

ARTICLE 81

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TEXT OF ARTICLE 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

INTRODUCTORY NOTE

1. Article 81 states that the Trusteeship Agreements shall in each case include the terms under which the Trust Territories will be administered. The first part of the present study describes the main questions which have arisen in connexion with the application of that provision, and the decisions taken in respect of those questions when the draft Trusteeship Agreements were being considered for approval 1/ at the second part of the first session of the General Assembly.
2. The specific questions which arose at that time in connexion with the terms of the Trusteeship Agreements are set forth below. They are: (1) the question of the customs, fiscal or administrative union of a Trust Territory with adjacent territories under the sovereignty of the Administering Authority; (2) the question whether a Trust Territory should be administered "as an integral part" of the territory of the Administering Authority; (3) the question of the fixing of time limits for self-government or independence; (4) the question of the modification of the suggested procedure for the settlement of disputes; (5) the question of the entry into force of the Trusteeship Agreements.
3. The present study does not, however, deal with all the terms of the Trusteeship Agreements, inasmuch as questions which arose in connexion with certain other terms are dealt with in this Repertory under the Articles to which they most closely relate. 2/
4. Article 81 also states that the Trusteeship Agreements shall in each case designate the authority which will exercise the administration of the Trust Territories. The second part of the present study deals with two problems which arose in connexion with the application of that provision, namely: (1) the designation of one or more States as the Administering Authority; and (2) the designation of the United Nations itself as the Administering Authority. 3/

1/ For developments following approval of the Trusteeship Agreements, especially those relating to administrative unions, see in this Repertory under Article 76 b.

2/ In this connexion, see the annex to the present study.

3/ Questions concerning the establishment of the city of Jerusalem as a corpus separatum under a special régime to be administered by the United Nations and the future government of Palestine (G A resolution 181 (II)), although concerned with a territory under the jurisdiction of the United Nations, are not directly related to the International Trusteeship System and are therefore not dealt with in this volume of the Repertory.

I. GENERAL SURVEY

5. In accordance with the provisions of Article 81, the draft Trusteeship Agreements that were submitted to the General Assembly for approval under Article 85, and to the Security Council under Article 83, contained the terms under which it was proposed to administer the various Trust Territories. The draft Trusteeship Agreements also proposed the authority which would exercise the administration of those Territories. Nine of the eleven draft Trusteeship Agreements were similar in that the obligations of the Administering Authority were described in full; one draft Agreement, that for Western Samoa, reproduced the text of Article 76 of the Charter. Two draft Agreements, those for Nauru and New Guinea, however, did not describe the obligations in detail, but recognized them in a more general way: the Administering Authorities concerned undertook to administer the Territory in accordance with the provisions of the Charter and in such a manner as to achieve the basic objectives of the International Trusteeship System.

6. The draft Trusteeship Agreements contained the following general provisions: a definition of the boundaries of the Territories; the designation of the Administering Authorities; 4/ the procedure for the amendment of Agreements; and the procedure for settling disputes between an Administering Authority and another Member of the United Nations relating to the interpretation or application of the provisions of the Agreement. 5/

7. The draft Agreements also contained specific provisions relating to the powers of the Administering Authorities, the duties of the Administering Authorities and co-operation of the Administering Authorities with the General Assembly and the Trusteeship Council.

8. The powers of the Administering Authority in the Trust Territory were defined with respect to legislation, administration and jurisdiction, the formation of customs, fiscal or administrative unions with other territories, 6/ co-operation with other bodies and organizations, the organization of public services and monopolies, and defensive measures.

9. The duties of the Administering Authority, as described in the Trusteeship Agreement, included responsibility for: (1) the good government of the Territory; (2) participation of the Territory in the maintenance of international peace and security; (3) administration of the Territory in accordance with the Charter and the Trusteeship Agreement; (4) regard for indigenous law and custom; (5) promotion of political advancement; (6) promotion of economic and social advancement in regard to land and natural resources, to international conventions, and to slavery and compulsory labour; (7) promotion of educational advancement; (8) protection of human rights and freedoms including freedom of speech, conscience and religion. The Administering Authority was also responsible for the treatment to be accorded nationals of Members of the United Nations.

4/ The Trusteeship Agreement for Somaliland under Italian administration differs somewhat from those of other Trust Territories. It provides that the Administering Authority is to be aided and advised by an Advisory Council composed of representatives of Colombia, Egypt and the Philippines and that the headquarters of the Administrator and of the Advisory Council shall be in Mogadiscio (United Nations Publications, Sales No.: 1951.VI.A.1).

5/ Three Trusteeship Agreements contain no specific provisions regarding settlement of disputes.

6/ Three Agreements contain no provisions for the establishment of such unions.

10. The terms of the Trusteeship Agreements regarding co-operation with the General Assembly and Trusteeship Council concerned general collaboration with these organs, periodic visits to Trust Territories, and the submission of annual reports by Administering Authorities. ^{7/}

11. Under Article 85, the General Assembly had to approve the proposed terms under which the Trust Territories would be administered before the Trusteeship Agreements came into force. They were, in fact, submitted to the United Nations and examined by the General Assembly.

12. In pursuance of the provision of Article 81 regarding designation of the "authority which will exercise the administration of the trust territory", single States have become the Administering Authority of Trust Territories, with the sole exception of Nauru which the Governments of Australia, New Zealand and the United Kingdom have undertaken to administer jointly under the terms set forth in the Trusteeship Agreement. The Government of Australia, on behalf of the joint Administering Authority, exercises full powers of legislation, administration and jurisdiction in and over the Territory.

13. In the case of the former Italian colonies of Somaliland and Libya (see paragraph 65 below), proposals for the designation of a number of States as a collective Administering Authority were rejected.

14. Proposals to designate the United Nations itself as an Administering Authority were rejected on the two occasions when they were made.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Terms of the Trusteeship Agreements ^{8/}

1. The question of constituting administrative unions between Trust Territories and adjacent territories under the control of the same Administering Authority

15. With the exception of the Agreement for Western Samoa, provision was made in the first eight draft Trusteeship Agreements for the Administering Authority to constitute a customs, fiscal or administrative union or federation between the Trust Territory and adjacent territories under its sovereignty or control, and to establish common services between such territories and the Trust Territory concerned where this was not inconsistent with the basic objectives of the Trusteeship System and the terms of the Agreement.

16. During the discussion on the draft Agreements in Sub-Committee 1 of the Fourth Committee at the second part of the first session of the General Assembly, the objections set forth below were made to this proposed provision. (1) It might be contrary to the principle of the Trusteeship System because it might bring the Trust

^{7/} For further details, see the annex to this study.

^{8/} For the texts of the first eight Trusteeship Agreements, see G A (I/2), Supplement No. 5. This publication appears in English, French, Spanish, Russian and Chinese. The text of the Trusteeship Agreement for the former Japanese Mandated Islands (Trust Territory of the Pacific Islands) is reproduced in United Nations Treaty Series, volume 8, 1947, and appears in English and French and that of the Trusteeship Agreement for the Territory of Somaliland under Italian Administration is reproduced in United Nations Publication, Sales No.: 1951.VI.A.1, and appears in English and French.

Territory into the sphere of colonial rule and would not be in the interests of its people. (2) It would operate against the rights of other Members of the United Nations. (3) Taken together with the clause making possible the administration of the Trust Territory "as an integral part" of the territory of the Administering Authority, it would lead towards a colonial status for the former and would slow down, rather than promote, the advancement of its people. 9/ (4) It was not clear which Article of the Charter had formed the basis of this provision. (5) Such a tendency towards the unification of the Trust Territory with territories under the sovereignty of the Administering Authority was contrary to the very distinct aims of Chapter XII of the Charter. (6) While there was no objection to the principle of customs, administrative or fiscal unions where territories were under the same legal system, the proposal to establish unions among territories under two different régimes, namely, direct sovereignty and administration under the Trusteeship System was an attempt to eliminate the difference between them. 10/

17. To these general objections to the provision was added a specific objection in the case of Tanganyika. It was argued 11/ that, particularly in East Africa, there was an inevitable tendency for administrations having reactionary policies to influence the policy in adjacent territories. Tanganyika might suffer from the discriminatory administration of a neighbouring Territory. It should be treated as an entity separate from adjacent territories, since it was sufficiently large in area and population to stand by itself.

18. Another specific objection was raised to the provision permitting administrative unions in the case of New Guinea. It was contended that the phrase "in its opinion" in article 5 of the draft Trusteeship Agreement was a deviation from the terms of the Mandate. 12/ The Administering Authority would normally be the judge of the applicability of the provision, but the insertion of the new wording seemed to rule out intervention by the Trusteeship Council in case of abuse. 13/ It was accordingly proposed 14/ to delete the words "in its opinion" from the draft article 5. The Sub-Committee adopted 15/ the proposal by 8 votes to 5, with 4 abstentions. The Administering Authority was unwilling to accept this modification, however, and the sponsor waived his right to press it to a vote. 16/

19. In reply to the above-mentioned objections, the views set forth below were among those expressed. 17/ (1) A distinction had not been adequately drawn by some members of the Sub-Committee between the constitutional nature of the draft Trusteeship Agreement and the subsequent exercise of legislative and administrative functions

9/ The representative of Australia (the Administering Authority for the Territory of New Guinea) held that the article of the draft Trusteeship Agreement empowering the Administering Authority to administer the Trust Territory as if it were an integral part of the metropolitan country bore no relation to the article permitting the establishment of administrative unions (G A (I/2), 4th Com., part II, 16th mtg., p. 120).

10/ For texts of relevant statements, see G A (I/2), 4th Com., part II, 4th mtg., India, p. 21; USSR, p. 22; Yugoslavia, pp. 22 and 23; 16th mtg., USSR, p. 124.

11/ G A (I/2), 4th Com., part II, 16th mtg., China, p. 125; India, pp. 124 and 125.

12/ According to the Administering Authority, this article of the draft Agreement was derived from similar provisions in the "B" Mandates of the League of Nations (G A (I/2), 4th Com., part I, 4th mtg., Australia, p. 23).

13/ G A (I/2), 4th Com., part I, United States, p. 21. See also China, p. 22.

14/ G A (I/2), 4th Com., part I, p. 242, annex 5 b (A/C.4/Sub.1/21).

15/ G A (I/2), 4th Com., part I, 18th mtg., p. 132.

16/ Ibid., 25th mtg., Australia, p. 192; United States, p. 192.

17/ Ibid., 4th mtg., Australia, pp. 21 and 22.

thereunder. (2) The application of the provision would be subject to discussion and supervision by the Trusteeship Council. (3) Each article of the draft Agreement did not necessarily have to be traced to a particular Article of the Charter. (4) The terms of the text concerning administrative unions made it clear that the article was intended to apply only with respect to the territorial possessions of the Administering Authority.

20. It was further pointed out 18/ that the Permanent Mandates Commission of the League of Nations had discussed the subject of administrative unions. It had been clearly stated in 1938 that artificial customs frontiers should not be established between Ruanda-Urundi and the Belgian Congo, because it was considered that they would be detrimental to the interests of the agricultural and pastoral communities on the border; the same considerations would apply under trusteeship.

21. The view was also advanced 19/ that association between a territory under liberal administration and a territory under a less liberal rule might as easily result in improvement of the situation in the second territory as in an illiberal administration in the first territory. Deletion of the proposed provision could be interpreted as a retrogressive step in the light of the universal trend towards closer association. 20/

22. It was finally proposed 21/ to delete from the draft Agreement for Tanganyika article 5 (b) (the article providing for the constitution of an administrative union) and the corresponding articles from the other draft Agreements. The Sub-Committee rejected 22/ the proposal by 10 votes to 6, with 1 abstention. It was again rejected 23/ in the Fourth Committee by 20 votes to 9, with 9 abstentions.

23. A proposal was made to redraft article 5 (b) of the draft Agreement for Tanganyika and the corresponding articles of the other draft Agreements 24/ so that the Administering Authority

18/ Ibid., 17th mtg., Belgium, p. 124. See also 4th mtg., Australia, p. 21.

19/ Ibid., 16th mtg., United States, p. 126.

20/ Ibid., Canada, p. 126. See also p. 247, annex 5 f (A/C.4/Sub.1/73); p. 249, annex 5 h (A/C.4/Sub.1/83); p. 255, annex 6 e (A/C.4/Sub.1/69); and p. 277, annex 14 (A/C.4/Sub.1/72).

21/ G A (I/2), 4th Com., part II, New Guinea, p. 243, annex 5 d (A/C.4/Sub.1/22); Ruanda-Urundi, p. 252, annex 6 a (A/C.4/Sub.1/43) and p. 253, annex 6 c (A/C.4/Sub.1/63); Togoland under French administration, p. 258, annex 7 (A/C.4/Sub.1/51) and p. 259, annex 7 b (A/C.4/Sub.1/64); Cameroons under French administration, p. 259, annex 8 (A/C.4/Sub.1/39) and p. 260, annex 8 b (A/C.4/Sub.1/65); Tanganyika, p. 268, annex 10 b (A/C.4/Sub.1/45) and p. 269, annex 10 c (A/C.4/Sub.1/62); Togoland under British administration, p. 269, annex 11 (A/C.4/Sub.1/42) and p. 271, annex 11 b (A/C.4/Sub.1/54); Cameroons under British administration, p. 272, annex 12 a (A/C.4/Sub.1/40) and p. 273, annex 12 b (A/C.4/Sub.1/61).

22/ G A (I/2), 4th Com., part II, 17th mtg., p. 130.

23/ Ibid., part I, 23rd mtg., p. 142.

24/ Ibid., part II, New Guinea, p. 240, annex 5 (A/C.4/Sub.1/27); Ruanda-Urundi, p. 251, annex 6 (A/C.4/Sub.1/57); Cameroons under French administration, p. 260, annex 9 (A/C.4/Sub.1/60); Tanganyika, p. 266, annex 10 (A/C.4/Sub.1/56); Togoland under British administration, p. 273, annex 13 (A/C.4/Sub.1/58).

"(b) Shall be entitled to establish common services between adjacent territories and Tanganyika where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this Agreement."

The Sub-Committee rejected 25/ this modification by 9 votes to 4, with 4 abstentions. It was rejected 26/ in the Fourth Committee by 19 votes to 18, with 2 abstentions.

24. It was suggested 27/ at the seventeenth meeting of the Sub-Committee by the representative of the United Kingdom, which had submitted a draft Trusteeship Agreement, that a statement should be included in the report of the Rapporteur to the effect that the terms of the proposed article on administrative unions were not to be construed as giving powers to the Administering Authority to establish any form of association between the Trust Territory and adjacent territories, which would involve annexation of the Trust Territory in any sense or would have the effect of putting an end to its status as a Trust Territory. Representatives of other Mandatory Powers indicated 28/ that they had no objections to the extension of the declaration, as appropriate, to the Territories for which they had submitted draft Trusteeship Agreements.

25. The statement was drafted by the Mandatory Powers concerned and the Rapporteur. It stated that

"the delegations of States submitting the trusteeship agreements for the approval of the General Assembly, wish to give assurance that they do not consider the terms of the articles ... [concerning their right to constitute the Trust Territories administered by them into customs, fiscal or administrative unions or federations with adjacent Territories under their sovereignty or control] as giving powers to the Administering Authority to establish any form of political association between the Trust Territories respectively administered by them and adjacent Territories which would involve annexation of the Trust Territories in any sense or would have the effect of extinguishing their status as Trust Territories. The Sub-Committee took notice of this assurance." 29/

The Sub-Committee approved it for inclusion in the report of the Rapporteur. The General Assembly approved 30/ the draft Trusteeship Agreements upon the assurances thus given by the Administering Powers.

26. Of subsequent draft Trusteeship Agreements submitted for approval to the United Nations organs concerned, only the one for the Trust Territory of the Pacific Islands contained a similar provision (article 9). It was adopted 31/ unanimously by the Security Council without discussion.

2. The question whether a Trust Territory should be administered as an integral part of the territory of the Administering Authority

27. Seven of the eight draft Trusteeship Agreements submitted to the General Assembly for approval under Article 85 at the second part of the first session contained an article to the effect that the respective Trust Territories would be administered "as

25/ G A (I/2), 4th Com., part II, 17th mtg., p. 130.

26/ Ibid., part I, 23rd mtg., p. 142.

27/ Ibid., part II, 18th mtg., p. 131.

28/ Ibid., pp. 133 and 134.

29/ Ibid., part I, p. 296, annex 22 (A/C.4/69), part IV, para. 6.

30/ G A resolution 224 (III).

31/ S C, 2nd yr., No. 31, 124th mtg., p. 668.

an integral part" 32/ of the territory of the Administering Authority. 33/ When these draft Trusteeship Agreements were being examined in Sub-Committee 1, which the Fourth Committee had established for that purpose, objections were raised to the retention of the words "as an integral part".

28. In connexion with the first draft Trusteeship Agreement to be discussed, that for Western Samoa, the objection was based on the premise that inclusion of the phrase prepared the ground for possible annexation of the Trust Territory. 34/ An amendment 35/ was submitted calling for its deletion from article III of the draft Agreement for Western Samoa.

29. The representative of New Zealand, who had submitted the draft Trusteeship Agreement, argued 36/ in favour of retention of the phrase "as an integral part" (1) that this language was derived from the Mandate; (2) that his Government did not claim and had never claimed that Western Samoa was an integral part of New Zealand; and (3) that it merely wanted the right, which it already had under the Mandate, to administer Western Samoa as an integral part of New Zealand.

30. The proposal for the deletion of the phrase "as an integral part of New Zealand" from article III of the draft Agreement for Western Samoa was adopted 37/ by 9 votes to 7, with 1 abstention.

31. Subsequently, the representative of New Zealand announced 38/ that he was authorized to state on behalf of his Government that the text of article III preferred by the Sub-Committee would be acceptable to New Zealand, and that his Government would modify its proposed Agreement by deleting the words "as an integral part of New Zealand" from the article. However, the representative of New Zealand maintained the principle that the several draft Agreements should be considered in the light of the circumstances of the Territories to which they pertained. He would, therefore, have to oppose such a modification with respect to draft Trusteeship Agreements for Territories in which circumstances differed from those of Western Samoa.

32/ The draft Trusteeship Agreement for New Guinea read: "as if it were an integral part".

33/ The only draft Trusteeship Agreement which did not contain these words was that for Tanganyika. It was explained that that clause had not been included with respect to Tanganyika which was sufficiently large and self-contained to be administered as a separate entity. The clause appears, however, in the articles indicated in the Trusteeship Agreements for the following Territories: Togoland and Camerouns under British administration, article 5; Togoland and Camerouns under French administration, article 4; Ruanda-Urundi, article 5; New Guinea, article 4.

34/ G A (I/2). 4th Com., part II, 7th mtg., p. 42.

35/ Ibid., p. 236, annex 4 a (A/C.4/Sub.1/9).

36/ Ibid., 3rd mtg., p. 11.

37/ Ibid., 7th mtg., p. 47.

38/ Ibid., 12th mtg., p. 83.

32. Proposals were made 39/ that the words "as an integral part" should be deleted from all the other draft Trusteeship Agreements in which they appeared, in the light of the action taken with respect to Western Samoa. Among the objections to the proposal were those set forth below. (1) The words "as an integral part" were necessary as a matter of administrative convenience and were not intended to grant power to the Administering Authorities to diminish the political individuality of the Trust Territories. (2) Administration "as an integral part" would be in the interests of the inhabitants of the Trust Territories and conducive to their political advancement. (3) The words had been deleted from the draft Trusteeship Agreement for Western Samoa because they were not essential in the case of that Territory, but the situation was different with respect to other Territories.

33. The Sub-Committee rejected the proposal to delete the phrase "as an integral part" by 9 votes to 7, with 1 abstention.

34. The Sub-Committee then approved a proposal 40/ to include in the report of the Rapporteur a statement to the effect that the phrase "as an integral part" was included in certain draft Trusteeship Agreements only as a matter of administrative convenience, without prejudice to the sovereignty of the Trust Territories.

35. In the Fourth Committee, however, the proposal was again made to delete the words "as an integral part" from all draft Trusteeship Agreements except those for Tanganyika and Western Samoa in which this clause did not occur. 41/ The proposal was adopted 42/ by 16 votes to 15, with 3 abstentions. The proposal was unacceptable 43/ to the States submitting the draft Trusteeship Agreements, and was therefore not given effect in the draft Trusteeship Agreements as submitted through the Fourth Committee to the General Assembly.

36. Finally, at the second part of the first session of the General Assembly, a draft resolution was submitted 44/ in plenary meeting by which the General Assembly would have rejected the draft Trusteeship Agreements. The following was among the reasons advanced in the draft resolution to justify this rejection:

"Second, the draft agreements include the provision whereby the territory in trust shall be administered as an integral part of those States which are Administering Authorities which, in fact, amounts to annexation of the territories

39/ G A (I/2), 4th Com., part II, New Guinea, p. 240, annex 5 (A/C.4/Sub.1/27); Ruanda-Urundi, p. 252, annex 6 a (A/C.4/Sub.1/43); Togoland under French administration, p. 258, annex 7 (A/C.4/Sub.1/51) and p. 260, annex 9 (A/C.4/Sub.1/60); Cameroons under French administration, p. 259, annex 8 (A/C.4/Sub.1/39) and p. 260, annex 9 (A/C.4/Sub.1/60); Togoland under British administration, p. 269, annex 11 (A/C.4/Sub.1/42) and p. 273, annex 13 (A/C.4/Sub.1/58); Cameroons under British administration, p. 272, annex 12 a (A/C.4/Sub.1/40) and p. 273, annex 13 (A/C.4/Sub.1/58).

40/ G A (I/2), 4th Com., part I, p. 296, annex 22 (A/C.4/69), part IV, paras. 3 and 4.

41/ As already noted, the clause had not been included with respect to Tanganyika which was sufficiently large and self-contained to be administered as a separate entity. With respect to Western Samoa, agreement had already been reached in Sub-Committee 1 to delete the clause.

42/ G A (I/2), 4th Com., part I, 23rd mtg., p. 141.

43/ For texts of relevant statements, see G A (I/2), 4th Com., part I, 26th mtg., Australia, p. 163; Belgium, p. 161; France, p. 162; United Kingdom, p. 160.

44/ G A (I/2), Plen., 62nd mtg., p. 1283.

in trust by the said States, whereas Article 76 of the Charter provides that the Trusteeship System shall promote the progressive development of the trust territories towards self-government or independence."

37. This draft resolution was rejected 45/ by the Assembly by 34 votes to 6, with 11 abstentions.

3. The question of fixing a time limit for the attainment of self-government or independence

38. The Trusteeship Agreement for the Trust Territory of Somaliland under Italian administration is the only one which specifically states the date on which a Trust Territory shall become independent. 46/ However, at the second part of its first session, when the General Assembly was considering the first eight draft Trusteeship Agreements submitted to it for approval under Article 85, some representatives expressed the opinion 47/ that these draft Trusteeship Agreements should fix a time limit for the attainment of independence by the Trust Territories. To that end, amendments 48/ were submitted in Sub-Committee 1 of the Fourth Committee providing for the inclusion of the following statement in the draft Agreements:

"In the year ... the Trust Territories shall be declared fully self-governing or independent".

39. In support of the proposed amendment, it was maintained that previous experience indicated that Administering States usually delayed the advancement of peoples under their control on the ground that they were not prepared to exercise a greater degree of self-government.

45/ Ibid., p. 1286.

46/ The relevant paragraphs of section B of General Assembly resolution 289 A (IV) read as follows:

"The General Assembly,

".....

"B. With respect to Italian Somaliland, recommends:

"1. That Italian Somaliland shall be an independent sovereign State;

"2. That this independence shall become effective at the end of ten years

from the date of the approval of a Trusteeship Agreement by the General Assembly;"

The substance of paragraphs 1 and 2 is reproduced in paragraph 5 of the Trusteeship Agreement for Somaliland under Italian administration (United Nations Publications, Sales No.: 1951.VI.A.1).

47/ For texts of relevant statements, see:

G A (I/2), Plen., 61st mtg., India, p. 1269; 62nd mtg., USSR, p. 1279. See also annex IV to annex 72 (A/258 and Add.1), p. 1552.

G A (I/2), 4th Com., part I, 20th mtg., Syria, p. 112; 23rd mtg., USSR, p. 139; 24th mtg., India, pp. 147 and 152; 26th mtg., Iraq, p. 167.

G A (I/2), 4th Com., part II, 2nd mtg., India, p. 6; Iraq, p. 7; 13th mtg., Iraq, p. 94; 14th mtg., India, p. 102; USSR, p. 101; 20th mtg., India, p. 150.

See also p. 241, annex 5 (A/C.4/Sub.1/27), and p. 284, annex 15 (A/C.4/Sub.1/59).

48/ G A (I/2), 4th Com., part II, p. 234, annex 4 (A/C.4/Sub.1/15); p. 241, annex 5 (A/C.4/Sub.1/27); p. 284, annex 15 (A/C.4/Sub.1/59).

40. Among the views expressed in opposition to the amendment were those set forth below. ^{49/} (1) It was impractical since it was not possible to fix in advance the date when the peoples of Trust Territories would actually be in a position to attain the goal of self-government or independence. (2) The General Assembly would only be storing up trouble if it were forced to grant independence to the peoples of Trust Territories and throw them into the strenuous conditions of the modern world. (3) In any case, the time limit would have to be a conservative one which might easily disappoint the peoples of the Trust Territories. (4) There was nothing in the Charter to justify the inclusion of such a provision in the Trusteeship Agreements. The fixing of a time limit would prejudice the discretion of the Trusteeship Council and of the Administering Authorities.

41. The Sub-Committee rejected ^{50/} the proposed amendment by 10 votes to 1, with 3 abstentions.

42. The question was raised ^{51/} again before the Fourth Committee in an amendment to the draft Trusteeship Agreements under which a time limit would have been fixed for the attainment by the Trust Territories of self-government or independence. It was pointed out that, since this provision would be applicable to all the Trust Territories, it was not possible to fix a specific date which could properly apply to all. Consequently it might be appropriate for the Trusteeship Council to fix a time limit for each of the Agreements, in consultation with the Administering Authorities, after the Trusteeship System had been in operation for five years. Subsequently, however, this amendment was withdrawn ^{52/} because of the technical difficulties which had arisen concerning the fixing of a specific date, and also in view of the fact that the Fourth Committee had adopted a proposal to recommend to the General Assembly that the Trusteeship Agreements should automatically be reviewed and modified after a ten-year period. This latter recommendation of the Fourth Committee was, however, unacceptable to the States submitting the draft Trusteeship Agreements, and no article which provided for the automatic revision of the Trusteeship Agreements ten years after their approval by the General Assembly was included in the Trusteeship Agreements when they were submitted to the Assembly. The question of fixing a time limit in the Trusteeship Agreements for the attainment by the peoples of Trust Territories of self-government or independence was not formally raised as a specific proposal before the General Assembly in plenary session, and the Trusteeship Agreements were approved by the Assembly without such provision.

43. The question was subsequently considered ^{53/} by the General Assembly at its sixth session, when a draft resolution ^{54/} was submitted to the Fourth Committee

^{49/} For texts of relevant statements, *ibid.*, 3rd mtg., New Zealand, p. 15; 13th mtg., Belgium, p. 97; United Kingdom, p. 93; 14th mtg., Australia, p. 98. See also p. 257, annex 6 e (A/C.4/Sub.1/69) and p. 281, annex 14 (A/C.4/Sub.1/72).

^{50/} G A (I/2), 4th Com., part II, 20th mtg., p. 151. This vote was in connexion with the draft Trusteeship Agreements for the Cameroons and Togoland under French administration, the Cameroons and Togoland under British administration, Ruanda-Urundi, and Tanganyika where it was proposed to set 1966 as the time limit. The proposal had already been voted on as a question of principle in connexion with the draft Trusteeship Agreement for Western Samoa, and rejected by 10 votes to 4, with 3 abstentions (*ibid.*, 14th mtg., p. 102).

^{51/} G A (I/2), 4th Com., part II, 20th mtg., p. 152.

^{52/} *Ibid.*, p. 147.

^{53/} G A (VI), 4th Com., 239th mtg., pp. 258-260; 240th mtg., pp. 261-265; 241st mtg., pp. 267-271.

^{54/} A/C.4/L.187.

concerning the attainment by the Trust Territories of the objective of self-government or independence. Under paragraph 2 of this draft resolution, the Administering Authority of each Trust Territory, with the exception of Somaliland under Italian administration, 55/ was invited to include in each annual report on its administration certain information in respect of the period of time within which it was expected that the Trust Territory would attain the objective of self-government or independence. An amendment 56/ to the draft resolution called for the deletion of that paragraph.

44. The arguments set forth below were among those advanced 57/ in favour of the draft resolution and against the amendment. (1) It was proper for the United Nations to inquire from the Administering Authorities how long they expected it would take the Territories under their administration to attain self-government or independence, which should be the essential objective of the whole development of those Territories. (2) The amendment to delete the paragraph in question would have the effect of frustrating the objective of the draft resolution. (3) Unless some time limit were fixed, neither the peoples of the Trust Territories nor the Administering Authorities would develop the proper psychological preparedness for a transfer of power. (4) While it might have seemed premature to set a time limit at the time the first Trusteeship Agreements were drawn up, a new stage had been reached after five years' experience, and the time had come for the Administering Authorities to fix a time limit for the establishment of self-government or independence in the Trust Territories. (5) The draft resolution did no more than request the Administering Authorities to inform the General Assembly of the period within which they considered that the various Trust Territories would attain the objective of self-government or independence, and there was no question of establishing a rigid time limit as in the case of Somaliland under Italian administration.

45. Among the views expressed 58/ in opposition to the draft resolution were those set forth below. (1) The Trusteeship Agreements did not impose any obligation on the Administering Authorities to adhere to a fixed time-table or plan. (2) The General Assembly had considered it unnecessary to include such a provision in the Trusteeship Agreements, thus admitting that the situation did not require it. (3) No one could predict how soon a particular Territory would be ready for self-government, and even the most conscientious attempt to estimate that date could be no more than speculation,

55/ The Trusteeship Agreement for Somaliland under Italian administration already stated that that Territory would receive its independence ten years after the date of the approval of the Agreement by the General Assembly.

56/ A/C.4/L.193.

57/ For texts of relevant statements, see G A (VI), 4th Com., 239th mtg., Haiti, paras. 63-69; Philippines, paras. 58-60; Yemen, paras. 61 and 62; 240th mtg., Brazil, para. 1; Burma, paras. 2 and 3; Chile, para. 40; Cuba, para. 48; Czechoslovakia, para. 49; El Salvador, para. 32; Greece, para. 35; Guatemala, paras. 12 and 13; India, paras. 1-7; and 36; Indonesia, paras. 44 and 45; Lebanon, paras. 32-34; Poland, para. 31; Syria, para. 37; USSR, para. 39; Venezuela, para. 38; 241st mtg., Brazil, para. 19; Cuba, paras. 16 and 20; Egypt, para. 10; El Salvador, para. 21; Haiti, para. 11; India, para. 8; Philippines, paras. 2-7.

58/ For texts of relevant statements, see G A (VI), 4th Com., 239th mtg., United Kingdom, paras. 70-74; 240th mtg., Australia, paras. 21 and 22; Belgium, paras. 24-30; France, paras. 14 and 15; New Zealand, para. 43; 241st mtg., Belgium, para. 15; Canada, para. 41; Denmark, para. 18.

and to adopt a fixed time limit would be to promise something impossible to carry out. The adoption of such a provision would show a lack of realism, and the draft resolution would serve no useful purpose; it was neither expedient nor possible at that stage to have recourse to mathematical formulae to decide when Trust Territories were likely to attain self-government or independence.

46. Finally, an amendment 59/ was submitted under which the provision under discussion would be replaced by a text inviting the Administering Authorities to include certain information in their annual reports. The proposed text requested the Administering Authority to provide information on the "rough estimate of time which it considers, under existing conditions, may be needed to complete one or more of the various measures which are meant to create the pre-conditions for the attainment by the Trust Territory of the objective of self-government or independence".

47. The Fourth Committee then took the following decisions:

(1) The amendment to delete the provision calling for the fixing of a time limit was rejected by 32 votes to 9, with 10 abstentions;

(2) It was decided by 26 votes to 7, with 18 abstentions, to include the text proposed in the amendment to the draft resolution as a new sub-paragraph;

(3) By roll-call vote, the new sub-paragraph was adopted by 32 votes to 10, with 9 abstentions;

(4) The draft resolution as a whole, as amended, was adopted by 38 votes to 7, with 6 abstentions.

48. In plenary meeting of the General Assembly, the draft resolution, as recommended by the Fourth Committee, was adopted 60/ by 38 votes to 8, with 11 abstentions. In a separate roll-call vote, the provision concerning the period of time 61/ was adopted by 32 votes to 15, with 9 abstentions.

49. Two further resolutions concerning the attainment by the Trust Territories of the objective of self-government or independence were adopted by the General Assembly: resolution 752 (VIII) 62/ and resolution 858 (IX). 63/

50. Under resolution 752 (VIII), the General Assembly, after recalling its resolution 558 (VI), noted that the Administering Authorities had not provided the information requested in that resolution in their annual reports, 64/ but also noted and commended the Administering Authority for Western Samoa for declaring its intention to initiate in 1954 consultations among representatives of the inhabitants leading

59/ A/C.4/L.194.

60/ G A (VI), Plen., 361st mtg., paras. 34-38. See G A resolution 558 (VI).

61/ G A resolution 558 (VI), para. 2 (d).

62/ For the discussion preceding the adoption of this resolution, see G A (VIII), 4th Com., 388th mtg., paras. 27-29 and 50; 389th mtg., para. 8; 391st mtg., paras. 20, 28, 32, 35 and 41; 392nd mtg., paras. 15, 24 and 29. For the vote on the adoption of this resolution, see G A (VIII), Plen., 471st mtg., para. 27.

63/ For the discussion preceding the adoption of this resolution, see G A (IX), 4th Com., 444th to 448th mtgs. See also A/2840, section F.

64/ Reports had been submitted on Western Samoa, New Guinea, Nauru, Tanganyika, Ruanda-Urundi, Cameroons and Togoland under French administration, and Togoland under British administration.

to the establishment of a self-governing State. The Assembly reaffirmed its resolution 558 (VI) and requested the Trusteeship Council to include in its next and succeeding reports to the General Assembly a separate section dealing with the implementation of resolution 558 (VI) and resolution 752 (VIII), specifying in particular the measures taken in certain designated fields.

51. Under resolution 858 (IX), the General Assembly recalled resolutions 558 (VI) and 752 (VIII), and noted that the Trusteeship Council had included in its report covering the period from 22 July 1953 to 16 July 1954 a separate section dealing with the attainment by the Trust Territories of the objective of self-government or independence. It also noted, however, that the Trusteeship Council had not formulated any conclusions or recommendations in this regard. It therefore recommended that the Trusteeship Council instruct its visiting missions to give special attention in their reports to the Council to the question of attainment by the Trust Territories of self-government or independence in the light of resolution 858 (IX), as well as resolutions 558 (VI) and 752 (VIII). It also recommended to the Administering Authorities that, as a means to facilitate an approximate determination of the date on which the populations of the Trust Territories would be prepared for self-government or independence, they should intensify their efforts along certain specified lines.

4. The question of the modification of the suggested procedure for the settlement of disputes

52. Article XVI of the draft Trusteeship Agreement for Western Samoa provided that: "If any dispute should arise between the Administering Authority and another Member of the United Nations, relating to the interpretation or application of the provisions of this Agreement, such dispute, if it cannot be settled by negotiation or similar means, shall be submitted to the International Court of Justice". An amendment 65/ to this Article was submitted 66/ in Sub-Committee 1 of the Fourth Committee under which the words "International Court of Justice" would have been replaced by "Trusteeship Council, which may, if necessary, refer the matter to the International Court of Justice for an advisory opinion". The sponsor of this amendment argued that the text of article XVI was an attempt to sidetrack the Trusteeship Council and to undermine its authority and the integrity of the Trusteeship System. In support of the amendment, it was stated that actually the Administering Authority would be subject to the supervision of the Trusteeship Council which would probably be able to solve many difficulties.

53. In opposition to the amendment, it was argued 67/ that, since the Trusteeship Council was a consultative organ, it could not exercise the juridical function which would be conferred upon it under the proposal, and that an advisory opinion would not be a means of settling a dispute. Moreover, as stated by the Administering Authority for Western Samoa, the administration of that Trust Territory would be open to the fullest possible supervision by the Trusteeship Council, but there was no better tribunal to judge a dispute than the International Court of Justice.

54. The sponsor of the amendment made an alternative proposal calling for insertion of the phrase "or through the mediation of the Trusteeship Council" after the words "similar means". The alternative proposal was intended to stress the special

65/ G A (I/2), 4th Com., part II, p. 239, annex 4 e (A/C.4/Sub.1/10), para. 6.

66/ For texts of relevant statements, see G A (I/2), 4th Com., part II, 12th mtg., China, p. 85, India, p. 86.

67/ *Ibid.*, Belgium, p. 86; New Zealand, p. 85; United States, p. 86.

competence of the Trusteeship Council with respect to the application of the Trusteeship Agreements. The original amendment was subsequently withdrawn, ^{68/} and the alternative proposal was then put to the vote. It was rejected ^{69/} by the Sub-Committee by 8 votes to 5, with 4 abstentions.

55. A similar amendment under the same sponsorship was put forward to article 18 of the draft Trusteeship Agreement for Tanganyika and corresponding articles of other draft Agreements. ^{70/} The Sub-Committee rejected ^{71/} it by 9 votes to 6, with 2 abstentions.

56. A further proposal ^{72/} that a new article identical to article 16 of the draft Agreement for Western Samoa be added to the draft Trusteeship Agreement for New Guinea, was also submitted but later withdrawn. ^{73/}

5. *The question of the entry into force of the Trusteeship Agreements*

57. Of the eleven Trusteeship Agreements, only four contain an article specifying the time when, and condition under which, the Agreement may enter into force. The Agreements in question are those for the Cameroons and Togoland under French administration (article 15 in each Agreement), the Trust Territory of the Pacific Islands (article 16) and Somaliland under Italian administration (article 23).

58. Article 15 of each of the Agreements for the above-mentioned Trust Territories under French administration states that the "Agreement shall enter into force as soon as it has received the approval of the General Assembly of the United Nations." These Agreements were approved on 13 December 1946.

59. During the discussion in the Security Council of the draft Agreement for the Trust Territory of the Pacific Islands, designated as a strategic area, the question arose as to the competence of the Security Council to make the date of entry into force of a Trusteeship Agreement approved by it dependent upon action by another body. ^{74/} Article 16 of this Agreement states that it "shall come into force when approved by the Security Council of the United Nations and by the Government of the United States after due constitutional process." The Agreement was approved by the Security Council ^{75/} on 2 April 1947, and entered into force 18 July 1947. ^{76/}

60. Article 23 of the Agreement for Somaliland under Italian administration stated that the "present Agreement ... shall enter into force as soon as it is approved by

^{68/} G A (I/2), 4th Com., part II, 12th mtg., China, p. 88.

^{69/} Ibid., p. 88.

^{70/} Ibid., Ruanda-Urundi, p. 251, annex 6 c (A/C.4/Sub.1/63), para. 6; Togoland under French administration, p. 259, annex 7 b (A/C.4/Sub.1/64), para. 4; Cameroons under French administration, p. 260, annex 8 b (A/C.4/Sub.1/65), para. 4; Tanganyika, p. 269, annex 10 c (A/C.4/Sub.1/62), para. 5; Togoland under British administration, p. 271, annex 11 b (A/C.4/Sub.1/54), para. 5; Cameroons under British administration, p. 273, annex 12 b (A/C.4/Sub.1/61), para. 5. For the discussion on this proposed modification, see G A (I/2), 4th Com., part II, 20th mtg., pp. 147-149.

^{71/} G A (I/2), 4th Com., part II, 20th mtg., p. 149.

^{72/} Ibid., p. 242, annex 5 b (A/C.4/Sub.1/21), para. 4.

^{73/} Ibid., 22nd mtg., United States, pp. 163 and 164.

^{74/} See in this Repertory under Article 83.

^{75/} S C, 2nd yr., No. 31, 124th mtg., p. 680.

^{76/} S C, 2nd yr., No. 104, 220th mtg., footnote to pp. 2753 and 2754 (S/599).

the General Assembly of the United Nations and ratified by Italy". However, according to paragraph 8 of section B of General Assembly resolution 289 A (IV), Italy was invited to undertake provisional administration pending the approval of the Agreement by the General Assembly. It undertook that task on 1 April 1950. The General Assembly approved the Agreement on 2 December 1950, and it was ratified by the Government of Italy on 4 November 1951. 77/

61. With respect to the draft Agreements for Western Samoa, 78/ New Guinea, 79/ Ruanda-Urundi, 80/ Tanganyika, 81/ Togoland 82/ and the Cameroons 83/ under British administration, new articles were proposed under which each Agreement was to "enter into force upon its ratification by the General Assembly of the United Nations". The proposed articles would specify the period of time for which the Agreements would remain in force. 84/

62. At the second part of the first session of the General Assembly, the proposed modifications were rejected 85/ by Sub-Committee 1 of the Fourth Committee by 8 votes to 6, with 3 abstentions.

B. The authority which will exercise the administration
of the Trust Territory

1. The designation of one or more States as an Administering Authority

a. THE DESIGNATION OF THE ADMINISTERING AUTHORITY FOR NAURU

63. Article 2 of the draft Trusteeship Agreement for Nauru, 86/ submitted jointly by the Governments of Australia, New Zealand and the United Kingdom, designated these Governments as the joint authority, to be called "the Administering Authority", which would exercise the administration of the Territory. During the consideration 87/ of the draft Agreement, no objections were raised to the designation of a joint authority.

64. Article 4, however, provided that, in pursuance of an agreement made by the Governments of Australia, New Zealand and the United Kingdom, the Government of Australia would, on behalf of the Administering Authority and except until otherwise

77/ G A (VII), Suppl. No. 4 (A/2150), p. 107.

78/ G A (I/2), 4th Com., part II, p. 236, annex 4 a (A/C.4/Sub.1/9), para. 3.

79/ *Ibid.*, p. 243, annex 5 d (A/C.4/Sub.1/22), para. 8.

80/ *Ibid.*, p. 252, annex 6 a (A/C.4/Sub.1/43), para. 4.

81/ *Ibid.*, p. 267, annex 10 a (A/C.4/Sub.1/41), para. 3.

82/ *Ibid.*, p. 269, annex 11 (A/C.4/Sub.1/42), para. 5.

83/ *Ibid.*, p. 272, annex 12 a (A/C.4/Sub.1/40), para. 5.

84/ The relevant passage would read: "and shall remain in force for a period of ... years and thereafter shall be reviewed and modified according to the degree of attainment of the purposes set forth in article 76 of the Charter of the United Nations." It was proposed that these words be added to article 15 of the draft agreements for Trust Territories under French administration. (G A (I/2), 4th Com., part II, p. 258, annex 7 (A/C.4/Sub.1/51), para. 5 and p. 259, annex 8 (A/C.4/Sub.1/39), para. 5).

85/ G A (I/2), 4th Com., part II, 14th mtg., p. 102 and 20th mtg., p. 150.

86/ G A (II), Suppl. No. 10 (A/402/Rev.1).

87/ G A (II), 4th Com., 46th mtg., p. 103.

agreed upon by these Governments, continue to exercise full powers of legislation, administration and jurisdiction in and over the Territory. During the consideration of this article in the Sub-Committee established by the Fourth Committee at the second session of the General Assembly to consider the draft Agreement, it was held that the words "except and until otherwise agreed by the Governments of Australia, New Zealand and the United Kingdom" were ambiguous, and might be interpreted as permitting the administration of the Territory to be entrusted to a fourth party without the approval of the United Nations. It was proposed that this clause should be deleted. In response to a request for clarification, the representative of Australia, on behalf of the delegations of the three Governments, requested that the following statement be included in the minutes of the Sub-Committee:

"It is the intention of the Administering Authority that, in the implementation of Article 4 of the agreement, one of the three Governments will, on behalf of the Administering Authority, exercise the powers granted in the agreement, and that the Government of Australia will administer the territory until it is agreed that one other of the three Governments will assume this function."

Following this explanation, the proposal to delete the relevant clause of article 4 of the draft Agreement for Nauru was withdrawn. 88/

b. PROPOSALS FOR A COLLECTIVE ADMINISTERING AUTHORITY FOR THE FORMER ITALIAN COLONIES OF SOMALILAND AND LIBYA

65. At the third session of the General Assembly, a proposal 89/ was made in the First Committee to place the former Italian colony of Somaliland under a collective trusteeship of five States for a period of ten years. A second proposal 90/ was made recommending (a) that Libya be made a Trust Territory and that the functions of Administering Authority of that Territory be conferred on five specified Governments and (b) that former Italian Somaliland be made a Trust Territory and that seven specified Governments act as Administering Authority for that Territory. Both proposals were rejected 91/ by the Committee.

2. The designation of the United Nations itself as an Administering Authority

a. THE DESIGNATION OF THE ADMINISTERING AUTHORITY FOR WESTERN SAMOA AND NEW GUINEA

66. During the first session of the General Assembly, the Fourth Committee appointed Sub-Committee 1 to examine the eight draft Trusteeship Agreements which had been submitted in order to determine whether they complied with the provisions made for the full attainment of the objectives of the Trusteeship System contained in Article 76. 92/

67. The Sub-Committee decided to consider the draft Trusteeship Agreement for Western Samoa first. During the discussion of the draft Agreement, in which article 2 designated the Mandatory Power which had submitted the Agreement as the Administering Authority, 93/ a proposal 94/ was put forward recommending that as a rule, the

88/ G A (II), 4th Com., annex 2 d, p. 131.

89/ G A (III/2), 1st Com., Annexes, p. 22, A/C.1/456.

90/ Ibid., p. 29, A/C.1/468.

91/ G A (III/2), 1st Com., 272nd mtg., pp. 382 and 384.

92/ G A (I/2), 4th Com., part I, 20th mtg., p. 116.

93/ Article 2 in each of the draft Trusteeship Agreements was similar.

94/ G A (I/2), 4th Com., part I, p. 199. annex 12 b (A/C.4/33).

United Nations should be the Administering Authority for Trust Territories. The views set forth below were among those expressed 95/ in favour of that proposal. (1) It was clearly in conformity with the terms of Article 81 of the Charter. (2) If the United Nations became the Administering Authority, the peoples concerned would make more rapid strides toward self-government or independence. (3) The United Nations would be more impartial in its administration than any single State, which would be inclined to consider its own interests. It would have a broader outlook because of the representation of States which were not directly interested, and it would have a greater and more sympathetic interest in the development of Territories.

68. In opposition to the proposal that the United Nations should be the Administering Authority, the views set forth below were among those expressed. 96/ (1) The word "or" in Article 81 established the optional nature of this principle; it could be accepted or rejected at the discretion of the Mandatory Powers, and to make it obligatory would be an alteration of the Charter. (2) The United Nations could only recommend approval or disapproval of the draft Agreements; it did not have the power to draft an Agreement, as the proposal seemed to assume.

69. When article 2 of the draft Trusteeship Agreement for Western Samoa was considered, an amendment was proposed 97/ to the effect that the Government of New Zealand should act on behalf of the United Nations, which would be the Administering Authority within the meaning of Article 81 of the Charter. That amendment was intended to interpret Article 81 of the Charter, and to make it clear that the Administering Power was acting only on behalf of the United Nations.

70. The representative of New Zealand stated 98/ that the amendment was not acceptable to his Government. The Government of New Zealand considered that it was better equipped to discharge the administrative function in Western Samoa than any international organization, and that it would be impracticable to have divided authority. Moreover, New Zealand was not willing that such an administration should be provided, in view of the previous unhappy experience of the Samoans under international administration.

71. Another representative maintained 99/ that, although his Government favoured international administration by the United Nations, this could not be instituted before the establishment of the Trusteeship Council. The Charter, on the assumption that administration by Member States would be the normal, or at least the initial practice, provided that the Trusteeship Council could not be set up until there were Members of the United Nations which administered Trust Territories, and that there had to be enough Members as Administering Authorities to make up half the total membership of the Council. Thus, the Charter operated to bar the United Nations as the Administering Authority in the initial Trusteeship Agreements.

72. In support of the proposal, it was stated 100/ that it had been inspired by the principle written into the Charter, namely, that Territories might be administered either directly by the United Nations through one of its agencies or indirectly by one or more of the United Nations Members by agreement between the States concerned. Since this principle was in the Charter, it should be applied in accordance with the

95/ Ibid., part II, 2nd mtg., p. 6.

96/ Ibid., pp. 8 and 9.

97/ Ibid., 6th mtg., pp. 32 and 33 and p. 234, annex 4 (A/C.4/Sub.1/15).

98/ G A (I/2), 4th Com., part II, 6th mtg., pp. 33 and 34.

99/ Ibid., p. 35.

100/ Ibid., p. 36.

Charter, and the Administering Authority should therefore act as a trustee under the supervision of the United Nations. It was not considered desirable for the Organization to act as an administrator in every case.

73. In opposition to the proposal, it was argued 101/ that it would not be in the interest of the people of Western Samoa for there to be any doubt regarding the duty or power of the Administering Authority. Article 81 allowed for administration by one or more States or, alternatively, by the Organization itself: the proposal was therefore based on an erroneous interpretation of this Article. The original proposal that the United Nations itself should be the Administering Authority was opposed because it would involve constitutional considerations. Such changes could not be made without changing the whole structure of the Trusteeship Agreement, and this could not be done merely by modifying the definition of the Administering Authority. In the case of Western Samoa, the long administrative relationship between New Zealand and the inhabitants of the Territory could not be discontinued except for very special reasons. Since article 2 of the draft Agreement was in complete agreement with Article 81, the proposal to modify it was not acceptable.

74. The representative of New Zealand stated that, if the proposal was implicit in the Charter, it was already embodied in the draft Agreement. If it was not implicit in the Charter, his Government could not accept it. 102/

75. The sponsor of the proposal decided not to press it to a decision, and article 2 of the draft Agreement for Western Samoa, as proposed by New Zealand, was approved by the Sub-Committee. 103/

76. When the draft Trusteeship Agreement for New Guinea was considered, an amendment 104/ to article 2, designating the United Nations as the Administering Authority, was again presented. However, its sponsor, after stating that his Government maintained its preference in this respect, withdrew his amendment. 105/

77. The General Assembly approved 106/ the first eight draft Trusteeship Agreements, in which various individual Governments were designated as Administering Authorities.

b. THE DISPOSAL OF THE FORMER ITALIAN COLONIES

78. The designation of the United Nations as the Administering Authority for Trust Territories was again considered when the General Assembly took up the question of the disposal of the former Italian colonies. At the third session, two proposals bearing on this subject were submitted to the First Committee. The first 107/ recommended a direct United Nations trusteeship for Libya, Eritrea and Italian Somaliland with an administrator for each of the Territories, with full executive powers. The respective administrators were to be appointed by the Trusteeship Council, and to be assisted by an advisory committee consisting of nine members. The second 108/ proposed that Libya and Italian Somaliland be placed under international trusteeship, with the United

101/ Ibid., pp. 37-40.

102/ Ibid., p. 40.

103/ Ibid., pp. 41 and 42.

104/ G A (I/2), 4th Com., part II, p. 240, annex 5 (A/C.4/Sub.1/27).

105/ G A (I/2), 4th Com., part II, 15th mtg., p. 111.

106/ G A resolution 63 (I).

107/ G A (III/2), 1st Com., annexes, p. 2, A/C.1/433.

108/ Ibid., pp. 21 and 22, A/C.1/448.

Nations as the Administering Authority, for a period of not less than ten and not more than twenty years.

79. In the First Committee, it was maintained that it would be impractical to designate the United Nations as the Administering Authority. In support of that view, it was argued 109/ that (1) the United Nations would be unable to bear the financial burden which the administration of Territories would entail; (2) difficulties would be encountered in securing personnel to administer Territories and to maintain peace and security in them; and (3) the disagreements which existed in the Organization would not permit it to function satisfactorily as the Administering Authority of the Territories.

80. Among the arguments in favour of designating the United Nations as the Administering Authority for one or more of the former Italian colonies of Libya, Eritrea and Somaliland, were those set forth below. 110/ (1) The Trusteeship Council would be inspired by the main purpose of preparing the populations concerned for independence. (2) When the administration of a Territory was entrusted to a single Power, that Power used its resources in such a way as to encourage the growth of vested interests which exerted their influence to prolong domination by the Administering Authority. (3) The Administering Authority, particularly if it was a colonial Power, tended to incorporate the country into its territory.

81. In the reply to the contention that the United Nations did not possess the means and resources to discharge the duties of the Administering Authority successfully, the question was raised 111/ as to how a nation impoverished by war could be expected to muster such resources.

82. Attention was drawn 112/ to the fact that, while there was no precedent for placing Territories under United Nations administration, there was no reason why the precedent should not be created if found to be convenient, and the presence of a special provision in the Charter in that respect supported this view.

83. The financial implications, it was felt, 113/ should not be regarded as an important obstacle until they had been closely examined. A study of the budgetary situations and revenues of the Territories in question would reveal a financial situation which might not involve too onerous a financial burden on the Members of the United Nations. There was no proof that great expenditures would be required for proper administration of the Territories.

84. One representative expressed 114/ support for direct trusteeship by the United Nations on the ground that there was a noticeable tendency in the Trusteeship Council for Administering Authorities to exert every effort to tighten their grip until they could simply annex the Territories.

85. Regarding the financial objections which had been raised to a direct trusteeship by the United Nations, the opinion was expressed that long-term expenditures would have to be undertaken on the basis of loans or financial assistance to be reimbursed at a

109/ G A (III/2), 1st Com., 244th mtg., p. 62; 249th mtg., pp. 108 and 109; 250th mtg., pp. 121 and 122; 254th mtg., pp. 156 and 157; 255th mtg., pp. 162 and 163.

110/ Ibid., 243rd mtg., p. 52; 244th mtg., p. 64.

111/ Ibid., 245th mtg., p. 71.

112/ Ibid., 246th mtg., p. 88.

113/ Ibid., 246th mtg., p. 81; 248th mtg., p. 103.

114/ Ibid., 254th mtg., p. 153.

later stage by the Territories concerned. Regarding the personnel necessary to administer the Territories, it was thought that, in the main, local personnel could be recruited. Some international recruitment would be necessary, however, and attention was drawn to the United Nations Secretariat as an example of how efficiently an international civil service could function. 115/

86. During the discussions in plenary meetings of the General Assembly on the question of the disposal of the former Italian colonies, proposals 116/ were again submitted recommending that those territories be made Trust Territories with the United Nations as the Administering Authority.

87. In support of the proposals, the arguments given below were among those expressed. 117/ (1) The proposals were intended to protect the vital interests of the populations concerned. (2) The problem of the disposal of the former Italian colonies had already existed at the time that Article 81 was being discussed, and the Article had been approved precisely because trusteeship of the former Italian colonies had been envisaged. (3) The proposals were based on respect for the wishes of the indigenous populations for independence and on the principle of national sovereignty. (4) If adopted, they would hasten the progress of the colonies towards complete independence. (5) They were in accordance with the provisions of the Charter relating to Trust Territories.

88. During the discussions, an objection to the proposals was raised 118/ on the grounds that, apart from the financial difficulties involved in the administration of Territories by the United Nations, the absence of uniform ideas and methods would prejudice effective administration.

89. In view of the rejection of most of the proposals dealing with the general solution of the question of the disposal of the former Italian colonies, further consideration was postponed 119/ until the fourth session of the General Assembly.

90. At the fourth session of the General Assembly, proposals 120/ submitted to the First Committee and to the Assembly in plenary meeting to place the former Italian colonies under the trusteeship of the United Nations were rejected. Resolution 289 (IV) which the Assembly adopted made no provision for the administration by the United Nations of any of the former Italian colonies.

115/ Ibid., 257th mtg., pp. 179 and 180.

116/ G A (III/2), Plen., Annexes, p. 100, A/881, p. 102, A/885 and p. 104, A/895.

117/ Ibid., 217th mtg., pp. 544, 548 and 563; 218th mtg., pp. 572 and 581.

118/ Ibid., 217th mtg., p. 565.

119/ G A resolution 287 (III).

120/ G A (IV), Plen., Annex p. 56, A/1110/Rev.1 and A/1082; G A (IV), 1st Com., Annex, p. 21, A/C.1/487/Rev.1; p. 24, A/C.1/499; p. 34, A/C.1/529.

ANNEX

The constitutional basis of the provisions of the Trusteeship Agreements
(with indication of the studies in this Repertory in which this
constitutional basis is discussed)

Terms of the Trusteeship Agreements	Articles of the United Nations Charter to which the terms of the Trusteeship Agreement are directly related	Article studies dealt with in this Repertory in which the terms of the Trusteeship Agreement are treated (partially or wholly)
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A. General

1. Preamble	75, 76, 77, 83, 85	75, 76, 77, 79, 81, 83, 85
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In the case of former mandated Territories, the preambles are generally similar to each other and include reference to their previous constitutional status under the Covenant of the League of Nations, reference to the establishment of the International Trusteeship System by the Charter of the United Nations and the willingness of their Governments to apply this System to these territories, and reference to the provisions of the Charter for approving the terms of the Trusteeship Agreements.

In the case of the Trust Territory of the Pacific Islands, it is stated that Japan, as a result of the Second World War, ceased to exercise authority in these Islands.

In the case of Somaliland under Italian administration, reference is made to the status of the territory under the Treaty of Peace with Italy (1947); the recommendations contained in General Assembly resolution 289 (IV); negotiation of a draft Agreement within the Trusteeship Council and the acceptance of responsibility by the designated Administering Authority and members of the United Nations Advisory Council.

Terms of the Trusteeship Agreements	Articles of the United Nations Charter to which the terms of the Trusteeship Agreement are directly related	Article studies dealt with in this Repertory in which the terms of the Trusteeship Agreement are treated (partially or wholly)
2. Definition of territory	-	81
3. Sovereignty of territory	-	76 b
4. Designation of Administering Authority	79, 81	79, 81
5. Entry into force of Agreement	-	81, 83
6. Amendment of Agreement	79	79, 81, 82, 83
7. Procedure in connexion with disputes	-	81
B. <u>Powers of Administering Authorities</u>		
1. Legislation, administration and jurisdiction		
a. General powers	-	
b. Administering Authority aided and advised by Advisory Council		
i. Functions of Advisory Council	-	81, 84
ii. Privileges of Advisory Council	-	81, 84, 86
2. Amalgamation of Trust Territory into customs, fiscal or administrative union with other territories	-	76 b, 81
3. Co-operation with other States	-	76 a, 76 d
4. Organization of public service and monopolies	-	76 d
5. Defensive measures (local and external)	84	76 a, 84

Terms of the Trusteeship Agreements	Articles of the United Nations Charter to which the terms of the Trusteeship Agreement are directly related	Article studies dealt with in this Repertory in which the terms of the Trusteeship Agreement are treated (partially or wholly)
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C. Duties of Administering Authorities

1. Good government and defence	76 a, 84	76 a, 84
2. Administration in accordance with the Charter	76	76 b
3. Respect for Native law and custom	-	76 b
4. Political advancement	76 b	76 b, 76 d
5. Economic and social advancement	76 b	
a. Land and natural resources		76 b
b. International conventions		76 b
c. Slavery and compulsory labour		76 b, 76 c
d. Traffic in arms and drugs		76 b, 76 c
e. Health		76 b
6. Educational advancement	76 b	76 b
7. Respect for human rights and freedoms	76 c	
a. General		76 c
b. Freedom of speech, press etc.		76 c
c. Freedom of conscience and religion		76 c
8. Equal treatment for all Members of the United Nations and their nationals	76 d, 80	
a. The rule		76 d
b. The proviso		76 d
c. Reciprocity for inhabitants		76 d

Terms of the Trusteeship Agreements	Articles of the United Nations Charter to which the terms of the Trusteeship Agreement are directly related	Article studies dealt with in this Repertory in which the terms of the Trusteeship Agreement are treated (partially or wholly)
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D. Co-operation with the General Assembly and the Security Council

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| 1. General | 87, 88 | 83, 85, 87 a, 87 b, 88 |
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In this case the Administering Authority undertakes to collaborate fully with the General Assembly and the Trusteeship Council, rendering to them assistance in accordance with the terms of the Trusteeship Agreements, or applying provisions of Articles 87 and 88 to the Trust Territory.

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| 2. Periodic visits to Trust Territories | 87 c | 87 c |
| 3. Reports | 87 a, 87 b | 87 a, 87 b, 88 |
| 4. Plan for transfer of authority | | 81 |