

COUR INTERNATIONALE DE JUSTICE

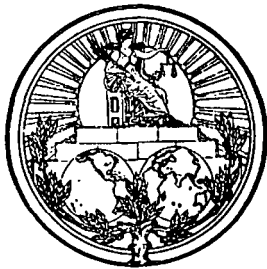
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MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

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ADMISSIBILITÉ DE L'AUDITION DE  
PÉTITIONNAIRES PAR LE COMITÉ  
DU SUD-OUEST AFRICAIN

(AVIS CONSULTATIF DU 1<sup>er</sup> JUIN 1956)



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## SECTION C.—WRITTEN STATEMENTS SECTION C. — EXPOSÉS ÉCRITS

### 1. WRITTEN STATEMENT OF THE UNITED STATES OF AMERICA

#### INTRODUCTORY

The General Assembly of the United Nations, in Resolution 942 (X) dated December 3, 1955, has requested the International Court of Justice to give an advisory opinion on the following question :

“Is it consistent with the advisory opinion of the International Court of Justice of 11 July 1950 for the Committee on South West Africa, established by General Assembly resolution 749A (VIII) of 28 November 1953, to grant oral hearings to petitioners on matters relating to the Territory of South West Africa ?”

The General Assembly has requested this advisory opinion as a consequence of the report of the Committee on South West Africa to the General Assembly. UN Document A/2913/Add. 2, 13 October 1955. In this report, the Committee on South West Africa drew the attention of the General Assembly to Section D of the Committee's provisional rules of procedure, entitled “Transitional provisions”, reading as follows :

“If the Committee should receive requests for oral hearings from inhabitants of the Territory of South West Africa or other sources, these shall be referred, with the comments of the Committee, to the General Assembly at its ninth session for a decision concerning the admissibility of oral hearings.”

The Committee had no occasion to refer such a request to the ninth session of the General Assembly, but, having received a request for an oral hearing in 1955, decided to refer this matter to the tenth session.

In its report, the Committee on South West Africa recalled that its present terms of reference in respect of petitions, as set forth in General Assembly Resolution 749A (VIII) of 28 November 1953, require it to examine petitions “as far as possible in accordance with the procedure of the former Mandates System”. The report further stated that the Permanent Mandates Commission (established by the Council of the League of Nations) had no provision in its rules for oral representations concerning the Mandated Territories ; that in practice the Mandates Commission did not think it its duty to receive petitioners ; but that all members of the Commission were entitled to hear persons who applied to them for an interview,

although official use would not be made of anything unless formally submitted in writing.

The report of the Committee on South West Africa was referred to the Fourth Committee of the General Assembly. The question of the admissibility of oral hearings by the Committee on South West Africa concerning the Territory of South West Africa was debated in the Fourth Committee from its 500th to its 506th meetings. In view of differences on the legal issue involved, the Fourth Committee recommended a draft resolution referring a question to the International Court of Justice. Report of the Fourth Committee, Question of South West Africa, UN Document A/3043, 24 November 1955. This draft resolution was adopted by the General Assembly, as Resolution 942 (X), at its 550th plenary meeting. UN Documents A/INF/69, 6 January 1956; A/RES/353, 13 December 1955.

### I. THE COURT'S OPINION OF JULY 11, 1950

It is recalled that in the Advisory Opinion of July 11, 1950 (*International Status of South-West Africa*), the following observations were made with respect to petitions :

"The right of petition was not mentioned by Article 22 of the *Covenant* or by the provisions of the *Mandate*. But on January 31st, 1923, the Council of the League of Nations adopted certain rules relating to this matter. Petitions to the League from communities or sections of the populations of mandated territories were to be transmitted by the mandatory Governments, which were to attach to these petitions such comments as they might consider desirable. By this innovation the supervisory function of the Council was rendered more effective.

The Court is of opinion that this right, which the inhabitants of South-West Africa had thus acquired, is maintained by Article 80, paragraph 1, of the Charter, as this clause has been interpreted above. In view of the result at which the Court has arrived with respect to the exercise of the supervisory functions by the United Nations and the obligation of the Union Government to submit to such supervision, and having regard to the fact that the dispatch and examination of petitions form a part of that supervision, the Court is of the opinion that petitions are to be transmitted by that Government to the General Assembly of the United Nations, which is legally qualified to deal with them.

It follows from what is said above that South-West Africa is still to be considered as a territory held under the Mandate of December 17th, 1920. The degree of supervision to be exercised by the General Assembly should not therefore exceed that which applied under the Mandates System, and should conform as far as possible to the procedure followed in this respect by the Council of the League of Nations. These observations are particularly applicable to annual reports and petitions." [1950] I.C.J. 128, 137-38.

In this connection, it is also noted that in the Advisory Opinion of June 7, 1955 (*Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South-West Africa*), the Court commented as follows :

“When the Court stated in its previous Opinion that in exercising its supervisory functions the General Assembly should conform ‘as far as possible to the procedure followed in this respect by the Council of the League of Nations’, it was indicating that in the nature of things the General Assembly, operating under an instrument different from that which governed the Council of the League of Nations, would not be able to follow precisely the same procedures as were followed by the Council. Consequently, the expression ‘as far as possible’ was designed to allow for adjustments and modifications necessitated by legal or practical considerations.” [1955] I.C.J. 67, 76-77.

## II. PROCEDURE OF THE LEAGUE OF NATIONS

The records indicate that the Permanent Mandates Commission had no provision in its rules for oral representations concerning the Mandated Territories and did not in practice grant such oral hearings to petitioners, although individual members of the Commission were free to hear petitioners privately.

The Court’s attention is invited to the League of Nations publication, *The Mandates System ; Origin, Principles, Application* (L.N. publication VI.A. Mandates ; 1945.VI.A.I. Geneva, 1945). The third chapter of this publication discusses the experience of the League of Nations in connection with the supervision of the Mandates System. The chapter begins as follows :

### “III. THE SUPERVISION OF THE MANDATORY ADMINISTRATION BY THE LEAGUE OF NATIONS

#### 1. Nature and Extent of the Supervision.

The international supervision provided for in paragraphs 7 and 9 of Article 22 of the Covenant is the cornerstone of the whole mandates system.

Since the Covenant institutes a system of tutelage to be exercised on behalf of the League of Nations, the guardians or Mandatories are responsible to the League and must accordingly accept its supervision. The very conceptions of tutelage and of a mandate imply confidence in the person or authority entrusted with it ; it is therefore obvious that the supervision must not be exercised in any spirit of mistrust. It clearly emerges, however, from the provisions of the Covenant and from the decisions of the Council that what is intended is an effective and genuine, not a purely theoretical or formal, supervision.

In a report presented to the Council by the rapporteur, the Belgian representative, on August 5th, 1920, the question of the extent of the right of control to be exercised by the League of Nations was dealt with in the following terms :

'What will be the responsibility of the mandatory Power before the League of Nations, or in other words, in what direction will the League's right of control be exercised? Is the Council to content itself with ascertaining that the mandatory Power has remained within the limits of the powers which were conferred upon it, or is it to ascertain also whether the mandatory Power has made a good use of these powers and whether its administration has conformed to the interests of the native population?

It appears to me that the wider interpretation should be adopted. Paragraphs 1 and 2 of Article 22 have indicated the spirit which should inspire those who are entrusted with administering peoples not yet capable of governing themselves, and have determined that this tutelage should be exercised by the States in question, as Mandatories and in the name of the League. The annual report stipulated for in paragraph 7 should certainly include a statement as to the whole moral and material situation of the peoples under the mandate. It is clear, therefore, that the Council should also examine the question of the whole administration. In this matter the Council will obviously have to display extreme prudence so that the exercise of its right of control should not provoke any justifiable complaints, and thus increase the difficulties of the task undertaken by the mandatory Power.'<sup>1</sup>

By adopting this report, the Council approved the wider interpretation advocated therein.

A report presented by the Council to the Assembly on December 6th, 1920, contains the following statement to the same effect:

'With regard to the responsibility of the League for securing the observance of the terms of the mandates, the Council interprets its duties in this connection in the widest manner.'<sup>1</sup>

Reference should also be made to the terms of the mandates and to the Council resolution<sup>2</sup> under which mandatories are required to attach to their annual reports the complete text of all general legislative or administrative decisions adopted in the mandated territories. Again, the constitution of the Mandates Commission adopted by the Council provides that the accredited representatives of the mandatory Powers are to furnish any supplementary explanation or information for which the Commission may ask them and authorises the Commission, after it has examined the annual reports, to lay before the representatives 'any other matters connected with the mandates'.

The mandatory Powers, therefore, are supposed to render an account of all details of their administration and it is clearly the intention of the Council to exercise its right of supervision in respect of their administration as a whole." *Id.* at 33-34.

Specifically in connection with means of supervision, the League of Nations publication states:

<sup>1</sup> League Assembly document 20/48/161.

<sup>2</sup> Council resolution of August 29th, 1924, *Minutes of the Thirtieth Session*, page 1287.

### "3. Sources of Information—Means of Supervision.

In accordance with the Council's decision of August 5th, 1920 (see pages 33-34), the Mandates Commission examines the whole of the administration of the various territories in the light of the principles laid down in the Covenant and of the provisions contained in the Mandates themselves. It does not therefore limit itself to the more or less negative role which would consist in verifying that the Mandatories have not overstepped the powers conferred upon them ; it likewise ascertains whether these powers have been put to good use and whether the administration has been in accordance with the interests of the native populations.

This twofold object of its supervision leads the Commission to go thoroughly into every aspect and all the details of the mandatory administration.

The chief source of information at its disposal consists in the *annual reports* of the mandatory Powers. From the outset, the Commission applied itself to facilitating the preparation of these reports and to the improvement of their system by drafting, for the use of the mandatory Powers, questionnaires of different types corresponding to the "A", "B" and "C" Mandates. The reports and their annexes which, in general, are prepared on the lines of these questionnaires, cover the whole field of activity of the various branches of the administration. The mandatory Powers, in fact, have continually sought to render their annual reports more comprehensive, and to include in them all relevant information concerning the points of special interest to the members of the Commission. Many of these reports also contain very valuable scientific information—on geographical, geological, linguistic, ethnographical, etc., subjects—which it would be difficult to find elsewhere.

The *texts of laws* and administrative regulations, which the mandatory Powers are under an obligation to communicate to the League of Nations (see page 34), constitute an indispensable addendum to the annual reports.

The *petitions* which the Commission receives from time to time, either from inhabitants of the mandated territories, or from some other source, in accordance with a special procedure laid down by the Council<sup>1</sup>, constitute not only a means whereby those concerned may state their grievances and secure redress for any wrongs done them but also an additional source of information for the Commission. Any petition from the inhabitants of a mandated area must be transmitted to the League of Nations through the mandatory Power, which is entitled to attach thereto such comments as it may think desirable. Any petition from another source is communicated to the Chairman of the Commission. The latter decides which, by reason of the nature of their contents or the authority or disinterestedness of their authors, should be regarded as claiming attention and which should be regarded as obviously trivial. The former are communicated to the mandatory Power, which is asked to present its observa-

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<sup>1</sup> Rules of Procedure in respect of Petitions concerning inhabitants of mandated territories, adopted by the Council on January 31st, 1923. See also *Summary of the Procedure to be followed in the Matter of Petitions concerning Mandated Territories*, League of Nations document C.545.M.194.1927.VI.



tions; the latter (i.e., the petitions regarded as non-receivable) are reported upon by the Chairman to the Commission. With regard to petitions received through the mandatory Governments, the Commission itself decides, in accordance with certain criteria laid down in the rules, whether they can be entertained<sup>1</sup>. Finally, with regard to petitions which are considered receivable, the Commission is at liberty to formulate such conclusions or recommendations as it may consider appropriate for submission to the Council.

This procedure, while securing to interested parties the right to present petitions, had regard to the peculiarly delicate position of mandatory Powers, whose authority it is desirable not to lessen. In order to discourage calumnious statements, a distinction is drawn between petitions emanating from a source worthy of attention and those which are, for instance, simply inspired by ill-will.

*A variety of documents* not communicated by the mandatory Powers constitute yet another source of information for the Commission. These may be either official documents, such as the records of parliamentary debates concerning mandated territories, or information emanating from private sources, such as scientific studies or articles published in reviews or in the daily Press. The collection of such documentation is the duty of the Mandates Section of the Secretariat, which is instructed by the Commission to submit to it any publications or documents which may be of interest to it and provide it with information regarding expressions of public opinion throughout the world concerning the mandates system<sup>2</sup>. This delicate task was described by the Director of the Section as follows<sup>3</sup>. 'In undertaking such a selection, we endeavour to be guided by a single consideration—that of unswerving impartiality. It does not fall within our province to judge of the tendencies and opinions which we bring to the notice of members of the Commission, but merely of the apparent sincerity, the seriousness of purpose and the competence of their authors... We resolutely refrain from taking sides in any way in the clash of opinions which is revealed in our documents. Nor can these documents ever serve as the sole basis for any action or intervention by the Commission in any sphere whatever.'

*The hearing of the accredited representatives of the mandatory Powers*, on the occasion of the examination of the annual reports, generally enables the Commission to make good any deficiencies in the written information at its disposal, to clear up obscure or doubtful points, to dispel any misunderstandings and thus to eliminate the possibility that its conclusions may be based on incomplete

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<sup>1</sup> Petitions are regarded as non-receivable on the following grounds amongst others: (a) if they contain complaints which are incompatible with the provisions of the Covenant or of the mandates; (b) if they emanate from an anonymous source; (c) if they cover the same ground as was covered by a recently submitted petition and do not contain any new information of importance; or (d) if they lay before the Commission disputes with which the Courts have competence to deal or if their authors appeal from a decision regularly pronounced by a properly constituted Court.

<sup>2</sup> See, in particular, *Minutes of the First Session of the Commission* (page 30) and of the *Second Session* (page 6).

<sup>3</sup> At the second session (*Minutes*, page 6).

data. The presence of representatives of the mandatory Powers has proved of the greatest assistance to the Commission in the performance of its tasks. It affords an opportunity for the discussion, not only of questions arising out of the examination of the annual reports, but also of any questions of a general nature regarding the mandatory regime. In the result, there has grown up a genuine collaboration between the Commission and these representatives.

The Commission has made every effort to render this collaboration as fruitful as possible. At first, the mandatory Powers usually sent officials of the home-country to represent them. In the report on its fourth session, however <sup>1</sup>, the Commission drew the Council's attention to the exceptional assistance which an accredited representative, who was himself the administrator of the territory in question, had afforded it. The Commission, in this connection, remarked that 'the presence during its discussions of those who are personally responsible for the actual administration of the mandated territories presents, in the Commission's opinion, eminent advantages'. The Council, concurring in the view taken by the Commission, expressed the hope that the mandatory Powers would in future years find it possible 'to send the officials personally responsible for the administration of mandated territories as representatives to the Mandates Commission' <sup>2</sup>.

The mandatory Powers have complied with this wish so far as has been possible in practice and consequently the Commission has frequently had the benefit of the co-operation of personalities in direct charge of the administration of the mandated territories, such as the High Commissioners for Syria, Iraq and Palestine, the Governor of Tanganyika, the Commissioner for the French Cameroons or the Administrator of South West Africa, or again District Commissioners from Togoland, the Director of Native Affairs in New Guinea, etc. The personal contact thus established between the Commission and the officials of the various territories has been attended by the happiest results and has singularly facilitated the working of the system. Members of the Commission have been enabled to form an exact idea of the characteristic problems and special difficulties confronting the administration of a particular territory. The officials, for their part, as a result of contact with the members of the Commission, have acquired a fuller understanding of the spirit animating the Commission's observations and of the atmosphere in which the international supervision of the mandatory administration is conducted.

Though it meets in Geneva, the Mandates Commission, thanks to these various sources of information, has at its disposal abundant data of different kinds which is supplemented by verbal information ; it is thus in a position to form an impression with regard to all aspects of the mandatory administration and to the conditions prevailing in the territories and, in general, to express opinions based on a complete acquaintance with the facts.

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<sup>1</sup> League of Nations document A.15.1924.VI.

<sup>2</sup> *Minutes of the Thirtieth Session of the Council* (meeting of August 29th, 1924), page 1287.

The Covenant and the Rules of Procedure with regard to the examination of annual reports and of petitions do not empower the Commission to obtain supplementary information through *channels other* than those mentioned above. On the other hand, there is nothing in these rules which expressly precludes it from so doing.

In the absence of an express prohibition in regard to this point, the question may arise—and has in fact arisen—whether, in case the information at its disposal should after all appear inadequate, the Commission might not have recourse to other means of securing the information required by it. The fact that it is the duty of the Commission to furnish the Council with its opinion on all questions relating to the execution of mandates would seem to involve an obligation to do so with a full knowledge of the facts. Does it not follow that the Commission should be free to select the means which it may consider most appropriate with a view to securing the requisite information? On the other hand, since the Council has laid down rules for the procedure to be followed with regard to the examination of annual reports and of petitions, must it not be inferred that recourse to any other form of procedure is precluded?

The question has been raised, in the first place, in connection with the admissibility of an *official hearing of petitioners*. Discussions took place on this subject at the third, eighth and ninth sessions of the Commission<sup>1</sup>. The views of members of the Commission were summarised in the notes appended to the minutes of its ninth session<sup>2</sup>. These notes make clear, on the one hand, the Commission's desire fully and impartially to investigate grievances which are referred to it and, on the other hand, its appreciation of the difficulties of the task of the mandatory Powers. In its report to the Council on this session, the Commission, however, confined itself to the following observations<sup>3</sup>:

'The Commission has again carefully considered the procedure in force with regard to petitions. Experience having shown that sometimes the Commission has been unable to form a definite opinion as to whether certain petitions are well founded or not, the Commission is of opinion that in those cases it might appear indispensable to allow the petitioners to be heard by it. The Commission, however, would not desire to formulate a definite recommendation on this subject before being informed of the views of the Council.'

Following upon this observation, the Council decided<sup>4</sup> to request the mandatory Powers to give their views on the question raised by the Commission. In their replies<sup>5</sup> these Powers all opposed the hearing of petitioners. They pointed out that, with such a procedure—which would involve the hearing at the same time of a representative of the mandatory Power—the parties would, in fact, be engaged

<sup>1</sup> See *Minutes of the Third Session*, pages 62 and 64-67; of the *Eighth Session*, pages 157-159, and of the *Ninth Session*, pages 47-50, 52-56 and 129-130.

<sup>2</sup> *Minutes of the Ninth Session of the Commission*, pages 189-192.

<sup>3</sup> *Minutes of the Ninth Session of the Commission*, page 216.

<sup>4</sup> *Minutes of the Forty-first Session of the Council*, page 1239.

<sup>5</sup> Summarised on page 438 of the *Minutes of the Forty-fourth Session of the Council*.

in a controversy before the Commission and that any procedure which would seem to transform the Commission into a court of law would be inconsistent with the very nature of the mandatory system. They added that the hearing of petitioners would weaken the authority which the Mandatory should possess in order to carry out its duties successfully and that it might lend itself to intrigues on the part of those who were more desirous of promoting disorder than of remedying defects. Furthermore, it was observed that, in countries where the right of petition was governed by regulations, petitioners were not as a rule entitled to a hearing by the competent authorities.

The Council, recognising the justice of these observations, expressed the opinion that 'there is no occasion to modify the procedure which has hitherto been followed by the Commission in regard to this question' <sup>1</sup>. The Rapporteur, however, observed in his report that, if, in a particular case, the circumstances showed that it was impossible for all the necessary information to be secured by the usual means, the Council might 'decide on such exceptional procedure as might seem appropriate and necessary in the particular circumstances'.

On the other hand, the members of the Commission have generally taken the view that, individually and in a private capacity, they might grant interviews to any person anxious to explain to them the situation in some mandated territory or to present private grievances <sup>2</sup>.

*Investigations on the spot* are not, generally speaking, regarded as within the competence of the Mandates Commission. The question whether it should be permissible for the Commission, or for special committees appointed *ad hoc* by the League of Nations, to undertake such investigations in order, if need be, to supplement the information at its disposal and obtain a personal impression on the spot of the conditions prevailing in mandated territories, has frequently been discussed by public opinion throughout the world and in literature relating to the mandates system. It has been contended in some quarters that the fact that it is the duty of the League of Nations to supervise the mandatory administration implies, or should imply, a right of enquiry, and the absence of local investigations has been criticised as a weakness of the system.

\* \* \*

It has seemed worth while to mention these facts in connection with the very important question of principle involved by the power to carry out local investigations. Though the question has never been explicitly settled by the organs of the League of Nations, the statements and decisions set out above afford some clue to the standpoint adopted in regard to it by the members of the Mandates Commission and of the Council and show how difficult, delicate and complex are the problems which it raises.

<sup>1</sup> *Minutes of the Forty-fourth Session of the Council*, page 438.

<sup>2</sup> See, in particular, *Minutes of the Seventh Session of the Commission*, pages 34-35, and of the *Ninth Session*, page 54.

\* \* \*

To sum up, it may be said that—within the framework of the mandates system, as it has been applied hitherto—the Council and the Mandates Commission have at their disposal a variety of appropriate means of obtaining information which, in general, constitute an excellent basis for the exercise of supervision over the mandatory administration, but that sometimes, in particular cases and exceptional situations, they can discharge their task only 'within certain limits' unless they have recourse to more direct means of procuring information." *Id.* at 37-42, 46.

### III. PRESENT PRACTICE OF UNITED NATIONS COMMITTEE ON SOUTH WEST AFRICA

In 1955, the Committee on South West Africa reported to the General Assembly (UN Document A/2913) that the Committee had invited the Government of the Union of South Africa to assist the Committee in its work and in particular to render a report on the Territory of South West Africa for the year 1954. The Committee reported that the Government of the Union of South Africa had notified the Committee that the Union Government's attitude had remained unchanged concerning the submission of reports. In July, 1949, the Union Government notified the Secretary-General of the United Nations that the Union Government had decided to discontinue the submission of reports<sup>1</sup>. In addition, the Union Government has refused to submit petitions on the Territory, or otherwise provide information to the Committee.

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<sup>1</sup> In connection with the annual reports which were the chief source of information at the disposal of the Mandates Commission, one authority has observed:

"The annual reports of the mandatory powers on the territories under their charge, and the Commission in its examination of those reports, always covered a wider area than that indicated in the questionnaire drawn up by the Commission. ... The reports, even for minor territories, became massive printed documents containing a vast amount of detailed information about almost every conceivable aspect of the territory on which information likely to interest the Commission could be given. Thus, the annual report on South-West Africa for the year 1939, received by the League in 1940, contained some 250 closely printed folio pages<sup>14</sup>. It covered thirteen chapters with 1,368 numbered paragraphs. While in construction and arrangement it followed more or less the general line of the questionnaire, it included more headings and a far wider field than that document."

<sup>14</sup> Union of South Africa, *Report Presented by the Government of the Union of South Africa to the Council of the League of Nations concerning the Administration of South West Africa for the Year 1939*, U.G. No. 30-40 (Pretoria, 1940)."

Hall, *Mandates, Dependencies and Trusteeship* (1948), 187-88.

## IV. CONCLUSION

The Court's Advisory Opinion of July 11, 1950, concluded that the General Assembly of the United Nations should act in the place of the Council of the League of Nations in exercising international supervision over the administration of the Territory of South West Africa and should conform as far as possible to the procedure followed in this respect by the Council of the League of Nations. The Council never authorized the Permanent Mandates Commission to grant oral hearings of petitioners. The Council and the Mandates Commission did, however, receive extensive information concerning the Territory from direct sources such as annual reports, written petitions, and hearings of accredited representatives. What action the Council would have taken, had that body and the Mandates Commission been denied such information, must necessarily be a matter of speculation. It does appear, however, that the Council considered itself competent to authorize the Mandates Commission to obtain information through such appropriate means as circumstances might require for the effective supervision of the Mandates System. Where the United Nations body charged with supervision of a mandate is denied access to direct sources of information concerning the mandated territory—through absence of annual reports, comments of the mandatory on written petitions, and appearance of a representative of the mandatory at meetings of the supervisory body—it would seem that the General Assembly (as the United Nations body responsible for supervision) could properly authorize resort to other sources in order to gain information on the mandate, including the oral hearing of petitioners from the territory.

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2. LETTER FROM THE MINISTER OF EXTERNAL AFFAIRS  
OF INDIA TO THE REGISTRAR OF THE COURT

No. 7-1/56-AFRI.

11th February, 1956.

Sir,

In continuation of this Ministry's letter No. F.7-1/56-AFRI, dated the 19th January, 1956, I am directed to state that the Government of India do not consider it necessary to submit any written statement in regard to the admissibility of oral hearings from petitioners on matters relating to the territory of South West Africa in view of the fact that their views in the matter have already been indicated in the relevant records of the Tenth Session of the General Assembly of the United Nations.

Yours faithfully,

(Signed) [Illegible.]  
For Secretary.

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### 3. WRITTEN STATEMENT OF THE GOVERNMENT OF THE REPUBLIC OF CHINA

February 18, 1956.

The Government of the Republic of China has the honor to submit to the International Court of Justice the following statement on the admissibility of oral hearings before the Committee on South West Africa, on which question a request for advisory opinion has been transmitted to the Court under the resolution of the General Assembly of the United Nations on December 3, 1955.

The Government of the Republic of China is of the view that in deciding whether oral hearings before the Committee on South West Africa are admissible, the previous advisory opinion of the International Court of Justice should be adhered to and the procedure under the former Mandates System of the League of Nations should be followed.

The Government of the Republic of China notes that the advisory opinion given by the International Court of Justice on July 11, 1950, and accepted by the United Nations General Assembly during its fifth session has provided, *inter alia*, that the degree of supervision to be exercised by the General Assembly with respect to the Territory of South West Africa should not exceed that which applies under the Mandates System and should conform as far as possible to the procedure followed by the Council of the League of Nations.

In view of the fact that there was no provision for oral hearings in the rules of procedure of the Permanent Mandates Commission and that the Commission did not consider it its duty to hear petitioners, the Government of the Republic of China is of the opinion that the admission of oral hearings by the General Assembly would not be in conformity with the past practice of the League of Nations and would not be in consonance with the previous advisory opinion of the Court.

The Government of the Republic of China voted in favor of the resolution of the General Assembly in its tenth session requesting for another advisory opinion from the Court on the admissibility of oral hearings before the Committee on South West Africa, in the belief that a new opinion from the Court would dispel all doubts on this question, as expressed by certain other Delegations during the discussion.

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