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QUESTION OF SOUTH WEST AFRICA

Report of the Fourth Committee (part I)

Rapporteur: Mrs. Britz SKOTTISBERG-AHMAN (Sweden)

1. At its 682nd meeting held on 20 September 1957, the General Assembly allocated to the Fourth Committee the following item on its agenda:

"38. Question of South West Africa:

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

"(b) Study of legal action to ensure the fulfilment of the obligations assumed by the Mandatory Power under the Mandate for South West Africa: special report of the Committee on South West Africa<sup>2/</sup>;

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

2. The Committee considered concurrently parts (a) and (b) of the item from its 652nd to 669th meetings held between 25 September and 11 October 1957. Part (c) of the item, to be considered at a later stage, will be dealt with in an addendum to the present report.

3. The Committee had before it requests for hearings concerning South West Africa submitted by Mr. Mourumba Kerina Getzen and the Reverend Michael Scott (A/C.4/353). At its 651st meeting held on 24 September, it granted the request of Mr. Getzen by 49 votes to 4, with 14 abstentions, and the request of the Reverend Michael Scott by 50 votes to 4, with 15 abstentions.

1/ Official Records of the General Assembly, Twelfth Session, Supplement No. 12 (A/3626).

2/ Ibid., Supplement No. 12 A (A/3625).

4. At the 652nd meeting held on 25 September, the Chairman and the Rapporteur of the Committee on South West Africa made statements introducing the report and special report of that Committee.
5. At the 653rd meeting held on 26 September, the Fourth Committee heard statements by Mr. Getzen and the Reverend Michael Scott, who, at that meeting and at the 654th and 655th meetings held on 26 and 27 September, also answered questions put to them by members of the Committee.
6. At the 653rd meeting, on the proposal of the representative of Mexico, the Committee decided, without objection, that two other petitioners, Mr. Wilhelm Heyn and Dr. Joachim Seegert, who, in a petition dated 3 January 1957<sup>3/</sup>, had indicated that they were prepared to prove statements made in their petition "either here in South West Africa or in New York before a United Nations commission of inquiry or a meeting of the General Assembly", should be asked whether they wished to be heard by the Committee and be informed that the Committee had expressed its willingness to grant them a hearing. The Secretariat was accordingly instructed to communicate with the petitioners. No reply had been received from the petitioners at the time of adoption of the present report.
7. The Committee also decided, without objection, at the 654th meeting, on the proposal of the representative of India, that the Secretariat should send a similar communication to Mr. Jariretundu Kozonguizi, whose request for a hearing had been orally transmitted to the Committee by the Reverend Michael Scott in the course of his statement. At the time of adoption of the present report, Mr. Kozonguizi had confirmed his request for a hearing and had informed the Committee that he would advise it of the results of his efforts to secure travel arrangements; no further reply had been received.
8. The Committee held a general debate on the question of South West Africa during its 656th to 662nd meetings, held between 7 and 11 October, the Committee considered concurrently draft resolutions relating to the following matters:
  - A. Petitions and related communications from Mr. Jacobus Beukes of the Rehoboth Community;
  - B. Petitions and related communications from Mr. Johannes Dausab and others; Chief Hosea Kutako; Mr. Wilhelm Heyn and Dr. Joachim Seegert; and Mr. Jacobus Beukes;

- C. Conditions in the Territory of South West Africa;
  - D. Status of the Territory of South West Africa;
  - E. Question of South West Africa: legal action to ensure the fulfilment of the obligations assumed by the Union of South Africa;
  - F. Establishment of a good offices committee on South West Africa.
10. A detailed account of the committee's consideration of these draft resolutions and of amendments thereto is given below in sections A to F.

A. PETITIONS AND RELATED COMMUNICATIONS FROM MR. JACOBUS BEUKES  
OF THE REHOBOTH COMMUNITY

11. The Committee had before it a draft resolution proposed by the Committee on South West Africa<sup>4/</sup>, according to which the General Assembly would: (1) draw the attention of the Union of South Africa, as the Mandatory Power, to the observations and allegations made by the petitioner and request it to investigate the matters raised by him; and (2) further draw the attention of the Mandatory Power to General Assembly resolution 935 (X) of 3 December 1955 concerning the rights granted to the Rehoboth Community by the Agreement of 17 August 1923 between the Government of the Union and the Rehoboth Community, ratified and confirmed by Proclamation No. 28 of 1923.
12. The draft resolution was approved at the 669th meeting by 51 votes to none, with 16 abstentions.
13. The text of the draft resolution is annexed to the present report as draft resolution I.

B. PETITIONS AND RELATED COMMUNICATIONS FROM MR. JOHANNES DAUSAB  
AND OTHERS: CHIEF HOSEA KUTAKO; MR. WILHELM HEYN AND  
DR. JOACHIM SEEGER; AND MR. JACOBUS BEUKES

14. The Committee had before it a draft resolution proposed by the Committee on South West Africa<sup>5/</sup>, according to which the General Assembly would 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

<sup>4/</sup> A/3626, annex VIII.

<sup>5/</sup> A/3626, annex XIII.

Assembly at its twelfth session, and to the action taken by the Assembly on this report.

15. The draft resolution was approved at the 669th meeting by 60 votes to none, with 14 abstentions.

16. The text of the draft resolution is annexed to the present report as draft resolution II.

#### C. CONDITIONS IN THE TERRITORY OF SOUTH WEST AFRICA

17. At the 660th meeting, Liberia submitted a draft resolution (A/C.4/L.487) on conditions in the Territory. A revised text (A/C.4/L.487/Rev.1), incorporating certain amendments proposed by Guatemala (A/C.4/L.489) and an amendment proposed by Poland (A/C.4/L.491), was later introduced, reading as follows:

"The General Assembly,

"Having considered the fourth report submitted to it, in accordance with resolution 749 A (VIII) of 28 November 1953, by the Committee on South West Africa,

"1. Expresses its appreciation of the work of the Committee on South West Africa;

"2. Takes note of the report of the Committee concerning conditions in the Territory;

"3. Notes with concern that there has been a continued trend in the administration of the Territory toward the deliberate subordination and relegation of the vast majority of the population to an inferior status, through the application of such measures as the forced alienation of their land and arbitrary controls over their residence, movement, employment and ownership of livestock, while depriving them of opportunities of education and of minimum political rights, and giving them no opportunity to take part in the various branches of government in the Territory;

"4. Notes also with concern that conditions in the Territory and the trend of the administration, as described by the Committee in its report, represent a situation contrary to the Mandates System, the Charter of the United Nations, the Universal Declaration of Human Rights, the advisory opinion of the International Court of Justice and the resolutions of the General Assembly;

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"5. Reaffirms that the Government of 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;

"6. Endorses the conclusion of the Committee that the programme of apartheid, or racial separation, on which the administration of the Territory is based, cannot be reconciled with the obligation solemnly undertaken by the Government of the Union of South Africa to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Mandated Territory;

"7. Approves and endorses the conclusions and recommendations of the Committee as to the action which should be taken by the Government of the Union of South Africa, as the Mandatory Power, to ensure the fulfilment of its obligations and responsibilities under the Mandate;

"8. Calls upon the Mandatory Power to give its urgent attention to these conclusions and recommendations, and in particular those relating to:

"(a) The obligation to transfer responsibility for territorial affairs progressively to fully representative institutions proper to the Territory;

"(b) The obligation to repeal all racially discriminatory legislation and practices in the Territory and to revise existing policies and practices of 'Native' administration;

"(c) The urgent need to introduce a planned programme of economic development designed primarily to assist, equip and prepare the indigenous inhabitants to play a wider and fuller part in the economy of the Territory;

"(d) The obligation to cease the alienation, solely for the benefit of the 'European' settler community, of land inhabited by 'Non-Europeans' and to take immediate steps to ensure that the 'Non-European' majority are not deprived of the land necessary for their present and future needs according to the criteria defined by the Committee;

"(e) The obligation to revise the labour legislation applied in the Territory with a view to eliminating any provisions which are contrary to the standards approved by the International Labour Organisation for non-metropolitan territories and to the principles of the Mandates System;

"(f) The obligation to improve and expand educational facilities for the indigenous population and to establish a programme for the racial unification of the educational system in the Territory;

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"9. Requests the Government of the Union of South Africa to submit to the United Nations information concerning its consideration of these conclusions and recommendations and the action taken by it in each case in order to ensure the fulfilment of its obligations and responsibilities under the Mandate and the United Nations Charter."

18. Following the introduction by the Chairman of the Fourth Committee of a draft resolution to establish a good offices committee on South West Africa (see section F), Liberia further revised its draft resolution (A/C.4/L.487/Rev.2) by deleting operative paragraphs 3 to 9 and altering operative paragraph 2 to read: "Approves the report of the Committee concerning conditions in the Territory".

19. An amendment to substitute in paragraph 2 the word "Notes" for "Approves" was proposed orally by the representative of Canada at the 669th meeting.

20. The revised draft resolution (A/C.4/L.487/Rev.2) and the amendment thereto were voted upon at the same meeting as follows:

The Canadian amendment was rejected by 40 votes to 20, with 9 abstentions.

The revised draft resolution was approved by 60 votes to none, with 16 abstentions.

21. The text of the draft resolution is annexed to the present report as draft resolution III.

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

22. At the 660th meeting, Liberia submitted a draft resolution (A/C.4/L.488) under which, as later revised (A/C.4/L.488/Rev.1), the General Assembly would: (1) reiterate its ten 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 is to place it under the Trusteeship System by means of a trusteeship agreement in accordance with the provisions of Chapter XII of the Charter.

23. The revised draft resolution was approved at the 669th meeting by 55 votes to 3, with 18 abstentions.

24. The text of the draft resolution is annexed to the present report as draft resolution IV.

E. QUESTION OF SOUTH WEST AFRICA: LEGAL ACTION TO  
ENSURE THE FULFILMENT OF THE OBLIGATIONS ASSUMED  
BY THE UNION OF SOUTH AFRICA

25. At the 663rd meeting, Ceylon, Ecuador, Ethiopia, Ghana, Guatemala, India, Syria and Yugoslavia submitted a two-part draft resolution (A/C.4/L.490). Under part A, it was proposed, inter alia, that the General Assembly should draw the attention of Members to the failure of the Union of South Africa to render annual reports to the United Nations and to the legal action provided for in article 7 of the Mandate, and should decide to resume consideration of the special report of the Committee on South West Africa (A/3625) at its thirteenth session. Under part B, the Assembly would request the Committee on South West Africa to consider further the question of securing advisory opinions from the International Court of Justice in regard to the administration of the Territory and to make recommendations concerning acts of the administration on which a reference to the Court might usefully be made as to their compatibility with the provisions of Article 22 of the Covenant of the League of Nations, the Mandate and the Charter.
26. The draft resolution was voted upon at the 669th meeting, as follows:  
Operative paragraph 4 of part A was approved by 51 votes to 1, with 22 abstentions.  
The draft resolution as a whole was approved by 55 votes to 4, with 18 abstentions.
27. The text of the draft resolution is annexed to the present report as draft resolution V.

F. ESTABLISHMENT OF A GOOD OFFICES COMMITTEE ON SOUTH WEST AFRICA

28. At the 664th meeting, the Chairman of the Fourth Committee submitted a draft resolution (A/C.4/L.492) which read as follows:

"The General Assembly,

"Recalling its previous endeavours to find a settlement with the Union of South Africa regarding the status of South West Africa, particularly under the provisions of resolution 449 (V) of 13 December 1950 establishing an ad hoc Committee for the purpose, resolution 570 (VI) of 19 January 1952

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establishing a further ad hoc Committee, resolution 749 (VIII) of 28 November 1953 establishing the Committee on South West Africa, and resolution 1059 (XI) of 26 February 1957 requesting the intervention of the Secretary-General to secure through negotiation with the Union of South Africa an agreement concerning the Territory of South West Africa based on the international status accorded to it by Mandate of the League of Nations dated 17 December 1920,

"Considering that the principles and purposes of the Charter make it incumbent upon the United Nations and upon each of its Member States to pursue every available means of negotiation and conciliation for the settlement of international problems,

"Being of the opinion that the Union of South Africa will wish, in the light of its obligations under the Charter, to co-operate in a further endeavour to arrive at a settlement of the question of South West Africa,

"1. Decides to establish a Good Offices Committee on South West Africa, consisting of the United States, the United Kingdom and a third member to be nominated by the President of the twelfth session of the General Assembly of the United Nations, to discuss with the Government of the Union of South Africa a basis for an agreement which would continue to accord to the Territory an international status;

"2. Requests the Committee to submit to the General Assembly at its thirteenth session such a report on its activities as it may deem desirable;

"3. Requests the Secretary-General to provide the Committee with all necessary staff and facilities."

29. At the 665th meeting, India submitted amendments (A/C.4/L.493) which, as revised at the 666th meeting (A/C.4/L.493/Rev.1), would: (1) provide that the third member of the Good Offices Committee should be elected by the General Assembly instead of being nominated by the President; and (2) alter the terms of reference of the Good Offices Committee by proposing that it should discuss with the Union Government a basis for "a solution in accordance with the Charter of the United Nations". A second revised text of the amendments (A/C.4/L.493/Rev.2) was submitted jointly by India and Uruguay at the 667th meeting which would further alter the terms of reference of the Good Offices Committee by proposing that it should discuss a basis for "a solution in conformity with the international status of the Territory and the Charter of the United Nations".

30. At the 665th meeting, Uruguay submitted amendments (A/C.4/L.494) proposing new texts: (1) for the second preambular paragraph, whereby the General Assembly would consider that the purposes and principles of the Charter made it incumbent

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on each Member State to pursue every available means of negotiation and conciliation for the settlement of international problems on the basis of respect for the principles of the Charter; and (2) for operative paragraph 1, whereby, inter alia, the Good Offices Committee would consist of seven members elected by the Assembly. After co-sponsoring with India the amendment (A/C.4/L.493/Rev.2) to provide for the election of the third member of the Good Offices Committee, Uruguay revised its amendment (A/C.4/L.494/Rev.1) by deleting the proposal concerning operative paragraph 1.

31. At the 666th meeting, Ecuador and Guatemala submitted amendments (A/C.4/L.495) to: (1) substitute the phrase "Being confident" for the phrase "Being of the opinion" in the third preambular paragraph of the Chairman's draft resolution; and (2) replace operative paragraph 2 by a new text, whereby the General Assembly would request the Good Offices Committee to submit to the Assembly at its thirteenth session a report on its activities for examination and decision by the Assembly.

32. At the 669th meeting, the three amendments were orally revised as follows:

(a) the representative of India suggested a sub-amendment to the amendment of Ecuador and Guatemala (A/C.4/L.495) to add at the end of operative paragraph 2 the words "in accordance with the Charter of the United Nations". This sub-amendment was accepted by the sponsors.

(b) Thereupon, the representative of India withdrew as a sponsor of the amendment jointly submitted by India and Uruguay (A/C.4/L.493/Rev.2). The representative of Uruguay then withdrew the proposed amendment to the terms of reference of the Good Offices Committee (A/C.4/L.493/Rev.2, para.2), and retained as a Uruguayan amendment the proposal that the third member of the Committee should be elected by the General Assembly (A/C.4/L.493/Rev.2, para.1).

(c) The representative of Uruguay also made a drafting change in his amendment (A/C.4/L.494/Rev.1) to the second preambular paragraph.

33. The Committee consequently had before it the following amendments to the Chairman's draft resolution:

(a) The Uruguayan amendment (A/C.4/L.493/Rev.2, para.1) to operative paragraph 1 to replace the words "nominated by the President of" by the words "elected by".

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(b) The Uruguayan amendment (A/C.4/L.494/Rev.1, as orally revised) to replace the second preambular paragraph by the following text:

"Considering that the United Nations Charter makes it incumbent on each Member State to pursue every available means of negotiation and conciliation for the settlement of international problems on the basis of respect for the purposes and principles of the Charter,".

(c) The joint amendment by Ecuador and Guatemala to alter the third preambular paragraph by replacing the phrase "Being of the opinion" by the phrase "Being confident" (A/C.4/L.495, para.1) and to replace the second operative paragraph by the following text (A/C.4/L.495, para.2, as orally revised:

"Requests the Committee to submit to the General Assembly at its thirteenth session a report on its activities for examination and decision by the Assembly in accordance with the Charter of the United Nations;".

34. At the 669th meeting, the Committee voted on the draft resolution submitted by the Chairman (A/C.4/L.492) and the above amendments, as follows:

The first preambular paragraph was approved by 60 votes to none, with 16 abstentions.

The Uruguayan amendment, as orally revised, to replace the second preambular paragraph by a new text was approved by a roll-call vote of 33 to 19, with 27 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Czechoslovakia, Egypt, Ethiopia, Greece, Guatemala, Hungary, India, Indonesia, Iran, Iraq, Israel, Jordan, Lebanon, Morocco, Nepal, Panama, Poland, Romania, Saudi Arabia, Sudan, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia.

Against: Australia, Austria, Belgium, Denmark, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, Malaya (Federation of), Netherlands, New Zealand, Norway, Pakistan, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland.

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Abstaining: Albania, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Ghana, Haiti, Honduras, Laos, Liberia, Mexico, Paraguay, Peru, Philippines, Portugal, Spain, Tunisia, Turkey, United States of America, Venezuela.

The amendment by Ecuador and Guatemala to the third preambular paragraph was approved by 58 votes to none, with 17 abstentions.

The third preambular paragraph, as amended, was approved by 57 votes to none, with 19 abstentions.

The Uruguayan amendment to operative paragraph 1 was rejected by a roll-call vote of 35 to 28, with 16 abstentions. The voting was as follows:

In favour: Afghanistan, Bolivia, Burma, Cambodia, Ceylon, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Mexico, Morocco, Panama, Poland, Saudi Arabia, Sudan, Syria, Tunisia, Uruguay, Yemen, Yugoslavia.

Against: Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, France, Ghana, Honduras, Iceland, Ireland, Israel, Italy, Japan, Laos, Luxembourg, Malaya (Federation of), Netherlands, New Zealand, Norway, Pakistan, Paraguay, Peru, Portugal, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Albania, Argentina, Bulgaria, Byelorussian Soviet Socialist Republic, China, Cuba, Czechoslovakia, Hungary, Liberia, Nepal, Philippines, Romania, Spain, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela.

Operative paragraph 1 was approved by 53 votes to 11, with 14 abstentions.

The amendment by Ecuador and Guatemala, as orally revised, to replace operative paragraph 2 by a new text was approved by 67 votes to none, with 10 abstentions.

Operative paragraph 3 was approved without objection.

The draft resolution as a whole, as amended, was approved by a roll-call vote of 52 to 10, with 17 abstentions. The voting was as follows:

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In favour: Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Ghana, Haiti, Honduras, Iceland, Iran, Ireland, Israel, Italy, Japan, Laos, Lebanon, Liberia, Luxembourg, Malaya (Federation of), Mexico, Nepal, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Spain, Sweden, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Against: Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Hungary, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Cambodia, Ceylon, Egypt, Ethiopia, Greece, Guatemala, India, Indonesia, Iraq, Jordan, Morocco, Saudi Arabia, Sudan, Syria, Uruguay, Yemen, Yugoslavia.

35. The text of the draft resolution is annexed to the present report as draft resolution VI.

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36. The Committee accordingly recommends to the General Assembly the adoption of draft resolutions I to VI below.

#### Draft resolution I

##### PETITIONS AND RELATED COMMUNICATIONS FROM MR. JACOBUS BEUKES OF THE REHOBOTH COMMUNITY

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>1/</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,

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1/ International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950, p.128. /...

Having received a report from the Committee on South West Africa<sup>2/</sup> dealing with a petition dated 16 July 1956 and a petition dated 23 January 1957, together with related communications, from Mr. Jacobus Beukes, of the Rehoboth Community of South West Africa,

Noting that the petitioner, by his petition dated 16 July 1956,<sup>3/</sup> alleges that the 1956 elections to the Advisory Board of the Rehoboth Community were surrounded by confusion and were not conducted in accordance with the patriarchal law of the Community,

Noting that the petitioner, by his petition dated 23 January 1957,<sup>4/</sup> raises questions concerning the disposal of Community property and makes allegations concerning the exercise of the functions of the Magistrate of the Rehoboth District and the Advisory Board of the Community,

1. Draws the attention of the Union of South Africa, as the Mandatory Power, to the observations and allegations made by the petitioner and requests it to investigate the matters raised by the petitioner;

2. Further draws the attention of the Mandatory Power to General Assembly resolution 935 (X) of 3 December 1955 concerning the rights granted to the Rehoboth Community by the Agreement of 17 August 1923 between the Government of the Union of South Africa and the Rehoboth Community, ratified and confirmed by Proclamation No. 28 of 1923.

Draft resolution II

PETITIONS AND RELATED COMMUNICATIONS FROM MR. JOHANNES DAUSAB  
AND OTHERS; CHIEF HOSEA KUTAKO; MR. WILHELM HEYN AND  
DR. JOACHIM SEEGERT; AND MR. JACOBUS 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>5/</sup>

2/ Official Records of the General Assembly, Twelfth Session, Supplement No. 12 (A/3626), chapter VI, A.

3/ Ibid., annex VI.

4/ Ibid., annex VII.

5/ International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950, p.128.

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,<sup>6/</sup> arrived at without the assistance of the Mandatory Power, dealing with a petition dated 10 October 1956 from Mr. Johanes Dausab and others in the Hoachanas Native Reserve;<sup>7/</sup> a petition dated 30 October 1956 and related communications dated 28 May and 26 June 1957 from Chief Hosea Kutako;<sup>8/</sup> a petition dated 3 January 1957 and a related communication dated 16 March 1957 from Mr. Wilhelm Heyn and Dr. Joachim Seegert;<sup>9/</sup> and a petition dated 27 March 1957 from Mr. Jacobus Beukes of the Rehoboth Community,<sup>10/</sup>

Noting that these petitions and related communications raise questions relating to 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 twelfth session, and to the action taken by the General Assembly on this report.

Draft resolution III

CONDITIONS IN THE TERRITORY OF SOUTH WEST AFRICA

The General Assembly,

Having considered the fourth report submitted to it, in accordance with resolution 749 A (VIII) of 28 November 1953, by the Committee on South West Africa,<sup>11/</sup>

6/ Official Records of the General Assembly, Supplement No. 12 (A/3626), chapter VI, B and C.

7/ Ibid., annex IX.

8/ Ibid., annex X.

9/ Ibid., annex XI.

10/ Ibid., annex XII.

11/ Official Records of the General Assembly, Twelfth Session, Supplement No. 12 (A/3626).

1. Expresses its appreciation of the work of the Committee on South West Africa;
2. Approves the report of the Committee concerning conditions in the Territory.<sup>12/</sup>

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 and 1055 (XI) of 26 February 1957, 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>13/</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 and 1055 (XI) of 27 February 1957 to the effect that the Territory of South West Africa be placed under the International Trusteeship System;

<sup>12/</sup> Ibid., annex I.

<sup>13/</sup> International status of South West Africa, Advisory Opinion, I.C.J. Reports 1950, p.128.

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.

Draft resolution V

QUESTION OF SOUTH WEST AFRICA: LEGAL ACTION TO  
ENSURE THE FULFILMENT OF THE OBLIGATIONS ASSUMED  
BY THE UNION OF SOUTH AFRICA

A.

The General Assembly,

Recalling its resolution 449 A (V) of 13 December 1950, by which the General Assembly accepted the opinion of 11 July 1950 of the International Court of Justice,<sup>14/</sup>

(a) That South West Africa is a Territory under the international Mandate assumed by the Union of South Africa on 17 December 1920,

(b) That 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 reference to the Permanent Court of International Justice is to be replaced by a reference to the International Court of Justice in accordance with article 7 of the Mandate and Article 37 of the Statute of the International Court of Justice,

Recalling also its resolution 1060 (XI) of 26 February 1957, by which it requested the Committee on South West Africa to study what legal action was open to ensure that the Union of South Africa fulfilled the obligations assumed by it under the Mandate for South West Africa,

Having received the Committee's special report<sup>15/</sup> on the study referred to in the previous paragraph,

<sup>14/</sup> International status of South West Africa, Advisory Opinion, I.C.J. Reports 1950, p.128.

<sup>15/</sup> Official Records of the General Assembly, Twelfth Session, Supplement No. 12 A (A/3625).

1. Commends the Committee on South West Africa for its useful report;
2. Notes with deep concern:
  - (a) That the Union of South Africa contends that, the Mandate having "lapsed", it has no obligations of which the United Nations has cognizance;
  - (b) That the Union of South Africa has not rendered annual reports to the United Nations in accordance with Article 22 of the Covenant of the League of Nations, article 6 of the Mandate, and General Assembly resolution 449 A (V) of 13 December 1950;
3. Draws the attention of Member States to the failure of the Union of South Africa to render annual reports to the United Nations and 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;
4. Decides to resume, at its thirteenth session, consideration of the special report of the Committee on South West Africa.<sup>15/</sup>

B.

The General Assembly,

Noting with concern the observation of the Committee on South West Africa in its report that "existing conditions in the Territory and the trend of the administration represent a situation contrary to the Mandates System, 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",<sup>16/</sup>

Noting also that, in its special report,<sup>17/</sup> the Committee on South West Africa has stated that questions may be put to the International Court of Justice for its advisory opinion as to whether specific acts of the Mandatory State are in conformity with the obligations assumed by it,

Requests the Committee on South West Africa to consider further the question of securing from the International Court of Justice advisory opinions in regard to the administration of the Territory, and to make recommendations in its next

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<sup>15/</sup> Official Records of the General Assembly, Twelfth Session, Supplement No. 12 (A/3625).

<sup>16/</sup> Ibid., Supplement No. 12 (A/3626), para. 161.

<sup>17/</sup> Ibid., Supplement No. 12 A (A/3625), para. 18.

report concerning acts of the administration on which a reference to the Court may usefully be made as to their compatibility or otherwise with the provisions of Article 22 of the Covenant of the League of Nations, the Mandate for South West Africa and the Charter of the United Nations.

Draft resolution VI

ESTABLISHMENT OF A GOOD OFFICES COMMITTEE ON SOUTH WEST AFRICA

The General Assembly,

Recalling its previous endeavours to find a settlement with the Union of South Africa regarding the status of South West Africa, particularly under the provisions of resolution 449 (V) of 13 December 1950 establishing an ad hoc committee for the purpose, resolution 570 (VI) of 19 January 1952 establishing a further ad hoc committee, resolution 749 (VIII) of 28 November 1953 establishing the Committee on South West Africa, and resolution 1059 (XI) of 26 February 1957 requesting the intervention of the Secretary-General to secure, through negotiation with the Union of South Africa, an agreement concerning the Territory of South West Africa based on the international status accorded to it by Mandate of the League of Nations dated 17 December 1920,

Considering that the United Nations Charter makes it incumbent on each Member State to pursue every available means of negotiation and conciliation for the settlement of international problems on the basis of respect for the purposes and principles of the Charter,

Being confident that the Union of South Africa will wish, in the light of its obligations under the Charter, to co-operate in a further endeavour to arrive at a settlement of the question of South West Africa,

1. Decides to establish a Good Offices Committee on South West Africa, consisting of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and a third member to be nominated by the President of the twelfth session of the General Assembly of the United Nations, to discuss with the Government of the Union of South Africa a basis for an agreement which would continue to accord to the Territory of South West Africa an international status;

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2. Requests the Committee to submit to the General Assembly at its thirteenth session a report on its activities, for examination and decision by the Assembly in accordance with the Charter of the United Nations;

3. Requests the Secretary-General to provide the Committee with all necessary staff and facilities.

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