



**REPORT  
OF THE COMMITTEE ON  
SOUTH WEST AFRICA  
TO THE  
GENERAL ASSEMBLY**

**GENERAL ASSEMBLY**  
**OFFICIAL RECORDS : TENTH SESSION**  
**SUPPLEMENT No. 12 (A/2913)**

**NEW YORK, 1955**



**UNITED NATIONS**

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#### NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.



## TABLE OF CONTENTS

	<i>Page</i>
I. General .....	1
II. Negotiations with the Union of South Africa .....	1
III. Analysis and summary of discussion of the South West African question in the Fourth Committee at the ninth session of the General Assembly....	2
IV. Rules of procedure for the Committee on South West Africa .....	2
V. Annual report from the Union of South Africa .....	3
VI. Examination of information and documentation concerning South West Africa .....	3
VII. Extent to which and manner in which the specialized agencies might contribute to the advancement of the inhabitants of South West Africa ...	3
VIII. Petitions relating to the Territory of South West Africa .....	4
A. Communications from sources outside the Territory of South West Africa .....	4
B. Communications and petitions from sources within the Territory of South West Africa .....	5

## ANNEXES

### *Annex*

I. Correspondence with the Government of the Union of South Africa .....	6
II. Report and observations of the Committee on South West Africa regarding conditions in the Territory of South West Africa .....	7
Appendix: South West Africa Native Affairs Administration Act, 1954..	30
III. Letters from the specialized agencies and extra-budgetary organs of the United Nations .....	32
IV. Communication dated 16 December 1954 from the Reverend Michael Scott	37
V. Communication dated 15 December 1954 from the Reverend Michael Scott enclosing an extract from a letter from Jariretundu Kozongiuzi .....	41
VI. Petition and communications relating to the Rehoboth Community .....	42
Draft resolution on the petition and communications .....	44
VII. Petition and related communications from Hosea Kutako, David Roos and Erastus Amgabeb .....	45
Draft resolution on the petition and communications .....	47
VIII. Petition and related communication from the Reverend T. H. Hamtumbangela .....	47
Draft resolution on the petition and communication .....	49



## I. GENERAL

1. The Committee on South West Africa was established by General Assembly resolution 749 A (VIII) of 28 November 1953 and, under the terms of that resolution, is to remain in existence "until such time as an agreement is reached between the United Nations and the Union of South Africa". Its terms of reference, as defined in that resolution, are to:

"(a) Examine, within the scope of the Questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926, such information and documentation as may be available in respect of the Territory of South West Africa;

"(b) Examine, as far as possible in accordance with the procedure of the former Mandates System, reports and petitions which may be submitted to the Committee or to the Secretary-General;

"(c) Transmit to the General Assembly a report concerning conditions in the Territory taking into account, as far as possible, the scope of the reports of the Permanent Mandates Commission of the League of Nations;

"(d) Prepare, for the consideration of the General Assembly, a procedure for the examination of reports and petitions which should conform as far as possible to the procedure followed in this respect by the Assembly, the Council and the Permanent Mandates Commission of the League of Nations."

Furthermore, the resolution authorized the Committee to continue negotiations with the Union of South Africa in order to implement fully the advisory opinion of the International Court of Justice regarding the question of South West Africa, and requested the Committee to submit reports on its activities to the General Assembly at its regular sessions.<sup>1</sup>

2. On 23 November 1954, the General Assembly adopted resolution 851 (IX), in paragraph 5 of which it invited "the Government of the Union of South Africa to co-operate with the Committee on South West Africa and, in particular, to submit to the Committee reports on its administration of the Territory of South West Africa and to assist the Committee on South West Africa in the examination of such reports or such information and documentation as may be available to that Committee". By paragraph 6 of the resolution, the Committee was requested "to analyse and sum-

marize the substantive discussion of the South West African question in the Fourth Committee of the General Assembly and to transmit this analysis and summary to the Government of the Union of South Africa for its information"; and by paragraph 7 it was further requested "to examine the extent to which and the manner in which the specialized agencies and extra-budgetary organs of the United Nations might contribute to the social, economic and educational advancement of the inhabitants of the Territory".

3. The Committee on South West Africa consists of seven Members—Brazil, Mexico, Pakistan, Syria, Thailand, the United States of America and Uruguay.<sup>2</sup> The following representatives were appointed:

*Brazil*: Mr. Sérgio Armando Frazão, Mr. Donatello Grieco.

*Mexico*: Mr. Luciano Joubanc Rivas.

*Pakistan*: Mr. Viqar Ahmed Hamdani.

*Syria*: Mr. Najmuddine Rifai.

*Thailand*: Mr. Thanat Khoman.

*United States of America*: Mr. Benjamin Gerig.

*Uruguay*: Mr. Enrique Rodríguez Fabregat.

4. At its 41st meeting on 24 January 1955, the Committee elected Mr. Thanat Khoman (Thailand) as Chairman and Mr. Luciano Joubanc Rivas as Vice-Chairman and Rapporteur.

5. The Committee held fourteen meetings between 24 January and 8 June 1955. Before the opening of its 1955 session on 24 January and after having submitted to the General Assembly the supplement to its report on the work of its first session (A/2666/Add.1),<sup>3</sup> it had held a meeting in private on 12 October 1954. The Committee decided that, for the consideration of certain questions, including its negotiations with the Union of South Africa, its task would be facilitated by holding closed meetings. It held four such meetings—the 41st (part II), 42nd, 52nd (part II) and 54th (part I)—on 24 and 26 January, 2 and 8 June 1955.

6. At its 54th meeting on 8 June 1955, the Committee adopted its report to the General Assembly.

<sup>2</sup> On 14 December 1954, the General Assembly, on the recommendation of the Fourth Committee to the President, approved the nomination of Thailand and the United States to fill the vacancies that had occurred in the Committee.

<sup>3</sup> *Official Records of the General Assembly, Ninth Session, Annexes, agenda item 34.*

## II. NEGOTIATIONS WITH THE UNION OF SOUTH AFRICA

7. Pursuant to paragraph 5 of General Assembly resolution 851 (IX), whereby the Government of the Union of South Africa was once again invited to co-operate with the Committee on South West Africa and, in particular, to submit to the Committee a report

on its administration of the Territory of South West Africa for the year 1954 and to assist the Committee in the examination of such a report or such information and documentation as may be available to it, the Committee, at the closed part of its 41st meeting on 24

January 1955, requested the Chairman to renew the invitation to the Government of the Union which was extended the previous year.<sup>4</sup> The Committee not only expressed its readiness to continue negotiations with the Union in order to implement fully the advisory opinion of the International Court of Justice regarding the question of South West Africa, but emphasized that it continued to entertain the earnest hope that through such further negotiations satisfactory and positive results might be obtained, and therefore invited the Government of the Union to designate a representative to confer with it. On 24 January, the Chairman accordingly dispatched to the Minister for External Affairs of the Union a letter which is reproduced as annex I (a) to the present report.

8. By a letter dated 11 May 1955, the Deputy Permanent Representative of the Union of South Africa to the United Nations acknowledged the receipt of the letter sent by the Chairman on 24 January. That letter, he stated, had been duly transmitted to the Government of the Union for its consideration and instructions and the Chairman would be advised as soon as the Union Government had taken a decision. The letter is reproduced as annex I (b) below.

9. By a letter dated 21 May 1955, the Deputy Permanent Representative, by direction of the Minister for External Affairs of the Union Government, and in reply to the letter dated 24 January stated, in the first place, that the Government's attitude concerning the submission of reports to the Committee had been outlined in the communication made to the Chairman on 25 March 1954<sup>5</sup> and remained unaltered. Concerning the Committee's readiness to continue negotiations with the Union in order to implement fully the advisory opinion of the International Court of Justice, the letter pointed out that the Union Government had consistently maintained that the Mandate in respect

of South West Africa had lapsed and that the Government had no other international commitments as a result of the demise of the League of Nations. The letter recalled that, in order to find a solution which would remove the question from the United Nations, the Union Government had offered to enter into an arrangement with the three remaining Principal Allied and Associated Powers, an offer which was repeatedly rejected by the United Nations. "In the circumstances", the letter further stated, "that offer has now lapsed. As there has been no material change in the position as outlined in my communication of 25 March 1954, the Union Government have come to the same conclusion as they did last year, namely, that they cannot see that further negotiations would lead to any positive results." The letter is reproduced as annex I (c) below.

10. The above-mentioned letter was discussed by the Committee at its 52nd and 54th (closed) meetings on 2 and 8 June 1955. The Committee replied to the Deputy Permanent Representative of the Union of South Africa by a letter dated 10 June 1955, in which it stated that it had taken note of the Union Government's statement that it could not see that further negotiations would lead to any positive results. The only conclusion that the Committee could arrive at from such a statement was that the Union of South Africa was not prepared to assist the Committee in the discharge of the mandate given to it by the General Assembly, in particular, that the Union Government was unwilling even to enter into negotiations with it in order to implement fully the advisory opinion of the International Court of Justice. The Committee stated that it sincerely regretted and could not accept this attitude; it informed the Union Government, however, that it remained ready, in accordance with its terms of reference, to negotiate with the Government concerning the question of South West Africa if the Government should decide to revise its present position. The letter is reproduced as annex I (d) below.

<sup>4</sup> See A/2666, annex I (a).

<sup>5</sup> See A/2666, annex I (c).

### **III. ANALYSIS AND SUMMARY OF DISCUSSION OF THE SOUTH WEST AFRICAN QUESTION IN THE FOURTH COMMITTEE AT THE NINTH SESSION OF THE GENERAL ASSEMBLY**

11. At its 42nd meeting on 26 January 1955, the Committee on South West Africa decided to send the full summary records of the meetings of the Fourth Committee in 1954 at which the South West African question had been discussed, together with an analytical index to the substantive discussion summarized

therein, to the Government of the Union of South Africa, in accordance with paragraph 6 of General Assembly resolution 851 (IX). On 31 January, the Chairman transmitted the above-mentioned summary records and analytical index to the Minister for External Affairs of the Union.

### **IV. RULES OF PROCEDURE FOR THE COMMITTEE ON SOUTH WEST AFRICA**

12. At its 13th meeting on 11 February 1954, the Committee had adopted provisional rules of procedure for the specific purpose of examining reports and petitions relating to the Territory of South West Africa.<sup>6</sup> By a letter dated 11 February 1954,<sup>7</sup> the Chairman transmitted the provisional rules of procedure

to the Government of the Union of South Africa and expressed the Committee's readiness to consider any comments which the Union Government might wish to make regarding these provisional rules. No reply to this letter has been received from the Union Government. At its 51st meeting on 1 June 1955, the Committee decided that the provisional rules of procedure adopted the previous year should become its rules of procedure.

<sup>6</sup> A/2666, annex II.

<sup>7</sup> See A/2666, annex I (b).

13. In accordance with paragraph 12 of General Assembly resolution 749 A (VIII) and paragraph 5 of General Assembly resolution 851 (IX), the Chairman of the Committee on South West Africa invited the Government of the Union of South Africa, by a letter dated 24 January 1955, to assist the Committee in its work and, in particular, to render a report in reference to the Territory of South West Africa for the year 1954. In its letter dated 21 May 1955 (see annex I (c) below), the Union Government stated

that its views concerning the submission of reports had already been conveyed to the Committee in the letter dated 25 March 1954 and that the Union Government's attitude in that regard remained unaltered.<sup>8</sup> In view of the unchanged attitude of the Union Government, the Committee decided to apply the alternate procedure contained in its rules of procedure with respect to the examination of reports.

<sup>8</sup> A/2666, annex I (c).

## VI. EXAMINATION OF INFORMATION AND DOCUMENTATION CONCERNING SOUTH WEST AFRICA

14. Following its decision to apply the alternate procedure with regard to reports, the Committee, at the second part of its 41st (closed) meeting, on 24 January 1955, decided to request the Secretary-General to submit to it all available recent information relating to South West Africa. During its 44th to 50th and 52nd to 54th meetings, held between 23 and 31 May, and on 2, 3 and 8 June, the Committee examined the information and documentation available with respect to South West Africa with a view to preparing its report to the General Assembly concerning conditions in the Territory, in accordance with sub-paragraphs (a) and (c) of paragraph 12 of resolution 749 A (VIII). The Committee had before it documents relating to conditions in the Territory in 1954 prepared by the Secretary-General pursuant to rule XXII of

the rules of procedure (A/AC.73/L.7 and Add.1). While the documentation prepared in 1954 contained information relating to the years 1947 to 1953, the documentation collected in 1955 covered, as far as possible, conditions in South West Africa for one year only, namely 1954, as well as such additional information on conditions in the preceding years as had become available since the first study was made. Moreover, in accordance with a decision taken by the Committee in 1954 (A/2666, annex V, paragraph 84), the questions relating to land and land tenure were given fuller treatment. At its 54th meeting on 8 June 1955, the Committee adopted a report to the General Assembly concerning conditions in South West Africa (see annex II below).

## VII. EXTENT TO WHICH AND MANNER IN WHICH THE SPECIALIZED AGENCIES MIGHT CONTRIBUTE TO THE ADVANCEMENT OF THE INHABITANTS OF SOUTH WEST AFRICA

15. By paragraph 7 of resolution 851 (IX), the General Assembly requested the Committee on South West Africa to examine the extent to which and the manner in which the specialized agencies and extra-budgetary organs of the United Nations might contribute to the social, economic and educational advancement of the inhabitants of the Territory of South West Africa.

16. At its 43rd meeting on 3 February 1955, the Committee decided to request the Secretary-General to send a letter to the specialized agencies, asking them to consider the needs of the Territory, to indicate the help they could give and, at the same time, to furnish such information to the Committee as they believed might be of assistance to it in the implementation of paragraph 7 of the above-mentioned resolution. Subsequently, the specialized agencies might be invited to send representatives to discuss the question with the Committee.

17. A letter was accordingly sent on 8 February to the following ten specialized agencies: International Labour Office, Food and Agriculture Organization, United Nations Educational, Scientific and Cultural Organization, International Civil Aviation Organization, International Bank for Reconstruction and De-

velopment, International Monetary Fund, World Health Organization, Universal Postal Union, International Telecommunication Union, and World Meteorological Organization. In addition, identical letters were addressed to the Executive Director of the United Nations Children's Fund (UNICEF) and to the Executive Chairman of the Technical Assistance Board. Replies were received from the above-mentioned specialized agencies as well as from UNICEF and TAB, and are briefly summarized in the following paragraphs.

18. By a letter dated 16 March, the International Labour Office stated that, for ILO purposes, South West Africa was a non-metropolitan territory and, as such, was covered by the general programme of work in the field of social policy in non-metropolitan territories approved from time to time by the Governing Body. ILO was ready, within the limits of its financial resources, under the Expanded Programme of Technical Assistance or otherwise, to give advice and assistance on request in the normal way in connexion with any aspect of social or labour policy coming within its competence which might be referred to it and which concerned a single non-metropolitan territory.

19. By a letter dated 23 March, FAO stated that it had insufficient up-to-date information on South West Africa to give to the Committee at the present time.

20. By a letter dated 3 March, UNESCO stated that it was prepared to render services, within its field of competence, to the inhabitants of all African territories only upon request of the responsible authorities in relation to under-developed African territories. By a further letter dated 20 April, UNESCO stated that its Executive Board had authorized the Director-General to send to the Secretary-General, for the use of the Committee, a descriptive list of the services which UNESCO was in a position to render, upon request of the responsible authorities, towards the social, economic and educational advancement of the inhabitants of territories with characteristics similar to those of South West Africa.

21. By a letter dated 14 March, ICAO stated that it was unable to furnish any information which could be of assistance to the Committee.

22. By a letter dated 29 March, the International Bank stated that, as it had no first-hand information about South West Africa, it was unable to add to what was already available to the Committee from other sources.

23. By a letter dated 4 March, the Fund stated that it received no separate statistical publications for South West Africa and, therefore, had no significant new information on the Territory to supply in the fields which were its main concern, namely, balance of payments, money and banking and exchange restrictions.

24. By a letter dated 18 March, WHO stated that the manner in which and the extent to which WHO could contribute to the advancement of the inhabitants of a territory was determined by the requests received from the Governments concerned and by the decisions of the World Health Assembly concerning both the long-term programme and the annual programme and budget of the organization. In pursuance of the United Nations/WHO agreement relating to assistance to the Trusteeship Council and to co-operation with the United Nations in connexion with matters affecting the well-being and development of the peoples of

Non-Self-Governing Territories, WHO provided technical advice on the health aspects of reports submitted to the Council and informed that body of its activities in the territories in question.

25. By a letter dated 10 March, UPU stated that it had no suggestion or comment to offer.

26. By a letter dated 26 February, ITU explained that the International Telecommunication Convention of Buenos Aires, 1952, was signed for the Union of South Africa and Territory of South West Africa, and had been ratified by the Government of the Union of South Africa on behalf of the Union of South Africa and Territory of South West Africa. In practice, all communications concerning the Territory, such as notifications concerning telecommunication facilities, were received from the Government of the Union. ITU did not have a programme of economic and social projects, as did certain other specialized agencies; as part of its normal functions, it participated in the Expanded Programme of Technical Assistance, but any request for technical assistance in telecommunications should be initiated by the Government requiring the assistance.

27. By a letter dated 23 March, WMO stated that it was not apparent how it could be of assistance to the Committee in the implementation of paragraph 7 of General Assembly resolution 851 (IX).

28. By a letter dated 20 April, UNICEF stated that UNICEF aid was only given on the basis of a formal governmental request for help; it was prepared to receive a request for aid to South West Africa.

29. By a letter dated 31 May, TAB stated that information made available to its Chairman by the participating organizations indicated that no request for technical assistance for South West Africa had yet been made by the Government concerned. If and when such request was made, the approval of assistance would receive the same consideration by the Technical Assistance Board as that given to other countries and Non-Self-Governing Territories.

30. At its 50th and 51st meetings on 31 May and 1 June 1955, the Committee examined the replies of the specialized agencies, UNICEF and TAB; the texts of the replies are reproduced as annex III below.

## VIII. PETITIONS RELATING TO THE TERRITORY OF SOUTH WEST AFRICA

31. Pursuant to paragraph 12 (b) of General Assembly resolution 749 A (VIII) of 28 November 1953, the Committee, at its 43rd, 51st and 52nd meetings on 3 February, 1 and 2 June 1955, considered communications and petitions submitted to the Committee and the Secretary-General relating to the Territory of South West Africa (for the summary records of these meetings see documents A/AC.73/SR.43, 51 and 52).

### A. COMMUNICATIONS FROM SOURCES OUTSIDE THE TERRITORY OF SOUTH WEST AFRICA

32. Since the submission of its report and supplementary report to the ninth session of the General

Assembly,<sup>9</sup> the Committee has received and considered the following communications from sources outside the Territory of South West Africa:

(i) Communication dated 16 December 1954 from the Reverend Michael Scott, addressed to the Chairman (annex IV);

(ii) Communication dated 15 December 1954 from the Reverend Michael Scott, addressed to the Chairman, together with an extract from a letter from Jariretundu Kozonguizi (annex V).

33. The Committee, at its 43rd meeting on 3 February 1955, decided to consider these communications during its examination of conditions in the Territory of South West Africa.

<sup>9</sup> A/2666 and Add.1.

**B. COMMUNICATIONS AND PETITIONS FROM SOURCES WITHIN THE TERRITORY OF SOUTH WEST AFRICA**

34. Since the submission of its report and supplementary report to the ninth session of the General Assembly, the Committee has received and considered the following communications and petitions from sources within the Territory of South West Africa:

(i) Communication dated 12 October 1954 from Hosea Kutako, David Roos and Erastus Angabeb, addressed to the Secretary-General (annex VII (a));

(ii) Communications from the Rehoboth Community:

(a) Cable received on 22 November 1954 from the Rehoboth Community, addressed to the United Nations (annex VI (b));

(b) Communication dated 27 November 1954 from Jacobus Beukes, addressed to the United Nations (annex VI (c));

(iii) Petition dated 5 October 1954 from the Reverend T. H. Hamtumbangela, St. Mary's Mission, Ovamboland, transmitted by the Reverend Michael Scott to the Secretary of the Committee (annex VIII (a));

(iv) Communication dated 14 January 1955 from Hosea Kutako, addressed to the Secretary-General (annex VII (c));

(v) Communication dated 19 February 1955 from the Reverend T. H. Hamtumbangela, addressed to the Secretary-General, and transmitted by Jane Sprouds, Assistant Secretary of The Africa Bureau (annex VIII (d)).

35. In addition, the Committee completed its consideration of the following petitions:

(i) Petition, undated (received in 1952), from Messrs. A. J. Beukes, P. Diegaard and A. van Wyk, addressed to the Chairman of the *Ad Hoc* Committee on South West Africa (annex VI (a));

(ii) Petition dated 2 September 1954 from Hosea Kutako, David Roos and Erastus Angabeb, addressed to the Secretary-General (annex VII (b)).

36. As stated in its report and supplementary report to the ninth session of the General Assembly,<sup>10</sup> the Committee had in 1954 applied rule XXVI (a) and (b) of its alternate rules of procedure to these petitions. This rule reads as follows:

"In the absence of the co-operation of the Government of the Union of South Africa in regard to the transmission of petitions from the inhabitants of the Territory of South West Africa, and the inability of the Committee to receive petitions from the inhabitants of the Territory of South West Africa in accordance with the provisions of rule VIII, petitions from the inhabitants of the Territory of South West Africa shall be handled in the following manner:

"(a) On receipt of a petition the Secretary-General of the United Nations shall request the signatories to submit the petition to the Committee through the Government of the Union of South Africa. At the same time, the Secretary-General shall send a copy of this rule to the signatories.

"(b) A copy of the petition as well as of the communication to the signatories shall be transmitted to the Government of the Union of South Africa.

"(c) If, after a period of two months, the petition has not been received through the Government of South Africa, the Committee shall regard the petition as validly received.

"(d) The Committee shall notify the Government of the Union of South Africa as to the conclusions it has reached on the petition."

37. The Committee took the following action with regard to the above-mentioned communications and petitions relating to the Territory of South West Africa:

(1) *Communication dated 12 October 1954 from Hosea Kutako, David Roos and Erastus Angabeb*

38. At its 43rd meeting on 3 February 1955, the Committee decided to consider this communication (annex VII (a)) during its examination of conditions in the Territory of South West Africa.

(2) *Petition and communications relating to the Rehoboth Community*

(a) Petition from Messrs. A. J. Beukes, P. Diegaard and A. van Wyk, undated (received in 1952), addressed to the Chairman of the *Ad Hoc* Committee on South West Africa (annex VI (a))

(b) Communications from the Rehoboth Community: (i) Cable received 22 November 1954 and signed by the Rehoboth Community (annex VI (b)); (ii) Letter from Jacobus Beukes, dated 27 November 1954 (annex VI (c)).

39. The Committee having decided at its 37th meeting on 9 September 1954 to accept the above-mentioned petition as validly received in conformity with rule XXVI (c) of its rules of procedure, and having decided at its 38th meeting on 10 September 1954 to request the Government of the Union of South Africa to transmit such observations and comments as would in its opinion assist the Committee in examining the petition,<sup>11</sup> considered the petition further at its 51st and 52nd meetings on 1 and 2 June 1955.

40. Meanwhile, the Committee had received the communications from the Rehoboth Community mentioned above, the cable dated 22 November 1954 from the Community and the letter dated 27 November 1954 from Jacobus Beukes. At its 43rd meeting on 3 February 1955, the Committee decided that the cable and the letter should be regarded as communications supplementary to the original petition. Together with the petition, they were considered by the Committee at its 51st and 52nd meetings on 1 and 2 June 1955.

41. At the Committee's 52nd meeting, the Rapporteur introduced the preamble of a draft resolution on the petition and communications, while the representative of Pakistan introduced operative parts of the resolution to be inserted after the various sections of the preamble proposed by the Rapporteur. It was then agreed to divide the resolution into three parts. The resolution, slightly amended, was unanimously adopted by the Committee at its 52nd meeting on 2 June 1955.

42. The Committee recommends to the General Assembly the adoption of this resolution, which is reproduced as annex VI (d) to the present report.

<sup>10</sup> A/2666, paras. 55-57; A/2666/Add.1, paras. 12-14.

<sup>11</sup> A/2666/Add.1, paras. 12-13.

43. By a letter dated 13 June 1955, the Committee, in accordance with rule XXVI (d) of its rules of procedure, transmitted a copy of the draft resolution to the Government of the Union of South Africa (annex VI (e)).

(3) *Petition dated 2 September 1954 from Hosea Kutako, David Roos and Erastus Amgabeb, and communication dated 14 January 1955 from Hosea Kutako*

44. The Committee, having at its 38th meeting on 10 September 1954 decided to apply rule XXVI (a) and (b) to the petition dated 2 September 1954 from Hosea Kutako, David Roos and Erastus Amgabeb (annex VII (b)), decided, at its 43rd meeting on 3 February 1955, that the petition should be regarded as a petition validly received in conformity with rule XXVI (c) of its rules of procedure. The Committee considered the petition further at its 51st and 52nd meetings on 1 and 2 June 1955.

45. Meanwhile, the Committee had received a further communication, dated 14 January 1955, from Hosea Kutako (annex VII (c)). At its 51st meeting, the Committee decided that this petition did not call for separate action, but should be considered together with the above-mentioned petition. At the same meeting, the Committee requested the Rapporteur to draw up a draft resolution based on the observations and suggestions made during the meeting by members of the Committee.

46. At its 52nd meeting, the Committee unanimously approved the draft resolution presented by the Rapporteur.

47. The Committee recommends to the General Assembly the adoption of this draft resolution, which is reproduced as annex VII (d) to the present report.

48. By a letter dated 13 June 1955, the Committee, in accordance with rule XXVI (d) of its rules of procedure, transmitted a copy of the draft resolution

to the Government of the Union of South Africa (annex VII (e)).

(4) *Petition dated 5 October 1954 and communication dated 19 February 1955 from the Reverend T. H. Hamtumbangela*

49. The Committee decided, at its 43rd meeting, to accept the communication dated 5 October 1954 from the Reverend T. H. Hamtumbangela (annex VIII (a)) as a petition from a source within the Territory of South West Africa, and to apply to it rule XXVI (a) and (b) of its rules of procedure. Accordingly, the Committee invited the Secretary-General to send to the petitioner a copy of rule XXVI and to send to the Government of the Union of South Africa a copy of the petition and a copy of the Secretary-General's letter to the petitioner (see annex VIII (b) and (c)).

50. At its 51st meeting, the Committee decided to regard the petition as validly received in conformity with rule XXVI (c) of its rules of procedure. At the same meeting the Committee, noting that the subsequent communication dated 19 February 1955 from the Reverend T. H. Hamtumbangela (annex VIII (d)) was substantially the same as the above-mentioned petition, decided that it did not call for separate action. The Committee requested the Rapporteur to draw up a draft resolution based on the observations and suggestions made during the meeting by members of the Committee.

51. At its 52nd meeting the Committee unanimously approved the draft resolution presented by the Rapporteur.

52. The Committee recommends to the General Assembly the adoption of this draft resolution, which is reproduced as annex VIII (e) to the present report.

53. By a letter dated 13 June 1955, the Committee, in accordance with rule XXVI (d) of its rules of procedure, transmitted a copy of the draft resolution to the Union Government (annex VIII (f)).

## ANNEX I

### Correspondence with the Government of the Union of South Africa

(a) *Letter dated 24 January 1955 from the Chairman of the Committee on South West Africa to the Minister for External Affairs of the Union of South Africa*

I have the honour to inform you that, at its 41st meeting on 24 January 1955, the Committee on South West Africa, established by resolution 749 A (VIII) of the General Assembly of the United Nations, requested me to bring to your attention paragraph 5 of General Assembly resolution 851 (IX) which invites the Government of the Union of South Africa "to co-operate with the Committee on South West Africa and, in particular, to submit to the Committee reports on its administration of the Territory of South West Africa and to assist the Committee on South West Africa in the examination of such reports or such information and documentation as may be available to that Committee".

2. In this connexion, the Committee has also requested me to renew its invitation which was extended to your Government by my letter of 21 January 1954.

The Committee wishes me again to state that, in accordance with paragraph 13 of General Assembly resolution 749 A (VIII), it is ready "to continue negotiations with the Union of South Africa in order to implement fully the advisory opinion of the International Court of Justice regarding the question of South West Africa".

3. The Committee wishes to emphasize that it continues to entertain the earnest hope that through such further negotiations satisfactory and positive results may be obtained, and therefore invites your Government to designate a representative to confer with it.

4. Further, in accordance with paragraph 12 of General Assembly resolution 749 A (VIII) and paragraph 5 of General Assembly resolution 851 (IX), the Committee invites your Government to assist it in its work, and, in particular, to render a report in reference to the Territory of South West Africa for the year 1954.

(Signed) Thanat KHOMAN



- (b) *Letter dated 11 May 1955 from the Deputy Permanent Representative of the Union of South Africa to the United Nations, addressed to the Chairman of the Committee on South West Africa*

I have the honour to inform you that your letter TRI 132/1/06 of 24 January 1955, extending an invitation to the Government of the Union of South Africa to co-operate with the Committee on South West Africa, was duly received and transmitted to the Government of the Union of South Africa for their consideration and instructions in due course.

I shall not fail to advise you as soon as the Union Government have taken a decision.

(Signed) JORDAAN

- (c) *Letter dated 21 May 1955 from the Deputy Permanent Representative of the Union of South Africa to the United Nations, addressed to the Chairman of the Committee on South West Africa*

I have the honour by direction of the Minister of External Affairs of the Union of South Africa to acknowledge receipt of your letter TRI 132/1/06 of 24 January 1955, referring to paragraph 5 of General Assembly resolution 851 (IX) which invites the Union Government to co-operate with your Committee and, in particular, to submit to the Committee reports on the Union's administration of South West Africa and to assist the Committee in the examination of such reports or such information and documentation as may be available to the Committee.

In my communication sent to you on 25 March 1954, I conveyed to you the views of my Government concerning the submission of reports and I have to inform you that the Union Government's attitude in this regard remains unaltered.

It is also mentioned in your letter that the Committee on South West Africa is ready to continue negotiations with the Union in order to implement fully the advisory opinion of the International Court of Justice regarding the question of South West Africa and the Committee invites the Union Government to nominate a representative to confer with it.

The Union Government have consistently maintained that the Mandate in respect of South West Africa has lapsed and that they have no other international commitments as a result of the demise of the League of Nations. Nevertheless, in order to find a solution which would remove the question from the United Nations, they offered to enter into an arrangement with the

three remaining Principal Allied and Associated Powers. This offer was repeatedly rejected by the United Nations on the grounds that it did not provide means whereby the advisory opinion of the International Court of Justice could be implemented. In the circumstances that offer has now lapsed. As there has been no material change in the position as outlined in my communication of 25 March 1954, the Union Government have come to the same conclusion as they did last year, namely, that they cannot see that further negotiations would lead to any positive results.

(Signed) D. S. FRANKLIN  
for Deputy Permanent  
Representative

- (d) *Letter dated 10 June 1955 from the Chairman of the Committee on South West Africa to the Deputy Permanent Representative of the Union of South Africa to the United Nations*

On behalf of the Committee on South West Africa, I have the honour to acknowledge receipt of your letter of 21 May 1955 by which you transmit the reply of the Minister for External Affairs of the Union of South Africa to my letter of 24 January 1955.

2. The Committee, having discussed this letter at its 52nd and 54th meetings on 2 and 8 June 1955, wishes me to inform you that it has taken note of this letter, and particularly the concluding phrase which states that the Government of the Union of South Africa "cannot see that further negotiations would lead to any positive results". From this statement the Committee can only conclude that the Union of South Africa is not prepared to assist the Committee in the discharge of its mandate by the General Assembly, in particular, that the Government of the Union of South Africa is unwilling even to enter into negotiations in order to implement fully the advisory opinion of the International Court of Justice with regard to the question of South West Africa. The Committee wishes me to state that it sincerely regrets and cannot accept this attitude of the Government of the Union of South Africa.

3. On behalf of the Committee on South West Africa, I wish nevertheless to state that it remains ready, in accordance with its terms of reference, to negotiate with the Government of the Union of South Africa concerning the question of South West Africa if the Union Government should decide to revise its present position.

(Signed) Thanat KHOMAN

## ANNEX II

### Report and observations of the Committee on South West Africa regarding conditions in the Territory of South West Africa

1. The Committee on South West Africa, having been requested under paragraph 12 (a) of General Assembly resolution 749 A (VIII) to examine, within the scope of the Questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926, such information and documentation as may be available in respect of the Territory of South West Africa and having further been requested by

paragraph 12 (c) to transmit to the Assembly a report concerning conditions in the Territory taking into account, as far as possible, the scope of the report of the Permanent Mandates Commission of the League of Nations, examined in the course of its 44th to 50th and 52nd to 54th meetings, held between 23 and 31 May and on 2, 3 and 8 June 1955, a document entitled "Information and Documentation in respect of the

Territory of South West Africa"<sup>12</sup> prepared by the Secretary-General in accordance with rule XXII of the Committee's rules of procedure. The Committee draws the attention of the Assembly to this document, which covers, as far as possible, information relating to the year 1954, as well as such additional information on conditions in the Territory in the preceding years which became available since the Committee's first report on conditions in the Territory.<sup>13</sup>

2. On the basis of this information taken from the official documentation issued by the Government of the Union of South Africa and, under its authority, by the Territory of South West Africa, and on the basis of some other relevant information, such as Press reports, the Committee has drawn up the present report concerning conditions in the Territory of South West Africa.

3. The Committee considers it necessary to explain that in using such terms as "European", "Non-European", "Coloured person", and "Native", it has merely followed the terminology generally employed in the available documents and publications on the Territory of South West Africa. The Committee wishes to state that it disapproves of the use of this terminology. Within the Territory, the word "European" is generally understood to mean a "White" person, regardless of his country of origin or residence. The word "Non-European" is used to refer to any person other than a "European" in the sense in which the latter term is understood in the Territory. A "Coloured person" is generally defined as meaning any person of mixed European and Native descent and also includes persons belonging to a class called "Cape Malays". The word "Native" is generally understood to refer to a member of one of the aboriginal races and groups of Africa, but may under particular statutes include any person other than a European.

4. Statutory definitions of the word "Native" are not uniform. The terms "Native", "Coloured person", and "Non-European", as defined in law, are for some purposes synonymous, for others not. Under the principal laws relating to Native administration, for example, any "Coloured person" living in an area set aside for "Natives", whether in a Native Reserve or an urban area or elsewhere, is a "Native." On the other hand, while Natives are exempt from the provisions of any Legislative Assembly ordinance imposing taxation upon persons, lands, habitations or incomes generally, the High Court of South West Africa decided in 1953 that a Coloured person, although living in a Native reserve, was not to be regarded as a Native for the purpose of the Income Tax Ordinance, 1942, and was held liable for the payment of income tax.<sup>14</sup>

5. Under the Native Administration Proclamation, 1922, Native employees desiring to travel within the Territory are required to have passes which may be issued to them by their European employers; members of the Rehoboth Community, generally regarded as "Coloured persons", are identified as "Europeans" under that Proclamation for the purpose of issuing passes to their Native employees for travelling within the Rehoboth Community area.

<sup>12</sup> A/AC.73/L.7 and Add.1.

<sup>13</sup> See A/2666, annex V.

<sup>14</sup> R. v. Neumann, *The South African Law Reports*, 1953 (3), p. 65.

## I. GENERAL

### A. *The status of the Territory in international law*

6. In 1919, the Principal Allied and Associated Powers agreed that a Mandate for the Territory of South West Africa should be conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa and proposed the terms of the Mandate. His Britannic Majesty, for and on behalf of the Government of the Union of South Africa, agreed to accept the Mandate and undertook to exercise it on behalf of the League of Nations in accordance with the proposed terms. On 17 December 1920, the Council of the League of Nations, confirming the Mandate, defined its terms.

7. The International Court of Justice, in its advisory opinion dated 11 July 1950, stated, *inter alia*:

"South West Africa is still to be considered as a territory held under the Mandate of 17 December 1920. The degree of supervision to be exercised by the General Assembly (of the United Nations) should not exceed that which applied under the Mandates System, and should conform as far as possible to the procedure followed in this respect by the Council of the League of Nations."

8. The Committee draws the attention of the General Assembly to the fact that the official listing of the Territory in the Universal Postal Union was 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".<sup>15</sup> The Committee considers that this change in the listing of the Territory should not be regarded as in any sense a change in the status of the Territory, which remains "a territory held under the Mandate of 17 December 1920", as described in the advisory opinion of the International Court of Justice as set out above.

9. Recalling that the Union Government has on several occasions maintained before organs of the United Nations that the Mandate has lapsed, the Committee also draws the attention of the General Assembly to the fact that Ministers of the Union Government, in statements before the Union Parliament, have in 1953 and 1954 affirmed the status of South West Africa as a "C" Mandate.<sup>16</sup>

### B. *Description of the Territory*

10. The Territory of South West Africa embraces an area of 317,940 square miles (82,347,841 hectares).<sup>17</sup> Walvis Bay, which is 374 square miles (96,867 hectares) in extent, is administered by the Administration of South West Africa, but the area remains nevertheless an integral part of the Province of the Cape of Good Hope.

11. The country may be said to consist of a slowly rising, sandy coastbelt, a higher interior plateau reached at a distance of 60 to 100 miles from the coast, and a gently falling eastern strip of sandy country that merges in the level expanse of the Kalahari. The bulk of the Territory may be classified as a drought area. There

<sup>15</sup> A/AC.73/L.7, question 1, para. 4.

<sup>16</sup> A/AC.73/L.3, question 1, para. 10; A/AC.73/L.7, question 2, paras. 24-25.

<sup>17</sup> Data showing area of the Territory revised in accordance with revised data given in official sources (see A/AC.73/L.7, Chapter S, para. 173).

are no perennial streams in the Territory other than the boundary rivers. There are, however, dry sandy river beds which flood after heavy rains but few of these rivers flow for any considerable distance except in very wet seasons. There are two distinct seasons, the rainy summer, from October to April, and the dry, cloudless winter, from May to September. The rainfall in the various districts of the Territory does not, owing to its uncertainty, form a reliable water supply. Water is obtained chiefly by means of boreholes and wells, surface dams and weirs, and underground weirs across sandy river beds.

### C. Population

12. The population was estimated by the Administration in the middle of 1954 at 393,700 Non-Europeans and 53,600 Europeans, as compared with 366,013 Non-Europeans and 48,588 Europeans at the time of the last census in 1951. The Committee notes that the European population has increased by approximately 5,000, or about 10 per cent, during this period, while the Non-European population increased by approximately 27,700, or about 7 per cent. The provisional figures provided by the 1951 census showed a total population of approximately 414,600, indicating an average yearly increase of 3 per cent since 1946. There were 349,110 Natives (81.78 per cent of the total population), 48,588 Europeans, 16,881 Coloured persons, 19 Cape Malays and 3 Asians. Of the 1951 total, approximately 200,000 (including some 150,000 Non-Europeans) lived within an area known as the Police Zone and the remainder, almost all of them Natives, lived outside the Police Zone, for which the figures are estimates only. The seventeen magisterial districts within the Police Zone in 1951 varied greatly with regard to population, the largest being Windhoek with 29,717. The seven principal districts had a total population of 135,303, each district with more than 10,000. The roughly estimated figures for the population in the three main areas outside the Police Zone in 1951 were: Ovamboland, 190,000; Okavango, 20,000; Kaokoveld, 9,000.

## II. POLITICAL CONDITIONS

### A. Status of the Territory

13. The basis for the status of the Territory as well as for its financial and administrative relationship to the Union Government, as the Mandatory, derives from article 2 of the Mandate for South West Africa, namely that:

"The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Union of South Africa, and may apply the laws of the Union of South Africa to the territory, subject to such local modifications as circumstances may require.

"The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present Mandate."

14. The Committee, realizing that paragraph 1 of Article 22 of the Covenant of the League of Nations states, *inter alia*, that it should apply to those territories "which are inhabited by peoples not yet able to stand

by themselves under the strenuous conditions of the modern world", is of the opinion that the second part of article 2 of the Mandate would appear to be primarily concerned with the Native inhabitants of the Territory of South West Africa.

15. The status of the Mandated Territory is laid down in the Treaty of Peace and South West Africa Mandate Act, 1919 (Act No. 49 of 1919) and in the South West Africa Constitution Act, 1925 (Act No. 42 of 1925), as amended. Under these Acts, administrative and legislative control of the Territory is vested in the Union Parliament and the Governor-General of the Union, and in the Administrator, Executive Committee and Legislative Assembly of the Territory.

### B. Status of the Native inhabitants of the Territory

16. The Committee is unaware of any law or regulation defining the status of Non-European inhabitants. It notes, however, that according to a memorandum submitted to the League of Nations on 19 December 1928, Natives "are regarded as stateless subjects under the protection of the Mandatory Power, and in a passport such person would be described as a native inhabitant of South West Africa under the protection of the Union of South Africa". This memorandum further states that "there is, however, nothing to prevent the native inhabitants from applying for naturalization . . . and in this respect they stand in precisely the same position as Europeans who are aliens".<sup>18</sup>

17. In this connexion, the Committee again draws attention to the following principles embodied in a resolution adopted by the Council of the League on 23 April 1923:

"1. The Status of the native inhabitants of a mandated territory is distinct from that of the nationals of the mandatory Power and cannot be identified therewith by any process having general application.

"2. The native inhabitants of a mandated territory are not invested with the nationality of the mandatory Power by reason of the protection extended to them.

"3. It is not inconsistent with paragraphs 1 and 2 above that individual inhabitants of the mandated territory should voluntarily obtain naturalization from the mandatory Power in accordance with arrangements which it is open to such Power to make, with this object, under its own law.

"4. It is desirable that native inhabitants who receive the protection of the mandatory Power should in each case be designated by some form of descriptive title which will specify their status under the mandate."<sup>19</sup>

18. The Committee is of the opinion that legislation defining the status of the Non-European inhabitants of the Mandated Territory should be promulgated at the earliest opportunity and that their status, as defined in such legislation, should be at least equal to the status of the immigrant inhabitants of the Territory. The Committee further believes that any practice which gives to Europeans, including recent immigrants, rights not extended to the Non-European population is not in accordance with the principles of

<sup>18</sup> League of Nations, *Official Journal*, 10th Year, p. 827.

<sup>19</sup> League of Nations, *Official Journal*, 4th Year, p. 604.

the Mandate and of article 22 of the Covenant of the League of Nations.

### C. Administration

19. The administration of the Territory is carried on by the Union Government and the Administrator of South West Africa, who is appointed by the Governor-General of the Union.

20. The Union Government reserves to itself the full powers of administration over the Territory as an integral portion of the Union vested in it by article 2 of the Mandate.

21. Subject to this general reservation, full power of administration is delegated to the Governor-General of the Union and, in practice, has been generally exercised by the Administrator of South West Africa. However, in view of the coming into operation of the South West Africa Native Affairs Administration Act, 1954, only on 1 April 1955, the Committee is not in a position to evaluate whether the Administrator will continue the powers he formerly had in regard to Native affairs (see paragraphs 24 and 45).<sup>20</sup>

#### Union Government

22. The Union Government has interpreted the power vested in it by article 2 of the Mandate, as authorizing it to:

(a) Integrate with the administration of the Union the following sections of the administration of South West Africa: Native affairs, customs and excise, railways and harbours, police, defence, the Public Service, external affairs, air services and immigration.

(b) Administer the Eastern Caprivi Zipfel, territorially a part of South West Africa, as an integral part of the Union.

23. With regard to the administration of the Eastern Caprivi Zipfel, the Committee again questions whether the administrative separation of any section of the Territory is conducive to the attainment of the objectives of the Mandate System. The Committee reiterates the opinion that such a separation is likely to prejudice consideration (b) of the "General conditions which must be fulfilled before the Mandates régime can be brought to an end in respect of a country placed under that régime", approved by the Council of the League on 4 September 1931, namely, that "It [the Territory] must be capable of maintaining its territorial integrity and political independence."<sup>21</sup> The Committee considers that any administrative separation of any portion of the Mandated Territory would place obstacles in the way of the fulfilment of this important condition laid down by the League of Nations. In this connexion, the Committee notes that the Prime Minister of the Union stated in Parliament on 1 June 1951 that the reason for the placing of the Eastern Caprivi Zipfel under direct Union administration was the inaccessibility of the region to South West Africa. The Committee, realizing that the Eastern Caprivi Zipfel can be reached from the administrative centres of the Union only through non-Union territories, is not convinced that the direct administration of the region by

the Union has, in fact, made it more accessible to the centre of administration.

24. Since the coming into operation on 1 April 1955 of the South West Africa Native Affairs Administration Act, 1954, the power of the Administrator (under the direction and control of the Governor-General) to administer all matters outside the competence of the Legislative Assembly has been curtailed by constitutional amendment to exclude Native affairs (see paragraph 43). In view of the fact that the 1954 Act only recently became effective, the Committee does not as yet have sufficient information to evaluate the significance of this constitutional change but observes that, although other sections of the South West Africa administration have in the past been integrated with the Union administration, this is the first time that administrative integration has involved such a constitutional amendment.

#### Executive Committee

25. There is in the Territory an Executive Committee, composed of five members, the Administrator as Chairman and four Union nationals of European descent chosen by the Legislative Assembly; the Administrator in Executive Committee carries on the administration of all matters within the competence of the Legislative Assembly.

#### Public Service

26. The various departments of the administration, such as education, public health and Native affairs, are staffed primarily by European officials in the Public Service, which is controlled by the Union, and Non-Europeans are only employed in the Public Service in lower capacities. The Public Service does not include all the staff in the Administration of South West Africa, teachers being among those specifically excluded therefrom. There was a considerable increase in the staff of the Administration, from 2,138 in 1952-1953, of whom 975 were Non-Europeans, to a total of 6,163 in 1953-1954, of whom 3,663 were Non-Europeans. The Committee observes, however, that only Europeans are eligible for permanent appointment to posts in the public administration at the municipal level and considers that urgent attention should be given to granting qualified Non-Europeans the same rights and privileges as those accorded to Europeans.

### D. Legislation

27. The power to legislate for the Territory is exercised in the Union of South Africa by the Union Parliament and the Governor-General and in the Territory of South West Africa by the Administrator and the Legislative Assembly.

28. With the exception of the power in financial matters which it has conferred upon the Legislative Assembly, the Union Government reserves to itself the full power of legislation over the Territory as an integral portion of the Union vested in it by article 2 of the Mandate.

#### Union Parliament

29. The Union Parliament retains the power to legislate on all matters concerning the Territory excepting most financial questions. Legislation promulgated by the Governor-General, the Administrator and the Legislative Assembly must not be repugnant to or

<sup>20</sup> See preamble and sections 2 and 3 of South West Africa Native Affairs Administration Act, 1954, reproduced in the appendix to this annex.

<sup>21</sup> League of Nations, *Official Journal*, 12th Year, pp. 2056-2058.

inconsistent with an Act of Parliament applicable to the Territory.

30. In practice, however, the Union Parliament generally exercises its legislative power only with regard to those sections of the administration of the Territory which are integrated with the Union.

31. In accordance with the South West Africa Affairs Amendment Act, 1949, South West Africa has been represented since 1951 in the Union House of Assembly by six Union nationals of European descent elected in 1950 and re-elected in 1953 by the European voters in South West Africa, and in the Union Senate by four Union nationals of European descent—two elected by the six members of the Union House and the Legislative Assembly in a joint sitting, and two nominated by the Governor-General, one of the latter being nominated “mainly on the ground of his thorough acquaintance . . . with the reasonable wants and wishes of the coloured races of the Territory”. The Committee notes that the Union Minister of Native Affairs, when asked in the Union Parliament in 1954 whether he was going to give the Native inhabitants of South West Africa direct representation in Parliament, replied: “In the past it has already been stated very clearly that that is not our policy”.<sup>22</sup>

32. The Committee recalls that, in its report to the ninth session of the General Assembly, it stated: “While reserving its opinion on the strictly legal aspect of this question, [the Committee] believes that any representation of the Territory of South West Africa in the Union Parliament and its continued representation therein by Union nationals of European descent is likely to prejudice the development of the Territory as a separate political entity”.

33. In this connexion, the Committee wishes to state that the legal aspects of the representation of the Territory in the Union Parliament are of cardinal importance for the future of South West Africa, and therefore suggests to the General Assembly that it should consider the advisability of clarifying the legal aspects involved, having in mind the status of South West Africa as an international mandate.

#### *Governor-General and Administrator*

34. The Governor-General and the Administrator may make laws for the Territory subject to the following limitations.

35. The Governor-General may legislate for the Eastern Caprivi Zipfel on any matter; for the balance of the Territory he may legislate only on those matters on which the Legislative Assembly is not competent to make ordinances.

36. The Administrator may legislate with regard to matters outside the competence of the Legislative Assembly; in practice, he generally exercises this legislative power only with regard to matters which are not dealt with by the Union Parliament or the Governor-General. The Legislative Assembly has also given the Administrator the power to legislate on matters within its competence if he considers such legislation to be a matter of urgency.

#### *Legislative Assembly*

37. The South West Africa Legislative Assembly has the power to legislate for the Territory on various

questions including financial matters. It may not generally legislate on the following reserved subjects: Native affairs; civil aviation; railways and harbours; the Public Service; the constitution, jurisdiction and procedure of courts of justice; posts, telegraphs and telephones; the military organization or the police force; movements and operations of the defence force of the Union; immigration; customs and excise; and currency and banking. However, it may legislate on these matters, and has increasingly done so,<sup>23</sup> if it obtains the previous consent of the Governor-General on each occasion.

38. The Legislative Assembly is composed of eighteen members, all Union nationals of European descent and elected entirely by Union nationals residing in the Territory. No Non-European is entitled to sit in the Legislative Assembly or to vote in the election of its members.

#### *E. Integration with the Union*

39. The Union Government exercises both administrative and legislative control over the following matters, which are integrated with the Union: Native affairs, customs and excise; railways and harbours; police; defence; the Public Service; external affairs; air services; and immigration.

#### *F. Administrative districts*

40. The Territory is divided into two parts by the Police Zone, a line (originally defined under the former German administration) indicating the limit of police operations.<sup>24</sup>

41. European settlement in the Territory is confined to the area within the Police Zone. Part of the Non-European population also lives in this area, in Reserves set aside exclusively for their occupation, in rural areas outside the Reserves, and in urban areas. Of the nineteen magisterial districts into which the Territory (exclusive of the Eastern Caprivi Zipfel) is further divided, seventeen lie wholly or partly within the Police Zone and are administered by district magistrates. Except in the District of Windhoek and in urban areas controlled by municipal councils or village management boards on which there is no Non-European representation, the magistrates are charged with the control of Native affairs in their respective districts. Other European officials are in charge of local Native administration in Reserves, Native locations in urban areas and on mines within these districts, and in the District of Windhoek.

42. The larger part of the Non-European population lives in Native Reserves and other areas set aside for their exclusive occupation outside the Police Zone. Native affairs officials of European descent are in charge of the administration of the two magisterial districts wholly outside the Police Zone—Kaokoveld and Ovamboland—as well as of the Okavango Native Territory and the Western and Eastern Caprivi Zipfel. The system of administration in this area is one of indirect rule.

<sup>23</sup> A/AC.73/L.3, question 2, paras. 16-18; A/AC.73/L.7, question 2, paras. 12-14.

<sup>24</sup> The area south of the line, known as the “red line”, denoting the boundary of the Police Zone, is generally referred to merely as the Police Zone, while the area to the north of that line is referred to as the area outside of the Police Zone.

<sup>22</sup> A/AC.73/L.7, question 2, para. 34.

## G. Administration of Native affairs

43. Native affairs have in the past been dealt with by neither the Legislative Assembly nor the Executive Committee but by the Administrator, assisted by the Chief Native Commissioner,<sup>25</sup> who is also Secretary for South West Africa, and the Native Affairs Branch of the Administration.

44. Since the abolition of the Advisory Council in 1950, the Administrator is no longer advised regarding Native affairs by any council with advisory functions and more particularly does not have the advantage of the experience of the member of the former Advisory Council who was appointed "on the ground of his thorough acquaintance . . . with the reasonable wants and wishes of the Non-European races in the territory".

45. With the coming into force of the South West Africa Native Affairs Administration Act, 1954, the powers of the Administrator with respect to any matters specially affecting Natives, including the imposition of taxation upon their persons, land, habitation or earnings, is transferred to the Union Minister of Native Affairs, subject, however, to further legislation by the Governor-General. The powers and functions of the Administrator with respect to Natives under any of the Territorial laws automatically reverted to the Governor-General on 1 April 1955 unless he declared otherwise in the case of particular laws or any provision of these laws. The Governor-General was authorized by the 1954 act to delegate the powers and functions which thus reverted to him to the Minister of Native Affairs, and the latter could in turn re-delegate them to any officer of the Department of Native Affairs or to the Administrator of the Territory. The Committee is therefore not in a position to assess fully the changes effected under the 1954 Act until it obtains further information with regard to the enabling legislation issued under that Act.

46. The Committee notes, however, that during the debate on the South West Africa Native Affairs Administration Bill in the Union Parliament in 1954, the Minister of Native Affairs announced his intention to delegate to the Administrator the powers necessary to enable the latter to continue to administer Native affairs. The Committee further notes that the Minister stated that he would instruct the Administrator to consult with the Executive Committee in connexion with Native administration. The Minister of Native Affairs also stated that he would appoint a seventh Chief Native Commissioner to the Union Department of Native Affairs, thus relieving the Secretary for South West Africa of his dual functions.<sup>26</sup>

47. The transfer of Native administration from the Administrator was described by the Minister of Native Affairs as a purely administrative arrangement.<sup>27</sup>

48. For the future financing of the Administration of South West Africa Native affairs, the Territory is required under the 1954 Act to pay from its Territorial Revenue Fund a sum equal to one-fortieth of its total annual expenditure from that Fund other than for development purposes. The Committee is aware that this does not include expenditure for health or educational

services for Natives and notes that expenditure for "Native administration" has in the past consisted mainly of salaries to European administration officials and payments in connexion with labour recruitment.

### *Establishment of Native Reserves*

49. With respect to the local administration of Natives, the Administrator has set aside certain areas both within and outside the Police Zone as Reserves for the sole use and occupation of Natives, which cannot be alienated except with the consent of the Union Parliament.

### *Native administration within the Police Zone*

50. The Natives within the Police Zone live in Reserves and in urban areas, and outside Reserves and urban areas as labourers on farms, mines, roads and railways. With regard to the Reserves, the European Superintendent and Welfare Officer of each Reserve is assisted in the administration and control of the Reserve by Native headmen appointed by the Administrator after having been elected by the adult Native males of the Reserve.

51. In urban areas Natives other than those especially exempted must reside in locations, Native villages or Native hostels. For every such location or Native village a Native Advisory Board, consisting of a chairman, who may be a person of European descent, and not less than three elected or nominated members, advises the urban local authority on all matters affecting the inhabitants of the location.

52. The Committee again observes that it is only on these lower levels of Native administration, the Native Boards in Reserves, locations and Native villages, that there is any provision for the election by Non-Europeans of persons to represent their interest. While aware of the contribution of such Boards to the political development of the Non-European population through participation in the management of their own affairs, the Committee considers that such development may be accelerated by broadening the functions of these bodies and making their powers not merely advisory.

### *Tribal councils*

53. There are legal provisions for the establishment of "tribal" councils to give advice on the administration of Tribal Trust Funds and on any other matters concerning the affairs of the tribe or Native affairs generally. However, no levy for these Trust Funds, upon which the establishment of the tribal council depends, has as yet been imposed by the Administrator. The Committee observes that no such councils seem to have been established. It finds this provision to allow the Natives to advise in the management of their own affairs encouraging, although it observes that the projected councils do not include elected members and that their functions are advisory only.

### *Native administration outside the Police Zone*

54. Outside the Police Zone, the Natives live under a system of indirect rule; in some areas councils of headmen are in control, while in others there are chiefs, with councils of headmen as advisers. The Native affairs officials "are there to guide the rulers along the right lines and interfere only when they are appealed to and are satisfied that an injustice has been done".<sup>28</sup>

<sup>25</sup> The Chief Native Commissioner is an official of European descent who, under the Administrator, has been the chief executive officer for Native affairs.

<sup>26</sup> A/AC.73/L.7, question 2, paras. 46-48.

<sup>27</sup> A/AC.73/L.7, question 2, para. 26.

<sup>28</sup> A/AC.73/L.3, question 13, para. 80.



55. The Committee again observes that the Natives in the area outside the Police Zone are still largely managing their own affairs along traditional lines and remains of the opinion that the number of officials to whom the supervision of the administration of this area is entrusted—three Native Commissioners and an officer-in-charge of Native affairs—is insufficient to foster among these peoples the development of modern and democratic institutions of self-government which alone can prepare them “for the strenuous conditions of the modern world”.

56. The Committee observes that the Non-European peoples of the Territory continue to have neither direct representation in the Legislative Assembly and in the Executive Committee of the Territory, nor are they indirectly represented in either of these two bodies. It is the considered opinion of the Committee that, under the administration of the Mandatory Power, which by now covers a period of more than thirty years, the political evolution of the Non-European population of South West Africa has not been commensurate with the developments emerging in other territories in Africa, and the Committee urges that greater emphasis be given to the rapid political advancement of the Non-European population of the Territory.

#### *H. Judicial organization*

57. The judicial organization of the Territory consists of the superior courts, which are the High Court of South West Africa and two circuit courts; and the inferior courts, which include the magistrates' courts, periodical courts, courts of Special Justices of the Peace and Native Commissioners' courts.

58. Since 17 October 1951, the courts of the Eastern Caprivi Zipfel have been under the jurisdiction of the Transvaal Provincial Division of the Supreme Court of South Africa.

59. Each of the courts in the Territory, except as otherwise provided by law, consists of one judicial officer appointed by the Administrator, but in criminal cases a superior court is composed of the Judge of the High Court and not less than two additional members.

60. With regard to the jurisdiction of the courts in the Territory, the superior courts exercise within their local limits the same jurisdiction as is exercised within the Province of the Cape of Good Hope by the Judges of the Cape Provincial Division of the Supreme Court of South Africa, and appeals from decisions of the superior courts lie to the Appellate Division of the Supreme Court of South Africa. An inferior court, however, exercises only limited jurisdiction; its decisions may be appealed to the High Court, and its sentences, when they involve a punishment of imprisonment for a period exceeding three months or a fine exceeding £50 or any whipping other than of a juvenile, are subject to automatic review by the High Court or any judge thereof. In the case of a court of Special Justice of the Peace, an appeal lies to the magistrates' court of the district concerned.

61. As regards the powers of Native affairs officers to try Native labourers employed on mines and works, attention is drawn to paragraph 160 below.

#### *Tribal courts*

62. Outside the Police Zone, in the Native areas of Ovamboland, the Okavango Native Territory and

the Kaokoveld, all civil disputes and all criminal actions except those relating to treason, murder and rape are tried by Native chiefs, headmen or tribal councils according to tribal law and custom. Treason, murder, and rape are tried by the Native Commissioners' courts. Within the Police Zone, however, the judicial organization does not include tribunals composed exclusively of Natives.

#### *Tribal law*

63. In all suits or proceedings between Natives involving questions of customs followed by Natives, it is at the discretion of the Native Commissioners' courts to decide such questions according to the Native law, provided that such Native law shall not be opposed to the principles of public policy or natural justice.

#### *Native participation*

64. The Committee observes that, except in the case of the tribal courts existing outside the Police Zone, the officials of the courts of the Territory are composed for the most part of officers of the Public Service in which non-Europeans are employed only in lower capacities. The Committee concludes therefore, in the absence of evidence to the contrary, that, as in other branches of the Public Service, Natives do not participate to any great extent in the judicial organization of the Territory within the Police Zone.

65. The Committee notes, however, that a Native Commissioner's court may call to its assistance, in an advisory capacity, such Native assessors as it may deem necessary and also that in the case of an appeal from a Native Commissioner's court in a civil action the presiding judge of the High Court may call to his assistance assessors, not exceeding two in number, selected by him with regard to their knowledge of Native customs.

#### *Corporal punishment*

66. Sentences of whipping up to a maximum of fifteen strokes with a cane may be imposed by a superior court, magistrate's court or periodical court upon a male offender, except that in the case of a magistrate's court or periodical court a sentence of whipping may be imposed upon an adult for a first conviction only in connexion with certain offences, which include culpable homicide, robbery or aggravated or indecent assault. Courts of Special Justices of the Peace may impose whipping only where the offender is a male child under 16 years of age, in which case the maximum sentence is eight strokes. Females may not be sentenced to whipping. The sentence of whipping is not restricted to Non-Europeans and may be imposed upon offenders of all races. The Committee reiterates its strong opposition to the practice of corporal punishment and urges the elimination of corporal punishment from the laws of the Territory.

#### *Forced residence and deportation*

67. Deportation may not be ordered by a court and forced residence exists as a penalty only in so far as a court may sentence a person to be detained at a farm colony or institution or may make such residence conditional upon probation or suspension of sentence.

68. The Committee notes, however, that while the courts do not possess powers to impose deportation or

forced residence in the strict sense of these terms, persons convicted of offences connected with resistance against law under the provisions of the Criminal Law Amendment Act, 1953, or persons considered likely to promote the objects of communism under the provisions of the Suppression of Communism Act, 1950, as amended by the Riotous Assemblies and Suppression of Communism Amendment Act, 1954, may be prohibited by the executive branch of government from being within defined areas. Moreover, under these Acts, the Administrator may order the removal from the Territory of any person convicted of an offence or who is a communist provided that that person is not a South African citizen by birth or descent. Under the Deportation of Undesirable Persons from South West Africa Proclamation of 1954, he may order the removal from the Territory of even a South African citizen convicted of an offence specified in the Proclamation. Under the provisions of this Proclamation, every person against whom a deportation order is made has the right of appeal to an Immigration Board for the Territory.

#### *Prisons*

69. The Committee notes that the penal system in the Territory does not appear to be sufficiently developed to obviate the necessity of sending prisoners long distances for confinement and that, in 1951, legislation was passed permitting adults to be removed to an institution in the Union.

#### *I. Police*

70. The police of South West Africa forms a Division of the South African Police and the Territory reimburses the Union for police services rendered with a fixed annual sum of £114,000. The Territory assumes, however, the responsibility for the buildings necessary to accommodate the police. The strength of the police force in the Territory increased from 460 in 1952, of whom 204 were Non-Europeans, to 485 in 1953, of whom 224 were Non-Europeans. Sixteen of the latter had reached the rank of 1st-class sergeants in 1953, compared to two in 1952.

#### *J. Defence of the Territory*

71. In the absence of information available to the Committee concerning the defence of the Territory, the Committee recalls that article 4 of the Mandates Agreement for South West Africa states:

"The military training of the natives, otherwise than for purposes of internal police and the local defence of the Territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory."

### **III. ECONOMIC CONDITIONS**

#### *A. Public finance*

72. The budget of the Territory, which includes both recurrent and capital expenditure, has continued to increase during the fiscal year 1953-1954 (total revenue and expenditure in 1952-1953 were £8,902,920 and £7,891,548 respectively, as against £9,062,265 and £9,110,413 respectively in 1953-1954), and for the first time since 1949-1950 revenue has not exceeded expenditure. Expenditure was, like previous years,

financed entirely from local revenue without any grants or advances from the Mandatory Power.<sup>29</sup> Customs and excise duties and taxes, especially income tax on the European population and diamond taxes remain the principal sources of revenue. Like previous years, the main item of expenditure consisted of transfers to several Funds, the most important of which were the Roads Fund and the Territorial Development and Reserve Fund principally concerned with development schemes.

73. The Territory's debt to the Union, which amounted to £2,158,592 on 31 March 1953, was reduced, through repayment during the year under review, to £2,098,733 as of 31 March 1954. There was no reduction in the outstanding amount of £900,550 due to the Union in respect of interest on loans for the period 1 April 1937 to 31 March 1945, which is placed in a suspense account with no interest charged.

74. From the documentation and information before it, the Committee was unable to determine precisely how much of the total expenditure was devoted to the social and economic advancement of the Non-European population.

#### *B. Direct taxation*

75. Apart from capitation (annual rates), direct taxation affects Natives through the following taxes: a dog tax levied in general on the owner of any dog; a wheel tax levied on the owner of any vehicle; and stock fees levied in general on the owner of any stock. These taxes are assessed on an individual basis and collected either annually (dog tax, wheel tax) or monthly (stock fees); no compulsory labour is exacted in default of payment. In so far as Non-Natives are concerned, taxation includes mainly the following taxes: an income tax which consists of a normal tax and a supertax for income above a certain figure; a diamond tax on the proceeds of diamonds; a tax on persons levied at a flat rate varying with the taxpayer's income bracket and marital status; a land tax levied on both urban and rural properties but at a different rate; various licence fees; a transfer duty on immovable property; an estate duty on a sliding scale from one per cent to 15 per cent; and an entertainment tax. During 1954 the main changes in the field of direct taxation concerned increases in income tax rates levied on public companies and on non-resident share-holders, and a twofold increase in the amount of grazing fees in Native Reserves.<sup>30</sup>

#### *C. Indirect taxation*

76. In the Territory of South West Africa export duties are actually levied at present on diamonds, karakul pelts, unprocessed snoek and kabeljou, while snoek, whale oil and canned crayfish have not been subject to export duties since 1950. Duties are levied on the import of 335 items covering fourteen classes of goods under a "three line" tariff which provides for minimum, intermediate and maximum duties in respect of each item. In addition to such duties, excise taxes are levied

<sup>29</sup> The Union Government supplements the fixed annual contribution (£114,000) of the Territory toward the maintenance of police services in the Territory and defrays losses on the operation of railway services in the Territory. Expenditure by the Union Government in connexion with such integrated services is not reflected in the budget of the Territory (A/AC.73/L.7, question 17).

<sup>30</sup> The only decrease in taxation was a reduction from 1s. to 9d. in the tax on entertainments exceeding 3s. but not exceeding 4s.



in the Territory on the following products: acetic and pyroleginous acids and extracts of vinegar, beer, matches, motor fuel, playing cards, pneumatic tyres, spirits, tobacco, yeast and wine. Furthermore, a tax is imposed on the sales of cigarettes and cigarette tobacco, and on the sale of liquor. Whereas import and excise duties in force in the Territory are fixed by the Union and are those which exist in the Union, South West Africa's export duties and sales taxes have been usually established by decision of the Administrator or of the Legislative Assembly of South West Africa. No significant development has occurred in the field of indirect taxation during 1954.

#### *D. The question of economic equality for members of the League of Nations*

77. South West Africa is a "C" Mandate with the following consequence, that the Mandates agreement for the Territory does not embody the principle of economic equality for members of the League of Nations. The Territory's customs system, for instance, is marked by various preferential régimes, with various types of special treatment accorded to the following countries: the Union of South Africa, the High Commission Territories of Swaziland, Basutoland and the Bechuanaland Protectorate, Northern Rhodesia, Southern Rhodesia, the United Kingdom of Great Britain and Northern Ireland, Eire, Canada, New Zealand and any country signatory of a treaty embodying the most-favoured-nation clause. During 1954 dumping duties were imposed on certain goods originating from certain countries. The goods and the countries affected were the following: bolts and nuts, and motors, when imported from France; woodscrews, when imported from Austria and the Federal Republic of Germany; electric motors, when imported from Belgium; hot plate controls (switches), when imported from the Federal Republic of Germany; and hardboard, when imported from Belgium, Finland, Norway and Sweden.

#### *E. Customs union*

78. South West Africa has been joined in a customs union with the Union of South Africa as well as with the High Commission Territories of Basutoland, Swaziland and the Bechuanaland Protectorate, and special customs arrangements have also been made with Northern Rhodesia and Southern Rhodesia. All customs and excise duties collected in South West Africa are paid into the Consolidated Revenue Fund of the Union, and out of this Fund is paid annually to the Revenue Fund of South West Africa a sum which approximates the Territory's share in the mutual customs and excise proceeds. The same customs tariff and excise laws are in force in the Union and in South West Africa. There were no new developments during 1954.

#### *F. Foreign trade*

79. The Committee notes that the Territory has continued to enjoy during the year under review an increasingly favourable trade balance with good dollar earning power. As would be the case for any underdeveloped country in the process of development, imports consist mainly of finished products, with primary goods the main source of exports. Diamonds, lead ore and karakul skins remain the principal sources of revenue, whereas textiles and metal manufactures, includ-

ing machinery and vehicles, are the main items of expenditure. During 1954 the Territory's exports were increasingly directed towards four countries—the United Kingdom of Great Britain and Northern Ireland, the United States of America, the Union of South Africa and Belgium—up to a percentage of over 94 per cent of total exports. A greater balance was, however, achieved in the Territory's trade with the Union of South Africa inasmuch as, during the first nine months of 1954, the percentage of imports from the Union not covered by exports to the Union reached only 47 per cent, as against 58 per cent for the corresponding period of 1953. Imports from the Union continued to run high, at over 63 per cent of total imports, but the percentage of exports to the Union in relation to total exports rose during the first nine months of 1954 to 19.6 per cent as against 16.6 per cent for the corresponding period of 1953. Import restrictions which had been imposed on the Territory's economy as a result of the Union's balance-of-payment difficulties in the post-war period were considerably lessened during 1954, following the greatly improved dollar position of the Union. Export control measures were consolidated during the year and export control on a wide range of commodities, particularly manufactured articles, was abolished.

#### *G. Land and land tenure*

80. Legislative authority with respect to land was given to the Legislative Assembly in 1949. Under the laws in force in the Territory, the Administrator continues, as in the past, to have the right to dispose of Crown or Government lands by grant, sale, lease or other means, to exchange such land for any other land or to reserve such land for public purposes. He has the right to resume for public purposes any land so alienated or to cancel or withdraw any reservation of land. Any land in the Territory may be expropriated by the Administrator for public purposes or for conservation or reclamation purposes or by municipal councils for municipal purposes or by the Railway Administration for railway purposes, subject in each case to the payment of compensation. Land registration is effected in the Territory through a Deeds Registry which ensures transfer of property.

81. Until the passing of the South West Africa Native Affairs Administration Act, 1954, all land set aside for Native Reserves remained the property of the South West Africa Administration or, in the case of the Berseba and Bondels Reserves, the property of the tribe. Under the 1954 Act, however, all land set apart for the sole use and occupation of Natives is vested in the South African Native Trust, and the Union Minister of Native Affairs, who acts as Trustee, is given the same powers and functions as if that land were included in the Union. Moreover, title deed to this land is transferable under the Act to the South African Native Trust.

82. In this connexion, the Committee recalls the following resolution adopted by the Permanent Mandates Commission on 7 July 1924 at its fourth session and endorsed by the Council of the League of Nations in 1926:

In the opinion of the Commission:

"The mandatory powers do not possess, in virtue of articles 120 and 257 (paragraph 2) of the Treaty of Versailles, any right over any part of the territory under mandate other than that resulting from their

having been entrusted with the administration of the territory.

"If any legislative provisions relating to land tenure should lead to conclusions contrary to these principles, it would be desirable that the text should be modified in order not to allow of any doubt."<sup>31</sup>

83. The Committee notes that the South West Africa Native Affairs Administration Act, 1954, provides that land and other assets of the Territory of South West Africa shall be vested in the South African Native Trust, a governmental agency external to the Mandated Territory. The Committee, motivated by the principle enunciated by the Permanent Mandates Commission, considers that the territorial assets and integrity of South West Africa must remain intact and must be maintained until such time as the Territory has attained the goal set for it by the Mandates system and that its assets cannot be vested in any source other than the Mandated Territory itself. It is the considered opinion of the Committee that the Mandate does not and can in no way be interpreted to confer upon the Mandatory Power the authority to divest the Mandated Territory of any portion of its assets. In the view of the Committee, appropriate steps should be taken to correct this situation, which must be of great concern to the inhabitants of South West Africa.<sup>32</sup>

84. In Native Reserves and other areas reserved for Native occupation, neither Europeans nor Non-Europeans are entitled to acquire ownership. In the Rehoboth *Gebiet*, however, rights of individual property have evolved and any transfer of land ownership from a member of the Rehoboth Community requires the approval of the Administrator. In this connexion, the Committee views with concern the recommendation of the Long-Term Agricultural Policy Commission (1948)<sup>33</sup> for permitting the sale of farms to Europeans in the Rehoboth *Gebiet* by members of the Rehoboth Community, as a means of increasing the productivity of this farming area.

85. The Committee is not aware of any land privately owned by Natives anywhere in the Territory. The extent of land owned by Coloured persons in areas called rural or urban European areas comprises four farms with an aggregate area of 21,626 hectares and urban land, in Windhoek only, consisting of erven owned by approximately six Coloured persons.

86. The system of occupation of plots for residence and cultivation and common grazing and water rights in Native Reserves is fixed by government regulation or tribal law. In the opinion of the Long-Term Agricultural Policy Commission, this system gives the occupiers suitable security of tenure which, combined with compensation for improvements on transfer and elimination of pledging or forfeiture, ensures that the land can always be properly worked and improved and this permanent usufruct is broken only in the event of gross misbehaviour or of misuse or unbeneficial use of the land. The Committee notes that, on the basis of the information available to it, the system of Native land tenure appears not to have changed since 1929.

<sup>31</sup> League of Nations, *Official Journal*, 7th Year (1926), pp. 867, 944-946.

<sup>32</sup> The United States representative reserved the position of his delegation on the second part of this paragraph on the ground that it tended to raise legal doubts as to the proper interpretation of article 2 of the Mandate.

<sup>33</sup> A South West Africa Commission of Enquiry.

87. The total area of Non-European lands increased from 15,202,324 hectares in 1946 to 21,825,997 hectares, or 26 per cent of the total area of the Territory, at the end of 1952. From then until the end of 1954, further areas totalling 44,413 hectares were set aside as Native reserve land.<sup>34</sup> It was the opinion of the Long-Term Agricultural Policy Commission that, judging from the use of Native land for production purposes in the past, ample provision had been made for the needs of the Non-European population; that, region for region, good land had been selected for these reserves; and that the Administration had acted wisely by ensuring that sufficient land was earmarked for the requirements of Non-Europeans before the still available Crown land was disposed of.

The Committee notes in this connexion the statement by Senator Nel, a member of the Union Senate from South West Africa, that "no European has even been able to inhabit" the area of 32,000 hectares on the northern boundary of the Territory set aside in 1954 as Native reserve land.<sup>35</sup>

88. The Committee notes the statement made in the Union Parliament in 1954 by the Minister of Native Affairs to the effect that it was not intended to increase or decrease the Native areas.<sup>36</sup> The South West Africa Native Affairs Administration Act, 1954, requires the approval by resolution of both Houses of Parliament for the withdrawal of any reservation of Native land and the reservation for Natives of other land at least equivalent in pastoral or agricultural value; until the coming into operation of this Act, land reserved for Natives could not be alienated "save under the authority of Parliament".<sup>37</sup> Noting that the alienation of Native land continues to require the approval of Parliament, though now by resolution rather than under the authority of an Act of Parliament, the Committee observes that the Minister of Native Affairs, in explaining the change in law, pointed out that formerly to exchange Native land for European land required a decision by both Houses of Parliament, and the 1954 Act introduced the "very simple procedure . . . that a piece of Native land can become a European area provided compensating land of equal value is provided."<sup>38</sup> The Committee expresses concern that Native land may thus be alienated for the benefit of the European population without regard to the interests, wishes, and attachment to the land of the Native inhabitants.

#### *European land settlement*

89. Government or Crown lands considered suitable for agricultural settlement are allocated to European farmers for a probationary period under a renewable one-year lease, prior to the granting of a five-year lease with option to purchase. The lessees are required personally to occupy the land, to make and maintain permanent improvements on the farms and to apply soil conservation measures. Provision is made for government financial assistance to the settlers through loans for improvements or the purchase of livestock. During the probationary lease period, a rent of £1 per year is charged. During the five-year lease period, no rent is

<sup>34</sup> Of these areas, 32,000 hectares were set aside by the South West Africa Native Affairs Administration Act, 1954, which came into operation on 1 April 1955.

<sup>35</sup> A/AC.73/L.7, question 2, para. 62.

<sup>36</sup> A/AC.73/L.7, question 2, para. 64.

<sup>37</sup> A/AC.73/L.7, question 2, para. 60.

<sup>38</sup> A/AC.73/L.7, question 2, para. 65.

charged for the first year; for the following years, an annual rental is payable at the rate of 2 per cent of the purchase price of the land for the second and third years, 3½ per cent for the fourth and fifth years and 4 per cent for any subsequent period should the lease be extended for a maximum of five more years. When the option to purchase the land has been exercised, the purchase price, plus interest, becomes payable in half-yearly instalments over a period of thirty years.

90. The average price of 244 of the 266 farms (22 of unknown area) advertised for European land settlement during 1952 and 1953 amounted to 4s. 2d. per hectare and the average size to 8,935 hectares, ranging from 2,814 hectares to 33,800 hectares.

91. Even though the full purchase price may have been paid, a lessee does not obtain freehold title to the land unless he has occupied the land for ten years and is a British subject; in special circumstances, and with the approval of the Administrator, freehold title may be granted before that time, and a mortgage bond issued for the total outstanding indebtedness.<sup>39</sup>

92. Since 1920, when the land settlement laws were first introduced, land has been allocated for agricultural settlement until by 1939 most of the available Crown land within the Police Zone had been disposed of and the Government began buying additional land, mainly from companies with large holdings, and dividing this land into farms for settlement purposes. Other than land purchased, there were in 1939 only approximately two million hectares of unalienated land within the Police Zone considered suitable for settlement purposes.

93. The allotment of land for settlement purposes, largely suspended during the Second World War, has since proceeded as rapidly as possible, further lands being made available for the purpose by successive extensions of the Police Zone boundary, the latest such extensions having been made in 1953 and 1954. During this period, the area of European farm lands increased from 31,961,091 hectares (representing 4,280 farms) in 1946 to 34,403,902 hectares (4,663 farms) in 1950 and to 37,578,865 hectares (5,041 farms) at the end of 1952; these lands now border on the northern Native areas. Discounting subsequent increases in the area of European farm lands, such areas at the end of 1952 represented 45 per cent of the total area of the Territory. The total amount owing to the Administration for land, boring costs, survey fees, rent, advances to farmers, etc., under the land settlement programme increased progressively from £428,365 at the end of the financial year 1946-47 to £1,719,484 at the end of the financial year 1953-54.

94. The Committee notes the concern expressed by South West Africa Government commissions of inquiry in 1948 and 1952 at the fact that farms were being allotted in desert areas in the east and west which should never have been opened up, and it was feared that the farmers would not be able to maintain themselves in these areas. Practically all the areas formerly regarded as land reserved for grazing in times of drought have already been or are in the process of being allotted as farms.<sup>40</sup> The Committee further notes that, while the allotments appear to have been confined mainly to landless farmers already in the Territory, there was not enough land available for the settlement of all of these farmers.

95. In this connexion, the Committee calls attention to the following statement made by the representative of the Union Government during the thirty-fourth session of the Permanent Mandates Commission in June 1938 when asked whether the fact that most of the land suitable for settlement had been disposed of meant that there was any danger of invading the Native Reserves:

"... figures ... showed that there were still 21,100,000 hectares of unalienated Crown lands. Whilst that area was not considerable compared with the enormous size of the territory, yet it was a sufficient balance to remove any danger of the native reserves' being invaded."<sup>41</sup>

96. The Committee notes the statement of the Union Government in 1948 that the land settlement laws apply equally to Europeans and Non-Europeans, "but the Natives generally have not yet reached a stage of development where they would benefit from individual land ownership, particularly of farms".<sup>42</sup> In this connexion, the Committee notes that, while a lessee under the land settlement laws of the Territory may sublet or assign, transfer or hypothecate his interest in the land leased provided he has the written consent of the Administrator, it is a condition of lease that "in no case will consent be given to any hypothecation, assignment, transfer, sub-lease or sub-letting to natives, Asiatics or coloured persons", and if a lessee marries or habitually cohabits with a Native or Coloured person, his lease is subject to cancellation forthwith. Moreover, the Committee is perplexed at the statement of the Union Government that there are no Native rights involved as the land allotted for settlement purposes is vacant Crown land, when considering the further condition of lease that the lessee is entitled to remove any Natives or Coloured persons resident on the land at the time of allotment if they refuse to enter into a contract of hire with him. The Committee observes that, should these Non-Europeans agree to work for the lessee, "consideration for such labour or services may take the form of placing at their disposal an area for cultivation or the depasturing of stock, or for both such purposes".<sup>43</sup>

97. The Committee notes that, at the end of 1952, of a total land area of 82,347,841 hectares, the area of European farm lands amounted to 37,578,865 hectares, while the area of Non-European lands amounted only to 21,825,997 hectares. This represents the allocation of approximately 45 per cent of the total land area for Europeans, who numbered 48,588, or less than 12 per cent of the total population, in 1951,<sup>44</sup> and of approximately 26 per cent of the total land area for Non-Europeans, who numbered approximately 366,013, or over 88 per cent of the total population, in 1951. The Committee is deeply concerned at the existing disparity in the area of land set aside for the Non-European population as compared with that set aside for Europeans, and at the possibility that the demand for additional land by European farmers may lead to the further reduction of the area reserved for Non-Europeans. The Committee feels bound to conclude that the present land

<sup>41</sup> League of Nations Permanent Mandates Commission, Minutes of the Thirty-Fourth Session, Tenth Meeting, held on 14 June 1938, p. 95.

<sup>42</sup> Reply of the Government of the Union of South Africa to the Trusteeship Council questionnaire on the report to the United Nations on the administration of South West Africa for the year 1946 (T/175, question 18).

<sup>43</sup> A/AC.73/L.7, chapter S, para. 157.

<sup>44</sup> Population figures for 1952 are not available.

<sup>39</sup> A/AC.73/L.7, chapter S, paras. 89, 91-92.

<sup>40</sup> A/AC.73/L.7, question S, paras. 111-112.

policy of the Administration appears to be developed almost entirely in the interests of the Europeans and that the present and future interests of the Non-European inhabitants are not being sufficiently safeguarded.

#### H. Conservation of natural resources

98. In 1948, the Long-Term Agricultural Policy Commission concluded that "within two generations of civilized occupation a position has been reached with regard to conservation of the natural resources of the country which calls for positive action on the part of the State and citizen alike, if the future of farming and thereby the political economy of the Territory are to be assured".<sup>45</sup> The soil had become more arid, the character of the vegetation over extensive regions more xerophytic and erosion by wind and water was increasing intensively over large areas. Such conditions, where severe and of long duration, had brought about effects similar to a change of climate, that Commission stated. The volume of fertile surface soil lost through erosion by wind and water over the southern half of the Territory was incalculable; in the north, except along the western escarpment, relatively low drainage and far better vegetation cover had, up to that time, prevented excessive surface erosion. The greatest danger was in the ripping out of the deep, fertile dry river bed soil. Over-stocking and over-trampling or concentration of stock had disturbed the equilibrium between the vegetation and climatic and soil factors, leading to destruction in varying degree of the vegetal cover, and consequently to exposure of the land, loss of fertility and increased erodibility of the soil and finally to erosion by wind and water. Erosion was also caused by concentration of water in road, railway and dam construction. By comparison, cultivation of land had not been a major cause of soil loss.

99. It is evident to the Committee that the need for soil reclamation and conservation is recognized in the Territory, but there appears to be considerable difference of opinion as to the best way to cope with the problem.

100. In 1947, an account was established under the Territorial Development and Reserve Fund to finance water and veld conservation and reclamation schemes. Funds totalling £305,000 were allocated to this account between 1947 and 1951, but none of this money was spent and the account was abolished in 1952. Another water account was set up in 1953 to finance water supply investigations in the Territory and to provide financial assistance and sub-economic loans to municipalities. A sum of £100,000 was credited to this account during 1953-1954, but no expenditure was recorded by 31 March 1954. In 1954, there appeared to be no irrigation schemes in existence in the Territory though two such schemes had been investigated, one on the Swakop River and one on the Fish River, estimated to cost £300,000 and £800,000. In May 1954, the Legislative Assembly asked the Administration to consider a dam scheme in the Swakop River to ensure water supplies for industries, for Windhoek and for irrigation purposes.

101. Meanwhile, in 1952, a Soil Conservation Ordinance (No. 28 of 1952) was passed providing for the drawing up of comprehensive soil conservation plans, the delimitation of soil conservation districts and the

compulsory application of the provisions of soil conservation plans by individual farmers, as well as the application of soil conservation measures by the Administration. The costs may be borne, at the discretion of the Administrator, by the Administration, or by the land owners, or by both. The Ordinance was brought into operation in 1953 and during the year 1953-1954, a total of £30,000 was allocated from the territorial budget and £10,390 spent; £3,728 of the amount spent under the Ordinance represented expenditure for conservation works in Native Reserves.

102. In 1952, a Farming Interests Fund was also established to provide long-term loans to farmers for dams, boreholes, fencing, and conservation measures; and grants for agricultural research or production, water and soil conservation and reclamation, and investigations into water resources and supplies, as well as for agricultural research and production and the education of the public in regard to agricultural products.

103. The total of £305,000 standing to the credit of the Water and Veld Conservation Account, abolished in 1952, was paid into the Farming Interests Fund. In addition, 75 per cent of the levies imposed on slaughtered livestock and of the export duty on karakul pelts are payable into the Farming Interests Fund. Allocations may also be made to this Fund from government funds.

104. This Fund for the promotion of farming interests was described by a Union Government Commission of Enquiry into the financial relations between the Union and the Territory as the "scheme in connexion with water, veld conservation and soil erosion" in which the South West Africa Administration was engaged.<sup>46</sup> With regard to expenditure from this Fund, loans totalling £91,105 and grants totalling £48,100 had been made as of 31 March 1954. Of the amounts granted, £45,000 was allocated for a karakul advertising campaign in the United States of America and Europe. The Committee is not aware of the purpose of the remaining expenditure from the Farming Interests Fund.

105. The Committee appreciates that local government commissions recognize the magnitude of the task of developing the water resources of the Territory and of reclaiming and conserving the land and is greatly concerned at the limited expenditure thus far incurred for such purposes. The Committee further notes that, in the opinion of the Long-Term Agricultural Policy Commission, it was the absence of a sufficient even though elementary knowledge of the vegetational composition of the veld on the part alike of Government and farmer that lay at the root of the evil of over-stocking and of general veld deterioration. In view of the seriousness of these problems for the economic development of the Territory, the Committee urges the Union Government, as the Mandatory Power, to explore the possibilities of securing technical and financial assistance from the United Nations and the specialized agencies for the solution of these problems.

#### I. Agricultural production and marketing

106. Farming in the Territory is carried on under difficult conditions; drought and flood are considered normalities and their occurrence cannot be predicted with any accuracy. During the drought of 1946, stock losses amounted to more than half the gross value of agricultural production. The fertility of the soil varies

<sup>45</sup> A/AC.73/L.7, chapter S, para. 177.

<sup>46</sup> A/AC.73/L.7, chapter S, para. 187.

in different parts of the Territory but in general the vegetation is sparse. In sheep grazing regions, the carrying capacity of the land ranges from 10 hectares per sheep on the desert margin to 2/3 hectare per sheep in the best sheepveld areas. The Long-Term Agricultural Policy Commission observed in 1948 that the limit in carrying capacity of the land under occupation had been reached on existing methods of farming. Increases in the number of livestock could therefore not be expected for the time being and progress would have to be made instead through qualitative improvement. Natural conditions limit the extension of mixed farming and crop production, that Commission stated, and also restricted the scope of further land allotments for pastoral farming.

107. Livestock or meat, karakul (persian lamb) pelts and dairy products are the three chief agricultural products which yield surpluses for export. In the northern portion of the Territory, crops of maize, potatoes, beans, etc., can be produced in some years, depending upon the rainfall, and in Ovamboland and the Okavango Native Territory in the extreme north conditions are somewhat better. Citrus fruits of good quality are produced in the Territory, but in the opinion of the Long-Term Agricultural Policy Commission, there is no prospect of citrus culture on an export scale.

108. The Administration maintains three experimental farms, Gellap Ost in the south, Neudam in the central area and Omatjenne in the north. Gellap Ost specializes in the production of a shallow curl type of karakul and investigates grazing problems in the arid south. Neudam is the principal experimental station, the main emphasis being on the developing of sheep with high quality pelts; herds of cattle are also maintained, and, when climate permits, field crops are produced. Omatjenne is mainly concerned with livestock breeding; fodder crops and vegetables are also raised, however, and some karakul are kept.

109. The European farmers of the Territory are organized in local associations and a central union, which was federated with the South African Agricultural Union. At the end of 1948, there were 47 farmers' associations with a total membership of about 2,000, representing approximately 45 per cent of the farmers (in 1952, there were 5,041 farms in the Territory). According to the Long-Term Agricultural Policy Commission, the organization was already recognized as the spokesman for the farmers and was of great assistance to the Administration in consultations on questions relating to the farming industry.

#### *Karakul (persian lamb)*

110. The raising of karakul sheep is considered the most important branch of farming in the Territory and, with the exception of some karakul farming in the Rehoboth Community, is confined almost exclusively to the European farms. Karakul pelt is sold in open competition at overseas world auctions. During 1953, 2,838,422 pelts, valued at £5,038,199, were exported from the Territory. The export of karakul sheep "capable of breeding" has been controlled by the Territory in order to protect the karakul sheep farming industry; this control has developed into an almost total prohibition of export, even to the Union of South Africa. A Karakul Industry Development Fund was established in the Territory in 1952 to promote the interests of the industry, contributions to the fund consist of 25 per

cent of the karakul pelt export duty, as well as any monetary grants made by the Legislative Assembly and the Farming Interests Fund and any other grants or donations approved by the Administrator. During the two years 1952-1953 and 1953-1954, a total of £70,000 was allocated to the Consul-General of the Union of South Africa in New York for an advertising campaign to promote the sale of South West African karakul pelts in the United States. An additional £10,000 was allocated for an advertising campaign in Europe.

#### *Cattle and small stock farming*

111. Livestock or meat may be exported from the Territory only under a permit issued by the Meat Trade Control Board, a statutory body established in 1935 to advise the Administrator in all matters dealing with the meat trade and to recommend measures to promote the welfare of the meat industry in the Territory. The Board maintains a levy fund for the purpose of supporting the farming community in times of need. Quotas for export are allotted by the Board at its discretion to any *bona fide* farmer or "speculator" (i.e., middleman). The Board maintains permanent contact with the Union Livestock and Meat Industries Control Board on which the Territory is represented. The Union Board fixes the quotas for livestock imports from South West Africa; these quotas are made out with a view to restricting the import to the Union of South Africa in times of optimum offerings in the Union and to supplementing the Union market in times of need. In 1952, the Meat Board of the Territory stated: "the present year has shown distinctly that the Union is not always able—as promised—to absorb all South West African cattle at any time".<sup>47</sup> During 1953, South West Africa exported to the Union a total of 153,541 head of cattle and 20,633 carcasses, valued at £3,891,247, and 40 head of cattle were exported elsewhere. Small stock exports amounted to 60,828 animals for slaughter purposes, all of which went to the Union. Figures for domestic meat consumption were not available to the Committee.

112. The Committee calls attention to the following observations contained in the report of the territorial Commission of Enquiry into a Long-Term Marketing Scheme for Meat at Walvis Bay (1952):

"It is not clear, to your Commission, to what extent the Union Government has direct control over agriculture in the Territory, other than by war measure. However, as a mandated territory it would appear that the welfare of the Territory is a prime consideration in the mandate held by the Union."<sup>48</sup>

Accordingly, the Commission of Enquiry concluded that "South West Africa, unless deterred by war measure proclaimed by Union Parliament, has the right to dispose of agricultural products to best advantage".<sup>48</sup> In this connexion, the Long-Term Agricultural Policy Commission reported that "the South West African farmer realizes that, apart from persian lamb pelts, the Union is his natural and only sure market; he therefore prefers to be in the Union Control Schemes, whatever the future may hold for such schemes".<sup>48</sup> This view was also corroborated by the South West African Agricultural Union and the Meat Trade Control Board.

113. With regard to the proposed long-term meat marketing scheme for establishing a livestock slaughter-

<sup>47</sup> A/AC.73/L.7, chapter S, para. 277.

<sup>48</sup> A/AC.73/L.7, chapter S, para. 242.



ing and exporting centre in the Territory, the territorial Commission of Enquiry recommended: (a) that the capital required to erect and run a works capable of dealing at peak period with 4,000 cattle per week should be supplied by the South West African Administration; (b) that such a meat and cold storage works, together with a canning factory on the same site capable of dealing with 25,000 cattle per annum, should be erected in the Territory; (c) that, because of the advantages of inland slaughtering, an alternative site to Walvis Bay should be investigated and particular attention paid to Okahandja; and (d) that the narrow gauge railway from Usakos to the north should be replaced by a broad gauge, or, should this prove impracticable and should the works be erected at Okahandja, that straddling the broad gauge with a narrow gauge from Usakos to Okahandja should receive serious consideration.

114. On the basis of the information available to it, the Committee considers that the implementation of these recommendations would be in the interests of the Territory. In particular, the Committee expresses the hope that, in view of the importance of a standard-gauge railway to the economic welfare of the Territory, the Union Railways and Harbours Administration will give favourable consideration at an early date to the replacement of the narrow-gauge railway north of Usakos by a broad-gauge line.

#### *Dairy farming*

115. A Dairy Industry Control Board has been in existence since 1931 to advise the Administrator on all matters relating to the dairy industry and to recommend any measures calculated to promote the general welfare of the industry. The Board has administrative authority to register all producers of dairy products, to impose levies on butter and cheese, to control exports of butter and cheese from the Territory, to fix the prices of butter, cheese, butterfat and cheesemilk, etc., and to utilize levy funds to encourage the greater consumption of dairy products and, generally, to assist the development of the dairy industry. The fixing of prices of butter and cheese in the Territory was transferred from the Union Price Controller to the territorial Dairy Board during the year 1950-1951. The Administrator appoints a person from the Territory to sit on the Union Dairy Industry Control Board, where he has the same rights as other members in relation to matters which affect the Territory.

116. In terms of the Union Government Dairy Products Marketing Scheme, all butter and cheese not consumed in the Territory are marketed through pools operated by the Union Dairy Industry Control Board. During the year 1952-1953, the Territory produced 8,615,720 lb. of butter, 6,557,176 lb. of which were exported to the Union. The total value of dairy products produced in the Territory during the year amounted to £1,443,594.

117. The Committee notes that the territorial Dairy Board imposes a variety of levies on dairy products exported to the Union, a portion of which is payable to the Union Control Board. In 1952-1953, it paid .04d. per lb. on creamery butter to the Union Control Board, and received from the Union Treasury a subsidy of 1.882d. per lb. on all South West Africa butter sold in the Union. The Committee calls attention to the following statement contained in the report of the territorial Dairy Board for the year 1952-1953: "at

present the Territory is also at a disadvantage, owing to increased production in the Union. The high production lowers the Union's manufacturing costs, which in turn means lower butter prices and less in subsidies.<sup>49</sup>

118. The Committee notes with satisfaction the activities in the Territory devoted to the development of the casein industry since that product may find an outlet on the world market.

#### *J. Material welfare of the Natives*

119. Non-Europeans residing on the Reserves inside and outside the Police Zone would be classed, according to the Long-Term Agricultural Policy Commission, as peasant farmers, since the great majority engage in subsistence farming which, with the exception of Ovamboland and the Okavango Native Territory, is mainly pastoral. Only in Ovamboland and the Okavango are sufficient cereals produced by the Natives in normal years for their requirements; even then the result is no more than subsistence farming with a little for sale to men returning from the mines.

120. During the year 1953-1954, £10,000 was allocated and £5,194 spent in Native areas for irrigation, demonstration plots and rice experiments.

#### *Livestock*

121. The Committee notes that measures are taken by the Administration to encourage cattle improvement, and the establishment of creameries in Native Reserves. From the information available regarding six Herrero Reserves the Committee observes that both sales of cattle and the cattle population increased in 1950 over the preceding year, and that the milk diet of the Natives in these Reserves was described as plentiful, their maize crop so good that in large parts of three northern Reserves (Waterberg, Epukiro, Otjituo) they needed to buy little or no maize to supplement their diet, and their cash income from the sale of cream reached a peak in 1950 and a still higher peak in 1951. In three of the Herero Reserves, 1,636 persons, or approximately 28 per cent of the total population, were stock owners. Of these, 692, or 42.3 per cent, possessing up to 15 head of large stock, were described as poorer Natives; those owning upward of 35 to 40 head of large stock were described as wealthier Natives; of the total stock-owners, 20 possessed upwards of 75 head of large stock and two possessed more than 100 and had been warned to dispose of the excess.

122. The income from the sale of cream in the Waterberg East Reserve amounted to £9,036 from 25,466 cows in 1951 (incomes in two other Reserves were far lower and for two Reserves the 1951 income figures were not available). The Committee observes that this represents a cash income of 7s. per cow as compared with a net annual yield of £300 per 100 cows owned by Europeans on European farms, after deducting costs of Native labour, land, etc.

123. The Committee notes that between 1946 and 1950 the total cattle population owned by Natives throughout the Territory decreased by over 100,000 head, while the cattle population owned by Europeans increased by about the same amount. The Committee also notes that in 1954 further limitations were imposed on the number of large stock which could be owned by Natives. It understands that these limitations are

<sup>49</sup> A/AC.73/L.7, chapter S, para. 304.

designed to reduce the dangers of over-grazing and to stimulate the improvement in quality of the cattle population. The Committee observes that no such limitations are imposed in the more extensive European farm areas where the limit of the carrying capacity of the land has been reached and, in many instances, exceeded. On the contrary, in European areas, the Government appears to encourage overgrazing by advancing moneys to farmers for the purchase of stock; and by advancing moneys even to those farmers who do not own land and have to graze their stock on Crown lands under temporary licence. In this connexion, the Committee notes that during 1952-1953 and 1953-1954, apart from other financial assistance to European farmers, a sum of £154,290 was spent by the Government for 320 advances to such landless farmers as a relief measure to enable them to buy stock. These advances were made through the Land and Agricultural Bank of South West Africa, a statutory agency, which agreed to administer the funds but refused to accept liability and which reported in 1954 that it could not tell what success it would have in collecting on these loans since the farmers sometimes "leave the stock in the care of some other person and take up employment elsewhere".<sup>50</sup> By comparison, the Committee observes that total government expenditure which may have been allocated for development purposes of any nature in Native areas during these two years amounted to slightly over £100,000.

124. While the cattle population owned by Natives was reduced between 1946 and 1950, the Committee notes that the Native-owned goat population increased by over 100,000 during this period. The Committee further notes the conclusion of the Long-Term Agricultural Policy Commission in 1948 that long-range policy demanded the gradual reduction of the number of goats, the most destructive animal on the grazing lands of the Territory. This Commission recommended a gradual switch over from goat to karakul farming on reserves, preceded by instruction and accompanied by continual guidance in methods of breeding and in marketing of pelts. Where this was not practicable, the Commission recommended that attention be given to the production of goat kid skins, which would permit a reduction in goat populations on the reserves without loss to the farmer. The Committee endorses these recommendations and expresses the hope that measures are now being taken toward their implementation.

#### *Water supplies*

125. The Committee recalls that in its report to the ninth session of the General Assembly it noted with satisfaction the activity of the Administration in building dams and sinking boreholes in the Native Reserves. While noting that the Administration has continued in its efforts to develop water supplies in the Native areas, the Committee observes that the increased government expenditure for all development in Native areas during 1953-1954 as compared with previous years was in fact less than the loss sustained by the Government with respect to sinking boreholes on farms for European settlement during that year.

#### *Position of Natives in the economy*

126. The Committee notes the observation of the Long-Term Agricultural Policy Commission that the low purchasing power of the Non-European section of

the population, combined with the relatively small European population, made the local consumption of farm products limited.

127. The Committee notes the recommendations of the Long-Term Agricultural Policy Commission that the residents of Native Reserves should be given the same facilities and protection with respect to production and marketing of products as farmers outside the Reserves, that they should produce all the food required for their subsistence consistent with proper soil, vegetation and water conservation, and that, since several of the Reserves offered possibilities greater than required for subsistence farming, the inhabitants should be assisted to develop the land for the purpose of producing a surplus for consumption in the Territory and for export.

128. The Committee endorses these recommendations. It cannot ignore the inference, however, that the limited efforts thus far made by the Administration to develop Native areas reflect a policy to relieve the long-standing labour shortage by compelling the Natives to seek employment on mines and European farms. The Committee considers that the separation of agricultural and other development in the Native areas from that of the rest of South West Africa has served to retard appreciably the economic development of the Territory.

#### *Native Trust Funds and other special accounts for Natives*

129. Native Trust Funds exist for the benefit of Natives in Reserves within the Police Zone and in the Kaokoveld, Ovamboland, the Okavango Native Territory and the Caprivi Zipfel, and Native Revenue Accounts are established in urban areas. There was a general increase in collections and expenditure under the Native Trust Funds in recent years. Expenditure during 1952-1953 and 1953-1954 amounted to £51,976 and £63,153, respectively, as compared with £30,668 in 1951-1952.

130. Annual rates, payable into the respective Native Trust Funds, are levied on adult male Natives in the Kaokoveld, Ovamboland, the Okavango Native Territory and the Caprivi Zipfel. The rate levied in the Kaokoveld, payable beginning 1 January 1954, is the first tax of any kind payable by the Natives domiciled in that area, and is levied under a Proclamation providing that an annual rate may be levied on adult male Natives in a Reserve if a majority of them have agreed to such a levy. From the information available, the Committee remains unable to determine whether annual rates are levied under this Proclamation in any other Reserves. An additional annual rate not subject to the agreement of the majority of Natives concerned may be levied in a Native Reserve to contribute toward the cost of fencing that Reserve should the moneys in the Native Reserve Trust Fund be insufficient. Under proclamations relating specifically to Ovamboland, the Okavango Native Territory and the Caprivi Zipfel, the annual rates levied in these areas are not subject to the agreement of the majority of Natives concerned, and the failure to pay the annual rate in Ovamboland and the Okavango Native Territory constitutes, by proclamation of the Administrator, a violation of tribal law.

131. The annual rates levied in the Okavango Native Territory and the Western Caprivi Zipfel were raised from 5s. to 7s. 6d., effective 1 October 1954, and the

<sup>50</sup> A/AC.73/L.7, chapter S, para. 137.

rates levied upon all tribes in Ovamboland were similarly raised, effective 1 January 1955; the rates levied on one of the Ovamboland tribes was again raised as of the same date to 10s.

132. Under the South West Africa Native Affairs Administration Act, 1954, the various South West Africa Native Trust Funds and other special Native Funds are to vest in the South African Native Trust Fund. The conditions under which this transfer will take place are to be agreed upon by the Administrator and the Minister of Native Affairs, and the moneys accruing to these Funds are to be used exclusively for the purposes prescribed by the South West Africa laws under which the moneys accrue. The Union Minister of Native Affairs may establish separate accounts for these moneys.

133. Total expenditure from the Native Areas Account, established in 1947 as an account of the Territorial Development and Reserve Fund and composed of moneys allocated from the Territorial Revenue Fund, increased to £53,476 in 1953-1954, as compared to expenditure of slightly more than £40,000 during the two preceding years and a previous maximum of £18,689 in 1948-1949.

134. While viewing with approval this increase in expenditure, the Committee notes with concern that, under the South West Africa Native Affairs Administration Act, 1954, a flat sum of £50,000 only has been fixed for the next ten years as the total annual contribution from the Territorial Revenue Fund for the development of Native areas in South West Africa. This sum is also to be entered into a separate account of the South African Native Trust Fund and is to be used exclusively in South West Africa. The Committee further notes the statement made in 1954 in the Union Parliament by the Union Minister of Native Affairs to the effect that, based on past expenditure, £50,000 is more than the amount needed or than had been actually spent but that, if more money should be needed, South West Africa could be approached again.<sup>51</sup>

## K. Mines

### *Legislation and policy*

135. The major development in mining legislation during the period under review was the promulgation of a new law, the Mines, Works and Minerals Ordinance, 1954 (No. 26 of 1954), which continues to vest the rights over all mineral resources in the Administration only and empower it to regulate the exploitation of these resources. The Committee considers that such control would seem desirable to regulate the rate and conditions of mineral extraction and to ensure efficient management.

136. The 1954 Ordinance aims primarily at correcting the defects of the Mining Consolidation and Amendment Proclamation, 1940 (No. 4 of 1940), and at meeting the requests and complaints of farmers. The more important innovations introduced by this new Ordinance include:

(a) Before a prospector commences operations, he shall present his licence for endorsement to the land owner or the occupier of the farm, who may have a copy of a sketch indicating the location of the registered

claim(s) of the prospector, and who may also demand to be shown the beacons of the claim(s) free of charge.

(b) The holder of a prospecting claim may search for both precious and base minerals on the claim (300 by 600 metres), if the Inspector of Mines is satisfied that such claim holder has made satisfactory arrangements with the land owner in connexion with compensation or that any dispute that may have arisen has been settled by arbitration.

(c) A deposit of not less than £50 (a minimum of £10 was required under the 1940 Proclamation) must be made for the restoration of the surface to a safe condition and for the compensation of the land owner for damage that may be caused by prospecting operations. This deposit is recoverable if the prospector fulfils his legal obligations. In addition, the land owner shall be paid owners' dues, which have been increased from 1s. to 3s. per claim per month, and in the case of mining areas from 1s. to 2s. per hectare per year. The prospector, claim holder or miner shall also pay to the land owner in respect of every employee and his dependants and servants staying with him 2s. per month for each person.

(d) If in a particular area mining and farming operations cannot be conducted side by side, the mining company shall be compelled to buy the farm in question or such portion of the farm as may be found necessary at a price fixed by arbitration with due regard to the sentimental value the farm may have for the farmer.

(e) Disputes between farm owners and prospectors, claim holders and miners shall be adjudicated by a Board consisting of the resident magistrate as chairman and two qualified administration officers.

(f) Prospecting claim fees at the rate of 4s. per month in respect of each claim must be paid, while the fee on a mining area is 3s. per hectare or part of a hectare per year (under the 1940 Proclamation, claim fees were 5s. per month for each precious mineral claim, and 2s. 6d. per month for each base mineral claim. The fee on a precious mineral mining area was 40s. per hectare per year, and on a base mineral mining area, 2s. 6d. per hectare per year with a minimum of 40s. per year.)

137. After examining the foregoing provisions of the 1954 Ordinance, the Committee expresses the opinion that the Administration's mining policy, as reflected in this Ordinance, should not only provide adequate safeguards for the European farming community alone, but should be directed primarily towards the advancement of the economic and social welfare of the peoples of the Territory, above all the Non-European inhabitants.

### *Production*

138. During 1954, mining continued to dominate the Territory's economy. Diamonds, lead and zinc are the most important products, all of them being in the hands of extra-territorial capital. Among other minerals exploited to which special attention has been given by prospectors and miners are copper, fluorspar, manganese, refractories and tungsten. An investigation of iron and manganese deposits was conducted by the Bethlehem Exploration and Mining Corporation, with the result that substantial iron reserves were established in various parts of the Territory, much of them of sedimentary origin. From 1953 to January 1955, at least four large companies received grants for prospecting or mining.

<sup>51</sup> A/AC.73/L.7, question 2, para. 74.



The rapid expansion of the mining industry is indicated by the total value of mineral production, which increased progressively from £10,449,390 in 1950 to £21,928,717 in 1953 and amounted to £9,850,259 for the first half of 1954. The value of the principal minerals in the first half of 1954 was: diamonds, £6,456,941; lead, £2,851,587; zinc, £191,241; tin, £84,069 and manganese, £82,012. The overwhelming importance of diamond, lead and zinc is clear; together they contributed 96.5 per cent of the total value of mineral products. The mineral output from January to June 1954 was achieved mainly by twenty companies, three fewer than in 1953 but five more than in 1950, though there were also base mineral mines operated by European settlers. The most profitable mining activity is still the diamond mines owned by the Consolidated Diamond Mines of South West Africa, Limited. The leading producers of base minerals are the South West Africa Company, Limited, and the Tsumeb Corporation, Limited. The Committee notes that these three largest mining concerns as well as several others, including S.A. Minerals Corporation, Limited, the sole producer of manganese, are owned by extra-territorial investors.

#### IV. SOCIAL CONDITIONS

##### A. Native housing

139. It was reported on 21 September 1954 in *The Windhoek Advertiser* that plans were in progress for the construction of a new Native location in Windhoek and that a government loan of £750,000 was granted to the municipality for this purpose; the scheme contemplated involved the ultimate erection of approximately 2,500 houses for rental to Natives. The same newspaper reported on 2 November 1954 that the Native location in Karasburg was being modernized and that between 40 and 50 houses had been built. On the same date, *The Windhoek Advertiser* reported that, in connexion with the transfer of Native administration, municipalities had been informed that all future location layouts must comply with the Union *apartheid* laws and that buffer zone of 500 yards must exist between the Non-European built-up area and the European built-up area. The Committee views with surprise and regret the introduction in the Mandated Territory of residential restrictions which it considers contrary to the Universal Declaration of Human Rights and the Mandates System.

##### B. Mixed Marriages Ordinance, 1953

140. The Immorality Proclamation of 1934, as amended, prohibits "illicit carnal intercourse" between Non-Europeans and Europeans, while the Prohibition of Mixed Marriages Ordinance, 1953, prohibits marriages between Europeans and Non-Europeans. The Committee again expresses its regret at the existence of such racially discriminatory legislation.

##### C. Slavery

141. With regard to slavery, the Committee notes that the Union of South Africa, on behalf of itself and the Territory of South West Africa, on 29 December 1953, signed without reservation the Protocol amending the Slavery Convention signed at Geneva on 25 September 1926.

#### D. Status of Native women

142. Natives in the area outside the Police Zone are polygamous. Most of the Native tribes within the Police Zone also practise polygamy, except in those areas where the influence of Christianity has been strong. Polygamy is recognized in law to the extent that the property rights under Native custom of the female partner or the children of a customary union are legally safeguarded if the man marries a second woman.

#### E. Freedom of movement and vagrancy

143. The Committee observes that severe restrictions continue to be placed on the freedom of movement of the Native and Non-European populations of the Territory. In particular, it notes that the Administrator may "define the boundaries of the area of any tribe or of a location and may from time to time alter the same and may divide existing tribes into two or more parts or amalgamate tribes or parts of tribes into one tribe or constitute a new tribe as necessity or good government of the Natives may in his opinion require"; and that he may "whenever he deems it expedient in the general public interest, order the removal of any tribe or portion thereof or any Native from any place to any other place within the Mandated Territory upon such terms and conditions and arrangements as he may determine".

144. With few exceptions:

(a) No Native may go outside the Police Zone<sup>52</sup> or into game reserves<sup>52</sup> without a permit and no Non-European may enter the Police Zone without a permit;

(b) Outside the Police Zone, no Native other than a resident of Ovamboland may enter that District without a permit;<sup>52</sup>

(c) No Native female living in Ovamboland or in the Okavango Native Territory may leave these areas without a permit;

(d) Every adult male Native of Ovamboland, the Okavango Native Territory, the Caprivi Zipfel and the Kaokoveld must carry a certificate showing that he has paid or is exempted from paying the annual rate in his area;

(e) Every Native from outside the Police Zone must possess an identification pass while in the Police Zone and legislative provision exists for keeping a territorial register of all such Natives in the Police Zone; those resident in the Police Zone for more than ten years, if exempted from registration, are issued exemption certificates and regarded as Natives of the Police Zone. Others may stay in the Police Zone only under contract of service for a maximum period of eighteen months, which contract may be extended for a maximum of six months with the same employer; they are then required to return to their original domiciles unless permitted by the Administrator, with the agreement of the tribal authorities concerned, to work for a specified longer period. Under amended legislation promulgated in 1954, the Administrator may by notice in the *Gazette* alter the periods of eighteen months and six months specified in the law.

(f) No Non-European within the Police Zone may buy a railway ticket, travel within or leave the Police Zone without a pass issued for that purpose by his European employer or by any of the officials specified by law, nor may he go without a pass beyond the con-

<sup>52</sup> This restriction applies to persons of all races.

finances of the location, Reserve, farm or place where he resides or where he is employed;

(g) No non-resident of a particular location, Reserve or other area set aside for the occupation of Natives may enter, reside in or visit that area without a permit.

145. With respect to Natives in urban areas:

(a) The Administrator may declare that Natives in urban areas are required to reside in locations, Native villages or Native hostels; since 1951, Natives may be required to take up such residence on three days' notice as compared with over one month's notice prior to 1951. Before 1951 any Natives provided by their employers with accommodation outside a location or Native hostel were exempted from these provisions but since 1951 only the following are exempted:

(i) Natives in domestic service for whom living accommodation to the satisfaction of a local authority is provided by the employer; these Natives must have a document from their employer proving such service;

(ii) Natives residing in areas specified or approved by the Administrator with the concurrence of the urban local authority;

(iii) Natives exempted by the local authority, which exemption, since 1951, may be cancelled by the Administrator.

(b) Since 1951, no person may conduct outside a location, Native village or Native hostel any school, institution or place of entertainment mainly for the benefit of Natives which was not already in existence; and the Administrator may require any person to cease conducting such facilities outside a location, Native village or Native hostel.

(c) The Administrator may declare that no Native shall be in any public place within the area controlled by an urban local authority during specified hours of the night without a special permit.

(d) Since 1951, the Administrator may declare by notice in the *Gazette* that no Native shall enter an urban area for the purposes of employment or residence except on conditions prescribed by the Administrator (see paragraph 147); and any Native who has unlawfully entered may be removed to his home or last place of residence.

(e) No Native female may enter an urban area unless she proves that her husband, or if she is unmarried, her father, has resided and been continuously employed in the area for at least two years, and unless the necessary accommodation is also available.

(f) The Administrator may require every Native who lawfully entered a proclaimed urban area to depart from that area if he fails to find employment within fourteen days, unless he has been issued a registration certificate for a specified longer period and has paid the registration fees prescribed.

(g) Since 1951, European owners or occupiers of land within five miles of an urban boundary may not allow Natives to reside or congregate on their land.

146. In particular, the Committee notes that if the Administrator is satisfied that the number of Natives in an urban area exceeds "the reasonable labour requirements" of that area he may determine which Natives, both lawfully and not lawfully domiciled in the area, are to be required to leave the area. Even a Native owning land in the urban area may be removed for this reason, his land to be bought, at his request, by the urban local authority.

147. The Committee notes that more restrictive legislation to control the entry of Natives into urban areas was passed in 1954 and brought into force on 31 March 1955.<sup>53</sup> Instead of being restricted from entering particular urban areas notified in the *Gazette*, Natives other than permanent residents or persons born in the area concerned are, under this legislation, automatically restricted from remaining in any urban area unless permission is granted in the case of each individual Native.

148. The Committee further notes that the steps contemplated by the Administration to tighten control in urban areas had been dependent on the amendment of the law in 1951 and had afterwards been delayed until 1953-1954, when £1,158 (£158 more than was allocated) was spent for the purpose of removing "redundant Natives" from urban areas. This excess expenditure, the Committee notes, was due to the fact that "the success of two temporary urban area control officers was more than could be anticipated".<sup>54</sup>

149. Vagrancy—wandering abroad with no visible lawful means or insufficient lawful means of support—continues to be a penal offence punishable by imprisonment for a period not exceeding twelve months, with the possible further punishment of hard labour, spare diet and solitary confinement, or any one of these, for a part of that time. Wandering over a farm or loitering near or trespassing in any building or enclosed place on a farm is an offence punishable by a heavy fine (up to £100). The law further provides that a person convicted for the first time of either of the above-mentioned offences may, instead of receiving the penalties prescribed above, be forced to take up employment on public works or private employment with a designated person for a certain period of time at wages which the court judges to be fair and reasonable.

150. The Committee notes that persons may be apprehended under the provisions of the Vagrancy Proclamation with or without warrant by the magistrate, the police, or the owner or occupier of the property on which the offender is found, or anyone acting under their orders. The owner of a farm may search buildings on the farm without warrant.

151. Squatters trespassing on waste Crown land, on land occupied by a missionary institution or on a Native location may be summarily directed to remove therefrom if they cannot show sufficient cause why they should not be compelled to do so. If they do not move when ordered, they are subject to the penalties provided for vagrancy.

152. The Committee again observes that the restrictions on freedom of movement enumerated above are clearly inconsistent with the principles and purposes of the Mandates System and with the Universal Declaration of Human Rights. It will be recalled that, in its report to the ninth session of the General Assembly, the Committee stated that any further comment on its part concerning these restrictions would be superfluous. Having noted, however, the statement of the representative of the Union of South Africa in the Fourth Committee<sup>55</sup> to the effect that these restrictions were imposed either at the request or in the interests of the Native inhabitants themselves, the Committee feels obliged to

<sup>53</sup> Government Notice No. 64 of 1955, South West Africa *Gazette* No. 1891 dated 31 March 1955.

<sup>54</sup> A/AC.73/L.7/Add.1, question 52, paras. 21-22.

<sup>55</sup> *Official Records of the General Assembly, Ninth session, Fourth Committee*, 407th meeting, paras. 45-51.

state that it does not consider the restrictions relating to freedom of movement embodied in the laws of the Territory to be in the interests of any of the inhabitants of the Territory. The Committee, on the contrary, is firmly convinced that these restrictions tend to create a social and political situation which is bound to affect adversely all the inhabitants of the Territory. The Committee accordingly urges the elimination of such discriminatory restrictions from the law and practice of the Territory.

## F. Labour

### *International Labour Conventions*

153. Since 1949, no additional International Labour Conventions have been accepted by the Union Government on behalf of the Territory of South West Africa. The following conventions were accepted on behalf of the Territory in 1949:

(1) Convention No. 19 concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents; and

(2) Convention No. 45 concerning the employment of women on underground work in mines of all kinds.

154. The Committee notes with satisfaction that Ordinance No. 26 of 1954, section 104, now embodies the principle of the above-mentioned Convention No. 45 that no person shall employ underground on any mine a boy under the age of 16 or any female.

155. The Committee notes that the Government of the Union has informed the International Labour Organisation that it could not accept the proposed recommendations of the Committee of Experts on Social Policy in Non-Metropolitan Territories for the abolition of all penal sanctions for any breach of contract of employment against workers belonging to or associated to a dependent indigenous population.

### *Supply of labour*

156. The report of the South West Africa Native Labourer's Commission, 1945-1948, in summarizing the problems of the local supply of labour, stated that there was a shortage of labour in the Territory and that the Territory would be dependent to the extent of 10,000 to 15,000 on extra-territorial Native recruits in order to meet its annual labour requirements.

157. The Administrator stated in the Legislative Assembly in 1954 that "the shortage of man-power, especially of native labour, was still a matter of grave concern", and that the estimated actual shortage of Ovambo labourers in employment of mines was 400, in industries and in towns 500, and on farms 10,000.

158. In this connexion the Committee notes that the Long-Term Agricultural Policy Commission observed in 1948 that "the labour resources in the northern native territories should be zealously guarded, and improved social and economic measures adopted in good time combined with suitable propaganda measures to secure the farm labour supply,"<sup>56</sup> and regrets that the protection of the Native population would appear to be based on its value as a labour supply rather than on the undertaking of the Mandatory, under article 2 of the Mandate, to "promote to the utmost the material

and moral well-being and the social progress of the inhabitants of the territory".

### *Laws and regulations regarding labour*

159. The Committee notes that the basic legislative measures governing labour in the Territory may be divided into five groups, namely: Master and Servants Proclamation; Proclamation on Control and Treatment of Natives on Mines and Native Labour Proclamation; Extra-territorial and Northern Natives Control Proclamation; Natives (Urban Areas) Proclamation; and other labour regulations.

160. The Committee again draws attention to the provisions of section 3 of Proclamation No. 3 of 1917, as amended, according to which a Native Affairs Officer charged with the supervision of Natives employed on mines and works may try any Native labourer who neglects to perform any work which it is his duty to perform, or unfits himself for the proper performance of his work by having become intoxicated during working hours, or is insubordinate to his employer or commits a breach of rules prescribed by the management. The Committee further notes that the Master and Servants Proclamation No. 34 of 1920, as amended—one of the basic legislative measures governing labour in the Territory of South West Africa—contains many provisions which are disadvantageous to the "servant" and place him in an unequal position before the magistrates, and that the very terminology and spirit of the Proclamation is not in line with modern labour laws.

161. The Native Minimum Wage Proclamation (No. 1 of 1944), which fixes minimum wage scales at a very low rate, has not yet been put into force. In 1949, the Legislative Assembly recommended that minimum wages for labourers recruited under contract from outside the Police Zone be increased to the following (plus food and housing): for labourers on mines, works and industries, 1s. per shift for the first year and 1s. 6d. per shift for the second year with the same employer; for "Class B"<sup>57</sup> farm labourers, £1 per month for experienced labourers, and 18s. to £1 for others for the first year and an additional 2s. 6d. per month for the second year with the same employer; for "Class C"<sup>57</sup> farm labourers, 17s. to 19s. per month for experienced labourers and 15s. to 17s. per month for others, and an additional 2s. 6d. per month after a year's service with the same employer; for shepherds, 25s. per month for the first year, and 30s. per month thereafter with the same employer; house boys, 20s. per month for the first year and 25s. thereafter with the same employer. Fixed wages were not recommended by the Legislative Assembly for local (Police Zone) Natives.<sup>58</sup>

162. The Committee urges that labour conditions in the Territory be improved and every effort be made to promote awareness in the Territory of the fundamental principle that labour is not a commodity. The Committee strongly recommends, as an initial measure, that labour laws in the Territory conform to the standards established in other non-metropolitan territories by local statutes or practices, or by international conventions for workers in the same activities under similar conditions, or at least to the minimum standards recom-

<sup>57</sup> Labourers in the Territory appear to be classified into three groups: those fit for work on mines and works ("Class A"); those fit for employment other than on mines and works ("Class B"), and those fit for certain types of light work only ("Class C").

<sup>58</sup> A/AC.73/L.3/Add.1, question 54, para. 105.

<sup>56</sup> A/AC.73/L.7, question 54, para. 3.

mended by the International Labour Organisation for application in non-metropolitan territories.<sup>59</sup>

163. The Factories, Machinery and Building Work Ordinance, 1952, which came into force during 1953, provided for the registration and control of factories, regulation of hours and conditions of work in factories, supervision of the use of machinery, precautions against accident to persons employed on building or excavation work, and other matters. The Committee is of the opinion that the application of this Ordinance and the Regulations made under the Ordinance during 1953 might result in certain improvements in labour conditions in the Territory.

164. The Committee notes with regret, however, that factory employers are not required to give extra-territorial and northern Natives employed in factories full paid leave to which other employees are entitled under the Ordinance.

165. The Wage and Industrial Conciliation Ordinance, 1952, (No. 35 of 1952) came into force on 1 August 1953 and in 1954 the Administrator, under the terms of this Ordinance, appointed three persons to investigate, report and make recommendations to him on the fish industry in South West Africa.

166. The Society of South West Africa Farmer-Employers of Contracted Extra-Territorial and Northern Natives, provided for under Ordinance No. 48 of 1952, was established on 1 January 1954.

167. The Committee notes with regret that, as reported by the Roads Construction Commission, 1950, there were rather unsatisfactory conditions of labour and insufficient inspection on the roads under construction in the Territory.

#### *Recruiting organizations*

168. The "South West Africa Native Labour Association (Proprietary) Limited" (SWANLA), which is the only organization charged with recruitment in South West Africa for work in the Police Zone, changed its name to New South West Africa Native Labour Association (Proprietary) Limited (Nuwe SWANLA) during the year under review; it also showed an increase of its registered capital from £19,500 to £48,750.

169. The newly-established Society of South West Africa Farmer-Employers of Contracted Extra-Territorial and Northern Natives has for its objects, *inter alia*, to obtain representation on the Board of the Nuwe SWANLA, as recommended by the Native Labourer's Commission 1945-1948. The Committee regrets that no consideration was given to its recommendation that recruiting agencies should not be composed only of representatives of employer groups, but that special and adequate representation should be given both to the Administration as the guardian of Native interests and to suitably qualified representatives of the Native population as well.

170. The Committee notes that, in connexion with the transfer of the administration of Native affairs from the Territory of South West Africa to the Union, the Minister of Native affairs gave his official assur-

ance in the Union Parliament in 1954 that the Union Government did not intend to use South West Africa as a source of Native labour for the Union.<sup>60</sup>

#### *Compulsory labour*

171. The Committee again notes that under Native Reserve Regulation 27 *bis*, any superintendent may order any male resident of a Reserve who has no means of support or leads an idle existence to take up employment on essential public works, and that under the Vagrancy Proclamation, 1920, a person convicted for the first time of an offence under the Proclamation may, instead of receiving the penalties prescribed in the Proclamation, be forced to take up employment on public works or private employment with a designated person. The Committee further notes that, under the Master and Servants Proclamation, a worker must return to his employer's service after completing a term of imprisonment unless his contract of service is cancelled, and a servant who fails or refuses to commence service under a contract or who deserts his employer is guilty of an offence.

#### *Trade unions*

172. Regulations made under the Wage and Industrial Conciliation Ordinance, 1952, provide, *inter alia*, for registration and regulation of trade unions and employers' organizations and for the prevention and settlement of disputes between employers and employees. In this connexion the Committee notes, however, that it has no official information relating to the establishment of trade unions subsequent to the statement of the Administrator in March 1952 that he was not aware of the existence of any trade unions in South West Africa.

173. The Committee notes, on the basis of press reports,<sup>61</sup> that approximately 2,000 mine workers went on strike at the Tsumeb mines in October 1954 subsequent to a liquor raid and arrests by the police, followed by a clash in which one Ovambo was killed and three were injured.

#### *G. Health*

174. The Committee notes with satisfaction that there has been a continued expansion of medical services in the Territory and that the total government expenditure on public health more than tripled between the fiscal years 1946-1947 and 1953-1954. In particular, the Committee notes that two additional State-aided hospitals have been established at Omaruru and Okahandja, that steps are being taken to construct similar hospitals at Bethanie and Gobabis, that government hospital facilities have been expanded and that plans have been made for the construction of new government hospitals. The Committee observes nevertheless that the actual extension of hospital facilities which has taken place still does not meet the requirements of the Territory as indicated in the recommendations of the South West Africa Health Commission in 1946, especially in regard to the treatment of tuberculosis among non-Europeans and, moreover, that a number of important construction projects appear to have been planned but not carried out. The Committee

<sup>59</sup> A/AC.73/L.7, question 2, paras. 55, 57.

<sup>61</sup> *The Star* (Johannesburg, Union of South Africa) 18 October 1954, and *Cape Times* (Cape Town, Union of South Africa), 19 October 1954.

also observes that most of the expansion of facilities seems to have been confined to the area within the Police Zone, whereas a further increase of medical services in the areas outside the Police Zone is a requirement of the greatest importance, in the interests not only of equitable treatment for the inhabitants of the areas concerned but also of the health of the Territory as a whole.

#### *Sanitation and preventive measures*

175. The Committee welcomes the application to the Territory of the International Sanitary Regulations adopted by the World Health Assembly in May 1951. It also notes the introduction of public health regulations in accordance with the Municipal Ordinance, 1949, in respect of the municipality of Mariental.

#### *H. Migration*

176. Immigration into and emigration from South West Africa continued in 1948-1952; during these years 2,147 persons (including 1,467 immigrants) entered and 1,052 (including 59 emigrants) left the Territory. Official records show that both arrivals and departures from 1950 on were on a larger scale than in the preceding two years. Since 1948, total arrivals were: 110 in 1948; 161 in 1949; 411 in 1950; 572 in 1951; and 893 in 1952; departures in the same period totalled 57 in 1948; 21 in 1949; 172 in 1950; 331 in 1951; and 471 in 1952. These figures represent arrivals and departures of European migrants travelling by sea only. No record was kept of persons travelling between the Union of South Africa and South West Africa.

177. The Immigrants Regulation Amendment Act, 1953 (Act No. 43 of 1953), was brought into operation on 1 January 1955. This Act applies to the Territory the Union Immigrants Regulation Act of 1913, which, as amended, provides, *inter alia*, that the Immigration Department of the Union is responsible for regulating the entry of immigrants; that certain "prohibited immigrants" may be excluded or even extruded from the Union (including South West Africa); and that after 10 February 1956 wives and children of domiciled relatives will no longer enjoy the right of admission unless authorized by the Minister of the Interior. The chief effect is that as a rule Asians, not Europeans, are prohibited from entering the combined Territories of the Union and South West Africa for economic or other reasons.

178. The Administrator of South West Africa was empowered by Union Proclamation No. 267 of 1954 to deport from the Territory as an undesirable person any person born in the Union of South Africa who had been convicted of or sentenced for certain specified offences.

#### *V. EDUCATION*

##### *Educational policy and administration*

179. Under the Education Proclamation, 1926, as amended up to 1953, the general control, supervision and direction of education are vested in the Administrator, who is aided by an Education Advisory Council of seven, which does not include any Non-European members. The Administrator may make or withdraw grants-in-aid for any school established, aided or recognized, depending on whether such school is conducted in a satisfactory and efficient manner, is capable of

discharging its functions and is necessary for educational purposes. The Department of Education, the Director of which is responsible to the Administrator, exercises control over the establishment, maintenance and operation of the school system.

180. There exist in the Territory separate schools for (a) Natives; (b) Coloured persons; and (c) Europeans.

181. For European children education is compulsory from the age of 7 to 15 inclusive or until the end of standard VI (eighth school year). The sparse population gives rise to problems of school organization; the system of boarding schools has been developed to ensure that compulsory schooling is achieved.

182. For Native and Coloured children, compulsory education has not yet been introduced. Schools for Non-Europeans fall under three categories, namely, mission schools,<sup>62</sup> recognized mission schools and government schools. Primary education provided by the last two types of schools is free to the extent that the Administration pays the salaries of the teachers, provides equipment and school requisites, and supplies books and stationery free or at reduced rates to needy pupils. Government schools are controlled and managed by the Director of Education, and recognized mission schools by the church or missionary body. No specific provisions are made in regard to curricula and language of instruction for the various types of schools.

##### *Cost of education*

183. The Committee has previously expressed its grave concern over the disparity between the expenditure on education for European, Coloured and Native children during the period 1946-1947 to 1952-1953. This disparity was maintained in 1953-1954, when public expenditure on education totalled £896,972 compared with £803,853 in 1952-53. Of the 1953-54 total, about £607,400,<sup>63</sup> or approximately 67 per cent of the total expenditure on education, was spent on education and hostels for European pupils and about £159,862<sup>64</sup> or

<sup>62</sup> These schools are normally sub-standard.

<sup>63</sup> This figure includes:

(1) An expenditure of approximately £31,000 for the following items: furniture and equipment of schools, books, school requisites and material, railage and cartage, rebates on books, transport of school children, wages of school cleaners and sanitary boys, material for school cleaning, wall map of South West Africa for schools, minor repairs, improvement to school grounds, advertisements and printing, etc.

(2) An expenditure of approximately £284,000 for hostels, including supplies and services, salaries, wages and allowances, travelling expenses, equipment, railage and cartage, repairs, subsidies to private hostels, etc.

(3) An expenditure of approximately £292,400 for salaries, wages and allowances of educational personnel (computed by subtracting the salaries, wages and allowances of the non-teaching personnel of the Education Branch of the Administration from the total expenditure under the subhead for "Salaries, Wages and Allowances").

<sup>64</sup> This figure comprises an expenditure of approximately £59,000 for Coloured education and approximately £100,000 for Native education, including teachers' salaries, allowances and travelling expenses, furniture and equipment, books, school requisites and material, handicraft equipment and material, railage and cartage, sanitation services, maintenance grants, bursaries, rebates on books, contribution to school funds, extension of educational facilities, maintenances of training schools, travelling allowances, building material and erection grants, improvement of school grounds, adult education for Natives, subsidies to mission training schools, loans to mission schools, advertisements and printing, etc.

approximately 17 per cent of the total expenditure on education, was spent on education for Coloured and Native pupils.<sup>65</sup> The same trends were also shown by the latest official figures for average expenditure per pupil per annum. The average unit cost during each of the four years from 1948-1949 to 1951-1952 inclusive was: £28.0.3, £30.17.6, £31.5.1 and £32.8.11, in government schools for Europeans (excluding hostel expenses); £13.0.1, £16.1.11, £16.12.11 and £18.16.6 in schools for Coloured pupils within the Police Zone; £7.19.1, £8.6.0, £8.8.0 and £9.17.1 in schools for Native pupils within the Police Zone; and 13s. 8d., 14s. 8d., 14s. 9d. and 14s. 8d. in schools for Native pupils outside the Police Zone.

### *Educational facilities and school enrolment*

#### *(a) General*

184. For European children, most of whom are at the primary level,<sup>66</sup> education is provided mainly in government schools but there are a number of private schools. For the most part, the education of Coloured and Native pupils is under the supervision of the various missions and subsidized by the Government. The great majority of the schools for Non-Europeans are primary schools, but one government secondary school for Coloured pupils exists. Except for teacher-training there are no vocational schools in the Territory.

#### *(b) Schools for Coloured children*

185. Certain progress was achieved during the years 1949-1953 in education for Coloured children. Enrolment in the schools for Coloured children within the Police Zone increased between 1952-1953 from 2,730 to 2,853, as against 2,336 in 1949. In 1952 there were 30 schools for Coloured children, of which 2 were conducted by the Government and 28 by religious missions, as compared with 28 in 1949. (Figures for 1953 are not available.) On the basis of the 1951 census (provisional figures) approximately one-sixth of the Coloured community was enrolled in schools during this period, a ratio which the United Nations Educational, Scientific and Cultural Organization interpreted to mean that primary school provisions were nearly adequate.<sup>67</sup>

#### *(c) Schools for Native children*

186. The enrolment of Native pupils both within and outside the Police Zone rose steadily from 1949 to 1952, but there was a slight decline in 1953. Within the Police Zone, 7,084 pupils were enrolled in 1953, compared with 7,296 in 1952; 7,114 in 1951; 6,633 in 1950; and 6,231 in 1949. Outside the Police Zone, the number of pupils enrolled during the years 1949

to 1953 was 14,751 in 1949; 16,026 in 1950; 17,413 in 1951; 19,945 in 1952; and 18,855 in 1953. In this connexion, the Committee expresses the hope that this decrease will prove only temporary and that efforts will be made in the immediate future to improve the situation.

187. There were 84 schools for Native children within the Police Zone in 1952, or five more than in 1949. The number of schools for Native children in 1953 is not known. Of all the schools in 1952, 6 were government schools, 2 were teacher-training schools (the government training school at Okahandja and the Roman Catholic training school at Doebera) and all the rest were mission schools, the increase over 1949 having been in mission schools. On the basis of the 1951 census (provisional figures), approximately one-twentieth of the total Native population was enrolled in these schools in the period from 1949 to 1953.<sup>68</sup> In view of this, the Committee is of the opinion that educational facilities for Native students are still far from adequate to meet the needs of the community and that the two teacher-training centres, which had an enrolment of 131 students in 1949, appeared to be unable to provide the staff needed for any marked expansion of schools. Learning that almost all the Native students attended primary schools, and taking into account the factor of wastage, the Committee feels that there would seem to be little progress towards the eradication of illiteracy. In this connexion, the Committee endorses the observation of UNESCO that the principal problems, in the Police Zone would appear to be additional funds and teacher-training facilities necessary for a planned extension of Native education.

188. In 1952 there were 154 mission schools outside the Police Zone, which included 14 subsidized institutions, 104 day schools, 11 mission station schools and 25 bush schools, as compared with 162 schools in 1950. Out of the 1952 total, 118 were in Ovamboland (6 less than in 1950) and 36 were in the Okavango Native Territory (one less than in 1950). As in 1950, there were no schools in the Kaokoveld Native Reserve. While noting that about one-eleventh of the roughly estimated total population was enrolled in 1953, a ratio much higher than in the Police Zone, the Committee recalls that, as reported by the 1950 Commission of Enquiry, teaching standards were low in the day schools, mission station schools and bush schools which all gave instructions up to standard III (fifth school year), and professional supervision was inadequate. In view of this situation, the Committee considers that it is incumbent on the Administration to take every possible step to establish more schools, especially in the Kaokoveld not now served by private institutions, as well as to improve educational standards by increasing official supervision staff and providing better government support for those mission schools which have reached approved standards.

### *Higher education*

189. At present there are no facilities within the Territory for higher education, except as stated in paragraph 184 above. Some South West African students have received such education in the Union of South

<sup>65</sup> The balance of the expenditure on education, approximately 23 per cent of the total, included, *inter alia*, expenditure for the non-teaching personnel of the Education Branch of the Administration, for school books and stationery for sale to pupils, and subsidies to private schools.

<sup>66</sup> In 1940, approximately 5 per cent of the European school children were enrolled in secondary classes in the Territory. Statistics on the enrolment in secondary classes for European children since 1946, on the number of secondary schools for Europeans within the Territory, and on the number of European children from the Territory attending secondary schools in the Union of South Africa are not available to the Committee.

<sup>67</sup> It is difficult to relate school enrolments to the total school-age children since the census enumeration does not uniformly differentiate the Coloured population.

<sup>68</sup> As with the Coloured community it is difficult to arrive at exact population figures, but for the purpose of comparison with school enrolments the total Native population within and outside the Police Zone during this period may be taken as approximately 140,000 and 200,000 respectively.



Africa. A Territorial Roads Construction Commission, 1949-1950, found that there was a great shortage of technicians in the Territory. It recommended that the Administration should encourage young men to take up civil engineering; that it should advertise its offer of bursaries to those who did; and that the bright future for civil engineers in South West Africa, and the salary scales should be brought to the universities' notice. During the year 1951-1952, the Executive Committee decided to render financial assistance to students in needy circumstances who proceeded to the Union to obtain vocational training. The total amounts disbursed between 1951-1952 and 1953-1954, with the number of recipients in parentheses, were as follows: £403 (18); £841 4s. (30) and £1,207 (36). In 1953 a total of 261 European students from the Territory were studying in South African universities. There are no figures available concerning the number of Non-European students from South West Africa studying in South African universities.

### Teachers

#### (a) Number of Native teachers

190. Native teachers employed within the Police Zone numbered 195 in 1949; 206 in 1950; 235 in 1951; 241 in 1952; and 239 in 1953. Outside the Police Zone, Native teachers totalled during the same period 390 in 1949; 422 (including 157 unqualified or untrained teachers) in 1950; 434 in 1951; 464 in 1952; and 489 in 1953.

#### (b) Salary scales for teachers in schools for Native children

191. A major development in the field of Native education during 1953 was that the salaries of most teachers, Native as well as European, in primary government and recognized primary mission schools for Native pupils were increased, while the salary subsidies in respect of Native teachers beyond the Police Zone were doubled.

192. The scales of annual salaries for teachers in recognized primary mission schools for Native pupils, other than teachers in special posts, were amended as from 1 April 1953. Salary scales for qualified European teachers in primary government schools for Native pupils and in posts specially created in recognized primary mission schools for Native pupils were also revised as from 1 April 1952. Under the new scales, Native assistant teachers are grouped into eight grades while European assistant teachers are grouped into six according to their qualifications. The following are the new salary scales for European and Native teachers in the schools for Natives within the Police Zone (old scale in brackets):

(a) European (qualification not defined) in recognized primary mission schools: Men: (unchanged), minimum £200, rising by £20 a year to a maximum of £360. Women: (unchanged), minimum £160, rising by £15 a year to a maximum of £280.

(b) European in the lowest grade (approved one year's course after the attainment of the Matriculation standard) in primary government schools: Men: Minimum £325 (£300), rising by £25 (£25) a year to a maximum of £750 (£575). Women: Minimum £280 (£270), rising by £20 (£20) a year to a maximum of £600 (£450).

(c) European in the highest grade (approved six years' course after the attainment of the Matriculation

standard) in primary government schools (no such grade under the old scale): Men: Minimum £575, rising by £25 a year to a maximum of £950. Women: Minimum £480, rising by £20 a year to a maximum of £760.

(d) Native in the lowest grade (below standard VI) in recognized primary mission schools: Men: Minimum £72 (£60), rising by £8 (£4) a year to a maximum of £114 (£84). Women: Minimum £72 (£60), rising by £8 (£4) a year to a maximum of £114 (£84).

(e) Native in the highest grade (approved six years' course beyond standard VI) in recognized primary mission schools: Men: Minimum £155 (£144), rising by £15 (£10) a year to a maximum of £230 (£214). Women: Minimum £138 (£132), rising by £12 (£8) a year to a maximum of £198 (£196).

193. The Committee notes with concern the continued disparity under the revised salary scales between the salaries of Native and European teachers doing the same work in the schools for Natives within the Police Zone. The Committee notes, further, that there still exist salary differences between male and female teachers except in the case of Native teachers in the lowest grade, and that different treatment is still given to Native and European teachers with regard to their other emoluments, such as travelling expenses.

194. A similar situation exists in the case of teachers outside the Police Zone, who are apparently placed in a less favourable position than those teachers inside the Police Zone, as far as their remuneration is concerned. Native teachers outside the Police Zone each received an average allowance rather than salary. This allowance, which from 1949 to 1953 amounted to £24 per annum, was doubled as of 1 July 1953, while according to the 1950 Commission of Enquiry allowances to a European teacher in most of the mission institutions amounted to £120 per annum.

### General educational developments

195. The Committee, after examining the present educational situation and the policy of the Administration, draws special attention to the fact that discrimination on racial grounds in educational expenditures and facilities available to the different communities as well as in salaries and other emoluments for teachers is still practised in the Territory, and believes that the continuation of this practice is prejudicial to the educational advancement of the Native inhabitants.

196. The Committee, noting the need for greater and better educational facilities for the Native population and the efforts being made by the Administration in this field, suggests that the Administration find ways and means to make increased appropriations for Native education, adopt more vigorous measures to expand and improve the existing facilities for primary and secondary education and the training of African teachers, give serious consideration to the establishment of schools in the Kaokoveld proper, assist qualified Native students to take advantage of fellowships and scholarships available from abroad or from the Administration to enable these students to receive secondary, technical and higher education, and intensify its efforts to develop adult education.

197. In general, therefore, the Committee cannot but regard the educational situation as less satisfactory

than it should be, especially when viewed in relation to the objective of progressively preparing the Native population for increasing responsibilities in government, to their development in the fields of the arts, crafts and the professions, and to the advancement of the Territory as a whole.

## VI. CONCLUDING REMARKS

198. The Committee reiterates that after nearly four decades of administration under the Mandates System, the Native inhabitants are still not participating in the political development of the Territory, their participation in the economic development is restricted to that of labourers and the social and educational services for their benefit are far from satisfactory. Racial discrimination is prevalent throughout the Territory. After examining for the second successive year conditions in the Territory, the Committee has found no significant improvement in the moral and material welfare of the Native inhabitants. It is apparent that the main efforts of the Administration are directed almost exclusively in favour of the European inhabitants of the Territory, often at the expense of the Native population.

199. On the other hand, the Committee has noted that efforts are being made to assess the problems of the Territory, as exemplified by the reports of the Native Labourer's Commission (1945-1948), the Long-Term Agricultural Policy Commission (1948), the Commission of Enquiry into a Long-Term Marketing Scheme for Meat at Walvis Bay (1952) and the Roads Construction Commission (1950),<sup>69</sup> and by annual reports of local agricultural industry advisory and marketing boards. The Committee has endorsed certain of the recommendations of the Native Labourer's Commission (see A/2666, annex V, paragraphs 117, 123, 126 and 127), the Long-Term Agricultural Policy Commission (see paragraphs 124, 127 and 128 of the present report), and the Commission of Enquiry into a Long-Term Marketing Scheme for Meat at Walvis Bay (see paragraphs 113 and 114 of the present report), and hopes that these recommendations will be implemented.

200. The Committee has made every effort to render to the General Assembly as complete and as objective a report as possible with respect to conditions in the Mandated Territory of South West Africa. The Committee feels that it would have been in a better position to discharge its functions if the Union Government had submitted a report for the year under review in accordance with paragraph 7 of General Assembly resolution 749 A (VIII) and paragraph 5 of resolution 851 (IX), and if a representative of the Union of South Africa had participated in its work and had assisted the Committee during its examination of conditions in the Territory. The Committee regrets that it did not receive such assistance. Recalling that the representative of the Union of South Africa participated in the substantive discussion of the question of South West Africa in the Fourth Committee during the ninth session of the General

Assembly, the Committee expresses the hope that in the future the Union of South Africa will also assist the Committee on South West Africa in carrying out its terms of reference under General Assembly resolution 749 A (VIII).

## APPENDIX

### SOUTH WEST AFRICA NATIVE AFFAIRS ADMINISTRATION ACT, 1954 (ACT NO. 56 OF 1954)

To provide for the transfer of the administration of native affairs and matters specially affecting natives from the Administrator of the territory of South West Africa, acting under the direction and control of the Governor-General, to the Minister of Native Affairs, for the reservation or setting apart of land for the use and occupation of natives in that territory in substitution for any other land so reserved or set apart, and for matters incidental thereto.

(Afrikaans text signed by the Governor-General.)  
(Assented to 18 June, 1954.)

*Be it enacted* by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

### Definitions

1. In this Act, unless the context otherwise indicates—

- (i) "Administrator" means the Administrator of the territory; (i)
- (ii) "Minister" means the Minister of Native Affairs; (iv)
- (iii) "Territory Revenue Fund" means the fund referred to in section *thirty-six* of the South West Africa Constitution Act, 1925 (Act No. 42 of 1925); (iii)
- (iv) "The Territory" means the territory of South West Africa and includes the port and settlement of Walvis Bay. (ii)

*Amendment of section 7 of Act 42 of 1925 as amended by section 5 of Act 19 of 1940 and substituted by section 5 of Act 23 of 1949*

2. Section *seven* of the South West Africa Constitution Act, 1925, is hereby amended—

(a) By the insertion of sub-section (1)<sup>70</sup> after the expression "Governor-General" of the words "and the provisions of sub-section (1) *bis*"; and

(b) By the insertion after sub-section (1) of the following sub-section:

"(1)*bis*. Subject to the provisions of section *three* of the South West Africa Native Affairs Administration Act, 1954, the Minister of Native Affairs of the Union shall carry on the administration of the

<sup>69</sup> The reports of these territorial commissions of inquiry, other than the Native Labourer's Commission, became available to the Secretariat, and consequently to the Committee, only after the publication of the Committee's first report on conditions in the Territory of South West Africa.

<sup>70</sup> Sub-section (1) of section *seven* of the South West Africa Constitution Act, 1925, prior to this amendment read: "Subject to the direction and control of the Governor-General, the Administrator shall carry on the administration of the affairs of the territory in regard to all matters in respect of which the Assembly is not competent to make ordinances."



affairs of the territory in regard to all matters referred to in paragraph (a) of section *twenty-six*.<sup>71</sup>

#### *Provisions regarding existing laws*

3. (1) For the purpose of the application of the laws in force in the territory at the commencement of this Act in so far as they relate to any matter referred to in sub-section (1)*bis* of section *seven* of the South West Africa Constitution Act, 1925, but subject to the provisions of this Act, any reference in any such law—

(a) To a Legislative Assembly of the territory, shall be construed as a reference to Parliament;

(b) To the Administrator or to the Administration of the territory, shall be construed as a reference to the Governor-General;

(c) To the Secretary for South West Africa, shall be construed as a reference to the Secretary for Native Affairs;

(d) To the Accounting Officer of South West Africa, shall be construed as a reference to the accounting officer of the Department of Native Affairs;

(e) To the Territory Revenue Fund, shall be construed as a reference to the Consolidated Revenue Fund;

(f) To any other person or officer not hereinbefore mentioned, shall be construed as a reference to any officer of the Department of Native Affairs to whom the functions of that other person or officer may be assigned by the Minister,

unless the context indicates otherwise.

(2) The Governor-General may by proclamation in the *Gazette* and in the *Official Gazette* of the territory declare the provisions of paragraphs (a), (b), (c), (d), (e), or (f) of sub-section (1) to be inapplicable in respect of any law referred to in sub-section (1) or any provision of such law, and may by such proclamation determine in what manner any relevant reference is to be construed for the purpose mentioned in sub-section (1).

(3) The Governor-General may by proclamation in the *Gazette* and in the *Official Gazette* of the territory delegate any power or function conferred on or assigned to him by virtue of paragraph (b) of sub-section (1) to the Minister, and the Minister may delegate any such power or function so delegated to any officer of the Department of Native Affairs.

(4) Anything done in terms of any law referred to in sub-section (1) prior to the commencement of this Act shall have effect as if it had been done under such law as applied by that sub-section.

#### *Transfer of reserves and funds*

4. (1) The land described in the Schedule hereto is hereby reserved and set apart for the sole use and occupation of natives, and that land, and any other land or area in the territory which has at any time prior to the commencement of this Act been so re-

<sup>71</sup> Paragraph (a) of section *twenty-six* of the South West Africa Constitution Act, 1925, as amended as of the beginning of 1955, read: "(a) Native affairs or any matters specially affecting natives, including the imposition of taxation upon the persons, land, habitations or earnings of the natives. Whenever any Ordinance of the Assembly imposes taxation upon persons, lands, habitations or incomes or earnings generally, natives and their lands, habitations and earnings shall be exempt from its provisions;"

served or set apart or which may at any time after such commencement be so reserved or set apart, in terms of any law, shall be vested in the South African Native Trust established by section *four* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936).<sup>72</sup>

(2) In relation to any such land or area—

(a) The Trustee referred to in the Act shall, subject to the provisions of this Act, have the same powers and functions, and be subject to the same duties, as if the territory were included in the Union;

(b) Section *five* of the Native Trust and Land Act, 1936<sup>73</sup> shall apply as if such land or area were the property of any trust mentioned in that section, and as if the reference therein to the commencement of that Act were a reference to the commencement of this Act, or to the date of the reservation or setting apart of the land or area affected, as the circumstances may require.

(3) As from the commencement of this Act—

(a) All the assets, rights, liabilities and obligations of any fund established under any law referred to in sub-section (1) or under any other law for the purposes of or in connexion with any matter referred to in sub-section (1)*bis* of section *seven* of the South West Africa Constitution Act, 1925, shall vest in or devolve upon the said South African Native Trust, subject to such conditions and reservations as may be agreed upon between the Administrator and the Minister; and

(b) There shall be paid into the South African Native Trust Fund, established under section *eight* of the Native Trust and Land Act, 1936 (hereinafter called the Fund), all moneys which in terms of any law accrue to a fund mentioned in paragraph (a), and any moneys so paid shall be used exclusively for the

<sup>72</sup> Section *four* of Act No. 18 of 1936, as amended as of the beginning of 1955, reads:

"(1) A corporate body, to be called the South African Native Trust, hereinafter referred to as the Trust, is hereby constituted with perpetual succession and power to sue and be sued in its corporate name and, subject to the provisions of this Act and any regulations framed thereunder, to do all such acts and things as bodies corporate may lawfully do.

"(2) The Trust shall, in a manner not inconsistent with the provisions of this Act, be administered for the settlement, support, benefit, and material and moral welfare of the natives of the Union.

"(3) The affairs of the Trust shall be administered by the Governor-General as Trustee with power, subject to the provisions of this Act, to delegate any of his powers and functions as Trustee to the Minister who shall act in consultation with the Native Affairs Commission."

The Governor-General has delegated his powers as Trustee to the Minister of Native Affairs.

<sup>73</sup> Section *five* (1) of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), as amended as of the beginning of 1955, provides for the merger in the South African Native Trust of former Native Trusts in the Union of South Africa; the balance of the section reads:

"(2) The assets and liabilities of the former trusts shall upon the commencement of this Act become assets and liabilities of the Trust.

"(3) All the property, movable and immovable, of the former trusts shall upon the commencement of this Act vest without payment of the transfer duty, stamp duty or any other fee or charge in the Trust, but subject always to any existing charge, obligation or trust in or over such property or otherwise lawfully affecting the same.

"(4) The Registrar of Deeds shall upon production to him of the title deed of any immovable property referred to in sub-section (3) endorse the same to the effect that the immovable property therein described is vested in the Trust and make the necessary entries in his registers and thereupon the said title deed shall serve and avail for all purposes as the title deed of the Trust to the said property."

purposes prescribed by the law in pursuance of which such moneys accrue.

(4) There shall be kept in respect of any moneys paid into the Fund in terms of sub-section (3), such separate accounts as the Minister may determine.

(5) An amount equal to the amount represented by the symbol *b* in section *six* shall be paid annually out of the Consolidated Revenue Fund into the Fund to the credit of such account, referred to in sub-section (4), as the Minister may determine.

#### *Rescission of reservation of land*

5. (1) Notwithstanding anything to the contrary contained in any law the Governor-General may, by proclamation in the *Gazette* and in the *Official Gazette* of the territory, with the approval by resolution of both Houses of Parliament, rescind any reservation or setting apart of any land or area referred to in sub-section (1) of section *four*, or of any portion of such land or area, subject to land of at least an equivalent pastoral or agricultural value being reserved or set apart, in terms of any law in force in the territory, for the sole use and occupation of natives.

(2) Any land or area in respect of which the reservation or setting apart is rescinded in terms of sub-section (1) shall become unalienated State property and may be dealt with as such, and the provisions of sub-section (1) of section *four* shall apply to any land reserved or set apart in pursuance of the provisions of sub-section (1).

#### *Financial provisions*

6. There shall be paid annually out of the Territory Revenue Fund to the Consolidated Revenue Fund for the purpose of and in connexion with any expenditure relating to any matter referred to in sub-section (1) *bis* of section *seven* of the South West Africa Constitution Act, 1925, an amount calculated in accordance with the formula:

$$y = \frac{a}{40} + b$$

in which *y* represents such amount, *a* the actual total expenditure out of the Territory Revenue Fund during the financial year immediately preceding the year in respect of which such payment is made, less—

(a) Any sum which may in terms of any law be paid out of the Territory Revenue Fund to any fund referred to in paragraph (a) of sub-section (3) of section *four*; and

(b) Any loan or capital expenditure incurred in connexion with the development of the territory, and *b* an amount of fifty thousand pounds: Provided that after the lapse of a period of ten years from the commencement of this Act the said amount of fifty thousand pounds may be increased or reduced by such amount as may be determined by agreement between the Administrator and the Minister acting in consultation with the Minister of Finance.

#### *Amendment of section 1 of Act 23 of 1920*

7. Section *one* of the Native Affairs Act, 1920, is hereby amended by the insertion after the words "meeting of the commission" of the words "of the Administrator of the territory of South West Africa".<sup>74</sup>

#### *Short title and commencement*

8. This Act shall be called the South West Africa Native Affairs Administration Act, 1954, and shall come into operation on the first day of April, 1955.

#### *Schedule*

##### LAND RESERVED AND SET APART IN TERMS OF SECTION *four*

A. piece of land, 32,000 hectares in extent, situated in the territory on the Okavango River east of Runtu and bounded as follows:

From a point on the Okavango River on the common border between Portuguese Angola and South West Africa nine kilometres eastwards from the mission station Utokota, generally eastwards along the common border between Portuguese Angola and South West Africa to a point in the Okavango River on the aforementioned common border eight kilometres upstream from the confluence of the Omatako Omuramba and Okavango Rivers; thence due south in a straight line for a distance of sixteen kilometres; thence westwards in a straight line for a distance of sixteen kilometres to a point sixteen kilometres due south of a point in the Okavango River on the said common border nine kilometres eastwards from the mission station Utokota; thence due north in a straight line for a distance of sixteen kilometres to the point of beginning.

<sup>74</sup> Section *one* of the Native Affairs Act, 1920 (Act. No. 23 of 1920), as amended as of the beginning of 1955, provides for the constitution of the Native Affairs Commission in the Union of South Africa. The present amendment adds the Administrator of South West Africa to this Commission.

### ANNEX III

#### Letters from the specialized agencies and extra-budgetary organs of the United Nations

(a) Letter dated 16 March 1955 from the Director-General of the International Labour Office to the Secretary-General

...

While any suggestions on the subject which might be made by the Committee would need to be considered in due course by the Governing Body of the International Labour Office, I am glad to make the following information on the subject available at the present stage.

For ILO purposes, South West Africa is a non-metropolitan territory, and as such is covered by the general programme of work in the field of social policy in non-metropolitan territories approved from time to time by the Governing Body.

Expert assistance in the working out of problems associated with items figuring in the programme of work has been provided since 1947 by a Committee of Experts on Social Policy in Non-Metropolitan Territories, the recommendations of which are examined

by the Governing Body. Normally the action taken by the Governing Body is (a) to communicate the recommendations to the Governments of the States Members concerned, inviting them to send them to the governments of their non-metropolitan territories for such action as may be appropriate, or (b) to place the question on the agenda of a future International Labour Conference, or (c) to refer the question to the Office for further study.

The existing Conventions and Recommendations on such matters as Forced Labour, Recruiting, Contracts of Employment and Penal Sanctions, the last three matters relating specifically to indigenous workers, were adopted after preliminary consideration in this manner by the predecessor of the present Committee.

Since 1947, the Committee of Experts on Social Policy in Non-Metropolitan Territories has examined two matters which are now before the International Labour Conference with a view to a final decision on a Recommendation—Penal Sanctions (a Recommendation to supplement the 1939 Convention on the same subject) and Migrant Labour. Among other matters which the Committee has examined and on which its recommendations have been communicated to the Governments concerned are Workers' Housing, Technical and Vocational Training and Productivity of Labour. At its next meeting at the end of 1955 the Committee is expected to consider such matters as Industrial Relations, Initial Measures of Social Security and certain aspects of wage systems and policies. The endeavour of the Committee, as of ILO, has been and is to make a practical contribution towards the solution of some of the most difficult and intractable problems in the social field.

It must be pointed out, however, that this aspect of the work of ILO concerns non-metropolitan territories as a whole. Thus consideration is not focused on the particular problems of an individual non-metropolitan territory, though these problems are taken into account in the search for solutions which would have a wider validity. Of course, ILO is ready, within the limits of its financial resources, under the Expanded Programme of Technical Assistance or otherwise, to give advice and assistance on request in the normal way in connexion with any aspect of social or labour policy coming within its competence which may be referred to it and which concerns a single non-metropolitan territory. An increasing number of requests for such assistance has been received in recent years.

As regards the specific request for information contained in the second paragraph of your letter under reply, I would hope that the indications I have given will enable the Committee to appreciate the extent to and the manner in which ILO can and does contribute to the advancement of the inhabitants of all non-metropolitan territories, including South West Africa. In addition, I would add that the information relating to matters of interest to ILO placed before the Committee on South West Africa in 1954 by the United Nations Secretariat is as detailed and as up-to-date on all important points with which ILO deals as that which ILO possesses.

(Signed) David A. MORSE  
Director-General

(b) *Letter dated 23 March 1955 from the Director-General of the Food and Agriculture Organization to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*  
...

I have discussed this matter with the directors of our technical divisions and find that we have insufficient up-to-date information on South West Africa to justify the preparation of a statement to go before the Committee.

The fact that we do not have sufficient information at the present time does not, however, indicate any lack of interest on our part. If and when the opportunity arises, FAO would be glad to contribute to the social, economic and educational advancement of the inhabitants of the Territory of South West Africa.

(Signed) P. V. CARDON  
Director-General

(c) (i) *Letter dated 3 March 1955 from the Assistant Director-General of the Scientific and Cultural Organization to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*  
...

The Director-General will have to refer the matter to the Executive Board of UNESCO, which is meeting later this month. He will propose that we transmit to you a descriptive list of services which UNESCO might render, if requested to do so, in under-developed African territories.

I shall not fail to inform you of the decision of the Executive Board. In the meantime I am putting the work in hand forthwith.

With regard to the possible attendance of a representative of UNESCO at the Committee's meeting next May—at which our document will be considered—I would willingly instruct Mr. S. V. Arnaldo, the Director of our New York Liaison Office, to place himself at the Committee's disposal should an invitation eventuate.

(Signed) René MAHEU  
Assistant Director-General

(c) (ii) *Letter dated 20 April 1955 from the Director-General of the United Nations Educational, Scientific and Cultural Organization to the Secretary-General*

You may like to have on record the decision reached by the Executive Board of UNESCO, at its 41st session recently concluded, on your request for UNESCO's co-operation with the United Nations Committee on South West Africa.

This decision reads as follows:

"8.1.3 *Request from the Secretary-General of the United Nations for UNESCO's co-operation with the United Nations Committee on South West Africa*

"*The Executive Board*

"*Considering the request for UNESCO's co-operation with the United Nations Committee on South West Africa transmitted on behalf of the Committee by the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories in his letter dated 8 February 1955,*

"Authorizes the Director-General to send to the Secretary-General of the United Nations, for the use of the Committee, a descriptive list of the services which UNESCO is in a position to render towards the social, economic and educational advancement of the inhabitants of territories with characteristics similar to those of South West Africa, upon request of the responsible authorities."

(Signed) Luther H. EVANS  
Director-General

- (d) *Letter dated 14 March 1955 from the Secretary-General of the International Civil Aviation Organization to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

I have the honour to acknowledge receipt of your letter of 8 February 1955, Ref. TRI 132/1/06, in which you draw attention to paragraph 7 of General Assembly resolution 851 (IX).

I regret that at present I am unable to furnish any information that would be of assistance to the Committee in the implementation of paragraph 7 of the resolution.

(Signed) C. LJUNGBERG  
Secretary-General

- (e) *Letter dated 29 March 1955 from the International Bank for Reconstruction and Development to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

We fully appreciate the importance and significance of the social, economic and educational advancement of the inhabitants of South West Africa and certainly wish to give the Committee any help and information we can. In fact, however, we have no first-hand information about South West Africa and hence we are unable to add to what is already available to the Committee from other sources. Moreover, we have never had occasion to study economic conditions in South West Africa and so have no opinion as to what measures might be taken to improve them.

In the light of our lack of knowledge about South West Africa, it seems unlikely that we can be of much immediate help to the Committee. If, however, they felt they would like more general information about the Bank's policies and work than is already available to them, we should, of course, be happy to send someone to New York to meet with them.

(Signed) A. S. G. HOAR  
Director of Operations  
Europe, Africa and  
Australasia

- (f) *Letter dated 4 March 1955 from the Active Managing Director of the International Monetary Fund to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

... I would advise you that the Fund receives no separate statistical publications for South West Africa. The monthly statistical publications of South Africa show separate data only on South West Africa's external trade, but no separate balance of payments data are given; the Union's balance of payments statement

includes South West Africa. Vital and some production statistics on South West Africa are shown in the *Official Yearbook of South Africa*. Goods flow free of import duties between the Union and South West Africa and the basic customs and trade regulations of the Union apply to South West Africa. Regarding currency matters, no separate currency for South West Africa is listed in the Fund's schedule of par values. Three banks operating in the Union have branches in South West Africa, and there is a Land and Agricultural Bank of South West Africa.

Considering this there would appear to be no significant new information on South West Africa that we could supply the United Nations in the fields of main concern to the Fund, i.e., balance of payments, money and banking and exchange restrictions.

Under the circumstances, while we appreciate the courtesy of the Committee in informing us that it may invite the Fund to participate in discussions of this question in May, it appears unlikely that we would be in a position to contribute very much to them even at that time.

(Signed) H. Merle COCHRAN  
Acting Managing Director

- (g) *Letter dated 18 March 1955 from the Director-General of the World Health Organisation to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

The manner in which WHO can contribute to the advancement of the inhabitants of a territory or a special group is laid down in article 2, paragraphs (c), (d) and (e) of the Constitution of the Organization:

"In order to achieve its objective, the functions of the Organization shall be:

...

"(c) To assist Governments, upon request, in strengthening health services;

"(d) To furnish appropriate technical assistance and, in emergencies, necessary aid upon the request or acceptance of Governments;

"(e) To provide or assist in providing, upon the request of the United Nations, health services and facilities to special groups, such as the peoples of trust territories;"

The extent to which WHO can carry out these functions is determined in the first place by the requests received from the Governments concerned and in the second place by the decisions of the World Health Assembly concerning both the long-term programme and the annual programme and budget of the Organization.

With regard to the special groups mentioned in article 2 (e) of the Constitution, the obligation placed on WHO is discharged, for instance, by co-operation, at the request of the United Nations General Assembly, with the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations High Commissioner for Refugees and the United Nations Korean Reconstruction Agency in providing health services to the special groups under their jurisdiction.

The Committee may also wish to note articles VIII and IX of the United Nations/WHO agreement which relate to assistance to the Trusteeship Council and to

co-operation with the United Nations in connexion with matters affecting the well-being and development of the peoples of Non-Self-Governing Territories.

In pursuance of this agreement the Organization provides technical advice on the health aspects of reports submitted to the Trusteeship Council and the Committee on Information from Non-Self-Governing Territories and informs these bodies of its activities in the territories in question. It has also advised on the drafting of questions relating to health in the Standard Form and the Questionnaire on Non-Self-Governing Territories.

It has been noted that the Committee might wish to invite WHO to participate through a representative in the consideration of the matter at its meeting in May. The appointment of such a representative will be given further consideration when the exact date of the meeting is known since it might coincide with the session of the World Health Assembly.

(Signed) M. G. CANDAU, M.D.  
Director-General

- (h) *Letter dated 10 March 1955 from the Director of the International Bureau of the Universal Postal Union to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

Thanking you for your letter, I have the honour to inform you that I have no suggestion or comment to make on the subject of General Assembly resolution 851 (IX) and that I have no intention of appointing a representative to attend the next session of the Committee on South West Africa, which is to deal with local questions by their nature outside the competence of the UPU.

Needless to say, I am entirely at your disposal if you should require any further information on this question.

(Signed) Fritz HESS  
Director

- (i) *Letter dated 26 February 1955 from the Secretary-General of the International Telecommunication Union to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

With reference to your letter of 8 February, I should explain that the International Telecommunication Convention of Buenos Aires, 1952, was signed for the Union of South Africa and Territory of South West Africa, and has been ratified by the Government of the Union of South Africa on behalf of the Union of South Africa and Territory of South West Africa.

In the circumstances, the Union of South Africa and Territory of South West Africa form a single entity so far as membership of the International Telecommunication Union is concerned. In practice, all communications concerning the Territory of South West Africa, such as notifications concerning telecommunication facilities, are received from the Government of the Union of South Africa at Pretoria.

Quite apart, however, from the constitutional position of this particular Member of ITU, I cannot see any way in which the Union, as a specialized agency, could contribute to social, economic or educational advancement of any territory, except in the normal exercise of its functions. The development of telecom-

munications services which the activities of ITU facilitate, certainly constitutes such a contribution; but, as you are aware, these services are operated by government administrations and private operating agencies and it has been recognized that the Union does not have a programme of economic and social projects as do certain other specialized agencies. As part of its normal functions, ITU participates in the Expanded Programme of Technical Assistance and any request for technical assistance in telecommunications received in accordance with the established machinery, would be carefully considered; but, as you are aware, such requests must, under the constitution of the Expanded Programme, be initiated by the Government requiring the assistance.

In view of the foregoing considerations, I am doubtful whether the Union could play any useful part in the meeting of the Committee on South West Africa which is to be held in May next. In any event, representation would give rise to practical difficulty, since the Administrative Council of the Union will be meeting in Geneva at that time.

(Signed) Marco Aurelio ANDRADA  
Secretary-General

- (j) *Letter dated 23 March 1955 from the Acting Secretary-General of the World Meteorological Organization to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

... The problem has been carefully examined by the Secretariat of this Organization and I regret to say that it is not immediately apparent how the World Meteorological Organization could be of assistance to the Committee on South West Africa in the implementation of the resolution.

If the Commission has any suggestions to make, this Secretariat will be glad to contribute within its field of action.

(Signed) Dr. G. SWOBODA  
Acting Secretary-General

- (k) *Letter dated 20 April 1955 from the Executive Director of the United Nations Children's Fund to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories*

... UNICEF aid is given primarily in the form of supplies and equipment not available within the country. The aid (except in the case of emergencies) is designed to provide an initial stimulus to programmes of long-range benefit that the assisted countries will eventually carry on by themselves. Emphasis is on programmes of direct action for children with a mass impact.

Since 1950, the Fund's assistance has mainly taken the form of:

(a) Assistance to maternal and child welfare services and training through equipment and supplies for rural health centres and clinics, and training schools and centres.

(b) Insecticides, penicillin, vaccines, transport, and sprayers for control of communicable diseases largely affecting children (malaria, tuberculosis, yaws, syphilis, leprosy, trachoma, diphtheria, whooping cough, and others).

(c) Dried skim milk and fish-oil capsules for long-range supplementary child feeding.

(d) Emergency relief action in the case of earthquakes, floods, droughts, and famines, in the form of food, medical supplies and, in some cases, clothing and blankets.

UNICEF aid is only given on the basis of a formal government request for help. A preliminary outline of the project for which help is requested is developed by the Government with the assistance of UNICEF field representatives and the relevant United Nations specialized agency or agencies. The commitments of the Government are clearly set forth in the plan, including the administrative organization and financing for the programme and the provision of local supplies and personnel. In some cases, a survey by UNICEF and the United Nations specialized agency is required. Before final approval by the UNICEF Executive Board, the project receives technical approval of the relevant United Nations specialized agency (WHO or FAO).

Allocations for UNICEF aid and approval of plans of operation are made by the UNICEF Executive Board on the basis of recommendations by the Executive Director and the Programme Committee of the Executive Board.

In accordance with the principles summarized above, UNICEF would be prepared to receive a request for aid to South West Africa.

Attached for the information of the Committee is a list of countries and programmes currently receiving UNICEF assistance in Africa.

(Signed) Maurice PATE  
Executive Director

*Enclosure:*

LIST OF PROGRAMMES CURRENTLY ASSISTED BY UNICEF  
IN AFRICA

*Basutoland*

Immunization  
(diphtheria/whooping cough)

*Bechuanaland*

Yaws control

*British Somaliland*

Malaria control

*Cameroons*

Malaria control

*French Equatorial Africa*

Leprosy control

*French West Africa*

Malaria control

*Gambia*

Maternal and child welfare  
Leprosy control  
Long-range feeding

*Gold Coast*

Maternal and child welfare  
Yaws control

*Kenya*

Maternal and child welfare  
Malaria control

*Liberia*

Malaria control  
Yaws control

*Mauritius*

Immunization  
(whooping cough)

*Morocco*

Syphilis control  
Trachoma control

*Nigeria*

Maternal and child welfare  
Malaria control  
BCG vaccination  
Yaws control  
Leprosy control  
Milk conservation  
Long-range feeding

*Northern Rhodesia*

Maternal and child welfare

*Nyasaland*

Maternal and child welfare

*Sierra Leone*

Maternal and child welfare

*Somaliland (Italian Trusteeship)*

Malaria control

*Southern Rhodesia*

Malaria control

*Tanganyika*

Maternal and child welfare  
Malaria control

*Togoland*

Malaria control

*Tunisia*

Trachoma control

*Uganda*

Maternal and child welfare  
Malaria control

*Regional*

East and West Africa TB Survey Teams

(1) Letter dated 31 May 1955 from the Technical Assistance Board to the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories

... It is my understanding that you have also sent similar letters of request to the Directors-General of the participating organizations of the Technical Assistance Board. My comments are, therefore, limited only to the Expanded Programme of Technical Assistance which is under the jurisdiction of TAB.

2. In accordance with the general principles laid down in General Assembly resolution 200 (III) "Technical Assistance for economic development of under-developed countries shall be rendered by the participating organizations only in agreement with the Governments concerned and on the basis of requests received from them." However, information made available to the Executive Chairman of TAB by the participating organizations indicates that there has as yet been no request for the provision of technical assistance to South West Africa under the Expanded Programme from the Government concerned. If and when such a request is received the approval of assistance for South West Africa would be subject to the same consideration by the Board as that of providing assistance to other countries and Non-Self-Governing Territories.

3. I have noted that the Committee may wish to invite TAB to participate through a representative during the discussion. The Executive Chairman regrets that due to the requirement of his presence in Geneva during the next few months in connexion with the work of TAB, he would not be able to appear per-

sonally before the Committee. However, he will be glad to appoint a representative on behalf of TAB, if required, for this purpose.

(Signed) N. G. ABHYANKAR  
Officer-in-charge  
Technical Assistance Board

## ANNEX IV

**Communication dated 16 December 1954 from the Reverend Michael Scott, Observer, International League for the Rights of Man, to the Chairman of the Committee on South West Africa**

### *A Petition regarding the Inhabitants of South West Africa\**

I am addressing this appeal to you on behalf of the people whom I represent in South West Africa in the hope that your wisdom may find ways and means of helping those who are in dire need. In so doing, you may help to overcome the deadlock that exists between the United Nations and the Union of South Africa. It is therefore an appeal not only to the United Nations, with the great work of the specialized agencies at its disposal, but also to the administrators who have the power to help them and others who would if they were permitted.

This is now the ninth year in which the United Nations has been occupied with negotiations and with the juridical and procedural aspects of this question. Nevertheless, all who have taken part in these proceedings must have done so with some sense of the substance of the matter and of respect for law and the instrument of justice and of the moral law whence these institutions derive their sanction and strength. This conception must be common not only to the Africans for whom I plead and who have shown such respect for constitutional procedures despite their history and their present experience, but also to those entrusted with the administration of that Territory.

It is for these reasons that I would appeal to you to consider whether ways and means could be explored whereby the specialized agencies of the United Nations could conceivably assist those of different race in South West Africa who are in dire need of assistance. Procedurally, such assistance must be asked for by Governments from the respective agencies. But the Assembly is empowered to make recommendations; through the Committee it has established to deal with the question of South West Africa, might it not be possible for the Assembly to work out in a co-ordinated way how the various agencies could help in overcoming these great dangers to all the South West African people of poverty, ignorance and disease which afflict so large a section of the population? These problems are referred to in the report of the Committee on South West Africa (A/2666) and the documents drawn up by the Secretariat with evident anxiety to arrive at the truth.

For example, the Committee noted the statement of the Union Government in 1946 that many children and older persons, particularly in the southern districts of the Territory, were under-nourished owing to the

severe drought. The Committee also considered that measures to improve and extend Native farming were essential to the provision of adequate food for the Native population. It expressed the hope that greater efforts would be made to develop adequate water supplies in the Native areas, and referred to a statement made by the Government Long-Term Agricultural Policy Commission that in several reserves the limit of production had been reached or even exceeded pending augmentation of water supplies in outlying areas.

The shortage of food in South West Africa is linked to the shortage of water supplies. "Owing to the generally low rainfall prevailing in the Territory, it is not possible to carry out agriculture on any considerable scale." (A/AC.73/L.3).

Even in the Grootfontein and Otjiwarongo districts, where the rainfall allows the production of some crops, the rainfall tends to be erratic and makes harvests uncertain.

Pakistan, with a similar water supply problem, enlisted the aid of the United Nations Technical Assistance Programme. With the help of an FAO land and water development expert, multi-purpose development plans were drawn up for irrigating some 10 million acres of land, generating hydro-electric power and improving waterways for transport.

On the basis of this plan, the United States Foreign Operations Administration signed an agreement with the Pakistan Government to provide \$2 million for the project. Furthermore, Pakistan has requested the Canadian Government, under the Colombo Plan, to supply a thermal power station.

Such assistance could well be used in South West Africa. It is estimated that the harnessing of the Okavango River and the draining of swamps could bring three million acres of land into cultivation.

### *Medical services*

The Committee noted that outside the Police Zone, where most of the native population lives, there were no state hospitals, that the only hospitalization was provided by missions and that in an area where the disease rate seemed relatively high, the medical services were "inadequate to meet the needs of the people".

The Committee charged the Government with the responsibility for providing the native population with medical services at least comparable with those of the white people.

During 1953, the World Health Organization helped Burma, Colombia and Panama to survey and improve

\* Note by the Rev. Michael Scott: Submitted under rule IX of the Committee on South West Africa.



their national or local health services. With UNICEF-provided equipment and supplies, international teams of WHO doctors and nurses have been working with national staffs in maternal and child health demonstration centres in many countries.

South West Africa is in urgent need of such assistance.

### *Malaria*

The Committee took note of the prevalence of endemic malaria in two areas of the Territory. This prevalence was ascertained by a Government survey in 1950.

In the French Cameroons, a malaria survey was made at the beginning of 1953. By the end of the year—WHO experts assisting—plans had been drawn up for spraying operations to cover a total population of 48,000, and the plans were implemented in the early part of 1954.

### *For better livestock and living*

In a cattle country such as South West Africa, especially where distances and periodic outbreaks of cattle disease render mobility and marketing difficult, the work of UNICEF in aiding milk processing and drying plants could be of great importance. Results of this work could vitalize the agricultural economy of the country by having supplied steady and enlarged markets for milk and provided educational programmes for dairy farmers in the improvement of milk production and milk-handling practices.

The outbreak of foot-and-mouth disease in the northern areas of the Territory, which the Committee noted with concern, might be alleviated with the assistance of an experienced international expert. Ethiopia was helped by FAO experts to develop a long-term campaign to bring animal disease under control.

### *Education*

The Committee asserted that Native education "must form the foundation of all development in the Territory" and considered it urgent that the Administration give more emphasis to native education in all its aspects, including the establishment of secondary, technical and higher education.

A number of Governments are receiving technical assistance from UNESCO in reorganizing and expanding their primary and secondary education systems. For example, a mission of six experts assisted the Government of Libya to organize an educational training and production centre consisting of two teacher training colleges, two model primary schools with kindergartens and a production centre for educational materials. Another mission, in Costa Rica, worked on a double pilot project in rural education and the development of primary instruction and assisted the Government in establishing new methods and programmes suited to the specific needs of the country in the fields of rural education, primary education, teacher training and school administration.

Technicians, the Committee noted, are in great need in South West Africa.

FAO, ILO and WHO have set up technical training programmes in many fields in as many under-developed countries. In many cases, these training facilities are linked with or followed by the award of fellowships

to candidates recommended by the Governments concerned to enable them to follow specific courses at teaching institutions abroad.

The small proportion of the Native students qualified for education above the primary level was noted by the Committee, which suggested that the possibility of granting scholarships for secondary, higher and professional education and of sending students to study overseas should be examined.

About 4,500 scholarships and fellowships have been granted by the United Nations Expanded Programme for Technical Assistance. One of these, a scholarship from TAA, was awarded to a national of the Union during 1953.

### *UNICEF's role*

While the Union of South Africa ceased contributing to the funds of UNICEF in 1952, it is possible that South West Africa could make an important contribution to this noble work in the world by developing its own neglected fishing industry and encouraging the production of fish flour, which is becoming an important food for children in the protein-deficiency areas of the world. The Territory could then receive in return from UNICEF other necessary components of such processed food.

Other African territories under British and French administration are receiving aid this year from UNICEF totalling \$2,400,000. Most of this aid is not costly, such as health and nutrition programmes in rural schools, which include vegetable gardening, nutrition and personal hygiene education and environmental sanitation instruction, in all of which the rural communities can be encouraged to participate.

### *Other resources*

Assistance for South West African development could be bought from sources outside the United Nations. This type of assistance is contributing much to the development of the French African territories. Bilateral agreements with Belgium and the United Kingdom have, for example, provided transport facilities across Nigeria and Gambia and ensured a supply of power from Brazzaville to the Belgian Congo. The Committee for Africa South of the Sahara is engaged in scientific research for the benefit of all the African territories. United States technical and financial aid is being sent to these territories.

The people and Government of South Africa cannot be judged guilty of such misanthropy that they would reject out of hand the possibilities of assisting diseased and under-nourished children. They would not turn away from technical and other forms of aid for developing agriculture and industry, which would, in turn, raise the purchasing power and economic level of the whole community and with it, the capacity for self-help of the African peoples themselves.

To deny assistance to the African people in all such ways would not be a mark of pride or self-respect on the part of any Government—particularly when it is recalled that the Union Government is receiving assistance in the matter of arms and ammunition to the extent of many millions of pounds and is requesting more from NATO.

South West Africa is not a poor country; it is rich in diamonds and in other mineral wealth, including copper. It forms, in fact, part of a whole area which

has recently been described by the American Consul-General in Southern Rhodesia in a publication of the United States Department of State as an area "of the most tremendous importance to this country and the other nations of the free world. It is the richest source on the face of the earth of certain strategic materials so far almost unexploited". (*Field Reporter*, Vol. 1, No. 5; March-April 1953).

The Administrator of South West Africa recently spoke of the wealth of South West Africa, whose national income, he claimed, had shown an increase of 12 per cent compared with 1952. With an unconscious irony he reported that the average income per person in South West Africa is £1,300 per year compared with £520 per person in the Union of South Africa, the national income being £65 million and the European population 50,000. (*South Africa Survey*, 5 June 1954). The omission of the Non-European population from his calculations is not an altogether untrue reflection of the conditions and distribution of wealth in the territory.

By a programme of assistance, the United Nations could help to mitigate the consequences of this maladjusted economy and would, perhaps, in making such a positive and generous approach to the problem, overcome some resistance which political criticism has not succeeded in overcoming. It would thereby, no doubt, also make some appeal to those powerful interests which are engaged in extracting prodigious wealth from this dark sunlit corner of Africa.

A South African writer who visited South West Africa recently has written an account of his visit there. In it he says:

"I met an engineer who had flown in for a day's shopping from the Orange River mouth where . . . men dig up 30 million dollars' worth of diamonds each year.

"Diamonds are by no means the only source of South West Africa's present prosperity. I met a Karakul farmer who described how he slit the throats of the newborn lambs. 'They're only valuable for their fur,' he explained. 'A lamb must be killed before it's twenty-four hours old. A pelt sells for about two pounds. It's a six million pound a year industry.'

"I found the thought of three million newborn lambs having their throats cut depressing and said so."

(Campbell, Alexander, *Heart of Africa*, Khoff; 1954)

(The minimum wage paid to the African shepherds of these sheep is 30 shillings (four dollars) per month.)

The African people of South West Africa have a great love for their land and their cattle. They are eager for knowledge and training in skills and new techniques beyond the opportunities available to them. There are many ways by which the United Nations could help them and the other people of that territory in education, health, and economic development.

The Committee might study how the aid of the specialized agencies could be adapted to the local needs of South West Africa in ways which would bring an enrichment to the life of the people—a potential advantage both to the people and the Government.

The gesture of a contribution from Member States—even from those less favoured with wealth—to be ear-

marked by the specialized agencies for assisting South West Africa might appeal to the conscience of South Africa and encourage many to work for a new approach to a more co-operative relationship in future between South Africa and the United Nations. By such means could be facilitated a solution of the juridical controversies that have been a source of such anxiety both to the United Nations and the South African Government for the past nine years.

(Signed) Michael Scott

P.S.—Examples of technical assistance projects are from the sixth report of the Technical Assistance Board to the Technical Assistance Committee (document E/2566).

References to the Committee on South West Africa are from the report of the Committee on South West Africa to the General Assembly, Ninth Session (document A/2666).

### *Enclosure to the above letter:*

#### UNICEF COULD AID SOUTH AFRICA'S CHILDREN

There can be no doubt that material assistance would be available to the Union of South Africa for sound programmes for promoting the health and welfare of its children if the Union Government were to ask for aid and were to accept the conditions on which that aid is made available. These conditions have been accepted by 101 Governments and territories in all parts of the world which have been voted assistance by the Executive Board of UNICEF. What UNICEF contributes is imported supplies and equipment for use within a Government's own child health and welfare scheme. The Government and UNICEF agree on specific schemes which merit UNICEF aid and each makes commitments as to its contribution to the scheme. The Government agrees to international observation and to make the UNICEF contribution available without regard to political, racial or religious considerations. The administration of the scheme would be in the hands of the Government or any agency which it designated. All local expenses would be met by the Government.

In offering to help countries, UNICEF seeks to encourage long-range programmes of lasting benefit, rather than short-term palliative measures. It seeks to assist programmes which attack the most important cause of illness and death among children on a broad scale rather than isolated and expensive efforts. The nature of the programmes which it assists from country to country depends therefore on the state of health and health services in each country. UNICEF aid was extended to Africa first in 1952 and now well over \$3 million have been set aside from UNICEF resources for this continent. Over three-quarters of this aid is for mass campaigns against endemic diseases seriously affecting children, and the rest is either for feeding programmes or for basic maternal and child health facilities.

Since the Union of South Africa has developed its health and medical services to a more advanced stage than most African countries, the pattern of UNICEF assistance to the Union would doubtless put less emphasis on the control of epidemic diseases and more on the extension of basic health services to mothers and children who are not now served. In practice, this would be primarily for the 5 million Non-European or African mothers and children.

The need for a modern health programme which would bring the benefits of modern medical science to the whole community has been recognized by the Union Government itself. The Government established a Commission on National Health Services which, in 1942-1944, studied the whole problem of the organization and extension of health services in the Union and proposed a national plan (the so-called Gluckman Report). The Commission, in its report, took the sound approach that it is better (because it works better and faster and is cheaper) to promote health than simply to cure ill-health. The Commission recommended, *inter alia*, that 400 health centres be established, combining the functions of public health services,

mother and child health, and curative medical services. So far, some 30 centres only have been established.

Doubtless UNICEF aid could be provided for the further implementation of this plan to establish more and more health centres which would serve the neglected African population. In fact, elsewhere UNICEF aid is being made available for similar programmes. Equipment, drugs and diet supplements are provided for the maternal and child health programmes conducted through such health centres in many countries.

The implementation of such a programme would also require more nurses and midwives and no doubt UNICEF aid could also be had for the institutions for training them. Hundreds of such schools in other countries are receiving teaching aid from UNICEF for just such programmes.

Another activity which UNICEF may aid is child feeding which is often related to the feeding of school children, but may also be conducted through any agency caring for children. At its simplest, UNICEF aid for such programmes takes the form of skim milk powder, sometimes supplemented by fish liver oil (vitamin) capsules. There is ample evidence of serious malnutrition among the Non-European population of the Union and it is well known that even severe malnutrition responds very rapidly to skim milk plus vitamins. Enough milk to give a child one glass a day for most of a year can be delivered to the Union at a cost to UNICEF of only \$1.

In child feeding programmes too, UNICEF seeks to encourage more lasting benefits. In its own school feeding schemes, primarily among European children, the Union has already done much with local foods. The Union's National Nutrition Council has already made extensive and competent studies of the relationship between nutrition and health and has considered steps towards improving the situation in the Union, particularly with respect to milk. As early as 1947, the Council pointed out that the Union's annual milk production of 300 million gallons is only about one-third of the amount required to provide the total population with moderately adequate supplies. In any programme for increasing the amount of milk available to children, UNICEF aid might be available in the form of equipment for milk processing or drying. Programmes of this nature have been assisted by UNICEF in many countries.

Attached is a brief outline of current UNICEF programmes in other parts of Africa.

12 October 1954

#### UNICEF PROGRAMMES IN AFRICA

	Total UNICEF aid to date \$		Total UNICEF aid to date \$
<i>Communicable disease control</i>			
BASUTOLAND: UNICEF to provide vaccines, equipment and transport for a campaign to combat diphtheria and whooping cough ....	23,000		
MAURITIUS: UNICEF has provided vaccine for immunization of children against whooping cough .....	12,100		
<i>Leprosy control</i>			
NIGERIA: UNICEF is providing diagnostic instruments and drugs in a campaign of diagnosis and treatment of leprosy which as a problem in Nigeria is one of the world's most serious .....	111,000		
<i>Long-range feeding</i>			
BELGIAN CONGO AND RUANDA URUNDI: UNICEF is providing powdered milk for the prevention and curative treatment of kwashiorkor in young children and pregnant and nursing women .....	260,800		
<i>Malaria control</i>			
FRENCH WEST AFRICA, CAMEROONS, TOGO-LAND: UNICEF is providing insecticides, sprayers and transport to aid in a large-scale effort to apply residual spraying of insecticides .....	1,240,600		
		KENYA: UNICEF is providing insecticides and transport for a three-year project of control by residual spraying of seasonal epidemic malaria in the Nandi District and adjoining areas .....	51,700
		KENYA, TANGANYIKA AND UGANDA: UNICEF is providing insecticides, transport and field equipment for a five-year pilot project ...	57,800
		LIBERIA: UNICEF is providing insecticides, sprayers, transport and laboratory equipment for a combined yaws/malaria control campaign .....	75,000
		NIGERIA: UNICEF is providing insecticides and transport in a residual spraying campaign protecting about 100,000 people ....	90,000
		SOUTHERN RHODESIA: UNICEF is providing vehicles to help the Government expand its malaria control programme .....	24,200
		<i>Milk conservation project and long-range feeding</i>	
		NIGERIA: UNICEF will equip a milk drying plant with capacity to produce 140 tons of dried milk annually, from which an estimated 7,000 to 10,000 children will benefit. UNICEF is also providing 400,000 pounds of dried milk powder to start milk distribution before the plant goes into operation	72,000
		<i>Maternal and child welfare</i>	
		GOLD COAST: UNICEF will provide equipment for 15 rural health centres, dried milk to be distributed through these centres, training equipment for midwifery and nurse training schools and midwifery kits for graduating trainees .....	28,600
		KENYA: UNICEF is providing equipment and transport for 20 new rural health centres; mobile equipment for health education and for training of personnel for the rural health service; and skim milk powder for the treatment of kwashiorkor through hospitals, health centres and dispensaries .....	74,500
		NIGERIA: UNICEF will provide 500 midwifery kits for midwives, health visitors and community nurses .....	6,600
		NORTHERN RHODESIA: UNICEF will equip 20 new maternal and child welfare centres and provide diet supplements for distribution through these centres. UNICEF will also provide bicycles and midwifery kits for domiciliary midwifery service and training equipment for schools to train nurses, midwives and hygiene assistants .....	39,500
		NYASALAND: UNICEF will provide equipment, drug and diet supplements, training supplies, midwifery kits, bicycles and other transport to help with the establishment of 16 new rural health units .....	62,500
		TANGANYIKA: UNICEF will provide equipment for maternal and child welfare centres, training schools, hospitals and rural health workers; also midwifery kits, transport and drug and diet supplements .....	58,300
		UGANDA: UNICEF is providing equipment for health education activities and for the training of auxiliary personnel for maternal and child welfare services .....	22,000
		<i>Syphilis control</i>	
		MOROCCO: UNICEF is providing penicillin, vehicles and laboratory supplies for that part of a campaign against syphilis which treats expectant mothers and children .....	121,500

Total UNICEF  
aid to date  
\$

*Trachoma control*

MOROCCO: UNICEF is providing vehicles, anti-biotic ointments, compound sulphanomides and insecticides and sprayers for a campaign of treatment against conjunctivitis and trachoma ..... 190,000

TUNISIA: UNICEF is providing transport, drugs, laboratory equipment for teaching and training, and propaganda and public health education materials in a mass campaign of case-finding and treatment of trachoma..... 119,800

*Yaws control*

BECHUANALAND: UNICEF is providing supplies and equipment for a three-year mass campaign against yaws ..... 43,900

LIBERIA: UNICEF is providing insecticides, sprayers, transport and laboratory equipment for a combined yaws/malaria control campaign ..... 75,000

NIGERIA: UNICEF is providing penicillin, transport and field equipment for a campaign of examination and treatment of yaws cases ..... 180,000

*Emergency aid*

TANGANYIKA: UNICEF has provided 1,200 tons of dried milk for emergency feeding of 100,000 children and mothers suffering from famine conditions in the Central Province ..... 120,000

Source: UNICEF Compendium 1954-1956.

**ANNEX V**

**Communication dated 15 December 1954 from the Reverend Michael Scott, General Theological Seminary, New York, to the Chairman of the Committee on South West Africa, enclosing an extract from a letter from Jariretundu Kozonguizi**

I am enclosing herewith a copy of an extract from a letter I have received from Mr. Kozonguizi dated 5 December 1954 in case your Committee should wish to consider this in conjunction with his petition and the comments made on this by the delegate of the South African Government in the Fourth Committee.

I am also enclosing for your information a copy of the Bantu Education Act and a circular from the Department of Native Affairs dealing with licences and leases for churches in Native areas.

(Signed) Michael SCOTT

*Enclosure to the above letter:*

The lengthy report of the Committee on South West Africa has convinced me that the delegations are earnestly trying to find a solution for this problem.

I have also discovered that the fault lies with South Africa. Its refusal to co-operate with other nations in this matter leads one to believe that the Afrikaner people have not reached a very high point in civilization and modern development. Their not recognizing the decision of the Court reveals to the world the narrow-mindedness of these people. They reason more in their pastoral capacity than their being a people living in an industrial age. It is surprising that they should only attach more importance to the fact that they are not legally obliged to place South West Africa under trusteeship, but they fail to realize the moral obligation. They maintain that since the demise of the League of Nations they are not responsible to any international body for their administration of the territory. A corollary to this is simply that they have no status in South West Africa. Why not then let us do with our country whatever we consider best in our interests? I don't want to pass judgment for I don't think there is any one on this globe who is morally qualified to pass any judgment upon another, but the attitude adopted by South Africa cannot be allowed to pass without comment.

Coming to the question of the rumour, I would like to put it frankly that anyone who is responsible for the spread of that rumour is very unfortunate that he should be living in the twentieth century with out-dated ideas and thinking capacities. I am not able to trace the century in which people had such low reasoning powers. My only comment on that is that God should forgive him for he knows not what he says.

To explain my progress at the University, there was and is nothing bad or poor in my progress which could have made me think that I was or am going to fail. I never failed once in my whole school career. I do know that the progress in the mid-year exams was the poorest I have put on the show, but I did pass. If it was at the end of the year I would have qualified to enter the second year. As for the recent exams of which the results are not yet known, I am aware of the fact that I can and may fail, but I am not likely to. And, if I happen to fail this time, I shall be very glad to stay at home, not essentially because I have failed, but because I know I won't be able to put up a better show. To qualify for the second year one needs only to pass first year courses, and if this time I can't get that then I am good for remaining at home.

It is alleged that I would have written the letter to the United Nations as an excuse for not returning to the University. That is very untrue. It is a known fact that if I fail in my exams the University may not allow me to return and everybody knows that—letter to the United Nations, or no letter to the United Nations. Even for that matter I don't think I am so low minded as to try and have an excuse such as that one for failing. Failing, in any case, does not mean that one is a fool or of a defective mind. It is part and parcel of college life and everyone should expect to fail. That does not mean I do expect or expected to fail. As I am now, I have only to say that I am not likely to fail.

I am not hurt because I know what these people are like, and it is not strange that a rumour like that should be spread. I am not hurt at all, and thank you very much for giving me the information.

Jariretundu KOZONGUIZI

## Petition and communications relating to the Rehoboth Community

(a) *Letter, undated, from Messrs. A. J. Beukes, P. Diegaard and A. van Wyk to the Chairman of the Ad Hoc Committee on South West Africa*

In brief our earnest appeal is as follows:

The Rehoboth Settlement was bought and further secured by the labour and sacrifices of our people. Since 1868, 1870-1874 we have the right to govern ourselves in accordance with our laws and customs, under the Constitution of the Rehoboth Settlement.

We demand that Proclamations 28 of 1923, 31 of 1924, 9 of 1928, 29 of 1929, 17 of 1932, 5 of 1935, 20 of 1935, 16 of 1938 and 22 of 1941 be declared null and void in the Settlement.

We want the right of self-government restored in accordance with our patriarchal Constitution of 1870-1874. When our forebears took over the Settlement from the late Swartbooi, the frontiers of the settlement were clearly defined and accepted as such by the original chiefs and the German Government.

During the 1914-1918 world war there was a dispute between the Rehobothians and the German Government, because the former had refused to fight against the Union of South Africa; they had refused on the grounds that their forebears had originated from the Union of South Africa. Moreover they had felt that their participation in this war would be a violation of their Treaty with the German Government that they would remain neutral in the event of any war or dispute between Europeans. The German Government threatened that if they refused, they would abrogate the treaty—as they did.

When General Botha visited Walvis Bay, the late Captain C. van Wyk and other prominent Rehobothians consulted with the Prime Minister there. He recognized the Constitution of 1870-1874, as well as the frontiers of the settlement. Our earnest wish is that the pledges made to the Rehobothians by now deceased statesmen, should be honoured. We request that the United Nations should, as the League of Nations had done, recognize us as an independent people with a right to self-government. As a people we had governed ourselves for fifty-four years; for the past nineteen years we have been administered under an experiment by the Government of the Union of South Africa.

We earnestly request that some future date we be given the opportunity to discuss with the United Nations the question of the status of our settlement. It is alleged that, on 5 April 1925, riots had taken place in the settlement. There were no riots at all. The trouble was entirely domestic in nature and arose because of differences among Rehobothians. The Government of the Union of South Africa immediately interfered in our internal affairs by sending aeroplanes and armed troops into the settlement. Shots were fired by the Union personnel. There was no retaliation by the Rehobothians who were not intent on trouble. Some of our people were arrested and fines ranging from £20 to £60 were imposed on them. Many of our people suffered severe losses of stock.

Subsequently the Government of the Union of South Africa appropriated thirty-three farms belonging to

the Settlement, to defray the expenses of having sent aeroplanes and armed forces to bring misery and ruin upon the Rehobothians. Your committee could consult *Hansard*, Vol. 8 of 1946, wherein it would be found that the blame attached to the Union of South Africa.

We, therefore, demand the return to us—the rightful owners—these thirty-three farms, hundreds of miles in extent, which had been wrongfully and unlawfully taken away from us by the Government of the Union of South Africa. In an article in a local magazine *Die Huisgenoot* of 23 October 1950, the European writer of the article asserts that the blame for the loss of our land attach to ourselves. But this assertion has no foundation of truth.

During the period of German rule a strip of land to the west of the present settlement was also taken from us by the then Government. We earnestly request that this land be restored to us as well. We attach letters for further information.

We trust and hope that the United Nations committee and the United Nations itself will not leave us, the Hereros, the Namas and the Damaras in the lurch. We appeal to the whole world for help in our struggle to safeguard our independence and our human rights.

Will it not be possible for the United Nations to send a committee of inquiry to learn the truth of South West Africa.

(Signed) A. J. BEUKES  
P. DIEGAARD  
A. VAN WYK

### Attachment to above letter:

#### RE PHILANDER AND TRIBE'S RIGHTS TO THE FARM "RIETFontein", GORDONIA

The history of this land, situated north of the Orange River, and its "ownership", is very briefly as follows:

1. Prior to 1860 it was no-mans land, undeveloped, and very sparsely occupied by nomads like the Masarwa Bushmen, virtually waterless, and teeming with game and vermin (lion country).

2. A large trek of Bastards moved up the Orange River about 1860 and then split into two sections, that is the people under the recognized Chief Dirk Philander—the former went in a north-westerly direction from Upington (then known as Veldshoendragers) to what is now Warmbad and Rehoboth in South West Africa, and the latter northwards from Upington to what is now known as Aroab-Rietfontein (old name "Nass"), Nosop, Molopo (Witdraai region) and Auob rivers. They actually after long and arduous campaigns against a warlike tribe called Afrikanders, tamed the country generally, opened waters, hunted game and vermin. Chief Philander and Tribe occupied the region, and claimed ownership and actual sovereignty. Rietfontein (Nass) was the central Reserve and headquarters of the Chief and Tribe. Its extent was computed to be 35,000 morgen; between 1880-1890 the Germans acquired what is now known as South West Africa and Surveyors Bosman and later Moorrees (afterwards Surveyor-General of B. Bechuanaland at Vryburg) fixed the boundary between German and the Philander country roughly as meridian 20 (longi-

tude) runs owing to the fear of the Bastards (Philanders Tribe) of the Germans. Chief Philander asked the Imperial British Government to take the Tribe and its land under protection—at first the Imperial Government declined to do this (see letter dated 28 March 1892 from Lord Knutsford to the Governor of the Cape) but later (about August 1891) the British Government agreed and the Philander country came under British protection. The 20 meridian actually cut Philander's country in two.

3. Between about 1870 and 1890 Chief Philander granted many farms to some of his own people, and sold to many Europeans under a recognized Deed of Grant (Title). These Grants were fully investigated and confirmed by the Moorrees (Commission of 1893)—at this time there is full proof that Chief Philander reserved Rietfontein area 35,000 morgen (comprising Vetrivier, Driaboom, Styerkolk, Schopkolk, Maarkolk, etc.) as his own for his Tribe's exclusive benefit. The Rhenish Missionary Society started its spiritual activities about 30 June 1885 and the Chief sold one of his farms "Gansvlei" to one Nel for £350.0.0, and used this money towards the building of the church and parsonage at Rietfontein. The Society was placed in control of the station and administered the Tribe's affairs, finances, etc., on the understanding that it would hold the offices in trust for the Tribe only for so long as the Society was operating as missionaries. Without the knowledge, consultation with, or consent of the Tribe, the Cape Government granted Title of Rietfontein (22,000 morgen) to the RMS (by Deed of Grant dated 30 May 1907) *Vide* 1893 Commission's Report. Schepolk was also transferred to the RM Society.

4. In 1944, also without the knowledge or consent of the Tribe, the RM Society sold "Rietfontein" to the Union Government, and took title, and the Union Government, in its efforts to uplift the people at and around "Rietfontein" has established and intends to expand a land settlement scheme for these people, who have all along, without any interruption, occupied "Rietfontein" and Schopkolk which they still look upon as their very own under their ancestral right. Ever since the outbreak of war in 1939 the RM Society has virtually ceased its missionary work, and the Tribe now claims that under the reservation made by the original Chief Philander, the farm Rietfontein and Schopkolk, adjoining (portion of old Reserve) was their property.

26 January 1952

To: the United Nations Commission,

We request the revert of our land to us.

Chief: W. PHILANDER

(b) *Cable, undated, received 22 November 1954, from the Rehoboth Community addressed to the United Nations*

Request impartial investigation Rehoboth South-west African Bastard Community ground problems as put forward to Administration in Windhoek. Please reply soonest.

REHOBOTH BASTARD COMMUNITY

(c) *Letter dated 27 November 1954 from Mr. Jacobus Beukes to the United Nations*

I have the honour to enclose the following copy for the United Nations. As mentioned in the contents, it

has been transmitted according to the proper procedure. We have few privileges in our land. We are trying by every means to establish contact with the United Nations so that we can submit our grievance and difficulty.

(Signed) Jacobus BEUKES

*Enclosure to the above letter:*

#### PETITION

To the *Kaptein* and Advisory Board (*Advis-Raadslede*),  
*Rehoboth*

I have the honour respectfully to request you to transmit the following to his Excellency the Administrator of South West Africa, Windhoek:

Your Excellency,

Allow me very respectfully, after serious reflection, to submit to you the following queries:

(a) According to the Treaty of Friendship, does the Rehoboth Community come under paragraph 22 of the said Treaty or does it constitute an integral part of the Union of South Africa?

(b) The Rehoboth Community is uncertain about its relationship to the two administrative bodies.

(c) The Rehoboth Community claims the rights which it acquired, the land having been purchased and taken over within the four boundary markers by Chief Abraham Swartbooi. Take into consideration also the fact that the land was not purchased legally. As was recognized at the time by Kaiser Wilhelm I in the Treaty of 1885, the rest of the land within the four boundary markers was never purchased, as Abraham Swartbooi claimed, although His Excellency Leuitwein did not shorten the lines satisfactorily. The *Kaptein* sent a letter of protest to His Majesty. The letter was rejected as is now stated in the report of Chief Justice de Villiers.

(d) The Rehoboth Community claims the rights deriving from the war of 1914, when it was compelled to join the side of the Allied Powers at heavy sacrifice, although it never received any compensation. Our rights within our own frontiers are consequently recognized as inviolate under the United Nations Charter.

(e) The Rehoboth Community, with its *Kaptein* and Advisory Board, is established by the Constitution of 1870-1872-1874, a fact recognized in the Treaty of 1885, notwithstanding the United Nations Charter. I humbly ask in what direction we are heading juridically so far as our legal status is concerned.

(f) It is our humble wish first to try gradually to increase our income by our own efforts, but not on a large scale at the beginning so that our country does not run into debt at a time when the community is developing. Our wish is to become firmly established as a nation in the future, but I do not mean that this should happen in violation of the United Nations Charter. We cannot yet accept assistance against a lien or mortgage, as we are too weak economically. Later, as we develop, assistance can be accepted on a sound basis provided there is no encroachment on our fundamental rights.

(g) This petition was transmitted according to the proper procedure to the United Nations, New York, USA, by three members of the Board and two burghers. Please give your support to an inquiry so that it is made clear to the Rehoboth Community that we are not going to continue to be punished in legal disputes. It is our wish and desire to live in mutual trust in the future under a democratic régime. In conclusion let me refer to two salient points in the same document arising from a difference of opinion. The serious effects of 1914 continued after the war. The disastrous effects of Proclamation 28 of 1923 and of Proclamation 31 of 1924 made themselves felt in 1925. We therefore require some explanation about the social status which the United Nations is going to give us under the Administration.

(Signed) Jacobs BEUKES



(d) *Draft resolution on the petition and communications relating to the Rehoboth Community, proposed by the Committee on South West Africa for adoption by the General Assembly*

*The General Assembly,*

*Having accepted the advisory opinion of the International Court of Justice on the question of South West Africa, including the opinion that petitions concerning the Territory of South West Africa are to be transmitted by the Government of the Union of South Africa "to the General Assembly of the United Nations, which is legally qualified to deal with them",*

*Having authorized the Committee on South West Africa, by resolution 749 A (VIII), to examine petitions in accordance with the Mandates procedure of the League of Nations,*

*Having received a report from the Committee on South West Africa dealing with a petition, undated, from Messrs. A. J. Beukes, P. Diegaard and A. van Wyk, members of the Rehoboth Community of South West Africa, and related communications from the Rehoboth Community, received on 22 November 1954, and from Mr. Jacobus Beukes, dated 27 November 1954,*

*Noting that the Government of Union of South Africa, by a letter dated 25 March 1954, has informed the Committee that it has "never recognized any obligation to submit . . . petitions to any international body since the demise of the League of Nations",*

*Noting that the petitioners request that their right of self-government under the Constitution of the Rehoboth Community of 1870-1874 be restored and seek an interpretation of the legal status of the Rehoboth Community; that Proclamations Nos. 28 of 1923, 31 of 1924, 9 of 1928, 29 of 1929, 17 of 1932, 5 of 1935, 20 of 1935, 16 of 1938 and 22 of 1941 issued by the Administrator of South West Africa and applied to the Rehoboth Community be declared null and void in that Community; and that the boundaries of the Rehoboth Community, as allegedly recognized by the German Government, be restored, and that certain lands allegedly alienated unlawfully from the Rehoboth Community be returned to that Community,*

#### A

*With respect to the status of the Rehoboth Community:*

*Noting that a Treaty of Protection and Friendship was concluded in 1885 between the German Government and the Rehoboth Community, as an agreement between two Governments, whereby the German Government agreed to assume the protection of the Rehoboth Community, while recognizing the rights and freedom which the Rehobothians had established for themselves,*

*Noting that the German Government abrogated this Treaty in 1915, when the Rehobothians refused to join German forces and to provide men to guard captured Union of South Africa prisoners during the First World War,*

*Noting that the Administrator of South West Africa as representing the Government of the Union of South Africa, and the Kapitein of the Raad of the Rehoboth Community for themselves and their lawful successors as representing the Rehoboth Community concluded an Agreement on 17 August 1923 "regulating the future administration by the Government of the Union*

*of South Africa in its capacity as Mandatory of the Territory situate within the district of Rehoboth occupied by the said Community known as the Gebiet"; that this Agreement was ratified and confirmed by Proclamation No. 28 of 1923 and came into force on 1 October 1923,*

*Noting further that this Agreement provides, inter alia, that:*

(a) Subject to the provisions of the Agreement, "the Administration concedes to the Rehoboth Community the right of self-government within the Gebiet according to the laws presently to be found in the Law Book of the Raad of the Rehoboth Community and such additions thereto or amendments thereof as may from time to time lawfully be enacted by the Raad of the Rehoboth Community", subject to the assent of the Administrator to any law passed by the Raad after 1 October 1923;

(b) "The Administrator shall after consultation with the Raad of the Rehoboth Community possess the power to legislate for the Gebiet and to extend thereto the operation of any law whether at present in force in the Territory of South West Africa or hereafter enacted, if he considers such legislation or extension to be expedient or desirable in the interests of either the Territory of South West Africa or the Gebiet",

*Noting that in 1924 political dissension within the Rehoboth Community gave rise to a situation which, in the view of the Administration, seriously endangered the maintenance of law, order and good government both within the Gebiet and in the Territory of South West Africa, and that as a consequence the Administrator issued Proclamation No. 31 of 1924, declaring that the Kapitein and Raad and all persons acting under their authority should cease to function within the Gebiet and vesting all their powers, functions and duties in the Magistrate of the Rehoboth District who was to exercise these powers, functions and duties "in accordance with the laws of the said Community at present in force within the Gebiet and in conformity with the provisions" of the Agreement of 17 August 1923,*

*Noting further that in the application of laws to the Gebiet subsequent to the issuance of Proclamation No. 31 of 1924, the Administrator in each instance cited the 1923 Agreement, and referred to his power thereunder to apply laws to the Gebiet after consultation with the Raad, to the transfer of the functions and powers of the Raad to the Magistrate and, consequently, to his consultation with the Magistrate with respect to the application of the law in question,*

1. *Decides to inform the petitioners that the Territory of South West Africa remains a Territory under the international Mandate assumed by the Union of South Africa on 17 December 1920, and that the provisions of the Mandate and of Article 22 of the Covenant of the League of Nations accordingly apply to the Rehoboth Community, which constitutes a part of the Mandated Territory;*

2. *Considers that, subject to the terms of the Mandate, the administration by the Union of South Africa of the territory known as the Rehoboth Gebiet continues to be regulated by the Agreement of 17 August 1923 concluded between the Administrator of the Mandated Territory as representing the Government of the Union of South Africa on the one part and the Kapitein and members of the Raad of the Rehoboth Community for*



themselves and their lawful successors as representing the Rehoboth Community on the other part;

3. *Considers* that the permanent transfer of the powers, functions and duties from representatives of the Rehoboth Community duly elected under the laws of that Community to an official appointed as magistrate of the District of Rehoboth would not be in accordance with the terms of the Agreement of 17 August 1923;

4. *Further considers* that consultation by the Administrator with the Magistrate of the Rehoboth District for the purpose of applying laws to the Rehoboth Gebiet subsequent to 1924 does not fulfil the condition of the agreement of 17 August 1923 for consultation with the Raad of the Rehoboth Community;

5. *Recommends therefore* that the Union of South Africa, as the Mandatory Power, take the necessary steps to correct this situation.

#### B

*With respect to the boundaries of the Rehoboth Gebiet:*

*Noting* that the boundaries of the Rehoboth Gebiet were defined in the schedule to the Agreement of 17 August 1923 and appear to have been accepted by the Kapitein and members of the Raad of the Rehoboth Community for themselves and their lawful successors as representing the Rehoboth Community,

*Is of the opinion* that any claims which the Rehoboth Community may have regarding the alleged boundaries of the Gebiet prior to the Agreement of 17 August 1923 appear to have been resolved by that Agreement.

#### C

*With respect to the claims of the Rehoboth Community to certain lands within the Gebiet:*

*Noting* that these claims have been investigated by successive commissions of enquiry, the first of which was appointed in 1922,

*Recommends* that the Government of the Union of South Africa, as the Mandatory Power, make every effort toward an early and equitable settlement of these claims.

(e) *Letter dated 13 June 1955 from the Chairman of the Committee on South West Africa to the Minister for External Affairs of the Union of South Africa*

Referring to the letter, dated 28 June 1954, addressed to you by the Secretary-General of the United Nations submitting a communication, undated, from Messrs. J. Beukes, P. Diegaard and A. van Wyk, and to my letter dated 10 September 1954 informing your Government of the decision of the Committee on South West Africa to accept this communication as a petition validly received, in conformity with rule XXVI (c) of its rules of procedure, and requesting your Government to transmit such observations and comments which in its opinion would assist the Committee in examining the petition, I have the honour to transmit herewith, in accordance with rule XXVI (d) of the rules of procedure of the Committee, a copy of the draft resolution adopted by the Committee on South West Africa at its 52nd meeting on 2 June 1955 concerning this petition. This draft resolution will be included in the Committee's report to the General Assembly.

A copy of each of the two related communications referred to in the draft resolution is also enclosed.

(Signed) Thanat KHOMAN

### ANNEX VII

#### Petition and related communications from Hosea Kutako, David Roos and Erastus Amgabeb

(a) *Letter dated 12 October 1954 from Hosea Kutako, David Roos and Erastus Amgabeb to the Secretary-General*

We read with interest the report of the Committee on South West Africa, and found it to be correct. We however wish to draw your attention to paragraph 138 which deals with health.

The health services in the Territory are very much neglected. In all the Native Reserves where the majority of the indigenous population lives there are no hospitals at all. The inhabitants of the Reserves have to travel long distances to the towns for medical treatment.

In urban areas in the so-called Native Locations, the lavatories and water taps are at the same place. Refuse flows from the lavatories and germs are blown into the taps. Such conditions we suspect result in the high death-rate and diseases in the Native Locations, especially in Windhoek, the capital town, and Swakopmund, the health resort, where conditions are very disgraceful.

In regard to paragraph 92 which deals with water supplies, we wish to mention that in urban areas in the Native Locations, about every one hundred and

twenty Non-Europeans draw water from one tap, while among the Europeans every house is provided with sufficient water taps. In the Native Reserves, dams and boreholes are very inadequate. The people find it difficult to get water both for stock and for domestic use.

In continuation of our letter of 2 September 1954,<sup>75</sup> we ask the United Nations not to postpone the question of South West Africa but to place the country under its control at the ninth session in accordance with the desires of the people of South West Africa. The Union of South Africa is not our representative at the United Nations; moreover she has proved beyond all doubt that she is unfit to rule anybody. The people of South West Africa need the assistance of the United Nations at once, but they feel very much hurt when the United Nations thinks the assistance is only subject to the approval of a Government that works against the interest of the indigenous people of South West Africa.

The report on the conditions in South West Africa which has sufficient proofs that the pledges undertaken

<sup>75</sup> See (b) (p. 46).

by the Union Government under the League of Nations have been violated and the repeated desires of the people of South West Africa to be under the guardianship of the United Nations are sufficient reasons to enable the United Nations to come to a final decision of placing the territory under its control.

We do not think it is in the interest of South West Africa to postpone this question year after year until the Union Government one day agrees with the United Nations, because the bad conditions under which we live deteriorate daily.

(Signed) Hosea KUTAKO  
(Herero tribe)

David Roos  
for David Wittbooi  
(Nama tribe)

Erastus AMGABEB  
(Bergdamara tribe)

(b) Letter dated 2 September 1954 from Hosea Kutako, David Roos and Erastus Amgabeb to the Secretary-General

On behalf of the Bergdamara, Nama and Herero tribes of South West Africa, in view of the fact that the Union Government have steadfastly refused to place South West Africa under the control of the United Nations, we ask the United Nations to take the question of South West Africa to the International Court of Justice for its compulsory jurisdiction.

As stated in our previous petitions to the United Nations, the African people of South West Africa are still not participating in the political development of the territory. The Government of the country is reserved for people of European descent. The entire indigenous population is living in a state of poverty as a result of the loss of their lands and low wages.

We are still living under the burden of passlaws and other discriminatory and oppressive laws. We are confident that racial discrimination and oppression in South Africa will not end until the country is placed under international control.

We should like to make it known that the Reverend Michael Scott is still our spokesman at the meetings of the United Nations and should be permitted to speak on our behalf.

(Signed) Hosea KUTAKO  
(Herero tribe)

David Roos  
for Chief David Wittbooi  
(Nama tribe)

Erastus AMGABEB  
(Bergdamara tribe)

(c) Letter dated 14 January 1955 from Hosea Kutako to the Secretary-General

I am hereby giving a brief report of the proceedings at a conference held by the Secretary for South West Africa in his capacity as Chief Native Commissioner with all the Chiefs of the Herero tribe, at Aminuis Native Reserve on 22 to 24 November 1954.

The Secretary for South West Africa, Mr. J. Naser, informed the Chiefs that as from 1 April 1955 the Natives of South West Africa would be placed under the Native Affairs Department of the Union of South

Africa. He further said that the placing of Native Affairs under the Union did not mean the incorporation of South West Africa into the Union of South Africa, but it was done only for the Administrative convenience.

In reply we told him that we do not want to be placed under the Union Government as we were still waiting for the outcome of our case at the United Nations. We further pointed out to him that the Union took over the Administration of South West Africa after World War I but as yet we have not developed in any sphere. We are still not participating in the politics of the country, neither are we educated. Moreover the revenue of the country is used only for the benefit of the European section of the community.

We asked him to tell the Administrator of South West Africa to write to Dr. Verwoerd, the Minister of Native Affairs in the Union of South Africa that we do not want to be administered by the Union of South Africa. We further asked him to allow Chief Hosea Kutako and two of his men together with a Government representative to proceed to the United Nations, to see the proceedings at the United Nations for themselves. In case the Administration is unable to allow this, invite the seven-nation committee on South West Africa to come to South West Africa where we would interview them in the presence of the Administrator of South West Africa.

His reply to this was that we may not proceed to the United Nations, as we have no Government of ourselves and the United Nations was only for the representatives of Governments. In regard to the revenue of the country, he said that if the revenue of the country was to be divided proportionally among the various races we (Hereros) would not be able to benefit from it as we were only a small tribe. He referred us to boreholes and primary schools established at the expenses of the Administration. (N.B. There are no high schools or university for the indigenous population. Even the primary schools the majority of whom goes as far as standard III are very inadequate. Many children are not attending school on account of the lack of schools.)

We felt that you should be informed about all these as the Union Government is always inclined to enact legislation without consulting the people concerned and merely tell them to conform to the legislation after having been passed. There is also something we should mention and is about our request for the Government to hold common meetings for all tribes rather than separating them each tribe confers separately with the Government as it does at present. This request was refused. As for the case being referred to the International Court of Justice we feel it is good to have a better decision reached rather than having an abrupt decision taken by the split body.

In conclusion on behalf of all my people I would like to express our hearty thanks for all what the United Nations has done for us and for their painstaking efforts to reach a favourable settlement in this matter in spite of stumbling obstacles in their way. We have full confidence in the United Nations and hope that a settlement will be reached in the near future.

We are ready at all times to give the United Nations the necessary assistance.

(Signed) Hosea KUTAKO  
(for the Herero tribe)

- (d) *Draft resolution on the petition and related communications from Hosea Kutako, David Roos and Erastus Amgabeb, proposed by the Committee on South West Africa for adoption by the General Assembly*

*The General Assembly,*

*Having accepted the advisory opinion of the International Court of Justice on the question of South West Africa, including the opinion that petitions concerning the Territory of South West Africa are to be transmitted by the Government of the Union of South Africa "to the General Assembly of the United Nations, which is legally qualified to deal with them",*

*Having authorized the Committee on South West Africa, by resolution 749 A (VIII), to examine petitions in accordance with the Mandates procedure of the League of Nations,*

*Having received a report from the Committee on South West Africa dealing with a petition, dated 2 September 1954, from Hosea Kutako, David Roos and Erastus Amgabeb, and a related petition, dated 14 January 1955, from Hosea Kutako,*

*Noting that the petitioners request that the United Nations submit the question of the status of South West Africa to the International Court of Justice for its compulsory jurisdiction,*

*Noting further that the petitioners raise questions relating to the participation of the African people of the Territory in the political development of the Territory, the application of pass laws and racially discriminatory laws, educational facilities, and the alleged refusal on the part of the Administration to permit common meetings for all tribes,*

*Decides to inform the petitioners that, according to the advisory opinion of 11 July 1950 of the International Court of Justice, (a) "South West Africa is a territory under the international Mandate assumed by the Union of South Africa on 17 December 1920", (b) "the Union of South Africa continues to have the international obligations stated in Article 22 of the*

*Covenant of the League of Nations and in the Mandate for South West Africa", and (c) "competence to determine and modify the international status of South West Africa rests with the Union of South Africa acting with the consent of the United Nations"; and that the General Assembly, by resolution 449 A (V) of 13 December 1950, accepted the advisory opinion of the International Court of Justice on the question of South West Africa;*

*Noting the observations of the Committee on South West Africa with respect to questions raised by the petitioners relating to conditions in the Territory of South West Africa,*

*Decides to transmit to the petitioners the report and observations of the second session of the Committee on South West Africa regarding conditions in the Territory of South West Africa.*

- (e) *Letter dated 13 June 1955 from the Chairman of the Committee on South West Africa to the Minister for External Affairs of the Union of South Africa*

Referring to the letter, dated 13 September 1954, addressed to you by the Secretary-General of the United Nations submitting a communication, dated 2 September 1954, from Messrs. Hosea Kutako, David Roos and Erastus Amgabeb, I have the honour to inform you that, at its 43rd meeting on 3 February 1955, the Committee on South West Africa decided to accept this communication as a validly received petition, in conformity with rule XXVI (c) of the Committee's rules of procedure and that, at its 52nd meeting on 2 June 1955, the Committee adopted a draft resolution concerning this petition. A copy of this draft resolution, which will be included in the Committee's report to the General Assembly, is transmitted herewith, in accordance with rule XXVI (d) of the rules of procedure of the Committee, together with a copy of the related communication referred to in that draft resolution.

(Signed) Thanat KHOMAN

## ANNEX VIII

### Petition and related communication from the Reverend T. H. Hamtumbangela

- (a) (i) *Letter dated 10 December 1954 from the Reverend Michael Scott, the General Theological Seminary, New York, to the Secretary of the Committee on South West Africa*

I should be grateful if you would convey to the Committee on South West Africa the enclosed copies of communications I have received from the Reverend Father F. R. Raynes, C.R., Superior of the Community of the Resurrection in England, enclosing a letter from the Reverend T. H. Hamtumbangela, an Anglican African Priest of the St. Mary's Mission, Ovamboland.

(Signed) Michael Scott

- (a) (ii) *Letter dated 5 October 1954 from the Reverend T. H. Hamtumbangela, St. Mary's*

*Mission, Ovamboland, South West Africa, to the Superior of the Community of the Resurrection, Mirfield, Yorks, England*

Will you kindly post the enclosed letter to the Revd. Michael Scott, United Nations, New York, USA, please?

By doing so you would be helping thousands of South West African Non-Europeans who are now in the hands of Dr. Malan as secret slaves of *apartheid*.

Kindly read the content of the enclosed letter if possible.

(Signed) T. H. HAMTUMBANGELA

P. S.—I am prepared to refund anything you spend for the letter to the United Nations.

- (a) (iii) *Letter dated 5 October 1954 from the Reverend T. H. Hamtumbangela, St. Mary's Mission, Ovamboland, South West Africa, to the Reverend Michael Scott*

I write on behalf of the Ovambos and Hereros to make an appeal to you during your presence at the United Nations, to come to our assistance in the very grave tyrannical, oppressive and cruel difficulties in which we find ourselves involved, as a result of the *apartheid* (or the Nationalist Party) of South Africa.

In 1945, our headmen were forced to sign documents as proofs that we wanted the Union Government. Those who voted against the Union Government were threatened with punishments and deportations.

We therefore appeal to the United Nations for help, in firm assurance that that help and support will not fail us now.

We desire earnestly *the Province of South West Africa placed under the trusteeship of the United Nations Organization.*

*And Canada to administer South West Africa for the United Nations.*

We are too sick-tired of the *apartheid* (the Nationalist Government) of South Africa.

At Namutoni from June to August 1954, returning Ovambo workers were robbed hundreds of clothes and pounds (£), e.g., suits, blankets, toilet soaps, and bottles of perfumes. The *apartheid* policemen confiscated the above mentioned Ovambo goods because such goods are to be bought by Europeans only. Every Ovambo who possessed a little bottle of perfumes was fined two (£2) or five (£5) pounds. Some were even imprisoned, and some blows were exchanged. The Nationalist policemen told the Ovambos not to buy things intended for a white man.

We shall be disappointed if the United Nations happens to disregard our appeal. But we are willing to be British subjects.

Trusting our application will meet with favourable consideration at the United Nations.

(Signed) T. H. HAMTUMBANGELA

- (b) *Letter dated 7 February 1955 from the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories to the Reverend T. H. Hamtumbangela*

Referring to your letter of 5 October 1954, addressed to the Reverend Michael Scott, which was transmitted by him to the Committee on South West Africa by letter dated 10 December 1954, I wish to inform you that the Committee, at its 43rd meeting on 3 February 1955, decided to regard your communication as a petition from a source within the Territory of South West Africa. The Committee therefore invited the Secretary-General of the United Nations to send to you a copy of rule XXVI of the provisional rules of procedure of the Committee. Accordingly a copy of this rule is appended herewith.

(Signed) Benjamin COHEN

- (c) *Letter dated 7 February 1955 from the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories to the Minister for External Affairs of the Union of South Africa*

At its 43rd meeting on 3 February 1955, the Committee on South West Africa invited the Secretary-

General of the United Nations to send to the Government of the Union of South Africa a copy of the petition of the Reverend T. H. Hamtumbangela and of the Secretary-General's letter to him. Accordingly, I have the honour to submit herewith a copy of the communication, dated 5 October 1954, from the Reverend T. H. Hamtumbangela addressed to the Reverend Michael Scott, which was transmitted by the latter to the Secretary of the United Nations Commission on South West Africa by letter dated 10 December 1954; also enclosed is a copy of my letter, dated 7 February 1955, to the Reverend T. H. Hamtumbangela.

(Signed) Benjamin COHEN

- (d) (i) *Letter dated 14 April 1955 from Miss Jane Sprouds, Assistant Secretary, the Africa Bureau, London, to the Secretary-General*

We have been asked to forward the enclosed correspondence from South West Africa to you for considerations at the United Nations. I should be grateful if you would put these letters into the hands of the United Nations Committee on South West Africa.

(Signed) Jane SPROUDS

- (d) (ii) *Letter dated 19 February 1955 from the Reverend T. H. Hamtumbangela, St. Mary's Mission, Ovamboland, South West Africa, to the Secretary-General*

I write on behalf of the Ovambos to make an appeal to the United Nations to come to our assistance in the very grave political difficulties of *apartheid* origin in which we find ourselves involved.

We, the Non-Europeans in Ovamboland, respectfully wish to lodge the strongest protest against the Union Government's scheme of intergrating the mandate of South West Africa as a fifth province of the Union of South Africa from 1 April 1955.

We should like to make it known that the proposed intergration of the South West Africa with the Union of South Africa is unwanted, and it will bring misery and suffering to many Non-European folk in South West Africa.

Conditions of life for the Non-European in South West Africa are a scandal. Therefore we do not want the Union Government of strange racial policy, which is racial discrimination, racial intolerance.

In our perplexity we look to the United Nations and want our territory's future to be given to the International Court of Justice to decide future.

The crisis of evil of *apartheid* is still going up in South West Africa. Ovambo workers returning to Ovamboland had their blankets, looking-glasses, shirts, men's suits, garments of various kinds, bottles of perfumes, toilet soaps, and many others, taken away from them by the policemen at Namutoni. The above mentioned articles were seized by the white policemen at Namutoni because only Europeans should buy such things.

In June 1954 to August 1954 many Ovambos were fined two pounds (£2) or even five pounds (£5) for buying an article which should be bought by a white man only. Ovambo workers were threatened and usually were told not to buy certain article reserved for a white man.

Therefore, Sir, we appeal to the United Nations in order that we may be freed from the Union Govern-

ment's rule at once. We deplore the United Nations to consider our petition favourably, in firm assurance that that help and support will not fail us now in our difficulties.

(Signed) T. H. HAMTUMBANGELA

P. S.—Let Canada administer South West Africa! We want the Dominion of Canada to do the work. Then the road will be open to us for the Western European civilization which every Non-European youth is raving for.

(d) (iii) *Letter dated 19 February 1955 from the Reverend T. H. Hamtumbangela, St. Mary's Mission, Ovamboland, South West Africa, to the Secretary-General*

I write again on behalf of the Ukuanyama tribe to make an appeal to the United Nations, to come to our assistance in the present serious tribal difficulties of serving two Governments, i.e. the Portuguese of Angola, and the Union Government in which we as a tribe find ourselves entangled.

Originally the Ovamboland consisted of nine tribes, viz.: Ondonga, Ukuambi, Ombarrantu, Ongadjela, Ukualuzi, Ukolongazi, Ombadja, Evale and Ukuanyama tribe.

Eventually, Mr. Galton, an explorer from Walvis Bay, entered Ovamboland from the south. His party went on, visiting one chief after another. Gradually, however, German missionaries arrived as far as Ukuanyama tribal area.

In 1908, Major Frank, a German officer, arrived in Ovamboland, he went on, visiting one chief after another. The Ovamboland tribal chiefs welcomed him and they urged him to form alliances with the German Government in South West Africa.

In 1908 Nande ja Hedimbi, who was the chief of the Ukuanyama tribal area, made alliance with the Germans. In that way all the nine Ovamboland tribal area became portions of German South West Africa then.

In 1914 the Portuguese forces crossed the boundary of Kunene River and invaded Ombadja, Evale and Ukuanyama tribe.

In 1914 the Union forces crossed the Orange River and in 1917 both the Union forces and the Portuguese Forces met in Ovamboland at Namakunde in Ukuanyama tribal area.

In 1926 Angola claimed part of Ovamboland. The new boundary was then made from Kunene to Okavango River. As a result of the new artificial boundary Ukuanyama is halved then.

The Kuanyama people on this side of the border line find it very difficult to visit relatives on the other side of the Ukuanyama area. The Portuguese officials behave themselves queerly against the Kuanyama visitors. We Kuanyama people are now living under the burden of passlaws and other oppressive and discriminatory laws in our mother country.

The present boundary from Kunene to Okavango river is destroying our tribal life, breaking up Kuanyama tribal relationship, bringing misery and suffering to many innocent Kuanyama folk, and damaging our tribal social peace.

Since 1933 many cattle from this side Ukuanyama once found on the other side of Ukuanyama were seized by the Portuguese policemen. Now there are five hundred head of cattle captured by the Portuguese policemen at Oshihedi (Che de). The cattle were captured

in February. The owners are living on this side of Ukuanyama.

Kuanyamas living on this side under the administration of South West Africa are now allowed to carry even bags of corn from Ukuanyama in Angola across the border by the Portuguese.

A son living on this side may not visit his mother or father in Ukuanyama Angola without a permit.

Portuguese officials demand customs from us. We can not serve two masters. Therefore we appeal to the United Nations to be free from serving two masters as far as the Ukuanyama tribal area is concerned. We want to suffer together and rejoice together as a tribe.

Therefore Sir, we want to draw the United Nations' attention to this evil boundary between South West Africa and Angola, which was made artificially in 1927 to 1928, and which cut our Ukuanyama tribe into two parts.

(Signed) T. H. HAMTUMBANGELA

(e) *Draft resolution on the petition and related communication from the Reverend T. H. Hamtumbangela proposed by the Committee on South West Africa for adoption by the General Assembly*

*The General Assembly,*

*Having accepted* the advisory opinion of the International Court of Justice on the question of South West Africa, including the opinion that petitions concerning the Territory of South West Africa are to be transmitted by the Government of the Union of South Africa "to the General Assembly of the United Nations, which is legally qualified to deal with them",

*Having authorized* the Committee on South West Africa, by resolution 749 A (VIII), to examine petitions in accordance with the Mandates procedure of the League of Nations,

*Having received* a report from the Committee on South West Africa dealing with a petition, dated 5 October 1954, and a related communication, dated 19 February 1955, from the Reverend T. H. Hamtumbangela,

*Noting* that the petitioner requests that the question of the future status of the Territory of South West Africa be submitted to the International Court of Justice for decision,

*Noting further* that the petitioner raises questions concerning the racially discriminatory measures applied against the Non-European population of the Territory,

*Decides* to inform the petitioner that, according to the advisory opinion of 11 July 1950 of the International Court of Justice, (a) "South West Africa is a territory under the international Mandate assumed by the Union of South Africa on 17 December 1920", (b) "the Union of South Africa continues to have the international obligations stated in Article 22 of the Covenant of the League of Nations and in the Mandate for South West Africa", and (c) "competence to determine and modify the international status of South West Africa rests with the Union of South Africa acting with the consent of the United Nations"; and that the General Assembly, by resolution 449 A (V) of 13 December 1950, accepted the advisory opinion of the International Court of Justice on the question of South West Africa;

*Noting* the observations of the Committee on South West Africa with respect to discriminatory measures

applied in the Territory against the Non-European population,

*Decides* to transmit to the petitioner the report and observations of the second session of the Committee on South West Africa regarding conditions in the Territory of South West Africa.

- (f) *Letter dated 13 June 1955 from the Chairman of the Committee on South West Africa to the Minister for External Affairs of the Union of South Africa*

Referring to the letter, dated 7 February 1955, addressed to you by the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories submitting a communication, dated 5 October

1954, from the Reverend T. H. Hamtumbangela, I have the honour to inform you that, at its 51st meeting on 1 June 1955, the Committee on South West Africa decided to accept this communication as a validly received petition, in conformity with rule XXVI (c) of the Committee's rules of procedure and that, at its 52nd meeting on 2 June 1955, the Committee adopted a draft resolution concerning this petition. A copy of this draft resolution, which will be included in the Committee's report to the General Assembly, is transmitted herewith, in accordance with rule XXVI (d) of the rules of procedure of the Committee, together with a copy of the related communication referred to in that draft resolution.

(Signed) Thanat KHOMAN