



Dual Distribution

Sixth session
Agenda item 38

QUESTION OF SOUTH WEST AFRICA

Report of the Fourth Committee

Rapporteur: Mr. Hermod LANNUNG (Denmark)

1. In accordance with General Assembly resolution 449 (V) of 13 December 1950, the question of South West Africa was included in the agenda of the sixth session by the General Assembly at its 341st meeting on 13 November 1951. At its 342nd meeting on the same date the General Assembly referred the question to the Fourth Committee.
2. During its 201st and 202nd meetings held on 14 and 15 November respectively, the Fourth Committee discussed a letter from the President of the General Assembly to the Chairman of the Committee (A/C.4/186) listing the items allocated to the Committee by the Assembly. Following a proposal by the representative of the Union of South Africa that the Committee should take up the question of South West Africa as the second item on its agenda, and following a statement by the Chairman that a request had been made, through the Reverend Michael Scott, for representatives of the Herero tribe of South West Africa to be given an opportunity to state their views before the Committee (A/C.4/187), Cuba introduced an amendment (A/C.4/L.134/Rev.1) to the oral proposal made by the Union of South Africa. This amendment was withdrawn in favour of an amendment (A/C.4/L.135) sponsored jointly by Cuba, Egypt, Guatemala, India, Indonesia, Iran, Liberia and the Philippines, proposing that the application for a hearing contained in document A/C.4/187 be considered as a previous question, to be taken up before item 1 of the agenda and that items 8 (Question of South West Africa) and 6 (Information from Non-Self-Governing Territories) on the provisional agenda of the Committee (A/C.4/186) be placed as items 2 and 3 respectively on the final agenda.

The representative of Pakistan proposed that the first paragraph of the joint amendment be modified to the effect that applications for hearings presented up to the present date, including that contained in document A/C.4/187, be considered as a previous question to be taken up before the first item on the agenda. This suggestion was accepted by the sponsors of the joint amendment.

3. At the 202nd meeting of the Committee on 15 November, the joint amendment, as modified, was put to the vote. The first paragraph reading:

"Resolves that the applications for hearings contained in document A/C.4/187 and any other documents be considered as a previous question, to be taken up before item 1 of the agenda",

was adopted by a roll call vote of 39 to 1, with 13 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Guatemala, Haiti, Honduras, India, Indonesia, Iran, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Union of South Africa.

Abstaining: Australia, Belgium, Canada, France, Greece, Israel, Netherlands, New Zealand, Norway, Peru, Poland, United Kingdom of Great Britain and Northern Ireland, United States of America.

The second paragraph reading:

"Decides that items 8 and 6 on the provisional agenda (A/C.4/186) be placed as items 2 and 3 respectively on the final agenda."

was adopted by 29 votes to 6, with 15 abstentions.

The amendment as a whole was adopted by 36 votes to 1, with 15 abstentions.

4. At its 203rd and 204th meetings on 16 November, the Committee discussed the question of requests for hearings from representatives of the population of South West Africa. A joint draft resolution (A/C.4/L.136) was submitted by Brazil, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Pakistan and the Philippines, proposing that the Committee should grant the requests of the petitioners from

South West Africa and expressing the wish that the Government of the Union of South Africa facilitate the prompt travel of the representatives from South West Africa to Paris for this purpose during the present session of the Assembly. Iraq submitted an amendment (A/C.4/L.137) to the joint draft resolution, adding the following paragraph:

"Expresses the hope that the French Government will facilitate the granting of the necessary visas to the above-mentioned representatives to enter France for the purpose of this resolution".

Following a statement by the representative of France that, in accordance with the agreement concluded between the United Nations and the French Government relating to the sixth session of the General Assembly, the French Government would make no difficulties about issuing the necessary visas to any person invited to participate in the work of the Assembly, the representative of Iraq withdrew the amendment.

5. At its 204th meeting the Committee adopted the joint draft resolution (A/C.4/L.136) by a roll-call vote of 37 to 7, with 7 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Lebanon, Liberia, Mexico, Nicaragua, Pakistan, Philippines, Poland, Saudi Arabia, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Belgium, France, Netherlands, New Zealand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Canada, China, Denmark, Israel, Norway, Peru, United States of America.

The resolution as adopted read as follows (A/C.4/190):

"The Fourth Committee

"Having before it the requests of Hosea Kutako, Nikanor Hoveka, Theophilus R.K. Katjiuongua and David Witbooi representing the Herero, Nama

/and Damara

and Damara tribes (A/C.4/187), for a hearing before the Fourth Committee in connexion with its consideration of the question of South West Africa,

"Decides to grant the request of these chiefs and headmen and/or other spokesmen designated by them to appear before the Committee when this item is taken up in order that the Committee may enjoy the fullest information on this question; and

"Expresses the wish that the Government of the Union of South Africa will facilitate the prompt travel of Hosea Kutako, Nikanor Hoveka, Theophilus R.K. Katjiuongua and David Witbooi, and/or such other spokesmen as may be designated by them from South West Africa to Paris for this purpose during the present session".

6. At its 219th meeting on 5 December 1951, the Committee discussed an exchange of letters between the President of the General Assembly and the Leader of the delegation of the Union of South Africa which had been transmitted to the Chairman of the Committee by the President and circulated to the Committee as document A/C.4/196. As stated in these letters, the delegation of the Union of South Africa withdrew from the meetings of the Fourth Committee, so that the Committee could not count upon the participation and collaboration of that delegation on this important matter. Many delegations considered that this attitude amounted to a regrettable refusal by the delegation of the Union of South Africa to cooperate in the work of the Fourth Committee. Some delegations expressed disapproval of the terms used in the letter addressed by the delegation of the Union of South Africa to the President of the General Assembly.

7. At the same meeting the representative of Lebanon proposed that the Fourth Committee hear the Reverend Michael Scott when the item of South West Africa is taken up by the Committee. The representative of Brazil introduced an amendment to this proposal by adding the words "pending the arrival in Paris of the spokesmen mentioned in the previous resolution of the Committee on the matter". The Committee adopted the proposal, as amended, by a roll-call vote of 41 to none, with 11 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran,

/Iraq,

Iraq, Lebanon, Liberia, Mexico, Nicaragua, Pakistan, Peru, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: None

Abstaining: Australia, Belgium, Canada, Denmark, France, Israel, Netherlands, New Zealand, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America.

8. At its 221st meeting on 7 December, the Committee considered the question of when to take up the item of South West Africa. The representative of Iraq proposed "that the Fourth Committee take up the question of South West Africa tomorrow (222nd meeting) and continue with it until it finishes all business and documentation on the table in connexion with it, but that the item should remain on the agenda to enable it to hear the chiefs if and when they arrive in Paris". The representative of Cuba suggested the addition of the words "and to deal, if necessary with any other matter relating to the question under discussion". This amendment was accepted by Iraq. The proposal, as amended, was adopted by 32 votes to 6, with 2 abstentions.

9. During its 222nd, 223rd and 224th meetings on 8, 10 and 11 December respectively the Committee considered the report of the Ad Hoc Committee on South West Africa (A/1901 and Adds. 1 to 3).

10. At its 222nd meeting, the Committee heard a statement by the Reverend Michael Scott. At the same meeting Cuba, Denmark, Ecuador, Egypt, Iraq, Philippines, Thailand and the United States of America introduced a joint draft resolution (A/C.4/L.156) recommending that the General Assembly (a) commend the Ad Hoc Committee on South West Africa for its earnest and constructive efforts to find a reasonable basis of agreement; (b) endorse, in principle, as a minimum, the proposal of the Ad Hoc Committee, appended in its report; (c) regret the fact that the Union of South Africa, in the course of the negotiations with the Ad Hoc Committee, while prepared to negotiate on the basis of certain articles of the Mandate, indicated its unwillingness to give adequate expression to its international obligations with respect to South West Africa, and in particular with regard to the supervisory responsibility of the United Nations toward this Territory; (d) declare that, since the Union Government cannot avoid its international obligations by unilateral

action, the United Nations cannot recognise as valid any measures taken unilaterally by the Union of South Africa which would modify the international status of the Territory of South West Africa; (e) appeal solemnly to the Government of the Union of South Africa to reconsider its position, and urge it to resume negotiations on the basis of the Ad Hoc Committee's proposal for the purpose of concluding an agreement providing for the full implementation of the advisory opinion of the International Court of Justice; (f) urge the Government of the Union of South Africa further to submit reports on the administration of the Territory of South West Africa and to transmit petitions from communities or sections of the population of the Territory to the United Nations; (g) reconstitute until the next regular session of the General Assembly an Ad Hoc Committee on South West Africa, consisting of the following members, and request it to continue to confer with the Union of South Africa concerning means of implementing the advisory opinion of the International Court of Justice; (h) authorise the Ad Hoc Committee on South West Africa, as an interim measure, and pending the completion of the negotiations with the Union of South Africa, and as far as possible in accordance with the procedure of the former Mandate System, to examine reports on the administration of the Territory of South West Africa as well as petitions and any other matters relating to the Territory that may be transmitted to the Secretary-General; and (i) request the Ad Hoc Committee to submit a report on its activities to the General Assembly at its next regular session.

11. At its 224th meeting on 11 December, the representative of the Dominican Republic proposed that the eleventh paragraph (last paragraph of the preamble) of the joint draft resolution (A/C.4/L.156) should be placed immediately after the third paragraph. He proposed the deletion of the thirteenth paragraph (second operative paragraph), by which the Assembly would endorse, in principle, as a minimum, the proposal of the Ad Hoc Committee. The sponsors of the joint draft resolution accepted these amendments.

12. At the same meeting, the Committee voted on the joint draft resolution.

13. A vote by roll-call was taken on the fifteenth paragraph, which was adopted by 45 votes to 2, with 5 abstentions. The voting was as follows:

/In favour :

In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, France, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Lebanon, Liberia, Mexico, Netherlands, Nicaragua, Norway, Pakistan, Panama, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Australia, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Belgium, Canada, Israel, New Zealand, Peru.

14. A vote by roll-call was taken on the retention of the words "on the basis of the Ad Hoc Committee's proposal" on the sixteenth paragraph. It was decided, by 19 votes to 12, with 21 abstentions, to delete these words. The voting was as follows:

In favour: Canada, Chile, Denmark, Ethiopia, Greece, India, Netherlands, Norway, Sweden, Thailand, United States of America, Uruguay.

Against: Afghanistan, Australia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Guatemala, Iran, Iraq, Lebanon, Mexico, Panama, Philippines, Poland, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Abstaining: Argentina, Belgium, Bolivia, China, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, France, Haiti, Indonesia, Israel, Liberia, New Zealand, Nicaragua, Pakistan, Peru, Saudi Arabia, United Kingdom of Great Britain and Northern Ireland, Venezuela.

15. The Committee decided to insert in the place of the deleted words "on the basis of the Ad Hoc Committee's proposal" the words "with the Ad Hoc Committee".

16. The representative of Poland requested that the sixteenth paragraph be voted on in parts. The first part of the paragraph, as amended, up to and including the words "International Court of Justice" was adopted by 42 votes to 5, with 6 abstentions.

17. The remainder of the paragraph was adopted by 48 votes to none, with 4 abstentions.

18. A vote by roll-call was taken on the sixteenth paragraph as a whole, as amended. It was adopted by 41 votes to 5, with 6 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, France, Greece, Haiti, India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Philippines, Saudi Arabia, Sweden, Syria, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen.

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

Abstaining: Australia, Belgium, Guatemala, Mexico, Peru, Yugoslavia.

19. A vote by roll-call was taken on the seventeenth paragraph, which was adopted by 41 votes to 5, with 6 abstentions. The voting was as follows:

In favour. Afghanistan, Argentina, Bolivia, Burma, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, France, Greece, Haiti, India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Philippines, Saudi Arabia, Sweden, Syria, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia.

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

Abstaining: Australia, Belgium, Brazil, Guatemala, Mexico, Peru.

20. A vote by roll-call was taken on the joint draft resolution as a whole (A/C.4/L.156), as amended. It was adopted by 39 votes to 5, with 8 abstentions. The voting was as follows:

/In favour:

- In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, France, Greece, Haiti, India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Netherlands, Nicaragua, Norway, Pakistan, Panama, Philippines, Saudi Arabia, Sweden, Syria, Thailand, United States of America, Uruguay, Venezuela, Yemen.
- Against: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.
- Abstaining: Australia, Belgium, Guatemala, Mexico, New Zealand, Peru, United Kingdom of Great Britain and Northern Ireland, Yugoslavia.

21. Concurrently with the above joint draft resolution (A/C.4/L.156) the Committee had considered a joint draft resolution (A/C.4/L.157) proposed by Cuba, Ecuador, Egypt, India and the Philippines by which the General Assembly would reassert its position, expressed in resolution 449 B(V) of 13 December 1950 that the normal way of modifying the international status of the Territory of South West Africa would be to place it under the International Trusteeship System by means of a Trusteeship Agreement in accordance with the provisions of Chapter XII of the Charter.

22. At its 224th meeting on 12 December, the Committee voted on this joint resolution (A/C.4/L.157).

23. At the request of the representative of Poland separate votes were taken on the three sub-paragraphs of the second paragraph of the preamble. This paragraph read as follows: "The General Assembly, having accepted the advisory opinion of 11 July 1950 of the International Court of Justice concerning South West Africa, which states, inter alia, that (a) the provisions of Chapter XII of the Charter are applicable to the Territory of South West Africa in the sense that they provide a means by which the Territory may be brought under the Trusteeship System; (b) the provisions of Chapter XII of the Charter do not impose on the Union of South Africa a legal obligation to place the Territory under the Trusteeship System; (c) the Union of South Africa acting alone has not the competence to modify the international status of the Territory of South West Africa, and that the competence to determine and modify the international status of the Territory rests with the Union of South Africa acting with the consent of the United Nations."

24. Sub-paragraph (a) of the second paragraph of the preamble was adopted by 44 votes to none, with 6 abstentions.

Sub-paragraph (b) was adopted by 24 votes to 10, with 14 abstentions.

Sub-paragraph (c) was adopted by 45 votes to none, with 4 abstentions.

25. The joint draft resolution as a whole (A/C.4/L.157) was adopted by 33 votes to none, with 17 abstentions.

26. At its 242nd meeting, the Committee decided to grant a request by the Reverend Michael Scott that he be allowed to make a statement on the question of the appearance before the Committee of the Chiefs and headmen representing the Herero, Nama and Berg Damara tribes.

27. At its 244th meeting the Committee, after having heard a statement by Reverend Michael Scott, expressed regret that it was not able to hear the Chiefs from South West Africa.

The representative of Iraq introduced a draft resolution (A/C.4/L.201) which was adopted by a roll-call vote of 40 to none, with 9 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Greece, Guatemala, Haiti, Indonesia, Iraq, Israel, Lebanon, Liberia, Mexico, Nicaragua, Pakistan, Peru, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: None

Abstaining: Australia, Belgium, Canada, Ethiopia, France, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America.

The resolution as adopted read as follows:

"The Fourth Committee

"Decides that the statement of the Reverend Michael Scott, who has merited from the Fourth Committee its admiration and gratitude, be sent to the Ad Hoc Committee on South West Africa for whatever use it may wish to make of it;

"Directs its Rapporteur to express in the report to the General Assembly the regrets of the Committee for not having been able to hear the Herero chiefs".

28. At the same meeting the Committee decided unanimously that the Ad Hoc Committee on South West Africa should be composed on Norway, Syria, Thailand, the United States of America and Uruguay.

29. At its 246th meeting the Committee decided to grant a request of the Reverend Michael Scott that he be allowed to make a further statement.

30. The Reverend Michael Scott was heard by the Committee at its 247th meeting.

31. At the same meeting the representative of Ecuador proposed that the Committee should, in accordance with rule 122 of the rules of procedure of the General Assembly, reconsider the resolution of the Committee appearing on page 10 of the draft report (A/C.4/L.202) (see paragraph 27). The Committee, by a roll-call vote of 41 to none, with 7 abstentions, adopted this proposal. The voting was as follows:

In favour: Argentina, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Mexico, Nicaragua, Norway, Pakistan, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia.

Against: None

Abstaining: Australia, Canada, France, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America.

32. The representative of Ecuador made the following oral amendments to the resolution referred to above:

(a) To modify the first paragraph so as to read: "Decides that the statements made at the 244th and 247th meetings of the Committee by the Reverend Michael Scott, who has merited from the Fourth Committee its admiration and gratitude, be sent to the Ad Hoc Committee on South-West Africa for whatever use it may wish to make of them";

(b) To insert in the second paragraph after the word "Herero" the words "Nama and Berg Damara".

33. At the same meeting, Ecuador introduced an additional amendment (A/C.4/212), to add to the resolution a third paragraph as referred to below.

34. At the 248th meeting the Committee voted on the resolution and the amendments thereto. The voting was as follows:

The amendment by Ecuador to add a third paragraph reading as follows:

/"Requests

Requests the Secretary-General to transmit to the Herero, Nama and Berg Damara tribes through their senior chiefs, or through the representatives of the latter, the official documentation of the Sixth session of the General Assembly of the United Nations concerning the question of South West Africa". was adopted by a roll-call vote of 34 to one, with 9 abstentions. The voting was as follows:

In favour: Argentina, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iraq, Liberia, Nicaragua, Pakistan, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Belgium

Abstaining: Australia, Canada, Denmark, France, Israel, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America.

Paragraphs 1 and 2, as amended, were adopted by 36 votes to 1, with 7 abstentions.

The resolution as a whole, as amended, was adopted by 34 votes to 1, with 9 abstentions.

The text of the resolution as adopted read as follows:

"The Fourth Committee

Decides that the statements made at the 244th and 247th meetings of the Committee by the Reverend Michael Scott, who has merited from the Fourth Committee its admiration and gratitude, be sent to the Ad Hoc Committee on South-West Africa for whatever use it may wish to make of them;

Directs its Rapporteur to express in the report to the General Assembly the regrets of the Committee for not having been able to hear the Herero, Nama and Berg Damara chiefs;

Requests the Secretary-General to transmit to the Herero, Nama and Berg Damara tribes through their senior chiefs, or through the representatives of the latter, the official documentation of the Sixth session of the General Assembly of the United Nations concerning the question of South West Africa".

35. The Fourth Committee therefore recommends to the General Assembly the

QUESTION OF SOUTH WEST AFRICA

A

The General Assembly,

Believing that an agreed solution of the question of South West Africa would not only bring greater peace and harmony to the Continent of Africa, but would contribute significantly to the relieving of tensions in wider areas of the world,

Considering that the acceptance of the advisory opinion of the International Court of Justice of 11 July 1950 is essential to the rule of law and reason in international affairs thus strengthening the cause of the United Nations,

Having by resolution 449 (V) of 13 December 1950 accepted the advisory opinion of the International Court of Justice with respect to South West Africa,

Recalling that the advisory opinion of the International Court of Justice with respect to the Territory of South West Africa sets forth, inter alia, that

(a) The Territory of 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, acting alone, has not the competence to modify the international status of the Territory of South West Africa, and that the competence to determine and modify the international status of the Territory rests with the Union of South Africa acting with the consent of the United Nations,

(c) 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 as well as the obligation to transmit petitions from the inhabitants of that Territory, the supervisory functions to be exercised by the United Nations, to which the annual reports and the petitions are to be submitted,

Having established a committee of five, consisting of the representatives of Denmark, Syria, Thailand, the United States of America and Uruguay, to confer with the Union of South Africa concerning the procedural measures necessary for implementing the advisory opinion of the International Court of Justice,

/Having

Having authorized this committee, as an interim measure, to examine the report on the administration of the Territory of South West Africa covering the period since the last report, as well as petitions and any other matters relating to the Territory that may be transmitted to the Secretary-General,

Having received the report of the Ad Hoc Committee on South West Africa (A/1901 and Adds. 1 to 3),

Noting that the Union of South Africa submitted to the Ad Hoc Committee on South West Africa a proposal which the Ad Hoc Committee found unacceptable because it did not allow for an adequate implementation of the advisory opinion of the International Court of Justice and because the proposal made no provision for the supervision of the administration of the Territory of South West Africa by the United Nations,

Noting that the Ad Hoc Committee submitted to the Union of South Africa a counter-proposal based on the existing Mandates Agreement and providing for a procedure for the supervision of the administration of the Territory of South West Africa by the United Nations as nearly as possible analogous to that which existed under the League of Nations and, to the extent practicable, involving international obligations no more extensive or onerous than those existing under the League of Nations,

Noting that the Government of the Union of South Africa, in reply to the Ad Hoc Committee's counter-proposal, had stated that it was willing to resume negotiations only on the basis of its own proposal, and had informed the Committee that the Union of South Africa was unable to accept the principle of submission of reports on the administration of the Territory,

Noting with concern that the Ad Hoc Committee was unable to comply with the resolution of the General Assembly authorizing it to examine the report on the administration of the Territory of South West Africa because no report was received, and that no petitions were transmitted by the Union of South Africa,

1. Commends the Ad Hoc Committee on South West Africa for its earnest and constructive efforts to find a reasonable basis of agreement;

2. Regrets the fact that, in the course of the negotiations with the Committee, the Union of South Africa, while prepared to negotiate on the basis of certain articles of the Mandate, indicated its unwillingness to give adequate expression to its international obligations with respect to South West Africa, and

in particular with regard to the supervisory responsibility of the United Nations toward this Territory;

3. Declares that, since the Government of the Union of South Africa cannot avoid its international obligations by unilateral action, the United Nations cannot recognize as valid any measures taken unilaterally by the Union of South Africa which would modify the international status of the Territory of South West Africa;

4. Appeals solemnly to the Government of the Union of South Africa to reconsider its position, and urges it to resume negotiations with the Ad Hoc Committee for the purpose of concluding an agreement providing for the full implementation of the advisory opinion of the International Court of Justice; and urges it further to submit reports on the administration of the Territory of South West Africa and to transmit to the United Nations petitions from communities or sections of the population of the Territory;

5. Reconstitutes until the next regular session of the General Assembly the Ad Hoc Committee on South West Africa, consisting of the following members, Norway, Syria, Thailand, the United States of America and Uruguay, and requests it to continue to confer with the Union of South Africa concerning means of implementing the advisory opinion of the International Court of Justice;

6. Authorizes the Ad Hoc Committee on South West Africa, as an interim measure, and pending the completion of the negotiations with the Union of South Africa, and as far as possible in accordance with the procedure of the former Mandates System, to examine reports on the administration of the Territory of South West African as well as petitions and any other matters relating to the Territory that may be transmitted to the Secretary-General;

7. Requests that Ad Hoc Committee to submit a report on its activities to the General Assembly at its next regular session.

B

The General Assembly,

Having by its resolution 449 B (V) of 13 December 1950 reiterated its resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947, 227 (III)

/of 26 November

of 26 November 1948 and 337 (IV) of 6 December 1949 to the effect that the Territory of South West Africa be placed under the International Trusteeship System,

Having accepted the advisory opinion of 11 July 1950 of the International Court of Justice concerning South West Africa, which states, inter alia, that:

- (a) The provisions of Chapter XIII of the Charter are applicable to the Territory of South West Africa in the sense that they provide a means by which the Territory may be brought under the Trusteeship System;
- (b) The provisions of Chapter XIII of the Charter do not impose on the Union of South Africa a legal obligation to place the Territory under the Trusteeship System;
- (c) The Union of South Africa, acting alone, has not the competence to modify the international status of the Territory of South West Africa, and that the competence to determine and modify the international status of the Territory rests with the Union of South Africa acting with the consent of the United Nations;

Reasserts its position, expressed in resolution 449 B (V) of 13 December 1950, that the normal way of modifying the international status of the Territory would be to place it under the International Trusteeship System by means of a Trusteeship Agreement in accordance with the provisions of Chapter XIII of the Charter.
