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Probable Repercussions of the
South-West Africa Issue

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PROBABLE REPERCUSSIONS OF THE SOUTH-WEST AFRICA ISSUE

CONCLUSIONS

A. The International Court of Justice (ICJ) will soon render its decision on the case brought against South Africa concerning its mandate over South-West Africa (SWA). Irrespective of the terms of the decision, we expect the black Africans and their sympathizers to take the occasion to press the UN to end apartheid in SWA and eventually in South Africa itself. They will put particular pressure on the US and UK who, they believe, could bring South Africa to terms if they really tried. (*Paras. 1, 8-9, 20*)

B. South Africa, in order to improve its legal and political position, might comply with provisions of the judgment which did not dilute its control over SWA. South Africa is highly unlikely to give in to pressure for further steps and its opponents will probably seek strong UN action. Although the UK could ill afford to join full economic sanctions, it may not veto Security Council action and no other permanent member may do so. If, as is likely, economic sanctions were ineffective, the matter of military sanctions would arise, though sufficient support in the UN for such sanctions is highly unlikely. We do not believe that the South Africans would capitulate in the face of economic sanctions or the threat of military sanctions.¹ (*Paras. 15-19*)

C. The African states will portray firm US action against South Africa as the touchstone of US relations and influence in Africa. If the UN does not force South Africa to retreat, the Africans and their sympathizers will keep the issue alive, in the UN and out, and it will trouble Africa's relations with the West. (*Paras. 20-22*)

¹ Mr. Thomas L. Hughes, The Director of Intelligence and Research, Department of State, dissents from the estimates in the last two sentences of this paragraph, because he believes that they depend significantly on future US policy decisions. Cf. his footnotes to paragraphs 18 and 19.

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DISCUSSION

I. INTRODUCTION

1. The International Court of Justice (ICJ) is expected soon to deliver a decision on a complaint brought by Liberia and Ethiopia alleging that South Africa has violated the mandate granted to it over South-West Africa (SWA) by the League of Nations (see Annex). Although the Court's decision is likely to reaffirm that South Africa is still bound by the mandate and that the UN is the successor to the League's supervisory responsibilities for SWA, it is likely to be vague on South Africa's other obligations. It may hold that apartheid is inconsistent with the mandate. Whatever the decision, it will give the Africans and others who strongly oppose apartheid the opportunity to try to involve the UN deeply in South African affairs. Their objective will probably be to revoke South Africa's mandate in SWA, and eventually to force South Africa to abandon apartheid and political discrimination in South Africa itself.

II. BACKGROUND AND CURRENT POLITICAL SETTING

A. South-West Africa

2. South-West Africa seems an unlikely arena for high international stakes. Approximately one-half million nonwhites are scattered over a largely arid expanse of some 317,000 square miles. Most live in the tribal reserves in the north where they eke out an existence. There are, in addition, about 85,000 whites, of whom about 70 percent are Afrikaners² and slightly over 20 percent are of German descent. All the whites live in the "Police Zone"³ which comprises the larger, southern part of the mandate. Most of the approximately 75,000 wage-earning Africans, chiefly from the northern reserves, also work in the Police Zone as contract laborers. The African tribal reserves are controlled directly from Pretoria. The white electorate has ten seats in the South African Parliament, and also elects a SWA Legislative Assembly with limited powers. In most respects the territory is governed as an integral part of South Africa. Despite participation in South African and local elections there is little political activity among the whites. Such political activity as exists among the tribally divided Africans is conducted largely outside SWA by two small exile groups whose headquarters are in Dar-es-Salaam.

3. The modern sector of the economy is based on mining, fishing, and agricultural enterprises. The first two are dominated by South African and foreign interests, agriculture is dominated by the resident whites. Growing amounts

¹ Afrikaner is the term applied to white Afrikaans-speaking South Africans, principally descendants of Dutch (Boer) settlers.

² Black reserves in the Police Zone (see map) are strictly controlled by white officials and Bantu councils or headmen have no power whereas the northern areas are ruled indirectly through Bantu chiefs or councils.

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of diamonds, cadmium, and other minerals are exported and SWA earns large amounts of foreign exchange. The modern economy is currently booming, partly because of large South African government expenditures on housing, hospital, and other projects and for purchases of white owned farms on which to resettle Africans. The South African government is also spending substantial sums on the improvement or construction of airfields and paved roads.

B. South African Views

4. In South Africa, the present political atmosphere appears to be one of great determination, and even a little truculence. Prime Minister Verwoerd is fresh from a decisive election victory which gave his National Party an overwhelming majority in the Parliament. For the first time, Verwoerd was able to go beyond his Afrikaner power base and secure significant support from the English-speaking community. Verwoerd's cautious handling of the Rhodesian and other issues has appeared to many voters as sound and in the national interest. Despite uneasiness in some quarters over the consequences of the Rhodesian and SWA problems, South Africans are more united on racial policy than they have been in the past and appear less concerned over world opinion. The country is steadily emerging from the effects of a sustained and punishing drought; inflationary pressures, which at one time seemed to threaten South Africa's vigorous economic growth, have been contained.

5. In the last year or so Verwoerd has become increasingly assertive in stating South Africa's intention to hold on to the territory. Prior to 1965 there was no clear expression of South African policy although, following the recommendations of the controversial *Odendaal Report* (1964), substantial sums are being spent for road, water, and agricultural projects in areas which that report designated as prospective "Bantustans." But in a contentious speech last year, Verwoerd said that South Africa "will be compelled to fight to the death to see that SWA does not fall into Communist hands," and made it clear that he regarded a UN presence as an equivalent danger. And last March 15, in Windhoek, Verwoerd claimed that the fortunes of the Republic and SWA are "indissolubly woven together." Although these were campaign speeches, Verwoerd sounded the same note in private exchanges.

6. Moreover, subsequent statements in similar vein by important South African officials, combined with the extensive construction underway in the territory, some of it tailored to military usage, strongly suggest that Verwoerd plans to stay in SWA. One fact is plain: the overwhelming majority of white South Africans are prepared to follow the Prime Minister's lead on policy toward the mandate. Thus supported, Verwoerd saw fit in April to lecture the US and the UK about the hazards of being drawn into "imprudent action" over the South-West Africa (or Rhodesian) issues.

7. We think that Verwoerd has become persuaded, or chooses to believe, that SWA's empty reaches are vital to South Africa's security. By and large, white South Africans view political difficulties in Black Africa as inevitable. The

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Congo's chaos made a deep impression on many, and it suits them to keep black rule as distant as possible. Consequently, SWA is valued as a strategic extension of the "Fatherland." The South African government fears that any yielding to African or UN pressures on SWA would make it more difficult to resist pressures on South Africa itself.

C. African Views

8. Although political leaders in independent Black Africa continue to call for an end to white supremacy in southern Africa, they are embarrassed and frustrated at their lack of power to do anything but talk. Among the radicals, Nkrumah's fall and Toure's troubles have dramatized the weakness of Africa's "militants." Even the more impatient are acutely aware that Africa must still rely on non-African instrumentalities and nations to gain its political goals in southern Africa. Africans of all political hues are frustrated by their inability to topple Ian Smith in Rhodesia (or to get some one else to do it) and by their failure to force South Africa to modify in the slightest its racial policies.

9. Although the Africans hope eventually to see SWA emerge as an independent state, in the present circumstances the issue serves chiefly as an opportunity to place South Africa in the international dock, putting pressure on South Africa at one of its few vulnerable points. The Africans, having endured the long drawn out legal procedures of the ICJ, will insist that the US and the UK must take vigorous action against South Africa in support of the UN. The Africans hope for a political decision in the UN which will revoke South Africa's mandate. They also intend to exploit the situation against South Africa for its practice of apartheid at home, an issue which has been already before the UN for many years.

III. US AND UK POLITICAL, ECONOMIC, AND SECURITY INTERESTS

10. Although there are some US and UK mining investments in SWA, these are minor compared to US and UK economic and security interests in South Africa itself. The UK investment in South Africa is about \$3 billion and the UK's net earnings on current account with South Africa are over \$500 million a year. The balance of payments difficulties which the British are experiencing thus make economic relations with South Africa of major importance. The continued flow of South African gold to the Free World (70 percent of annual Free World production) is important to its arrangements for international payments based on sterling and the dollar. Britain is also concerned with the interests of over one million English-speaking South Africans. Insofar as security is concerned, the British contend that the use of Simonstown naval base is important to them, and they are also largely dependent on South African goodwill for access to the former High Commission Territories (Bechuanaland, Basutoland, and Swaziland), which are almost wholly dependent on the South African economy.

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these considerations, the UK must weigh its relations with the multiracial Commonwealth and British trade and investment with the rest of Africa. For its part, South Africa regards British self-interest as inhibiting UK action.

11. US commercial ties to South Africa are, also important, though not crucial. In 1965 US exports were \$438 million and the US net earnings from South Africa on current account exceeded \$300 million. US investment amounts to approximately \$650 million. The US also imports substantial quantities of strategic and other minerals, e.g., platinum. US security interests include tracking stations, access to airfields, and port fueling facilities for US ships.

IV. PROBABLE REPERCUSSIONS OF THE ICJ DECISION

A. The United Nations Organization

12. The SWA issue will be a cruel test of the UN. Should it prove unable to take substantive action in the case, the organization will receive a damaging blow. On the other hand, a decision to take action, e.g., mandatory sanctions against South Africa, could also seriously damage the UN if they were not fully imposed or were otherwise not effective.

13. The Court in its decision will almost certainly find fault with South Africa's administration of its mandate. The decision will probably be vague or ambiguous in some respects, however, and the Court will probably leave to the UN the problem of applying the decision in detail. Irrespective of the exact terms of the ICJ decision, the judgment will provide the African states with a starting point for a stepped-up political and propaganda campaign against South Africa and the apartheid concept. A legal slap on the wrist by the Court would be condemned by the Africans, while a strongly critical judgment would be taken as a point of departure for strong action. But either way, the issue will be quickly joined.

14. In the first instance, many of the Africans and their sympathizers will probably prefer that the matter be handled in the General Assembly since in that forum they have a much greater voting weight. Irrespective of where the initial moves are made, however, the matter will eventually come to the Security Council which alone has enforcement powers under the UN Charter. In either forum, some will prefer drastic immediate action to force the end of apartheid in SWA, e.g., revocation of the mandate, the application of sanctions. Others will figure that a more gradual application of pressures on South Africa will have a greater chance of bringing the Western powers along with them. Sooner or later, however, the Security Council will be faced by a strong demand to force South Africa to comply.

15. Verwoerd is normally a careful politician, and he will probably play a cool hand, neither rejecting the Court's decision abruptly nor moving, as some have suggested, to annex SWA. Initially, the South Africans will probably play for time, in the hope that UN action can become bogged down in legal

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and procedural difficulties. Although reluctant to alienate the US and the UK, South Africa will be stubborn in defense of what it regards as matters of principle and national security.

16. South Africa will probably hope to avoid rejecting all the provisions of the judgment. To the extent that it complied, it would strengthen its legal case against the Africans and others who, we believe, will press the UN to go beyond the strict terms of the judgment and it might gain some tolerance, if not support, from other UN members. To this end, South Africa might, if the judgment so orders, agree to make reports to the UN, transmit petitions from inhabitants, or carry out other provisions which did not alter its control of SWA. South Africa would probably, in any event, make some gestures of compliance or enter into discussions of compliance in an effort to limit and postpone as long as possible any further UN action.

17. We think it unlikely that any actions taken by South Africa will satisfy the Africans. We believe there would be demands in the UN for strong and specific measures against South Africa, e.g., all-out diplomatic and economic sanctions. In view of the actions already taken by the Security Council against Southern Rhodesia, the Africans are doubtless encouraged to believe that sanctions can be invoked against Pretoria. Verwoerd would hope to avoid them, however, through a veto by the UK or France (we think that the UK might abstain and that France might either abstain or veto). The status of the Rhodesian question at the time would probably have a good deal of bearing on the UN's handling of the SWA issue, and the Africans might seek to link both problems in an effort to maximize pressures on Verwoerd.

B. South Africa

18. Should the UN impose economic sanctions, we do not think Verwoerd would scuttle and run (if he did, this would create a new set of problems since it would require a sizable international effort to administer the territory). But there is a good chance that he would take South Africa out of the United Nations, and any remaining chance that he would support sanctions against Rhodesia would disappear.⁴

19. Indeed, we do not think that South Africa would relinquish control of SWA even if the UN later decided to impose across-the-board mandatory economic sanctions under a Chapter VII (threat to international peace) resolution. Especially if supported by South Africa's major trading partners, these measures would create misgivings among many in South Africa. However, such economic sanctions, even if applied over a period of two or three years, would be unlikely to have a critical effect on South Africa's economy, partly

⁴ Mr. Thomas L. Hughes, The Director of Intelligence and Research, Department of State, believes that if South Africa were confronted by a highly unfavorable ruling of the ICJ and a credible threat of enforcement by major powers, including the US, Pretoria might consent to a substantial modification of its control over SWA or, conceivably, even withdraw from SWA altogether.

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because it is increasingly self-sufficient and partly because of the extreme difficulty in enforcing air-tight sanctions. Furthermore, the UK has compelling national reasons against participation in economic sanctions. The Organization of African Unity (OAU) and Bantu nationalist organizations are unlikely to be able to arouse such internal trouble as to affect the South African economy. In the event that economic sanctions proved inadequate, the question of applying military sanctions would arise. We believe that it would be highly unlikely that the necessary support for the latter form of sanctions would be found in the UN.⁵ However, in the remote event of a threat of military confrontation with the UN, backed by the UK and the US, we believe that South Africa would interpret the situation as a threat to the security of South Africa itself and would refuse to capitulate.⁶

20. The Black African states believe that the UK and the US can bend South Africa to their will on the SWA issue if they choose to do so. Pressure will be put on the US to apply the principles which it has traditionally enunciated including self-determination for peoples, the rule of law, support of the UN and opposition to apartheid. A number will seek to exert pressure on the UK and the US through other pending and often unrelated issues both in and out of the UN such as the question of Chinese representation. Some may also threaten diplomatic ruptures and denial of facilities. These pressures are likely to be supported by both arranged and spontaneous demonstrations against US installations and some incidents involving US personnel. Therefore, unless the US and the West back what the Africans regard as sufficiently strong measures, relations with Black Africa are certain to suffer a decline. The West will continue, however, to maintain an important presence in Africa, even in those countries most deeply concerned in the status of SWA, and Africans will continue to depend on the West as the market for virtually all their exports and the main source of economic, technical, and other assistance.

C. The Communist Powers

21. The West's embarrassment will provide tempting propaganda opportunities for the Communists. At the UN, they will be likely to champion independence for SWA, and probably will urge mandatory sanctions against South Africa. They may step up training and material support for "liberation groups" from

⁵ Mr. Thomas L. Hughes, The Director of Intelligence and Research, Department of State, believes that this judgment must involve an assumption regarding US policy. If it is assumed that the US will not support UN military measures in the SWA case, then the estimate in this sentence is probably correct. If the US were to support such measures, it is somewhat more likely that the necessary support for them would be forthcoming in the UN.

⁶ Mr. Thomas L. Hughes, The Director of Intelligence and Research, Department of State, believes that the South African reaction to a threatened military confrontation with the UN would depend on the credibility of the threat. The situation described is a highly speculative one. But if South Africa were faced by a credible threat of UN military action (e.g., a naval blockade), backed by the US and directed solely toward enforcing UN decisions on SWA, there is at least an even chance that Pretoria would seek an accommodation rather than "refuse to capitulate."

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southern Africa. However, both Moscow and Peiping are handicapped by the fact there is no active insurgency in either SWA or South Africa. Moreover, given its setbacks elsewhere in Africa, and its extremely cautious approach to the Rhodesian problem, the USSR is likely to move slowly, if at all, toward direct involvement in SWA. Specifically, we think the USSR would be dubious about joining any UN military action against faraway South Africa.

V. THE LONGER TERM OUTLOOK

22. Should South Africa successfully defy the UN and the ICJ, there will be a very considerable and highly vocal reaction. There will be, for example, splenetic outbursts against the West in the UN and elsewhere. Anti-Western forces in the underdeveloped areas will also receive an assist, and racial relations in Africa will be set back. Nor is the SWA issue likely to disappear. For the Africans, it will remain as a focal point for mobilizing pressures on South Africa. For one thing, it involves issues affecting the authority of the UN itself on which the Africans can win support from countries which might otherwise be reluctant to support UN action against apartheid in South Africa itself. They will probably link it with other unresolved southern Africa issues. Therefore, even though African pressures are unsuccessful in the short run, the Africans and others will continue to press strongly for UN action to compel South Africa to give up SWA and to abandon apartheid in South Africa itself.

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ANNEX

BACKGROUND OF THE SOUTH-WEST AFRICA CASE BEFORE THE INTERNATIONAL COURT OF JUSTICE (ICJ)

1. South Africa was designated as mandatory power for South-West Africa (SWA) by the League of Nations in 1920. Following World War II, the South African Government refused to place SWA under the UN Trusteeship System, though all other mandatory powers accepted UN Trusteeship arrangements. The UN in 1950 requested the ICJ for an advisory opinion on the status of SWA. In substance, the ICJ advised that South Africa had no legal obligation to place the territory under the Trusteeship System, but remained subject to the obligations set forth in the original mandate in administering the area. The Court also decided that the UN General Assembly was legally competent to exercise the League of Nations' supervisory functions with respect to territorial administration. Further, the Court held that South Africa could not modify the international status of the territory without consent of the UN.

2. South Africa rejected those aspects of the opinion suggesting that it had responsibilities to the UN and has failed to respond to General Assembly resolutions which call upon South Africa to put SWA under trusteeship. Following a resolution of the Conference of Independent African States in 1960, Ethiopia and Liberia instituted proceedings in the ICJ against South Africa which resulted in the current case.

3. In their case, Liberia and Ethiopia are seeking to establish four main points: (1) the mandate continues to exist; (2) the UN has replaced the League as the supervisory authority; (3) apartheid violates the mandate which requires the mandatory power to "promote to the utmost the material and moral well-being and social progress of the inhabitants," and (4) the Court should declare that South Africa is bound to cease the practice of apartheid in SWA. Neither replacement of South Africa as mandatory power nor independence for the territory is at issue before the ICJ, since these are regarded essentially as political matters.

4. Pretoria's response to the complaints about its stewardship has been typically Afrikaner: a blend of high-minded concern for the legal aspects and a rigid defense of apartheid based on their concept of the empirical situation. South Africa's legal position is that the mandate survived as an institution but Pretoria's contractual obligations ended because of the dissolution of the League, and that the mandate is no longer a "treaty or convention in force" within

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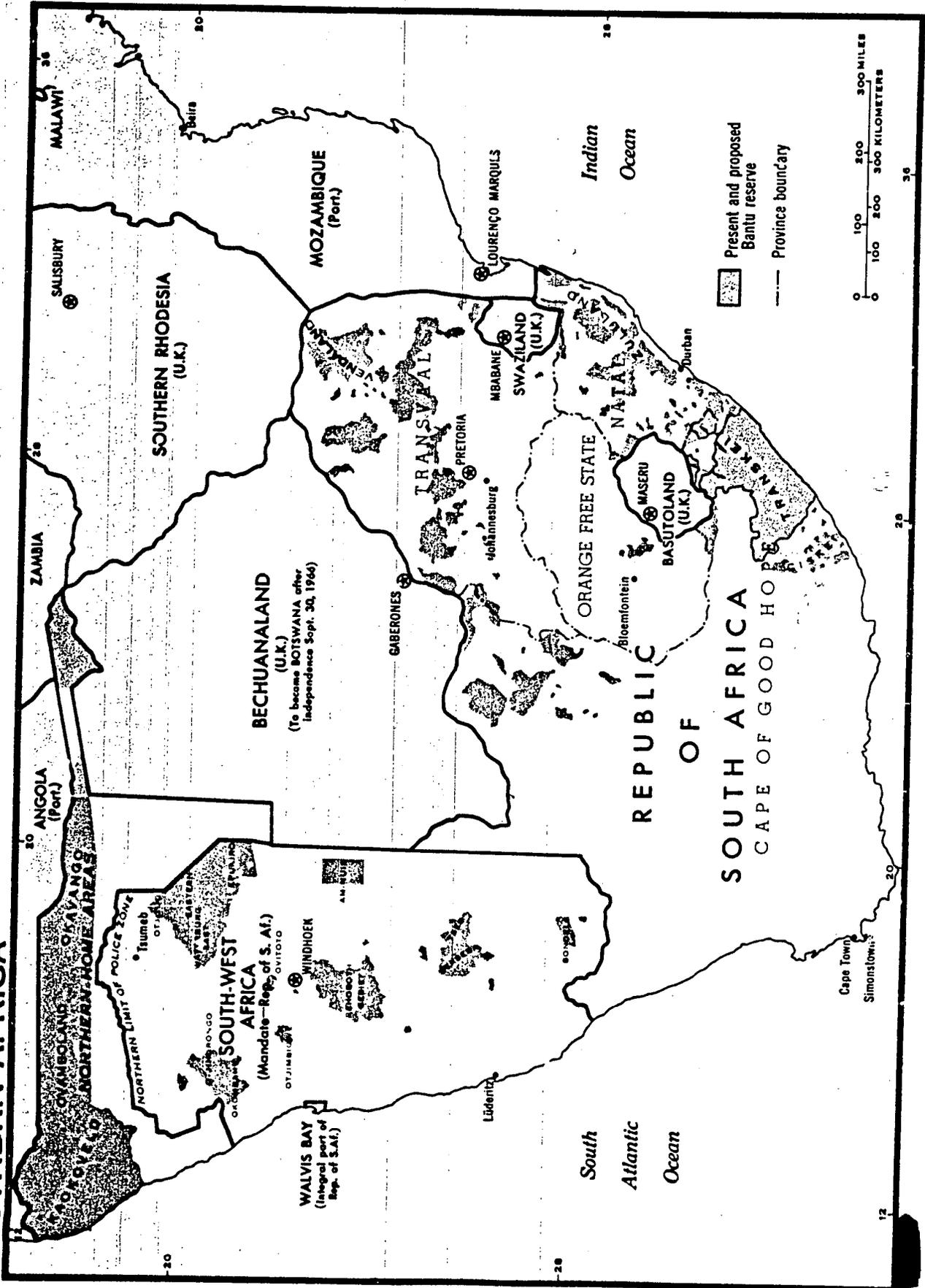
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the meaning of Article 37 of the Statute of the ICJ. South Africa has largely applied apartheid in SWA, thus in effect placing apartheid on trial.

5. As the foregoing suggests, the case is a legal quicksand. For example, even though the debilitating effects of apartheid normally are manifest, in practice it is difficult to determine whether, how, and to what degree apartheid breaches the mandate. Also, a Class "C" mandate, such as the League granted to South Africa, seems to condone "second-class citizen" treatment for the subjects: it permits forced labor for essential public works and services and prohibits the supply of intoxicating spirits and beverages to the African inhabitants. Nor are mandatory powers specifically enjoined to advance the indigenous population politically.

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SOUTHERN AFRICA



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