

338 (IV). Question of South West Africa: request for an advisory opinion of the International Court of Justice

The General Assembly,

Recalling its previous resolutions 65 (I)²² of 14 December 1946, 141 (II)²³ of 1 November 1947 and 227 (III)²⁴ of 26 November 1948 concerning the Territory of South West Africa,

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

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

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

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

“(b) Are the provisions of Chapter XII of the Charter applicable and, if so, in what manner, to the Territory of South West Africa?”

²² See *Resolutions adopted by the General Assembly* during the second part of its first session, page 123.

²³ See *Official Records of the second session of the General Assembly*, Resolutions, page 47.

²⁴ See *Official Records of the third session of the General Assembly, Part I*, Resolutions, page 89.

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

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

The Secretary-General shall include among these documents, the text of article 22 of the Covenant of the League of Nations; the text of the Mandate²⁵ for German South West Africa, confirmed by the Council of the League on 17 December 1920; relevant documentation concerning the objectives and the functions of the Mandates System; the text of the resolution²⁶ adopted by the League of Nations on the question of Mandates on 18 April 1946; the text of Articles 77 and 80 of the Charter and data on the discussion of these Articles in the San Francisco Conference and the General Assembly; the report of the Fourth Committee and the official records, including the annexes, of the consideration of the question of South West Africa at the fourth session of the General Assembly.

*269th plenary meeting,
6 December 1949.*

²⁵ See *Terms of League of Nations Mandates* (document A/70).

²⁶ See *League of Nations Official Journal*, Special Supplement No. 194, Records of the twentieth (conclusion) and twenty-first ordinary sessions of the Assembly, page 58.