ANALYSIS OF AMERICAN OBLIGATIONS VIS-A-VIS NAMIBIA
IN THE LIGHT OF THE INTERNATIONAL COURT'S OPINION

Summary Statement

On June 21, 1971, the International Court of Justice handed down its Advisory Opinion on Namibia (South West Africa). It ruled that the illegality of South Africa's continued "presence" in Namibia after the termination of the mandate in 1966 obliged other states:

(a) to recognize the invalidity of the South African presence;
(b) to recognize the invalidity of acts of South Africa on behalf of or concerning Namibia; and
(c) to refrain from acts of dealings with South Africa which would imply recognition of or would give support or assistance to South Africa's administration of Namibia.

It is incumbent on the United States as a member of the United Nations and, moreover, a permanent member of the Security Council - the body which requested the Advisory Opinion - to take initiatives to implement the Opinion, both independently and through the United Nations.

Independent initiatives should include a formal declaration of adherence to the Opinion of the Court and an enumeration of the implications of the Opinion for the United States. The specific consequences for American corporations or individuals doing business in Namibia or otherwise dealing with the illegal South African administration should be spelled out.

A number of direct, practical actions by the United States are capable of immediate implementation, and appropriate measures should be taken without delay, such as:
(a) changing the accreditation of American diplomatic and consular personnel in South Africa so that their jurisdiction does not include Namibia;

(b) denial of tax credits to American corporations, firms, or individuals for taxes paid to the illegal South African administration on operations in Namibia;

(c) a specific declaration that any grant or concession in Namibia obtained from the illegal South African administration is void so that holders of such grants and concessions may not claim valid title thereto, or to the products derived therefrom, in, e.g., SEC registration statements or any public accounting or audit;

(d) granting political asylum to Namibian refugees.

With respect to the second category of actions taken through the United Nations, American initiatives should start with a declaration of support for the United Nations administering authority for Namibia and recognition of the validity of its acts until, at the earliest possible moment, an independent government is established. Additionally, proposals should be made and pursued to enable that authority to:

(a) represent Namibia in international affairs and sign treaties on its behalf;

(b) establish its own postage as the only valid postage for mail originating in Namibia;

(c) tax and regulate corporations doing business in Namibia, etc.

An enumeration of major obligations of the United States in the light of the Court's Opinion is set forth in the annexed analysis.

It is hereby urged that the United States commence the above initiative without delay and proceed as quickly as possible to fully meet the obligation set forth below.