

# ARTICLE 77

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## TEXT OF ARTICLE 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:
  - a. territories now held under mandate;
  - b. territories which may be detached from enemy states as a result of the Second World War; and
  - c. territories voluntarily placed under the system by states responsible for their administration.
2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

## INTRODUCTORY NOTE

1. Two questions have arisen in connexion with Article 77. One is whether there exists an obligation on the part of the Mandatory Powers to place the mandated territories under the International Trusteeship System. This question has arisen in respect of the mandated Territory of South West Africa. A brief account is given of the preliminary discussions of the General Assembly on the question of South West Africa. The request for an advisory opinion of the International Court of Justice and the opinion of the Court on the particular point raised are given in full. Finally, the action taken by the General Assembly in the light of the opinion is briefly set out.
2. The question of the obligation to place mandated territories under the Trusteeship System has not been considered by United Nations organs in the context of Article 77 (1) a, alone. All the provisions of Article 77 have been taken into account in the discussion of this obligation, as have Articles 75, 79 and 80. For the purposes of this study, all these aspects of the discussion have been dealt with here, and not under the other Articles in question.
3. The question of South West Africa has been treated here only as regards the placing of the Territory under the International Trusteeship System. The question whether the United Nations has the authority to exercise supervision over that Territory while it retains its present status is discussed in connexion with Article 80.
4. The other question discussed bearing upon Article 77 arose in connexion with a General Assembly recommendation to States administering Non-Self-Governing Territories to place them under the Trusteeship System.
5. No question has been raised under Article 77 (1) b with respect to the application of the International Trusteeship System to territories detached from enemy States as a result of the Second World War. There was little debate concerning the interpretation of this provision, except in so far as it was considered together with sub-paragraph (1) a of the Article in interpreting the consequence of the appearance of the word "voluntarily" in sub-paragraph (1) c, on the application of the Trusteeship System to the categories of territories in sub-paragraphs (1) a and (1) b.

b. The present study does not deal separately with Article 77 (2) for two reasons: (1) its consideration was closely related to that of Article 77 (1) a, so that reference to it is made where appropriate under that sub-paragraph; (2) the placing of territories under the Trusteeship System in application of its provisions by means of Trusteeship Agreements is discussed under Article 79.

## I. GENERAL SURVEY

7. Article 77 (1) states that the Trusteeship System shall apply to such territories in the following categories as may be placed thereunder:

"a. territories now held under mandate;

"b. territories which may be detached from enemy states as a result of the Second World War; and

"c. territories voluntarily placed under the system by states responsible for their administration."

This paragraph has been applied by means of the conclusion of Trusteeship Agreements. The situation with respect to each of the categories of territories mentioned is described below.

8. The Trusteeship System has been applied to the former mandated territories to the following extent. At the second part of its first session, the General Assembly approved Trusteeship Agreements submitted by the following Member States: by New Zealand in respect of Western Samoa, by the United Kingdom in respect of Tanganyika, the Cameroons under British mandate and Togoland under British mandate, by France in respect of the Cameroons under French mandate and Togoland under French mandate, by Belgium in respect of Ruanda-Urundi and by Australia in respect of New Guinea. At its second session, the General Assembly approved a Trusteeship Agreement submitted by Australia, New Zealand and the United Kingdom in respect of Nauru. On 2 April 1947, the Security Council approved a strategic area Trusteeship Agreement submitted by the United States in respect of the former Japanese Mandated Islands. This Agreement, having been ratified by the United States, entered into force on 18 July 1947. <sup>1/</sup>

9. With regard to one of the Trust Territories (formerly) under mandate at the time when the Charter came into force, namely, Transjordan, the United Kingdom informed the General Assembly at the first part of the first session that it intended to establish the independence of that Territory. This declaration was welcomed by the General Assembly. <sup>2/</sup> The question of the future status of the other former mandated territory of Palestine, was placed before the General Assembly at its second session by the Mandatory Power, the United Kingdom. The General Assembly adopted resolution 181 (II) recommending the establishment of a Jewish State, an Arab State and an internationalized city of Jerusalem. <sup>3/</sup>

10. The one Territory under mandate which has not become self-governing and has not been placed under the Trusteeship System is South West Africa, which is administered by the Union of South Africa. The question of the future status of South West Africa was placed before the General Assembly at the second part of its first session by the

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<sup>1/</sup> See also in this Repertory under Article 83.

<sup>2/</sup> G A resolution 9 (I).

<sup>3/</sup> See also in this Repertory under Articles 10 and 14.

Union of South Africa, which proposed its incorporation in the Union. The General Assembly by resolution 65 (I), declared that it was unable to accede to that incorporation, recommended that the Territory be placed under the International Trusteeship System, and invited the Government of the Union of South Africa to propose for the consideration of the General Assembly a Trusteeship Agreement for the Territory. Similar recommendations were contained in resolutions adopted at the second, third and fourth sessions of the General Assembly. At its fifth and subsequent sessions, having accepted an advisory opinion of the International Court of Justice, in which it was stated that while the provisions of Chapter XII of the Charter did not impose on the Union of South Africa a legal obligation to place the Territory under the Trusteeship System, they were applicable to the Territory in the sense that they provided a means by which it might be brought under the System, the General Assembly reiterated its previous recommendations and reasserted that the normal way of modifying the international status of the Territory would be to place it under the Trusteeship System by means of a Trusteeship Agreement.

11. There has been only one application of the Trusteeship System to the category of territories mentioned in Article 77 (1) b. At its fourth session, by resolution 289 A (IV), the General Assembly recommended that for a period of ten years from the adoption of a Trusteeship Agreement by the General Assembly, the former Italian colony of Somaliland should be placed under the International Trusteeship System, with Italy as the Administering Authority. At its fifth session, by resolution 442 (V), the General Assembly approved a draft Trusteeship Agreement for the Territory of Somaliland, negotiated with Italy by the Trusteeship Council.

12. There has been no application of the Trusteeship System to the category of territories mentioned in Article 77 (1) c. It may be noted, however, that the General Assembly rejected a draft resolution submitted to it by the Fourth Committee by which it would have expressed the hope that Members of the United Nations responsible for the administration of Non-Self-Governing Territories would propose Trusteeship Agreements for Territories of this category. <sup>4/</sup>

## II. ANALYTICAL SUMMARY OF PRACTICE

- A. The question whether mandated territories which have not attained self-government or independence must be placed under the International Trusteeship System

### *The question of South West Africa*

13. The question whether mandated territories which have not attained self-government or independence must be placed under the International Trusteeship System was raised only with respect to South West Africa, since all the other mandated territories were either placed under the Trusteeship System or had achieved independence.

14. The question whether the Union of South Africa was obligated to place South West Africa under the International Trusteeship System has been raised at several sessions of the General Assembly and has been the subject of an advisory opinion of the International Court of Justice, which was subsequently accepted by the General Assembly.

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<sup>4/</sup> G A (II), Plen., vol. I, 106th mtg., pp. 651-667.

15. At the first part of the first session of the General Assembly, the representative of the Union of South Africa stated 5/ before the Fourth Committee that under the Charter the transfer from the Mandates System to the Trusteeship System was not obligatory. His Government was taking steps to ascertain the wishes of the populations of South West Africa. It would then reach a decision and submit that decision to the General Assembly.

16. At the second part of the first session, a statement by the Union of South Africa on the outcome of consultations with the peoples of South West Africa was presented 6/ and discussed by the General Assembly as a separate agenda item. The General Assembly declared that it was unable to accede to the proposed incorporation of South West Africa in the Union of South Africa and recommended that the Territory be placed under the Trusteeship System. 7/

17. At its second session, having been informed by the Union of South Africa in a letter dated 23 July 1947 8/ that it had decided not to proceed with the incorporation of South West Africa in the Union, but to maintain the status quo and to continue to administer the Territory in the spirit of the existing mandate, the General Assembly firmly maintained its recommendation 9/ that South West Africa be placed under the Trusteeship System.

18. At its third session, the General Assembly maintained its previous recommendations that South West Africa be placed under the Trusteeship System, and noted with regret that its recommendations had not been carried out. 10/

19. At these various sessions representatives expressed opinions as to whether an obligation existed under Article 77 and other Articles of the Charter to place the Territory under the International Trusteeship System.

20. Representatives who held that an obligation existed to place mandated territories under the Trusteeship System expressed the view that only two courses were permissible: either a mandated territory should be granted full independence, or it should be placed under trusteeship; the Charter did not envisage the coexistence of the Mandates and Trusteeship Systems.

21. These representatives pointed out that since the word "voluntarily" was used in Article 77 (1) c but did not recur in sub-paragraphs a and b, it was obligatory that territories in categories a and b should be placed under the Trusteeship System. Moreover, Article 77 had to be read in conjunction with Article 80 (2) for that Article emphasized the importance of immediate negotiations which should culminate in Trusteeship Agreements. Accordingly, it was obligatory for all Mandatory Powers to initiate negotiation of Trusteeship Agreements.

22. These representatives further pointed out that if all the Mandatory Powers had chosen to refuse to submit Trusteeship Agreements for the territories which they held under Mandate, the International Trusteeship System, as contemplated in Chapter XII of the Charter, could never have come into existence. Article 77 was a solemn commitment

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5/ G A (I/1), 4th Com., 3rd mtg., p. 10.  
6/ G A (I/2), 4th Com., p. 199, annex 13 (A/123).  
7/ G A resolution 65 (I).  
8/ G A (II), 4th Com., p. 133, annex 3 a (A/334).  
9/ G A resolution 141 (II).  
10/ G A resolution 227 (III).

accepted by all the signatories to the Charter. It necessarily involved a concomitant legal obligation to submit Trusteeship Agreements, since this was the only way in which the System could be brought into existence.

23. Representatives who held that, on the contrary, there was no obligation to submit Trusteeship Agreements in respect of mandated territories, drew attention in particular to the words "as may be placed thereunder" mentioned in both Article 75 and Article 77 and which, in their view, had a clearly permissive meaning. Moreover, the use of the word, "may" in conjunction with the word "agreement" and the terms of Article 77 (2) implied the consent of the States directly concerned, including the Mandatory Powers.

24. It was maintained that since the word "voluntarily" was used only in Article 77 (1) c, the obligation to place a territory under the Trusteeship System would have to embrace both the territories referred to in 1 a and 1 b. No one, however, had contended that Article 77 (1) b imposed an obligation to place all such territories under the Trusteeship System and, therefore, no obligation existed under Article 77 (1) a.

25. Although there was extensive discussion, no decision was taken on this question during the second and third sessions of the General Assembly.

26. At the second session, the Fourth Committee, by 21 votes to 19, decided to include the following paragraph in the draft resolution on South West Africa, which it submitted to the General Assembly for adoption. 11/

"Whereas it is the clear intention of Chapter XII of the Charter of the United Nations that all territories previously held under mandate shall, until granted self-government or independence, be brought under the international trusteeship system;"

When this draft resolution was considered by the General Assembly, 12/ an amendment was submitted calling for the deletion of the paragraph cited. This amendment was adopted by 36 votes to 9, with 11 abstentions, 13/ with the result that the paragraph was not incorporated in General Assembly resolution 141 (II). Before the vote, the representatives who had sponsored the paragraph in the Fourth Committee stated that they did not wish to insist on its retention, since the close vote in the Committee had greatly reduced the chances that a resolution embodying it would obtain the necessary two-thirds majority in the Assembly.

27. At its fourth session, the General Assembly, by resolution 337 (IV), reiterated in their entirety its previous resolutions on the subject of South West Africa and, by resolution 338 (IV), decided to submit the following questions on the international status of the Territory of South West Africa to the International Court of Justice:

"What is the international status of the Territory of South West Africa and what are the international obligations of the Union of South Africa arising therefrom, in particular:

"(a) Does the Union of South Africa continue to have international obligations under the Mandate for South West Africa and, if so, what are those obligations?"

11/ G A (II), 4th Com., 45th mtg., p. 96.

12/ G A (II), Plen., vol. I, 104th and 105th mtgs., pp. 572 et seqq.

13/ Ibid., 105th mtg., p. 650.

"(b) Are the provisions of Chapter XII of the Charter applicable and, if so, in what manner, to the Territory of South West Africa?

"(c) Has the Union of South Africa the competence to modify the international status of the Territory of South West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the Territory?"

*Advisory opinion of the International Court of Justice*

28. The International Court of Justice gave its advisory opinion on the above question as follows: 14/

"On the General Question:

"unanimously,

"that South-West Africa is a territory under the international Mandate assumed by the Union of South Africa on December 17th, 1920;

"On Question (a):

"by twelve votes to two,

"that the Union of South Africa continues to have the international obligations stated in Article 22 of the Covenant of the League of Nations and in the Mandate for South-West Africa as well as the obligation to transmit petitions from the inhabitants of that Territory, the supervisory functions to be exercised by the United Nations, to which the annual reports and the petitions are to be submitted and the reference to the Permanent Court of International Justice to be replaced by a reference to the International Court of Justice, in accordance with Article 7 of the Mandate and Article 37 of the Statute of the Court;

"On Question (b):

"unanimously,

"that the provisions of Chapter XII of the Charter are applicable to the Territory of South-West Africa in the sense that they provide a means by which the Territory may be brought under the Trusteeship System;

"and by eight votes to six,

"that the provisions of Chapter XII of the Charter do not impose on the Union of South Africa a legal obligation to place the Territory under the Trusteeship System;

"On Question (c):

"unanimously,

"that the Union of South Africa acting alone has not the competence to modify the international status of the Territory of South-West Africa, and that the competence

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14/ International status of South-West Africa, I C J, Reports, 1950, pp. 143-145.



to determine and modify the international status of the Territory rests with the Union of South Africa acting with the consent of the United Nations."

29. On question (b) the detailed opinion of the Court was as follows:

"Articles 75 and 77 show, in the opinion of the Court, that this question must be answered in the negative. The language used in both Articles is permissive ("as may be placed thereunder"). Both refer to subsequent agreements by which the territories in question may be placed under the Trusteeship System. An 'agreement' implies consent of the parties concerned, including the mandatory Power in the case of territories held under Mandate (Article 79). The parties must be free to accept or reject the terms of a contemplated agreement. No party can impose its terms on the other party. Article 77, paragraph 2, moreover, presupposes agreement not only with regard to its particular terms, but also as to which territories will be brought under the Trusteeship System.

"It has been contended that the word "voluntarily", used in Article 77 with respect to category (c) only, shows that the placing of other territories under Trusteeship is compulsory. This word alone cannot, however, over-ride the principle derived from Articles 75, 77 and 79 considered as a whole. An obligation for a mandatory State to place the Territory under Trusteeship would have been expressed in a direct manner. The word "voluntarily" incorporated in category (c) can be explained as having been used out of an abundance of caution and as an added assurance of freedom of initiative to States having territories falling within that category.

"It has also been contended that paragraph 2 of Article 80 imposes on mandatory States a duty to negotiate and conclude Trusteeship Agreements. The Court finds no justification for this contention. The paragraph merely states that the first paragraph of the article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the Trusteeship System as provided for in Article 77. There is nothing to suggest that the provision was intended as an exception to the principle derived from Articles 75, 77 and 79. The provision is entirely negative in character and cannot be said to create an obligation to negotiate and conclude an agreement. Had the parties to the Charter intended to create an obligation of this kind for a mandatory State, such intention would necessarily have been expressed in positive terms.

"It has further been maintained that Article 80, paragraph 2, creates an obligation for mandatory States to enter into negotiations with a view to concluding a Trusteeship Agreement. But an obligation to negotiate without any obligation to conclude an agreement can hardly be derived from this provision, which expressly refers to delay or postponement of "the negotiation and conclusion" of agreements. It is not limited to negotiations only. Moreover, it refers to the negotiation and conclusion of agreements for placing "mandated and other territories under the Trusteeship System as provided for in Article 77". In other words, it refers not merely to territories held under Mandate, but also to the territories mentioned in Article 77 (b) and (c). It is, however, evident that there can be no obligation to enter into negotiations with a view to concluding Trusteeship Agreements for those territories.

"It is contended that the Trusteeship System created by the Charter would have no more than a theoretical existence if the mandatory Powers were not under an obligation to enter into negotiations with a view to concluding Trusteeship

Agreements. This contention is not convincing, since an obligation merely to negotiate does not of itself assure the conclusion of Trusteeship Agreements. Nor was the Trusteeship System created only for mandated territories.

"It is true that, while Members of the League of Nations regarded the Mandates System as the best method for discharging the sacred trust of civilization provided for in Article 22 of the Covenant, the Members of the United Nations considered the International Trusteeship System to be the best method for discharging a similar mission. It is equally true that the Charter has contemplated and regulated only a single system, the International Trusteeship System. It did not contemplate or regulate a co-existing Mandates System. It may thus be concluded that it was expected that the mandatory States would follow the normal course indicated by the Charter, namely, conclude Trusteeship Agreements. The Court is, however, unable to deduce from these general considerations any legal obligation for mandatory States to conclude or to negotiate such agreements. It is not for the Court to pronounce on the political or moral duties which these considerations may involve.

"For these reasons, the Court considers that the Charter does not impose on the Union an obligation to place South-West Africa under the Trusteeship System."

30. The six judges who dissented from the opinion of the Court considered that Article 80 (2) should be interpreted as obligating a Mandatory Power to negotiate in good faith with a view to concluding an agreement to place a mandated territory under the International Trusteeship System, since otherwise the Article would be deprived of any meaning. Moreover, the use of the word "voluntarily" in Article 77 (1) c showed, in their view, that it was only with regard to the territories in that category that there was an absence of obligation to conclude a Trusteeship Agreement. The obligation to be ready to negotiate with a view to concluding a Trusteeship Agreement represented the minimum of international co-operation without which the entire régime contemplated and regulated by the Charter would have been frustrated.

31. The advisory opinion of the Court was examined by the General Assembly at its fifth session. Two resolutions were adopted on that occasion. By resolution 449 A (V), the General Assembly accepted the advisory opinion of the International Court of Justice with respect to South West Africa. By resolution 449 B (V), the General Assembly reiterated its previous resolutions to the effect that the Territory should be placed under the International Trusteeship System, and reiterated that the normal way of modifying the international status of the Territory would be to place it under the International Trusteeship System by means of a Trusteeship Agreement in accordance with the provisions of Chapter XII of the Charter. In subsequent sessions at which it considered the question of South West Africa, the General Assembly adopted resolutions 570 (VI) concerning the question of the supervision of South West Africa under its present status and 749 (VIII) in regard to the opinion of the Court relating to the applicability of the International Trusteeship System to South West Africa, reiterating the terms of General Assembly resolution 449 (V) above.

B. The question of the application of the International Trusteeship System to territories voluntarily placed thereunder by States responsible for their administration

32. The third broad category of territories indicated in Article 77 (1) to which the Trusteeship System was to apply were those voluntarily placed under the System by States responsible for their administration. To date, no State has volunteered to place a territory of this category under trusteeship. 15/

33. It has already been pointed out above 16/ that certain Governments interpreted sub-paragraphs a and b of Article 77 (1) as having mandatory force. The word "voluntarily" in sub-paragraph c was said to make it very clear that there was no binding obligation whatsoever attached to implementing its provisions. On the other hand, it was the view of some Governments that while the initiative in respect of individual territories had to be taken voluntarily by the metropolitan Powers themselves, the Charter clearly contemplated that some, if not all, Non-Self-Governing Territories should be placed under the International Trusteeship System. 17/

34. During its second session, the General Assembly, at its 106th plenary meeting, considered a draft resolution recommended to it by the Fourth Committee 18/ for adoption. The draft resolution read as follows:

"Whereas at the time of the creation of the United Nations it was intended that Non-Self-Governing Territories be voluntarily placed under the International Trusteeship System by States responsible for their administration and such intention was embodied in Article 77, paragraph 1 c, of the Charter of the United Nations;

"Whereas the International Trusteeship System, in conformity with the high principles and purposes of the Charter, provides the surest 19/ and quickest means of enabling the peoples of dependent territories to secure self-government or independence under the collective guidance and supervision of the United Nations;

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15/ The second paragraph of the preamble of the Trusteeship Agreement for the former Japanese Mandated Islands (Trust Territory of Pacific Islands) shows that they came under the Trusteeship System by virtue of sub-paragraph a (not c) of Article 77 (1). (See United Nations Treaty Series, vol. 8, 1945, No. 123, p. 190). Although the United States had not been the Mandatory Power under the League of Nations, nevertheless as a result of the Second World War, the United States was in administrative control of these islands.

16/ See paras. 20, 21 and 22 above.

17/ For the first draft resolution to this effect see G A (I/2), 4th Com., part III, 7th mtg., p. 40 and p. 93, annex 3. The Chairman ruled that the draft resolution was beyond the terms of reference of the Sub-Committee (*ibid.*, 8th mtg., p. 44).

18/ For the debate in the Fourth Committee, see G A (II), 4th Com., 43rd and 44th mtgs., pp. 78-92; see also annexes 5a, 5b and 5c, pp. 217 *et seqq.* The draft resolution (annex 5a, A/C.4/98) was adopted by the Fourth Committee by 25 votes to 23, with 3 abstentions.

19/ One representative submitted an amendment (A/442), which would change "the surest and quickest means" to read "a sure and quick means" (G A (II), Plen., vol. I, 106th mtg., p. 652). He recognized that the International Trusteeship System was a sure and quick means, but did not wish to exclude other means or deny their possible merits. The original sponsor of the draft resolution accepted this amendment (*ibid.*, p. 656).

"The General Assembly hopes that Members of the United Nations responsible for the administration of Non-Self-Governing Territories will propose trusteeship agreements under Article 77, paragraph 1 c, of the Charter of the United Nations for all or some of such Territories as are not ready for self-government."

35. During the debate 20/ the following arguments were advanced in support of the draft resolution:

(a) The advantage in placing a territory under the Trusteeship System was to give greater hope and assurance to the world at large and to the peoples concerned that the evolution of colonial territories toward self-government or independence received the support not only of an individual Power, but of the entire United Nations. Thus an impartial, outside control and supervision would be provided.

(b) The authors of the Charter at the time of the San Francisco Conference must have hoped that some colonies also would come under trusteeship. To hold otherwise would be to render meaningless the provision of Article 77 (1) c.

36. The following were the main arguments advanced against the adoption of the draft resolution:

(a) If the draft resolution were to be adopted, it would be tantamount to a vote of non-confidence in the operation of Chapter XI of the Charter. All the emphasis would be placed on Chapters XII and XIII and would create the impression that the United Nations had little confidence that the undertakings of the colonial Powers as expressed in Chapter XI would be carried out;

(b) The draft resolution would nullify the provisions of Article 77 (1) b dealing with territories which might be detached from enemy States as a result of the Second World War. There did not seem to be a valid reason for bypassing category b and going on to category c, especially at a time when the United Nations was being called upon to determine the fate of colonies detached from Italy. It was category b which would indeed be the most fruitful source of accretions to the Trusteeship System. There was need to strengthen category b and not to pass it over in silence.

(c) The draft resolution was premature because it was predicated upon the view that the Trusteeship System was the quickest means of enabling peoples of dependent territories to achieve self-government or independence.

(d) No justification could be found in the Charter for the assumption in the first paragraph of the preamble to the draft resolution, that "... at the time of the creation of the United Nations it was intended that ...". 21/

(e) The draft resolution, if adopted, would be tantamount to amending or modifying the Charter by a resolution of the General Assembly.

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20/ For texts of relevant statements, see G A (II), Plen., vol. I, 106th mtg., pp. 651-667. China, p. 653 et seqq.; Cuba, p. 652 et seqq.; India, p. 655 et seqq.; Netherlands, p. 654 et seqq.; United Kingdom, p. 663 et seqq.; United States, p. 657 et seqq.

21/ The sponsor of the draft resolution said that this was merely a choice of words. If they were found to be obnoxious, he would be quite willing to accept some such phrase as: "provision was made whereby ..." (G A (II), Plen., vol. I, 106th mtg., p. 657).

(f) Opinion in many of the colonies 22/ would be strongly opposed to any proposal that they should be brought under the Trusteeship System.

37. The draft resolution 23/ was not adopted the vote being 24 to 24, with 1 abstention. 24/

38. While discussing 25/ this question at the 74th and 75th meetings of the Fourth Committee, during the third session of the General Assembly, one representative submitted a draft resolution 26/ the third paragraph of which read:

"Recalling that Article 77 of the Charter contemplates the application of the Trusteeship System 27/ to the three types of territories enumerated therein;"

39. In support of the inclusion of this paragraph in the draft resolution, it was argued that Governments might usefully be reminded of their responsibilities in relation to the other paragraphs of Article 77, since it was through the full application of Article 77 that the Trusteeship System could be expanded and developed. Article 77 existed and had to be applied.

40. On the other hand, it was suggested that this paragraph implied that the Administering Powers should place all their Non-Self-Governing Territories under the Trusteeship System - which was not what the Charter contemplated. 28/ No separate vote was taken on this particular paragraph. Together with a number of other paragraphs, it was adopted, as amended, by 36 votes to 2.

41. The draft resolution 29/ recommended by the Fourth Committee was adopted 30/ unanimously by the General Assembly.

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22/ In the Fourth Committee the sponsor of the draft resolution (A/C.4/98) stated that he had in mind chiefly two categories of colonial territories that might well be brought under trusteeship: (a) those with backward populations not likely to achieve self-government in the near future and (b) colonies where there was racial discrimination (G A (II), 4th Com., 43rd mtg., pp. 78 and 79).

23/ A/423, as amended (A/442).

24/ A vote was first taken to decide whether this was a matter of importance requiring a two-thirds majority. It was decided by 22 votes to 18, with 5 abstentions that a two-thirds majority was required (G A (II), Plen., vol. I, 106th mtg., p. 666).

25/ For texts of relevant statements, see G A (III/1), 4th Com., 74th and 75th mtgs., pp. 271-286.

26/ G A (III/1), Plen., Annexes, p. 360, A/C.4/152/Rev.1.

27/ An amendment proposed that after the words "Trusteeship System" there be added the phrase "in terms of that Article". This amendment was adopted (G A (III/1), 4th Com., 75th mtg., pp. 282-286).

28/ For texts of relevant statements, see G A (III/1), 4th Com., 74th mtg., France, p. 275; Poland, p. 271; USSR, p. 283; United Kingdom, p. 278.

29/ G A (III/1), Plen., Annexes, pp. 361-365, resolution IV. See also G A (III/1), Plen., 160th mtg. p. 493.

30/ G A resolution 226 (III).

