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**communiqué**

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No. 71/8  
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Legal Consequences for States of the Continued Presence of  
South Africa in Namibia (South West Africa) notwithstanding  
Security Council Resolution 276 (1970)

The following information is communicated to the Press by the Registry of the International Court of Justice:

The International Court of Justice will deliver its Advisory Opinion on the above question at a public sitting to be held on Monday, 21 June 1971, at 10 a.m.

The request for this Advisory Opinion has previously been the subject of Press Communiqués Nos. 70/6, 70/7, 70/8, 70/10, 71/1, 71/2, 71/3, 71/4, 71/5, 71/6 and 71/7.

On 29 July 1970, by resolution 284 (1970), the Security Council of the United Nations decided to request an advisory opinion of the Court on the following question: "What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?"

The background of the request is as follows: During the time of the League of Nations, South Africa was entrusted with a Mandate for South West Africa, which Territory has since 1946 been the subject of lengthy discussions in the United Nations. The Court has already, at the request of the General Assembly, given three Advisory Opinions concerning the Territory, namely on the International Status of South West Africa (11 July 1950), Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa (7 June 1955) and the Admissibility of Hearings of Petitioners by the Committee on South West Africa (1 June 1956). It has also delivered two Judgments in contentious proceedings brought by Ethiopia and Liberia against South Africa with reference to South West Africa (Preliminary Objections: 21 December 1962; Second Phase: 18 July 1966). Ethiopia and Liberia had requested the Court to find, inter alia, that South Africa had been in breach of certain obligations under the Mandate. The Court found that it had jurisdiction in the case, but that the Applicants could not be considered to have established any legal right or interest appertaining to them in the subject-matter of the claim.

On 27 October 1966 the General Assembly resolved that South Africa's Mandate was terminated and that henceforth South West Africa came under the responsibility of the United Nations (resolution 2145 (XXI)). Subsequently the General Assembly confirmed this resolution by various other resolutions, in which it proclaimed, inter alia, "that, in accordance with the desires of its people, South West Africa shall henceforth be known as 'Namibia'", and on three occasions the Security Council has called upon the Government of South Africa to withdraw its administration from the Territory (resolutions 264 and 269 (1969) and 276 (1970)).

Following ....

Following the present Security Council's request for an advisory opinion, the States entitled to appear before the Court were notified that the Court was prepared to receive from them written statements furnishing information on the question (Statute, Art. 66, para. 2). By Orders made on 5 and 28 August 1970, the President respectively fixed 23 September 1970 as the time-limit for the submission of such statements and extended it to 19 November 1970. Written statements were received from the following twelve States: Czechoslovakia, Finland, France, Hungary, India, Netherlands, Nigeria, Pakistan, Poland, South Africa, United States of America, Yugoslavia. In addition, the Secretary-General of the United Nations transmitted to the Court documents likely to throw light upon the question (Statute, Art. 65, para. 2) and a written statement.

The Government of South Africa took objection to the participation of President Sir Muhammad Zafrulla Khan and Judges Padilla Nervo and Morozov in the proceedings; and applied for leave to choose a judge ad hoc to sit upon the Bench (Statute, Art. 31, para. 2). After deliberation, the Court decided, by three Orders dated 26 January 1971, not to accede to the objections raised concerning the participation of three of its Members in the proceedings. After hearing in camera on 27 January the submissions of South Africa on the appointment of a judge ad hoc, it decided, by an order of 29 January, to reject the application presented with that object.

The States entitled to appear before the Court, and also the Organization of African Unity (OAU), were informed that the Court was prepared to hear oral statements (Statute, Art. 66, para. 2). Such statements were made, in the course of 23 public sittings held between 8 February and 17 March 1971, by representatives of the Secretary-General of the United Nations, the Organization of African Unity, Finland, India, Netherlands, Nigeria, Pakistan, the Republic of Viet-Nam, South Africa and the United States of America.

At the opening of the sittings, the President announced that the Court had decided not to entertain the observations which the Government of South Africa had made, in its written statement and elsewhere, in support of its submission that the Court should have declined to give the advisory opinion requested.

At the close of the sittings, the President announced that the Court had decided to defer its reply to the requests of the Government of South Africa, presented before and during the sittings, concerning the possibility of holding a plebiscite in Namibia (South West Africa) and the supply of further factual material concerning the situation in that territory. In a letter dated 14 May 1971 to the representatives of the States and organizations which had participated in the oral proceedings, the President stated that the Court had decided to refuse both of those requests.

NOTICE FOR THE PRESS

1. The public sitting will be held at the Peace Palace, in the Hall of Justice. Any member of the Press not already in possession of the special admission-card can obtain one from the Registry on request. Inside the Hall, the Press tables are on the left; outside it, also on the ground floor of the Palace, there is a Press Room (No. 5) to which the reading of the Advisory Opinion will be relayed through a loudspeaker.

Photography will be permitted before and during the first five minutes of the sitting. Special authorization is required in the case of filming for cinema or television purposes.

2. After the close of the sitting, a Press Communiqué summarizing the Advisory Opinion will be distributed in the Press Room (No. 5). A very limited number of mimeographed texts of the Advisory Opinion and any annexed separate or dissenting opinions will also be available.

Members of the Press may use only the six public telephones in the Post Office in the basement of the Palace.

3. The printed text of the Advisory Opinion and of separate or dissenting opinions will be issued shortly after the sitting. It will then be obtainable from:

- Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10, Switzerland;
- Sales Section, United Nations, New York, N.Y. 10017, U.S.A.;
- A. W. Sijthoff's Publishing Company, P.O. Box 26, Leyden, Netherlands;

or from any bookseller selling United Nations publications.

The written and oral statements relating to the present request for an advisory opinion may now be consulted in multigraphed form at the institutions mentioned in Press Communiqués Nos. 71/4 (Annex 2) and 71/6. A few weeks after the delivery of the Advisory Opinion they will be obtainable in printed form from the addresses mentioned in the preceding paragraph.

4. Mr. A. Pillepich, First Secretary of the Court (telephone extension No. 54), is available to deal with any request for information by members of the Press.

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