

territories were obligatory; 11 member states, including Canada, regarded them as voluntary. The International Court of Justice was asked by the General Assembly to give an advisory opinion on the international status of South West Africa and the international obligations, if any, of South Africa in respect of the territory. The opinion handed down by the International Court in 1950¹ was, in brief, that South Africa was not legally obliged to bring South West Africa under the international trusteeship system. However, the Court stated that South West Africa remained a territory under international mandate; that its international status could not be modified by South Africa alone but only by South Africa acting with the consent of the United Nations; that South Africa continued to have international obligations for South West Africa under the Covenant of the League of Nations and the mandate itself; and that supervisory functions in regard to annual reports on the administration of the territory and the transmission of petitions of the inhabitants should now be exercised by the United Nations.

An *Ad Hoc* Committee on South West Africa was set up by a General Assembly resolution on December 13, 1950, with members from Denmark, Syria, Thailand, the United States and Uruguay, to find ways and means of implementing the recommendations contained in the Court's advisory opinion. The Committee was also authorized by the General Assembly to examine reports on the administration of the territory as well as petitions and other matters relating to the territory.

The Committee began negotiating with the Government of South Africa in June 1951. South Africa stated its willingness to accept the theory of accountability for South West Africa but was reluctant to admit the supervisory functions of the United Nations. It therefore submitted proposals envisaging an Instrument of Agreement on South West Africa which would be negotiated, under the authority of the United Nations, between South Africa and the three remaining members of the Principal Allied and Associated Powers of the First World War (the United States, the United Kingdom and France). The proposal also included the suggestion that the International Court of Justice should have judicial supervision where non-compliance with the terms of the agreement was alleged.

The *Ad Hoc* Committee proposed a different solution: there would be a United Nations Committee on South West Africa which would exercise the supervisory functions formerly held by the League Council, and a United Nations Commission which would examine reports on administration and petitions from the inhabitants of the territory and perform the functions assigned under the League system to the Permanent Mandates Commission. The *Ad Hoc* Committee's proposals had considerable merit and went a long way, by adhering to League of Nations procedures, towards meeting South Africa's objections to what South Africa considered to be over-zealous scrutiny of its administration by Assembly members. On the other hand, the *Ad Hoc* Committee's proposals provided machinery for the submission of reports on South West Africa to an organ of the General Assembly (the United Nations Commission on South

¹See *Canada and the United Nations 1950*, p. 128.