



Fourteenth session  
Agenda item 38

QUESTION OF SOUTH WEST AFRICA

Report of the Fourth Committee

Rapporteur: Mr. Eamonn L. KENNEDY (Ireland).

1. At its 803rd meeting, on 22 September 1959, the General Assembly allocated to the Fourth Committee the following item on its agenda:

"38. Question of South West Africa:

"(a) Report of the Good Offices Committee on South West Africa;<sup>1/</sup>

"(b) Report of the Committee on South West Africa;<sup>2/</sup>

"(c) Study of legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa in respect of the Territory of South West Africa;

"(d) Election of three members of the Committee on South West Africa."

2. Sub-item (d), to be considered at a later stage of the Committee's deliberations, will be dealt with in an addendum to the present report.

3. At its 884th and 894th meetings on 24 September and 5 October 1959, the Committee considered eleven requests for the granting of hearings to sixteen petitioners (A/C.4/410 and Add.1). It granted ten of the requests for hearings (A/C.4/410) by separate votes at its 884th meeting, as follows:

(a) Request from Chief Hosea Kutako for hearings for himself, the Reverend B.G. Karwaera, and Mr. John Muundjwa, by 54 votes to 2, with 11 abstentions.

<sup>1/</sup> A/4224.

<sup>2/</sup> Official Records of the General Assembly, Fourteenth Session, Supplement No. 12 (A/4191).

- (b) Request from Chief P. Kehavanyo, by 54 votes to 2, with 11 abstentions;
- (c) Request from the Reverend Markus Kooper for hearings for himself, Mr. Harry Bloch, and Chief Samuel Witbooi, by 59 votes to 2, with 11 abstentions;
- (d) Request from Mr. Toivo Ja-Toivo for hearings for himself and the Reverend Hamtumbangela, by 57 votes to 2, with 11 abstentions;
- (e) Request from Mr. Jariretundu Kozonguizi, by 56 votes to 2, with 10 abstentions;
- (f) Request from Mr. Mburumba Kerina, by 56 votes to 2, with 10 abstentions;
- (g) Request from the Reverend Michael Scott, by 57 votes to 1, with 12 abstentions;
- (h) Request from Mr. H.J. Beukes, by 57 votes to 2, with 10 abstentions;
- (i) Request from Mr. Allard K. Lowenstein, by 43 votes to 6, with 19 abstentions;
- (j) Request from Mr. Emory F. Bundy, by a roll-call vote of 43 to 5, with 23 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Argentina, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Colombia, Cuba, Czechoslovakia, Ecuador, Ethiopia, Federation of Malaya, Ghana, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Liberia, Libya, Mexico, Morocco, Pakistan, Panama, Philippines, Poland, Romania, Sudan, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: France, Italy, Portugal, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Austria, Belgium, Brazil, Canada, China, Costa Rica, Denmark, Finland, Greece, Ireland, Israel, Japan, Laos, Nepal, Netherlands, New Zealand, Norway, Peru, Spain, Sweden, Turkey, United States of America.

4. The eleventh request for a hearing (A/C.4/410/Add.1), from Mr. Sherman M. Bu was granted by the Committee at its 894th meeting, by a roll-call vote of 32 to 2 with 22 abstentions. The voting was as follows:

In favour: Argentina, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cuba, Czechoslovakia, Federation of Malaya, Ghana, Greece, Guinea, Haiti, Hungary, India, Indonesia, Iran, Iraq, Libya, Mexico, Morocco, Pakistan, Panama, Philippines, Poland, Romania, Saudi Arabia, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Austria, Belgium, Canada, Chile, China, Costa Rica, Denmark, Finland, France, Honduras, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Portugal, Spain, Sweden, Turkey, United States of America.

5. At the 900th meeting, on 8 October 1959, the Chairman and the Rapporteur of the Committee on South West Africa introduced the report of that Committee.

6. At the same meeting, a statement on the question of South West Africa was made by the representative of the Government of the Union of South Africa (A/C.4/421).

7. From the 904th to 913th meetings, from 12 to 16 October 1959, seven of the sixteen petitioners granted hearings appeared before the Committee:

Mr. Mburumba Kerina addressed the Committee at the 904th meeting,

Mr. Jariretundu Kozonguizi at the 904th to 906th meetings, Mr. H.J. Beukes and

Mr. Emory F. Bundy at the 906th meeting, and Mr. Sherman M. Bull,

Mr. Allard K. Lowenstein and the Reverend Michael Scott at the 907th meeting.

The petitioners answered questions put to them by members of the Committee from the 908th to 913th meetings. In connexion with the hearing of petitioners, the Committee had before it a statement made at its 884th meeting by the representative of the Union of South Africa (A/C.4/424), a letter dated 29 September 1959 from the Permanent Representative of the Union of South Africa to the United Nations addressed to the Secretary of the Fourth Committee (A/C.4/413), a letter dated 18 June 1959 from the Reverend William J. Devenney to the Chairman of the Committee on South West Africa (A/C.4/422), and statements made by Chief Hosea Kutako, Chief Samuel Witbooi, the Reverend Markus Kooper and other petitioners in

South West Africa (A/C.4/425), transcribed from a tape-recording made available to the Fourth Committee by petitioners appearing before the Committee.

8. At the 913th meeting, on the conclusion of the hearing of the petitioners, statements were made by the Chairman of the Committee on South West Africa, and by that Committee's Rapporteur (A/C.4/426) in reply to the above-mentioned statement made at the 900th meeting by the representative of the Union of South Africa (A/C.4/421).

9. The general debate on the item took place from the 914th to 924th meetings, from 19 to 26 October 1959, during the course of which representatives of the Union of South Africa made statements concerning conditions in South West Africa (A/C.4/427) and replied (A/C.4/428) to the statement made by the Rapporteur at the 912th meeting (A/C.4/426).

10. The general debate concluded with a statement by the representative of the Union of South Africa (A/C.4/429) outlining his Government's position to the effect that: (a) it intended again to participate in the discussions of the question of South West Africa at the fifteenth session of the General Assembly; (b) the Minister of External Affairs of the Union of South Africa intended to recommend to his Government that it make available to the United Nations the official publications and other official texts listed in his statement at the 900th meeting of the Committee (A/C.4/421); and (c) the Union Government was ready to enter into discussions with an appropriate United Nations ad hoc body which might be appointed after prior consultation with the Government. The representative of the Union of South Africa emphasized that his Government would find it possible to carry out these intentions only within the framework of co-operation and he hoped that further developments would not force it to reassess its attitude.

11. During the general debate, and subsequently at the 924th to 932nd meetings from 26 to 30 October 1959, the Committee considered draft resolutions relating to the following matters:

- A. Petitions and related communications concerning conditions in South West Africa;
- B. The Hoachanas Native Reserve;
- C. Withdrawal of a passport from Mr. Hans Johannes Beukes;
- D. Status of the Territory of South West Africa;
- E. Question of South West Africa;

F. Legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa in respect of the Territory of South West Africa; and

G. Report of the Good Offices Committee on South West Africa.

12. A detailed account of the Committee's consideration of these draft resolutions and of amendments thereto is given below in sections A to G.

A. PETITIONS AND RELATED COMMUNICATIONS CONCERNING  
CONDITIONS IN SOUTH WEST AFRICA

13. The Committee had before it a draft resolution proposed by the Committee on South West Africa (A/4191, annex II) concerning petitions and related communications examined by the latter Committee. By this draft resolution, the General Assembly, after noting that the relevant petitions and communications raised questions concerning various aspects of the administration and of conditions in the Territory upon which the Committee on South West Africa had presented a report, would decide to draw the attention of the petitioners to the report and observations of that Committee regarding conditions in the Territory and to the action taken by the General Assembly on that report.

14. The draft resolution was adopted by the Fourth Committee at the 924th meeting by 42 votes to 1, with 10 abstentions.

15. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution I.

B. THE HOACHANAS NATIVE RESERVE

16. A draft resolution concerning developments in this reserve, including in particular the forced removal of the Reverend Markus Kooper and his family from Hoachanas and the impending removal of other Rooinasie Nama inhabitants of the reserve, was proposed by the Committee on South West Africa (A/4191, annex III), which thereby recommended, inter alia, that the General Assembly: (1) urge the Union Government to desist from carrying out the removal of other residents of Hoachanas and to arrange for the return of the Reverend Markus Kooper and his family to that reserve; (2) request the Union Government to investigate the claims of the Rooinasie Namas to the original area of Hoachanas, and to take such further steps

as may be necessary, in consultation with the territorial Administration and the people concerned, to ensure the recognition and protection of the full rights of the people of Hoachanas and the promotion of their general welfare; and (3) request the Government to inform the United Nations on the measures taken to implement the resolution.

17. The draft resolution was adopted by the Fourth Committee at the 924th meeting by 46 votes to 1, with 12 abstentions.

18. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution II.

#### C. WITHDRAWAL OF A PASSPORT FROM MR. HANS JOHANNES BEUKES

19. The Committee on South West Africa proposed a draft resolution concerning the withdrawal by the Union Government of a passport granted to Mr. Beukes (A/4191, annex IV). By this draft resolution, the General Assembly, after noting, inter alia, that Mr. Hans Beukes had been granted a scholarship by the Norwegian National Union of Students (Norsk Studentsamband) to study for three years at the University of Oslo, would: (1) express the opinion that the withholding or withdrawal of a passport from a qualified South West African student for the purpose of studying abroad was not only a direct interference in the educational and general advancement of an individual but a hindrance to the educational development of the Territory; (2) consider the withdrawal by the Union Government of the passport granted to Mr. Hans Beukes to be an act of administration contrary to the Mandate for South West Africa; and (3) express the hope that the Government would reconsider its decision and that Mr. Hans Beukes would be able to take advantage of the scholarship offered him to study at the University of Oslo.

20. At the 922nd meeting, Guatemala submitted an amendment (A/C.4/L.594) proposing that the text of operative paragraph 3 of the draft resolution be altered to have the General Assembly express the hope that the Government would reconsider its decision "so that Mr. Hans Beukes may take advantage of the scholarship offered him to study at the University of Oslo in circumstances permitting him to maintain normal relations with his family and his country".

21. The draft resolution and the amendment were voted on at the 924th meeting as follows:

The Guatemalan amendment was adopted by 54 votes to 1, with 11 abstentions.

The preamble and operative paragraphs 1 and 2 were adopted by 54 votes to 1, with 12 abstentions.

The draft resolution as a whole, as amended, was adopted by 54 votes to 1, with 12 abstentions.

22. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution III.

#### D. STATUS OF THE TERRITORY OF SOUTH WEST AFRICA

23. At the 922nd meeting, Ghana, Liberia, Pakistan, Tunisia and Yugoslavia submitted a draft resolution (A/C.4/L.593), which the Philippines later joined in sponsoring (A/C.4/L.593/Add.1), proposing that the General Assembly: (1) reiterate its twelve previous resolutions to the effect that South West Africa be placed under the International Trusteeship System; and (2) assert that, in the present conditions of political and economic development of the Territory, the normal way of modifying its international status was to place it under the Trusteeship System by means of a trusteeship agreement in accordance with the provisions of Chapter XII of the Charter.

24. The draft resolution was adopted at the 926th meeting by 33 votes to 1, with 11 abstentions.

25. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution IV.

#### E. QUESTION OF SOUTH WEST AFRICA

26. At the 927th meeting, Afghanistan, Argentina, Burma, Ceylon, Ethiopia, the Federation of Malaya, India, Indonesia, Iraq, Ireland, Jordan, Lebanon, Libya, Morocco, Nepal, Pakistan, the Philippines, Saudi Arabia, the Sudan, the United Arab Republic, Yemen, and Yugoslavia submitted a draft resolution (A/C.4/L.595), later also jointly sponsored by Venezuela (A/C.4/L.595/Add.1), concerning the question of South West Africa. The twenty-three-Power draft resolution, containing eight preambular paragraphs, read in its operative part as follows:

"1. Notes the statement made by the representative of the Union of South Africa at the 924th meeting of the Fourth Committee expressing, inter alia, the Union's readiness to enter into discussions with the United Nations;

"2. Requests the Government of the Union of South Africa to enter into negotiations with the United Nations through the Committee on South West Africa,

which is authorized under its terms of reference to continue negotiations with the Union, or through any other committee which the General Assembly may appoint, with a view to placing the Mandated Territory under the International Trusteeship System;

"3. Further requests the Government of the Union of South Africa to formulate immediately for the consideration of the General Assembly proposals which will enable the Mandated Territory of South West Africa to be administered in accordance with the principles and purposes of the Mandate, the supervisory functions being exercised by the United Nations according to the terms and intent of the Charter;

"4. Approves the report of the Committee on South West Africa and commends it to the urgent attention of the Government of the Union of South Africa;

"5. Requests the Committee on South West Africa to submit to the General Assembly at its fifteenth session a report on its negotiations with the Union Government in addition to the annual report on conditions in the Territory of South West Africa."

27. At the 928th meeting, Denmark, Finland, and Sweden, submitted an alternative draft resolution (A/C.4/L.598), which, as later revised and also sponsored by Norway (A/C.4/L.598/Rev.1), read as follows:

"The General Assembly,

"Recalling its resolution 449 A (V) of 13 December 1950, by which the Assembly accepted the opinion of 11 July 1950 of the International Court of Justice to the effect that:

(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, the supervisory functions to be exercised by the United Nations,

(c) That the Union of South Africa acting alone has not the competence to modify the international status of the Territory of South West Africa,

"Having received from the Committee on South West Africa the sixth report submitted to it in accordance with its resolution 749 A (VIII) of 28 November 1953,



"Having heard the statements of the petitioners,

"1. Notes the statement made by the representative of the Union of South Africa at the 924th meeting of the Fourth Committee expressing, inter alia, the Union's readiness to enter into discussions with the United Nations;

"2. Invites the Government of the Union of South Africa to enter into negotiations with the United Nations through the Committee on South West Africa, which is authorized under its terms of reference to continue negotiations with the Union, or through any other committee which the General Assembly may appoint;

"3. Requests the Government of the Union of South Africa to formulate for the consideration of the fifteenth session of the General Assembly proposals to the effect that the Mandated Territory of South West Africa should be administered in accordance with the principles and purposes of the Mandate and the advisory opinion of the International Court of Justice of 11 July 1950;

"4. Approves the report of the Committee on South West Africa, and commends it to the attention of the Government of the Union of South Africa;

"5. Requests the Committee on South West Africa, or any other committee appointed by the General Assembly, to submit to the General Assembly at its fifteenth session a report on the negotiations with the Union Government."

28. At the 931st meeting, Denmark, Finland, Norway and Sweden withdrew their draft resolution (A/C.4/L.598/Rev.1) and submitted a number of amendments (A/C.4/L.599) to the twenty-three-Power draft resolution (A/C.4/L.595 and Add.1).

29. At the same meeting, the sponsors of the twenty-three-Power draft resolution accepted certain of these amendments, and accordingly orally revised their draft resolution as follows:

(a) In operative paragraph 2, the word "requests" was replaced by the word "invites";

(b) In operative paragraph 3, the words "immediately for the consideration of the General Assembly" were replaced by the words "for the consideration of the General Assembly at its fifteenth session"; and

(c) In operative paragraph 5, the words "or any other committee which may be appointed in pursuance of paragraph 2 of the present resolution" were inserted after the words "the Committee on South West Africa", and the words "its negotiations" were replaced by "the negotiations".

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30. The four Powers had also proposed the following additional amendments (A/C.4/L.599) to the twenty-three-Power draft resolution:

(a) To delete the words from "which further corroborate" to "the Committee on South West Africa" in the seventh preambular paragraph, which read: "Having also heard the statements of the petitioners which further corroborate the conclusions and opinions formed by the Committee on South West Africa concerning political, social, economic and educational conditions prevailing in the Territory";

(b) To divide the operative part of the draft resolution into two sections, operative paragraph 4 to become paragraph 1 of section A, and operative paragraphs 1, 2, 3 and 5 to become paragraphs 1, 2, 3 and 4 of section B;

(c) In operative paragraph 2, to replace the words from "with a view" to the end of the paragraph by the words "in order to continue to accord to the entire Mandated Territory of South West Africa an international status which would be in conformity with the principles and purposes of the United Nations"; and

(d) In operative paragraph 3, to replace the words from "the supervisory functions" to the end of the paragraph by the words "and the advisory opinion of the International Court of Justice of 11 July 1950".

31. At the 931st meeting, the representative of Mexico orally submitted two drafting amendments to the twenty-three-Power draft resolution: (a) to insert the words "inter alia" in the third preambular paragraph; and (b) to delete the word "further" at the beginning of operative paragraph 3.

32. At the 931st meeting, the Committee voted on the twenty-three-Power draft resolution (A/C.4/L.595 and Add.1), as orally revised by the sponsors' acceptance of certain of the four-Power amendments (A/C.4/599), and on the further amendments to that draft resolution, as follows:

The four-Power amendment to the seventh preambular paragraph was rejected by 48 votes to 22, with 1 abstention.

The four-Power amendment to divide the operative part of the draft resolution into two sections was rejected by 46 votes to 23, with 3 abstentions.

The four-Power amendment to operative paragraph 2 was rejected by 44 votes to 20, with 4 abstentions.

The four-Power amendment to operative paragraph 3 was rejected by 48 votes to 20, with 5 abstentions.

The first preambular paragraph of the twenty-three Power draft resolution was adopted by 57 votes to 1, with 13 abstentions.

The second preambular paragraph was adopted by 58 votes to 1, with 13 abstentions.

The Mexican oral amendment to insert the words "inter alia" in the third preambular paragraph was adopted without objection.

The third preambular paragraph, as thus amended, was adopted by 68 votes to 1, with 5 abstentions.

The words "with grave concern" in the fourth preambular paragraph were adopted on a roll-call vote of 52 to 8, with 13 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Argentina, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Colombia, Cuba, Czechoslovakia, Ecuador, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Guinea, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Japan, Jordan, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Saudi Arabia, Sudan, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Belgium, France, Italy, Portugal, Spain, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Austria, Brazil, Canada, Chile, China, Denmark, Dominican Republic, Finland, Netherlands, New Zealand, Norway, Sweden, Turkey.

The fourth preambular paragraph, as a whole, was adopted by 54 votes to 7, with 12 abstentions.

The fifth preambular paragraph was adopted by 64 votes to none, with 13 abstentions.

The sixth preambular paragraph was adopted by 56 votes to 1, with 13 abstentions.

The seventh preambular paragraph was adopted by 53 votes to 9, with 13 abstentions.

The eighth preambular paragraph was adopted by 40 votes to 1, with 13 abstentions.

Operative paragraph 1 was adopted unanimously.

The words "or through any other committee which the General Assembly may appoint" in operative paragraph 2 were adopted by 59 votes to 10, with 2 abstentions.

The words "with a view to placing the Mandated Territory under the International Trusteeship System" in operative paragraph 2 were adopted by 51 votes to 8, with 10 abstentions.

Operative paragraph 2 as a whole, as orally revised by the sponsors, was adopted by 56 votes to 4, with 11 abstentions.

The Mexican oral amendment to delete the word "further" at the beginning of operative paragraph 3 was adopted without objection.

Operative paragraph 3, as orally revised by the sponsors, and as thus amended, was adopted by 44 votes to 10, with 17 abstentions.

Operative paragraph 4 was adopted by 56 votes to 1, with 10 abstentions.

The words "or any other committee which may be appointed in pursuance of paragraph 2 of the present resolution" in operative paragraph 5, as orally revised by the sponsors, were adopted by 58 votes to 10, with 2 abstentions.

The first part of operative paragraph 5, as orally revised and amended, up to and including the words "with the Union Government" was adopted by 68 votes to none, with 4 abstentions.

Operative paragraph 5 as a whole, as orally revised, was adopted by 64 votes to none, with 8 abstentions.

The twenty-three Power draft resolution as a whole, as orally revised and amended, was adopted by a roll-call vote of 56 to 5, with 12 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Chile, China, Colombia, Cuba, Czechoslovakia, Ecuador, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Guinea, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Japan, Jordan, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Saudi Arabia, Sudan, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Yugoslavia.

Against: Belgium, France, Portugal, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Austria, Canada, Denmark, Dominican Republic, Finland, Italy, Netherlands, New Zealand, Norway, Spain, Sweden.

33. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution V.

F. LEGAL ACTION TO ENSURE THE FULFILMENT OF THE OBLIGATIONS  
ASSUMED BY THE UNION OF SOUTH AFRICA IN RESPECT OF THE  
TERRITORY OF SOUTH WEST AFRICA

34. At the 927th meeting, Ethiopia, Ghana, Guinea, Haiti, Liberia, Libya, Morocco, Pakistan, the Philippines, Saudi Arabia, the Sudan, Tunisia and the United Arab Republic submitted a draft resolution (A/C.4/L.596), later also sponsored by Jordan (A/C.4/L.596/Add.1), whereby the General Assembly would draw the attention of Member States to the conclusions of the special report of the Committee on South West Africa<sup>3/</sup> covering the legal action open to them to refer any dispute with the Union of South Africa concerning the interpretation or application of the Mandate for South West Africa to the International Court of Justice for adjudication in accordance with article 7 of the Mandate, read in conjunction with Article 37 of the Statute of the Court.

35. At the 931st meeting, Colombia and Iran submitted an amendment (A/C.4/L.600) to the fourteen-Power draft resolution which would replace the operative paragraph by the following text:

"1. Requests the Committee on South West Africa to study further the question of legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa in respect of the Territory of South West Africa, paying particular attention to the types and possibilities of action that may be taken by the United Nations as well as the nature and forms of any proceedings that may be instituted before the International Court of Justice;

"2. Decides to place the question of legal action concerning the Mandated Territory of South West Africa as a separate item on the provisional agenda of its fifteenth session."

36. At the 932nd meeting, the amendments submitted by Colombia and Iran (A/C.4/L.600) were withdrawn by the co-sponsors.

37. At the same meeting, the fourteen-Power draft resolution (A/C.4/596 and Add.1) was adopted by a roll-call vote of 52 to 4, with 7 abstentions. The voting was as follows:

3/ Official Records of the General Assembly, Twelfth Session, Supplement No. 12 A (A/3625). /...

In favour: Afghanistan, Albania, Austria, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Chile, Cuba, Czechoslovakia, Ethiopia, Federation of Malaya, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Japan, Jordan, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, Pakistan, Panama, Philippines, Poland, Romania, Saudi Arabia, Sudan, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Yugoslavia.

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

Abstaining: Argentina, Belgium, Brazil, Canada, China, Colombia, Denmark, Finland, France, Italy, Netherlands, New Zealand, Norway, Paraguay, Peru, Spain, Sweden.

38. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution VI.

#### G. REPORT OF THE GOOD OFFICES COMMITTEE ON SOUTH WEST AFRICA

39. At the 928th meeting, Argentina, Ireland, New Zealand and Norway submitted a draft resolution (A/C.4/L.597) whereby the General Assembly would take note of the report of the Good Offices Committee (A/4224) and express its appreciation to the members of that Committee for their efforts.

40. The draft resolution was adopted at the 932nd meeting by 59 votes to 7, with 1 abstention.

41. At the same meeting, the representatives of Albania, Bulgaria, the Byelorussia Soviet Socialist Republic, Czechoslovakia, Hungary, Poland, Romania, the Ukrainian Soviet Socialist Republic, and the Union of Soviet Socialist Republics stated that they had voted against the four-Power draft resolution.

42. The text of the draft resolution is set forth in paragraph 43 of the present report as draft resolution VII.

#### Recommendations of the Fourth Committee

43. The Fourth Committee therefore recommends to the General Assembly the adoption of the following draft resolutions:

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Draft resolution I

PETITIONS AND RELATED COMMUNICATIONS CONCERNING  
CONDITIONS IN SOUTH WEST AFRICA

The General Assembly,

Having accepted the advisory opinion of 11 July 1950 of the International Court of Justice on the question of South West Africa,<sup>4/</sup>

Having authorized the Committee on South West Africa, by its resolution 749 A (VIII) of 28 November 1953, to examine petitions in accordance with the Mandates procedure of the League of Nations,

Having received a report from the Committee dealing with petitions and related communications from Chief Samuel Witbooi, Chief Hosea Kutako, the Reverend Michael Scott, Mr. Jariretundu Kozonguizi, the Reverend Markus Kooper, Mr. J. Dausab and others in the Hoachanas Native Reserve, Chief P. Keharanyo, Mr. Jacobus Beukes, Messrs. J.G.A. Diergaardt, J.H. Mall, P. Diergaardt and others in the Rehoboth Community, Messrs. Toivo Ja-Toivo and F. Isaacs, Mr. Neville Rubin, and Mr. Hans Beukes,

Noting that these petitions and related communications raise questions concerning various aspects of the administration of the Territory of South West Africa and of conditions in the Territory upon which the Committee has presented a report,

Decides to draw the attention of the petitioners to the report and observations of the Committee on South West Africa regarding conditions in the Territory, submitted to the General Assembly at its fourteenth session, and to the action taken by the Assembly on this report.

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<sup>4/</sup> International Status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.

Draft resolution II

THE HOACHANAS NATIVE RESERVE

The General Assembly,

Having authorized the Committee on South West Africa, by its resolution 749 A (VIII) of 28 November 1953, to examine petitions as far as possible in accordance with the Mandates procedure of the League of Nations,

Having received the report from the Committee dealing, inter alia, with its examination of petitions concerning developments in the Hoachanas "Native" Reserve,

Considering that the original inhabitants of the Territory have an inherent right to continued and unmolested residence on their own land,

Noting that inhabitants of the Hoachanas "Native" Reserve, survivors of the Red Nation, or Rooinasie Namas, have an inherent right of ownership and possession of their ancestral land at Hoachanas, where they claim an area of 50,000 hectares as recognized by agreement with the German Government, and that former Governor Theodor Leutwein, recording the history of his governorship of German South-West Africa from 1894 to 1905, stated: "The next reserve was in Hoachanas, headquarters of the Red Nation. There, in 1902, a total of 50,000 hectares was declared the inalienable property of the tribe",<sup>5/</sup>

Noting further that the Government of the Union of South Africa reported to the League of Nations in 1923 that it had confirmed the rights of "Natives" on land occupied by them under treaties or agreements with the former German administration,

Noting that the residents of the Hoachanas "Native" Reserve were ordered by the Government of the Union of South Africa to vacate Hoachanas by 31 December 1956, that the majority refused to leave their traditional land and to move, as directed by the Government, to land found by a government commission to be inferior to that of Hoachanas, and that the Administrator of South West Africa consequently obtained a court order in July 1958 for the eviction of one of the Nama residents, the Reverend Markus Kooper, Minister of the African Methodist Episcopal Church,

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5/ Elf Jahre Gouverneur in Deutsch - Suedwestafrika (Berlin, 1907), p. 272.



Recalling that the Committee on South West Africa, in its report to the General Assembly at the thirteenth session, urged the Union of South Africa to take all steps necessary to ensure that the people of Hoachanas retained their traditional homeland and to investigate their claim to surrounding land,

Recalling further that the General Assembly, by resolution 1245 (XIII) of 30 October 1958, approved the report of the Committee on South West Africa and thereby endorsed the Committee's decision regarding Hoachanas,

Noting with concern that the Government of the Union of South Africa disregarded this decision, and caused the Reverend Markus Kooper and his family to be forcibly removed from Hoachanas on 29 January 1959 to a site approximately 150 miles away, thereby depriving his congregation of their minister, that several residents of the reserve were allegedly injured during the removal, and that the other inhabitants of the reserve were informed by Government officials of their impending removal by force,

Considering with regret that it is the policy of the Mandatory Power to remove the "Native" inhabitants from their lands which they have held as their own in order to make room for "European" settlers, in violation of fundamental human rights and the sacred trust assumed by the Union Government over the Mandated Territory,

Considering the removal of the inhabitants of Hoachanas for a purpose not in conformity with the Mandate or the Charter of the United Nations to be contrary to the obligation undertaken by the Mandatory Power to promote to the utmost the material and moral well-being and the social progress of the "Native" inhabitants of the Territory,

1. Urges the Government of the Union of South Africa to desist from carrying out the removal of other residents of Hoachanas and to arrange for the return of the Reverend Markus Kooper and his family to that reserve;

2. Requests it to investigate the claims of the Rooinasie Namas to the original area of Hoachanas, of which only 14,254 hectares are now occupied by them, and to take such further steps as may be necessary, in consultation with the territorial Administration and the people concerned, to ensure the recognition and protection of the full rights of the people of Hoachanas and the promotion of their general welfare;

3. Requests the Government of the Union of South Africa to inform the United Nations on the measures taken to implement the present solution.

Draft resolution III

WITHDRAWAL OF A PASSPORT FROM MR. HANS JOHANNES BEUKES

The General Assembly,

Having accepted the advisory opinion of 11 July 1950 of the International Court of Justice on the question of South West Africa,<sup>6/</sup>

Having authorized the Committee on South West Africa, by resolution 749 A (VIII) of 28 November 1953, 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 petitions from Mr. Hans Beukes, a South West African student, and from Mr. Neville Rubin, President of the National Union of South African Students,

Noting that Mr. Beukes had been granted a scholarship by the Norwegian National Union of Students (Norsk Studentsamband) to study for three years at the University of Oslo,

Noting further that Mr. Beukes, a second-year student at the University of Cape Town, had been selected for the scholarship by a committee consisting of the Head of the Department of History, a Professor of Roman Law at that University, and the President of the National Union of South African Students,

Considering that the Government of the Union of South Africa granted Mr. Beukes a passport on 15 June 1959 to enable him to proceed to Norway, and withdrew that passport on 24 June, when Mr. Beukes arrived at the port of embarkation, subjecting Mr. Beukes to a search of his person, luggage and personal correspondence,

Noting the protests made by the South African Press, students of the University of Cape Town, and the Teachers' Educational and Professional Association in the Union of South Africa, as well as other representatives of the public in the Union of South Africa, against the action taken by the Union Government,

Taking into account that there are no facilities for university education in South West Africa and that non-European students from the Territory find it increasingly difficult to obtain adequate university education in the Union of South Africa,

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6/ International Status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.

1. Is of the opinion that the withholding or withdrawal of a passport from a qualified South West African student for the purpose of studying abroad is not only a direct interference in the educational and general advancement of an individual but a hindrance to the educational development of the Territory of South West Africa which was entrusted under the Covenant of the League of Nations to the administration of the Union of South Africa;

2. Considers the withdrawal by the Union of South Africa of the passport granted to Mr. Hans Beukes to be an act of administration contrary to the Mandate for South West Africa;

3. Expresses the hope that the Government of the Union of South Africa will reconsider its decision so that Mr. Hans Beukes may take advantage of the scholarship offered him to study at the University of Oslo in circumstances permitting him to maintain normal relations with his family and his country.

Draft resolution IV

STATUS OF THE TERRITORY OF SOUTH WEST AFRICA

The General Assembly,

Having recommended, by its resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947, 227 (III) of 26 November 1948, 337 (IV) of 6 December 1949, 449 B (V) of 13 December 1950, 570 B (VI) of 19 January 1952, 749 B (VIII) of 28 November 1953, 852 (IX) of 23 November 1954, 940 (X) of 3 December 1955, 1055 (XI) of 26 February 1957, 1141 (XII) of 25 October 1957 and 1246 (XIII) of 30 October 1958, that the Mandated Territory of South West Africa be placed under the International Trusteeship System, and having repeatedly invited the Government of the Union of South Africa to propose, for the consideration of the General Assembly, a trusteeship agreement for South West Africa,

Having accepted, by its resolution 449 A (V) of 13 December 1950, the advisory opinion of 11 July 1950 of the International Court of Justice on the question of South West Africa,<sup>7/</sup>

Considering that, in accordance with Chapter XII of the Charter of the United Nations, all Mandated Territories which have not achieved independence have been brought under the International Trusteeship System, with the sole exception of the Territory of South West Africa,

1. Reiterates its resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947, 227 (III) of 26 November 1948, 337 (IV) of 6 December 1949, 449 B (V) of 13 December 1950, 570 B (VI) of 19 January 1952, 749 B (VIII) of 28 November 1953, 852 (IX) of 23 November 1954, 940 (X) of 3 December 1955, 1055 (XI) of 26 February 1957, 1141 (XII) of 25 October 1957 and 1246 (XIII) of 30 October 1958, to the effect that the Territory of South West Africa be placed under the International Trusteeship System;

2. Asserts that, in the present conditions of political and economic development of South West Africa, the normal way of modifying the international status of the Territory is 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 of the United Nations.

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<sup>7/</sup> Ibid.

Draft resolution V

QUESTION OF SOUTH WEST AFRICA

The General Assembly,

Recalling its previous resolutions in which the Assembly recommended that the Mandated Territory of South West Africa be placed under the International Trusteeship System, and repeatedly invited the Government of the Union of South Africa to propose, for the consideration of the General Assembly, a trusteeship agreement for South West Africa,

Considering that, in accordance with Chapter XII of the Charter of the United Nations, all Mandated Territories, with the sole exception of South West Africa, have been placed under the International Trusteeship System,

Recalling further its resolution 449 A (V) of 13 December 1950, by which the Assembly accepted the opinion of 11 July 1950 of the International Court of Justice<sup>8/</sup> to the effect, inter alia, that:

(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, the supervisory functions to be exercised by the United Nations;

(c) That the Union of South Africa acting alone has not the competence to modify the international status of the Territory of South West Africa,

Noting with grave concern that the administration of the Territory, in recent years, has been conducted increasingly in a manner contrary to the Mandate, the Charter of the United Nations, the Universal Declaration of Human Rights, the advisory opinions of the International Court of Justice, and the resolutions of the General Assembly,

Having received from the Committee on South West Africa the sixth report<sup>9/</sup> submitted in accordance with General Assembly resolution 749 A (VIII) of 28 November 1953,

<sup>8/</sup> Ibid.

<sup>9/</sup> Official Records of the General Assembly, Fourteenth Session, Supplement No. 12 (A/4191).

Noting further the conclusion of the Committee on South West Africa that it is essential to the welfare and security of the peoples of South West Africa that the administration of the Territory be altered without undue delay,

Having also heard the statements of petitioners which further corroborate the conclusions and opinions formed by the Committee on South West Africa concerning political, social, economic and educational conditions prevailing in the Territory,

Considering further that while the former Mandated Territories placed under the trusteeship of the United Nations have rapidly progressed towards independence, the conditions in the Territory of South West Africa present a totally different picture,

1. Notes the statement made by the representative of the Union of South Africa at the 924th meeting of the Fourth Committee expressing, inter alia, the Union's readiness to enter into discussions with the United Nations;
2. Invites the Government of the Union of South Africa to enter into negotiations with the United Nations through the Committee on South West Africa, which is authorized under its terms of reference to continue negotiations with the Union, or through any other committee which the General Assembly may appoint, with a view to placing the Mandated Territory under the International Trusteeship System;
3. Requests the Government of the Union of South Africa to formulate for the consideration of the General Assembly at its fifteenth session proposals which will enable the Mandated Territory of South West Africa to be administered in accordance with the principles and purposes of the Mandate, the supervisory functions being exercised by the United Nations according to the terms and intent of the Charter;
4. Approves the report of the Committee on South West Africa and commends it to the urgent attention of the Government of the Union of South Africa;
5. Requests the Committee on South West Africa, or any other committee which may be appointed in pursuance of paragraph 2 of the present resolution, to submit to the General Assembly at its fifteenth session a report on the negotiations with the Union Government in addition to the annual report on conditions in the Territory of South West Africa.

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Draft resolution VI

LEGAL ACTION TO ENSURE THE FULFILMENT OF THE OBLIGATIONS  
ASSUMED BY THE UNION OF SOUTH AFRICA IN RESPECT OF THE  
TERRITORY OF SOUTH WEST AFRICA

The General Assembly,

Recalling the advisory opinion of the International Court of Justice of 11 July 1950 concerning the international status of South West Africa,<sup>10/</sup>

Recalling that by its resolution 449 A (V) of 13 December 1950, it accepted the advisory opinion of the International Court of Justice,

Recalling further that by its resolution 1142 (XII) of 25 October 1957 it commended the special report of the Committee on South West Africa on legal action which might be taken for that purpose, and in particular drew the attention of Member States to the legal action provided for in article 7 of the Mandate read with Article 37 of the Statute of the International Court of Justice,

Draws the attention of Member States to the conclusions of the special report of the Committee on South West Africa<sup>11/</sup> covering the legal action open to Member States to refer any dispute with the Union of South Africa concerning the interpretation or application of the Mandate for South West Africa to the International Court of Justice for adjudication in accordance with article 7 of the Mandate read in conjunction with Article 37 of the Statute of the International Court of Justice.

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10/ International Status of South-West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128.

11/ Official Records of the General Assembly, Twelfth Session, Supplement No. 12 A (A/3625).

Draft resolution VII

REPORT OF THE GOOD OFFICES COMMITTEE ON SOUTH WEST AFRICA

The General Assembly,

Having considered the report of the Good Offices Committee on South West Africa, <sup>12/</sup> prepared in accordance with General Assembly resolution 1243 (XIII) of 30 October 1958,

1. Takes note of the report of the Good Offices Committee on South West Africa;
2. Expresses its appreciation to the members of the Committee for their efforts.

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12/ A/4224.