety General Assembly resolutions 65 (I), 141 (II) and 227 (III) and expresses its regret that the Union of South Africa has decided not to take them into account;"

The amendment was adopted by a roll-call vote of 30 to 11, with 5 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

/Against:

Against: Australia, Belgium, Canada, France, Greece, Netherlands, Norway, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, Dominican Republic, New Zealand, Peru, Thailand.

Paragraph 3: The delegation of Guatemala proposed to add the following words to the former paragraph 2 which had become paragraph 3: "... and to comply with the decisions of the General Assembly contained in the resolutions enumerated in the preceding paragraph."

The amendment was adopted by a roll-call vote of 30 to 8, with 8 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Belgium, Canada, Greece, Netherlands, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Denmark, Dominican Republic, France, New Zealand, Norway, Peru, Thailand.

The paragraph, as amended, was adopted by a roll-call vote of 31 to 7, with 8 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Belgium, Canada, France, Greece, Netherlands, United Kingdom of Great Britain, and Northern Ireland, United States of America.

Abstaining: Australia, Denmark, New Zealand, Norway, Peru, Sweden, Thailand, Turkey.

The draft resolution, as amended, was adopted as a whole by a roll-call vote of 31 to 11, with 4 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia,

Dominican Republic, Ecuador, Egypt, Guatemala, Haiti, India, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Australia, Belgium, Canada, France, Greece, Netherlands, Norway, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Denmark, New Zealand, Peru, Thailand.

33. The text of the draft resolution is attached at the end of the present report as resolution I.

II. REQUEST TO THE INTERNATIONAL COURT OF JUSTICE FOR AN ADVISORY OPINION

34. Two draft resolutions dealing with a request to the International Court of Justice for an advisory legal opinion were submitted to the Committee:

(1) The delegations of Denmark, Norway, Syria and Thailand submitted the following draft resolution (A/C.4/L.54):

"The General Assembly,

"Recalling its previous resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947 and 227 (III) of 26 November 1948 concerning the Territory of South West Africa,

"Noting the contents of a communication dated 11 July 1949 from the Government of the Union of South Africa to the Secretary-General of the United Nations and the attached text and explanation of the provisions of the South West Africa Affairs Amendment Act of 1949,

"Considering that it is desirable that the General Assembly, for its further consideration of the question, should obtain an advisory opinion on its legal aspects,

"1. Decides to submit the following questions to the International Court of Justice with a request for an advisory opinion:

"What is the international status of the Territory of South West Africa and what are the international obligations of the Government of the Union of South Africa with respect thereto, and in particular

"(a) Does the Government of the Union of South Africa continue to have international obligations under the mandate for South West Africa, and, if so, what are those obligations?

"(b) Are the provisions of Chapters XI and XII of the Charter applicable, and, if so, in what manner, to the Territory of South West Africa?

"2. Requests the Secretary-General to transmit this resolution to the International Court of Justice, in accordance with article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question."

(11) The delegation of India submitted the following draft resolution (A/C.4/L.55):

"The General Assembly,

"Noting its previous resolutions concerning the future status of the Mandated Territory of South West Africa.

"Noting the contents of a communication from the Union of South Africa and the text and explanation of the provisions of the South West Africa Affairs Amendment Act of 1949,

/"Considering

"Considering that the General Assembly would be assisted in its further consideration of the question by an authoritative pronouncement on its legal aspects,

"1. Decides to request the International Court of Justice to give an advisory opinion on the following question:

"Taking into account such international instruments as the Court may consider relevant, as well as the objectives and functioning of the Mandates System.

"Having regard to the termination of the existence of the League of Nations and the resolution adopted by the Assembly of the League of Nations on the question of mandates on 18 April 1946,

"Having regard to the provisions of the Charter of the United Nations, and, in particular, to Articles 77 and 80,

"What are the rights and obligations of the Government of the Union of South Africa with respect to the Territory of South West Africa, and what is the international status of the Territory?

"(a) In particular, has the Government of the Union of South Africa the right unilaterally to take action affecting the international status of the Territory of South West Africa?

"(b) In the event of a negative reply to the question under (a) above, who is competent to modify the international status of the Territory of South West Africa?

"2. Requests the Secretary-General to transmit this resolution to the International Court of Justice, in accordance with Article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question."

35. The delegations of Denmark, India, Norway, Syria and Thailand subsequently combined their original proposals and submitted jointly a draft resolution (A/C.4/L.64) which read as follows:

"The General Assembly,

"Recalling its previous resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947, and 227 (III) of 26 November 1948 concerning the Territory of South West Africa.

"Noting the contents of the communication dated 11 July 1949 from the Government of the Union of South Africa to the Secretary-General of the United Nations and the attached text and explanation of the provisions of the South West Africa Affairs Amendment Acts of 1949.

"Considering that it is desirable that the General Assembly, for its further consideration of the question, should obtain an advisory opinion on its legal aspects,

/"1. Decides to

"1. Decides to submit the following questions to the International Court of Justice with a request for an advisory opinion:

"What is the international status of the Territory of South West Africa and what are the international obligations of the Union of South Africa arising therefrom. in particular

"(a) Does the Union of South Africa continue to have international obligations under the mandate for South West Africa and if so what are those obligations?

"(b) Is the Union of South Africa under the obligation to negotiate and conclude a trusteeship agreement for placing the Territory of South West Africa under the international trusteeship system?

"(c) In the event of a negative reply to the question under (b): Is South West Africa a territory to which the provisions of Chapter XI of the Charter apply?

"(d) Has the Union of South Africa the competence to modify the international status of the Territory of South West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the Territory".

"2. Requests the Secretary-General to transmit this resolution to the International Court of Justice, in accordance with article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question.

"The Secretary-General shall include among these documents, the text of article 22 of the Covenant of the League of Nations; the text of the Mandate for German South West Africa, confirmed by the Council of the League on 17 December 1920; relevant documentation concerning the objectives and the functions of the Mandates System; the text of the resolution adopted by the League of Nations on the question of mandates on 18 April 1946; the text of Articles 77 and 80 of the Charter and data on the discussion of these Articles in the San Francisco Conference and the General Assembly; the report of the Fourth Committee and the official records, including the annexes, of the consideration of the question of South West Africa at the fourth session of the General Assembly."

36. The sponsors of the joint draft resolution accepted an oral amendment by the delegation of Mexico to add at the end of the first sentence of paragraph 1 of the operative part the words "which shall be transmitted to the General Assembly before its fifth session, if possible."

/37. The delegations

37. The delegations of the Philippines and Guatemala submitted amendments to the draft resolution, as referred to below.

38. The Committee voted upon the draft resolution, paragraph by paragraph, and on the amendments thereto as follows:

The first paragraph of the Preamble: The paragraph was adopted by a roll-call vote of 37 to 7, with 2 abstentions, as follows:

In favour: Afghanistan, Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Colombia, Denmark, Dominican Republic, Ecuador, Egypt, France, Guatemala, Haiti, India, Iran, Iraq, Israel, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Saudi Arabia, Sweden, Syria, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen.

/Against:

Against: Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Liberia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Greece, Yugoslavia.

The second paragraph: The paragraph was rejected by a roll-call vote of 24 to 11, with 11 abstentions:

In favour: Afghanistan, Australia, Belgium, Denmark, Ecuador, Netherlands, New Zealand, Norway, Thailand, United States of America, Yemen.

Against: Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Dominican Republic, Egypt, France, Guatemala, Haiti, Iran, Iraq, Lebanon, Liberia, Mexico, Philippines, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Abstaining: Argentina, Canada, Greece, India, Israel, Pakistan, Sweden, Syria, Turkey, United Kingdom of Great Britain and Northern Ireland, Venezuela.

The third paragraph: The paragraph was adopted by 38 votes to 5, with 4 abstentions.

Paragraph 1 of the operative part: The delegation of Guatemala submitted an amendment to replace the paragraph by the following text:

"Decides to submit the following question to the International Court of Justice for an opinion which shall be transmitted to the General Assembly before its fifth session;

"What are the obligations of the Union of South Africa with respect to the territory and the indigenous inhabitants of South West Africa under the relevant provisions of the Treaty of Versailles, the Covenant of the League of Nations, the 1920 Mandate and the Charter of the United Nations?"

This amendment was rejected by a roll-call vote of 18 to 15, with 13 abstentions, as follows:

In favour: Afghanistan, Colombia, Dominican Republic, Ecuador, Egypt, France, Guatemala, Haiti, Iraq, Lebanon, Mexico, Pakistan, Philippines, Saudi Arabia, Yemen.

Against: Argentina, Australia, Belgium, Brazil, Canada, Cuba, Denmark, India, Netherlands, New Zealand, Norway, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

/Abstaining:

Abstaining: Byelorussian Soviet Socialist Republic, Chile, China, Czechoslovakia, Greece, Iran, Israel, Liberia, Poland, Syria, Ukrainian Soviet Socialist Republic, Union of the Soviet Socialist Republics, Yugoslavia.

Paragraph 1 was voted upon in parts.

Paragraph 1, first sentence: An amendment submitted by the delegation of the Philippines to insert between the words "Decides" and "to" the words:

"In the light of the letter and spirit of the Mandate and of Chapters XI and XII of the Charter, and without prejudice to previous resolutions of the General Assembly on the matter,".

The amendment was rejected by a roll-call vote of 22 to 7, with 17 abstentions, as follows:

In favour: China, Egypt, Guatemala, Haiti, Mexico, Philippines, Saudi Arabia.

Against: Argentina, Australia, Belgium, Canada, Chile, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, France, India, Iran, Netherlands, New Zealand, Norway, Sweden, Thailand, United Kingdom, United States of America, Uruguay, Venezuela.

Abstaining: Afghanistan, Brazil, Byelorussian Soviet Socialist Republic, Czechoslovakia, Greece, Iraq, Israel, Lebanon, Liberia, Pakistan, Poland, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

The first sentence of paragraph 1 was adopted by 37 votes to 7, with 2 abstentions.

Paragraph 1, second sentence: The sentence was adopted by 37 votes to 7, with 2 abstentions.

Paragraph 1, sub-paragraph (a): An amendment submitted by the delegation of the Philippines to add at the end of the sub-paragraph the words "and to whom?" was rejected by 16 votes to 15, with 12 abstentions.

The sub-paragraph was adopted by 37 votes to 7, with 4 abstentions.

Paragraph 1, sub-paragraphs (b) and (c): An oral amendment by the delegation of Brazil to delete the two sub-paragraphs was adopted by a roll-call vote by 24 to 17, with 5 abstentions, as follows:

/In favour:

In favour: Afghanistan, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Czechoslovakia, Dominican Republic, Ecuador, Egypt, France, Guatemala, Haiti, Iran, Iraq, Lebanon, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Colombia, Cuba, Denmark, India, Netherlands, New Zealand, Norway, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Canada, Greece, Israel, Liberia, Syria.

Paragraph 1, sub-paragraph (d): The sub-paragraph was adopted by 31 votes to 8, with 7 abstentions.

Paragraph 2, first part: The first part of the paragraph was adopted by 37 votes to 7, with 2 abstentions.

Paragraph 2, second part: The second part of the paragraph was adopted by 24 votes to 11, with 11 abstentions.

The draft resolution as a whole, as amended, was adopted by a roll-call vote by 30 to 7, with 9 abstentions, as follows:

In favour: Afghanistan, Argentina, Brazil, Chile, China, Colombia, Denmark, Dominican Republic, Ecuador, Egypt, France, Guatemala, Haiti, India, Iran, Iraq, Israel, Lebanon, Mexico, Netherlands, Norway, Pakistan, Philippines, Saudi Arabia, Sweden, Syria, Thailand, Turkey, Venezuela, Yemen.

Against: Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Liberia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Australia, Belgium, Canada, Greece, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia.

39. The text of the draft resolution is attached at the end of the present report as resolution II.

40. The Fourth Committee therefore recommends to the General Assembly the adoption of the following resolutions.

I.

QUESTION OF SOUTH WEST AFRICA: REITERATION OF PREVIOUS RESOLUTIONS
AND SUBMISSION OF REPORTS

Whereas the General Assembly noted, in resolution 141(II) of 1 November 1947, that the Government of the Union of South Africa had undertaken to submit reports on its administration of the territory of South West Africa for the information of the United Nations,

Whereas, in resolution 227(III) of 26 November 1948, the General

/Assembly

Assembly recommended that the Government of the Union of South Africa continue to supply annually information on the administration of the territory of South West Africa,

Whereas the Government of the Union of South Africa in a letter to the Secretary-General of 11 July 1949, which was transmitted to the Member States, stated that no further reports would be forwarded,

Whereas the Trusteeship Council, in resolution 111(V) of 21 July 1949, has called to the attention of the General Assembly the decision of the Government of the Union of South Africa not to transmit further reports and has informed the General Assembly that this decision precludes the Trusteeship Council from exercising further the functions envisaged for it in resolution 227(III) of 26 November 1948,

The General Assembly

1. Expresses regret that the Government of the Union of South Africa has repudiated its previous assurance, referred to in resolution 141(II) of 1 November 1947, to submit reports on its administration of the territory of South West Africa for the information of the United Nations;

2. Reiterates in their entirety General Assembly resolutions 65(I), 141(II) and 227(III) and expresses its regret that the Union of South Africa has decided not to take them into account;

3. Invites the Government of the Union of South Africa to resume the submission of such reports to the General Assembly and to comply with the decisions of the General Assembly contained in the resolutions enumerated in the preceding paragraph.

II.

QUESTION OF SOUTH WEST AFRICA: REQUEST FOR AN ADVISORY OPINION
OF THE INTERNATIONAL COURT OF JUSTICE

The General Assembly,

Recalling its previous resolutions 65(I) of 14 December 1946, 141(II) of 1 November 1947 and 227(III) of 26 November 1948 concerning the territory of South West Africa,

Considering that it is desirable that the General Assembly, for its further consideration of the question, should obtain an advisory opinion on its legal aspects,

1. Decides to submit the following questions to the International Court of Justice with a request for an advisory opinion which shall be transmitted to the General Assembly before its fifth regular session, if possible:

/ "What is the

"What is the international status of the Territory of South West Africa and what are the international obligations of the Union of South Africa arising therefrom, in particular

"(a) Does the Union of South Africa continue to have international obligations under the mandate for South West Africa and if so what are those obligations?

"(b) Has the Union of South Africa the competence to modify the international status of the Territory of South West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the Territory?

2. Requests the Secretary-General to transmit this resolution to the International Court of Justice, in accordance with Article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question.

The Secretary-General shall include among these documents, the text of article 22 of the Covenant of the League of Nations; the text of the Mandate for German South West Africa, confirmed by the Council of the League on 17 December 1920; relevant documentation concerning the objectives and the functions of the Mandates System; the text of the resolution adopted by the League of Nations on the question of mandates on 18 April 1946; the text of Articles 77 and 80 of the Charter and data on the discussion of these Articles in the San Francisco Conference and the General Assembly; the report of the Fourth Committee and the official records, including the annexes, of the consideration of the question of South West Africa at the fourth session of the General Assembly.
