

## ARTICLE 83

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## ARTICLE 83

### TEXT OF ARTICLE 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.
2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.
3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas.

### INTRODUCTORY NOTE

1. During the period under review, the Trusteeship Council continued to exercise, on behalf of the Security Council, the functions specified in Articles 87 and 88 relating to the political, economic, social and educational advancement of the inhabitants of the Trust Territory of the Pacific Islands, the only such Territory designated as strategic. The Council continued to report annually to the Security Council on the exercise of those functions. As in past years, no action was taken by the Security Council on those reports.

2. As in preceding years, during the present period under review, certain decisions were taken by the General Assembly with respect to the Trust Territory of the Pacific Islands on the basis of the reports of the Trusteeship Council and the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>1</sup>

3. During the period under review, questions were raised regarding the obligation of the Trusteeship Council to report to the General Assembly and its subsidiary organs subsequent to the accession to independence of Papua New Guinea in 1975. As a result of the termination of the Trusteeship Agreement of the Territory of New Guinea, the only remaining Territory under the consideration of the Trusteeship Council was the strategic area of the Pacific Islands. Article 83 of the Charter of the United Nations states that functions of the United Nations relating to strategic areas shall be exercised by the Security Council with the assistance of the Trusteeship Council, and therefore not by the General Assembly. Prior to the attainment of independence of Papua New Guinea, however, the Trusteeship Council had established the practice of reporting both to the General Assembly and to the Security Council. The procedural question raised in the Trusteeship Council was therefore whether the Council remained obliged to

report to the General Assembly. The Council, in the period under review, decided not to report to the General Assembly or its subsidiary organs after 1975. As a result of matters relating to that decision, in the present *Supplement*, section B of the summary of practice, dealing with the functions of the Special Committee on decolonization as they related to the strategic area of the Pacific Islands, contains new material, in contrast to *Supplement No. 4*, where no new material was included. Also included in this section is material related to another General Assembly committee, the Committee on the Elimination of Racial Discrimination, as the question of cooperation with that committee was also raised by the Trusteeship Council with respect to the Trust Territory of the Pacific Islands during the period under review.

4. The practice of the Trusteeship Council and the relevant decisions of the General Assembly are dealt with in the summary of practice. That section does not, however, contain material relating to the substantive aspects of the applicability to the people of the Pacific Islands of Article 76, as referred to in Article 83, paragraph 2, or of the Declaration on decolonization, as these questions are dealt with under Article 76.

### SUMMARY OF PRACTICE

#### **A. Exercise by the Trusteeship Council, on behalf of the Security Council, of functions relating to the political, economic, social and educational advancement of the inhabitants of the Trust Territory of the Pacific Islands**

##### **1. ANNUAL REPORTS OF THE ADMINISTERING AUTHORITY**

5. During the period under review, the Trusteeship Council, in accordance with Article 87a, examined the annual reports of the Administering Authority<sup>2</sup> for the Trust

<sup>1</sup>Referred to in this study as the Special Committee on decolonization.

<sup>2</sup>T/1705, T/1716, T/1735, T/1743, T/1752, T/1762, T/1773 and Add.1, T/1781 and T/1786.

Territory of the Pacific Islands for the years ending 30 June 1969 to 30 June 1977, in accordance with the procedures described in the previous *Repertory Supplement*.<sup>3</sup> The reports were examined by the Council concurrently with petitions and communications from inhabitants of the Territory and other interested parties.

6. Following its examination of those reports, the Trusteeship Council adopted, by vote, its reports<sup>4</sup> with conclusions and recommendations for submission to the Security Council. In conformity with its previous practice, the Security Council did not take any specific action on the conclusions and recommendations contained in the reports of the Trusteeship Council.

7. During the forty-third session of the Trusteeship Council, subsequent to the accession to independence of the Trust Territory of New Guinea, a question arose as to the obligation of the Council to continue submitting reports to the General Assembly, given that the only remaining Trust Territory was a strategic Trust, and therefore fell under the purview of the Security Council and not the General Assembly. Item 15 of the provisional agenda of the session was entitled "Adoption of the report of the Trusteeship Council to the General Assembly". The representative of the United States considered that the item had no place on the agenda as the Council would, for the first time, be dealing exclusively with a Trust Territory that was designated as a strategic area. In view of Article 83, paragraph 1, of the Charter of the United Nations, which vested "[a]ll functions of the United Nations relating to strategic areas" in the Security Council, the Trusteeship Council was clearly required to submit a report to the Security Council alone. The representative further doubted the relevance of agenda items 10 to 13<sup>5</sup> to the consideration of a strategic Trust Territory.<sup>6</sup>

8. The representative of the Soviet Union opposed this interpretation of the Charter, noting that in the past, matters relating to the strategic Trust Territories falling within the competence of the General Assembly had been included in reports to the Assembly. He recalled that there had been no objection from the Administering Authority in those cases. He therefore could not support the proposal by the United States to delete the agenda item.<sup>7</sup>

9. The representatives of France and the United Kingdom, supporting the position of the United States, both considered that the wording of Article 83 was clear and

<sup>3</sup>*Repertory, Supplement No. 4*, vol. IV, under Article 83, paras. 34-36.

<sup>4</sup>S/10237, S/10753, S/10976, S/11415, S/11735, S/12214, S/12390 and S/12971.

<sup>5</sup>These items were, respectively, "10. cooperation with the Committee on the Elimination of Racial Discrimination"; "11. Decade for Action to Combat Racism and Racial Discrimination"; "12. attainment of self-government or independence by Trust Territories"; and "13. cooperation with the Special Committee on the Situation with regard to the Declaration on the Granting of Independence to Colonial Countries and Peoples".

<sup>6</sup>T/PV.1450, pp. 2-3, United States.

<sup>7</sup>*Ibid.*, pp. 3-5, Soviet Union.

unambiguous.<sup>8</sup> The representative of the United Kingdom, in particular, noted that in the past, reports had been submitted to the General Assembly because non-strategic Territories were being considered by the Trusteeship Council, and the Council had therefore been obligated to report to the Assembly. The fact that some information on the strategic Territory of the Pacific Islands had, as a courtesy, been included in the information reported to the General Assembly carried no significance. His Government would therefore support the United States proposal.<sup>9</sup>

10. Responding to this point, the representative of the Soviet Union noted that the agenda of the Trusteeship Council contained items relating to resolutions of the General Assembly, among them the item on cooperation with the Special Committee on decolonization, and he wondered why the representative of the United States considered that the reports on those items should not be examined by the General Assembly. He reiterated that in the past there had always been two reports, one to the Security Council and one dealing with matters under General Assembly resolutions that was presented to the latter body.<sup>10</sup>

11. The Trusteeship Council adopted the proposal of the United States by 3 votes to 1, with no abstentions. Item 15 was therefore deleted from the provisional agenda, and the agenda for the work of the Trusteeship Council, as modified, was adopted.<sup>11</sup> At the following session, the President of the Trusteeship Council announced that he had informed the Secretary-General of the Council's decision regarding the agenda item in a letter dated 29 June 1976. On 7 July 1976, the Under-Secretary-General for Political and General Assembly Affairs had informed the Council by letter that the item entitled "Adoption of the report of the Trusteeship Council to the General Assembly" would be deleted from the provisional agenda of the General Assembly.<sup>12</sup> The representative of the Soviet Union on the Trusteeship Council continued, for the remainder of the period under review, to express reservations regarding the deletion of the agenda item.<sup>13</sup>

## 2. COMMUNICATIONS AND PETITIONS

12. Under rule 24 of the rules of procedure of the Trusteeship Council, the Secretary-General is called upon to transmit to the Council all communications which may be addressed to the Council from Members and organs of the United Nations and from specialized agencies and other sources, provided that the communications are not manifestly inconsequential. During the period under review, the Trusteeship Council examined 205 such communications relating to the Trust Territory of the Pacific Islands.<sup>14</sup> A large majority of the communications were copies of resolutions that had been adopted by the Congress of Micronesia or by one of the six Micronesian district

<sup>8</sup>*Ibid.*, p. 6, France and United Kingdom.

<sup>9</sup>*Ibid.*, pp. 6 and 7, United Kingdom.

<sup>10</sup>*Ibid.*, p. 7, Soviet Union.

<sup>11</sup>T/1773 and Add.1.

<sup>12</sup>T/PV.1459, pp. 2-5.

<sup>13</sup>T/PV.1460, p. 10 and T/PV.1470, pp. 3-5.

<sup>14</sup>T/COM.10/L.26-29 and Add.1, T/COM.10/L.30-204 and T/COM.10/L.208-233.

legislatures, and were perceived to be of relevance to the Trusteeship Council. In general, the resolutions dealt with questions of land use, war claims, infrastructure development, decentralization of administrative authority and political status negotiations. Of particular interest was a communication<sup>15</sup> consisting of a Mariana Islands District Legislature resolution which, inter alia, stated: "We, the elected representatives of the people of the Mariana Islands District of the Trust Territory of the Pacific Islands, do not agree that the United Nations has any legal rights over the lives of the people of the Marianas and wish that all concerned be advised that we will secede from the Trust Territory of the Pacific Islands by force of arms if necessary, and with or without the approval of the United Nations". Also of particular interest was a communication<sup>16</sup> containing a resolution of the Congress of Micronesia inviting the Special Committee on decolonization to visit the Trust Territory in order to assess conditions regarding its future political status. In its examination of communications, the Council did not deviate from its usual practice of considering them en bloc and taking note of them without objection.

13. Under rule 85, paragraph 1, of the rules of procedure of the Trusteeship Council, the Secretary-General must circulate promptly to the members of the Council all written petitions received by him which contain requests, complaints and grievances seeking action by the Council. During the period under review, the Council examined 53 petitions under this rule.<sup>17</sup> Under rule 86, paragraph 4, the Administering Authority may record its observations regarding the petitions submitted under rule 85. The Administering Authority availed itself of this opportunity 12 times during the period under review.<sup>18</sup> According to its established practice, the Council continued to examine written petitions en bloc, to take note of them and to refer petitioners to the written observations of the Administering Authority where relevant. No resolutions regarding the specific substance of petitions were adopted by the Council.

14. As was the case during the previous period under review,<sup>19</sup> many of the petitions submitted were related to war damage claims, problems of resettlement (particularly regarding the atolls of Bikini and Enewetok, where the Administering Authority had conducted nuclear missile tests), misuse of land for military purposes and compensation for land used for military and commercial purposes. An increasing number of petitions dealt with the many and varied developments concerning political status negotiations between some individual districts in the Territory and the Administering Authority. In particular, a proposed referendum in the Northern Mariana Islands to decide whether the district should negotiate its future status

<sup>15</sup>T/COM.10/L.70.

<sup>16</sup>T/COM.10/L.69.

<sup>17</sup>T/PET.10/57 and Add.1 to T/PET.10/65, T/PET.10/44 and Add.1, T/PET.10/66-70, T/PET.10/72-73, T/PET.10/75, T/PET.10/78, T/PET.10/80-81, T/PET.10/83, T/PET.10/85-91, T/PET.10/93, T/PET.10/95-100, T/PET.10/102, T/PET.10/106-115, T/PET.10/117, T/PET.10/122-124 and T/PET.10/126.

<sup>18</sup>T/OBS.10/29-33, T/OBS.10/36-38, T/OBS.10/40, T/OBS.10/42, T/OBS.10/43-44.

<sup>19</sup>*Repertory, Supplement No. 4*, vol. II, under Article 83, paras. 7-16.

with the Administering Authority and separate from Micronesia, as well as public debates in other districts (in particular in Palau and the Marshall Islands) on whether they too should enter into separate status negotiations with the Administering Authority, generated a great deal of communications and petitions representing all sides of the issue.

15. During the present period under review, the Trusteeship Council heard 50 oral petitioners. Statements by petitioners were considered en bloc with the written communications and petitions. According to established procedure, the Council took note of the petitioners' statements and drew the attention of the petitioners to the relevant observations of the Administering Authority and other members of the Council.

16. During the forty-first session of the Trusteeship Council, a question arose as to both the competence of the Council to act upon requests from petitioners and the procedure by which the Council examined petitions and communications requesting actions or presenting recommendations. At the 1422nd meeting, a member of the Congress of Micronesia, participating as a Special Adviser to the Administering Authority under rule 74 of the rules of procedure of the Council, made a statement in which he noted that the High Commissioner of Micronesia, who was appointed by the Administering Authority, had the power to veto local legislation. If the veto was overridden by the Congress, the High Commissioner could again use his veto, in which case the issue would be put to the Secretary of the Interior of the Administering Authority for final decision.

17. At the 1425th meeting of the Trusteeship Council, the representative of the Union of Soviet Socialist Republics said that he sensed in the statements of the Micronesian delegates an appeal to the Council to provide as much assistance as possible to the people of Micronesia. He asked the Special Adviser what sort of assistance they would like to receive from the Trusteeship Council.<sup>20</sup>

18. The Special Adviser responded that the assistance Micronesia wished to receive from the Trusteeship Council related mostly to recommendations from the Council to the Administering Authority on two items: the veto power mentioned above, and the allocation of a sufficient budget for the needs of the Territory.<sup>21</sup>

19. The High Commissioner of Micronesia, present at the deliberations, responded that though on paper the veto right existed as described, only three times in his five years as High Commissioner had bills been passed over his veto. Two of them had related to the interests of the United States and to international agreements it had contracted. The third had been allowed to become law. He also noted that the decisions he made were based on the advice of his Micronesian advisers, and the veto decisions were consequently not the decisions of the Administering Authority in opposition to the Micronesian Congress. Regarding the budget, he said he had twice recommended to the United States Congress that it give the Micronesian

<sup>20</sup>T/PV.1425, p. 7, Soviet Union.

<sup>21</sup>*Ibid.*, pp. 8-10, Special Adviser.

Congress the power to appropriate federal grant funds, but the Congress had not yet reacted favourably.<sup>22</sup>

20. At the 1425th meeting of the Trusteeship Council, the representative of the Union of Soviet Socialist Republics referred to the statements of the Micronesian delegates and asked the Administering Authority how it responded to communications that contained requests from the Congress of Micronesia.<sup>23</sup> The representative of the United States responded that resolutions of the Trusteeship Council were forwarded to the appropriate department in Washington and given consideration in those forums.<sup>24</sup> The representative of France suggested that for the improvement of its work, the Council should be informed in the future of how recommendations and requests made in the communications were followed up.<sup>25</sup> The President took note of this comment and drew the attention of the United States delegation to it.<sup>26</sup>

### 3. VISITING MISSIONS

21. In pursuance of Article 87c and in conformity with previous practice,<sup>27</sup> during the period under review, the Trusteeship Council dispatched periodic United Nations visiting missions to the Trust Territory of the Pacific Islands in order to secure first-hand information concerning the Territory and to ascertain the wishes and aspirations of its inhabitants. In addition, the practices of the Trusteeship Council regarding the size and composition of its visiting missions were modified during the reporting period.

22. At its thirty sixth session, in 1969, the Trusteeship Council had decided to dispatch a periodic visiting mission to the Trust Territory in 1970, set forth its terms of reference and designated its members.<sup>28</sup> At its thirty-seventh session, the Council adopted the report<sup>29</sup> of the Mission by 5 votes to 1, with no abstentions, took note of the observations of the mission and invited the Administering Authority to take note of the mission's recommendations and conclusions.<sup>30</sup> The representative of the Union of Soviet Socialist Republics explained his negative vote by saying that he was unable to agree with the report as his country had been repeatedly prevented by the majority of the Council from participating in the work of visiting missions.<sup>31</sup>

23. During the thirty-ninth session of the Trusteeship Council, at its 1403rd meeting, the Council considered a draft resolution<sup>32</sup> on the dispatching of a periodic visiting mission to the Trust Territory of the Pacific Islands sometime in 1973. The Council further decided that the mission would be made up of four members to be nominated by the Governments of Australia, France, the Soviet Union and the United Kingdom. This was the first time since the

work of the Council had begun that the Soviet Union had been invited to nominate a member of a visiting mission.

24. The representative of the Soviet Union indicated that he approved the membership of the mission but expressed a reservation regarding its terms of reference as contained in the draft resolution before the Council. He objected in particular to the first operative paragraph, in which reference was made to General Assembly resolution 1541 (XV) of 14 December 1960 which, he said, bore no relation to the objectives of the Trusteeship Council. He said that the resolution contained a provision which stated that it was possible to integrate a colonial Territory with the metropolitan country. He thought that this might incorrectly be interpreted to suggest that the Trusteeship Council did not preclude the possibility of the Trust Territory of the Pacific Islands being integrated with the United States, a position which was in direct conflict with that expressed by the people and the Congress of Micronesia.<sup>33</sup> The draft resolution was subsequently adopted unanimously.

25. At the following session, the Trusteeship Council considered the report of the periodic visiting mission to the Territory of the Pacific Islands,<sup>34</sup> along with the annual reports of the Administering Authority regarding the Territory. The representative of the Soviet Union indicated that some of the views and conclusions contained in the report were not subscribed to by the member of the mission that had been nominated by his Government and that the report should therefore be considered as the agreed views of only three members of the mission.<sup>35</sup> That proviso was inserted in the text of the report.<sup>36</sup> By its resolution 2159 (XL), the Trusteeship Council, by 4 votes to none, with 1 abstention, took note of the views of the members of the visiting mission set forth in the report, decided to continue to take its recommendations, conclusions and observations into account in future examinations of matters relating to the Trust Territory, and invited the Administering Authority to also take them into account.

26. At its forty-second session, the Trusteeship Council was invited by the Administering Authority to observe a plebiscite to be held in the Mariana Islands in June 1975.<sup>37</sup> Through the plebiscite the inhabitants of the district would vote on a proposed commonwealth agreement with the Administering Authority to decide which district would enter into a union with the United States separately from the rest of the Trust Territory. If the proposal was rejected, the islands would remain as a district of the Trust Territory with the right to join the other districts in determining together other possible political status options.<sup>38</sup> The representative of the United Kingdom then introduced a draft resolution<sup>39</sup> proposing that a visiting mission composed of members to be nominated by the Governments of Australia, France and the United Kingdom should be sent to observe the referendum and collect other first-hand information.

<sup>22</sup>Ibid., pp. 12-17, Special Representative.

<sup>23</sup>Ibid., pp. 48-50, Soviet Union.

<sup>24</sup>Ibid., p. 51, United States.

<sup>25</sup>Ibid., p. 56, France.

<sup>26</sup>Ibid., the President.

<sup>27</sup>Reportory, Supplement No. 4, vol. II, under Article 83, paras. 17-23.

<sup>28</sup>Ibid., para. 20.

<sup>29</sup>T/L.1158.

<sup>30</sup>T C resolution 2153 (XXXVII).

<sup>31</sup>T/PV.1370, p. 11, Soviet Union.

<sup>32</sup>T/L.1172.

<sup>33</sup>T/PV.1403, p. 6, Soviet Union.

<sup>34</sup>T/1741.

<sup>35</sup>T/PV.1420, pp. 33-46.

<sup>36</sup>T/1741, p. 5.

<sup>37</sup>T/1760.

<sup>38</sup>T/1771, p. 26.

<sup>39</sup>T/L.1196.

27. The representative of the Soviet Union objected to the dispatch of the visiting mission because it considered that such a mission would be connected with steps to dismember the Territory. His Government considered that the actions of the Administering Authority to dismember the Trust Territory were in contradiction with decisions of the General Assembly and the Trusteeship Council in favour of maintaining the unity and territorial integrity of the Territories, and his delegation was consequently opposed to any action aimed at dismemberment.<sup>40</sup> The draft resolution was adopted over the opposition of the Soviet Union, by 4 votes to 1, with no abstentions, as Trusteeship Council resolution 2160 (XLII) of 14 July 1975.

28. At the same session, another draft resolution<sup>41</sup> was considered regarding the dispatch of a periodic visiting mission to the Trust Territory sometime in 1976. According to the draft, the mission would be composed of "members of the Council wishing to participate, except the Administering Authority, which will provide an escort officer". The draft was adopted by 5 votes to none as Trusteeship Council resolution 2161 (XLIII). It should be noted that the non-specified composition represented a deviation from previous practice, which had been to set the size of the visiting mission at four members, and to indicate which members of the Trusteeship Council should nominate those members. The provisions of resolution 2161 (XLIII) thus left open the question of the mission's precise size and its composition. France and the United Kingdom each nominated a member to participate in the mission. For the first time, therefore, a periodic visiting mission was not composed of four members.

29. The report of the visiting mission to observe the plebiscite in the Mariana Islands, carried out in June 1975,<sup>42</sup> was considered by the Trusteeship Council at its forty-third session. The report was opposed by the Soviet Union for reasons similar to those described in paragraph 27 above. By its resolution 2163 (XLIII) of 13 July 1976, adopted by 2 votes to 1, with 1 abstention, the Trusteeship Council took note of the report of the visiting mission and expressed its appreciation of the work accomplished by the visiting mission on its behalf.

30. At the same session, the Trusteeship Council considered the report of the periodic visiting mission to the Territory in 1976.<sup>43</sup> By its resolution 2164 (XLIII) of 13 July 1976, adopted by 2 votes to none, with 2 abstentions, the Council took note of the report and of the observations of the Administering Authority thereon, decided that it would continue to take the recommendations, conclusions and observations of the visiting mission into account in future examination of matters related to the Territory, and invited the Administering Authority to also take them into account, as well as the comments made thereon by members of the Council.

31. At the forty-fifth session of the Trusteeship Council, the representative of the Soviet Union reminded the Council

that the Micronesian Congress had invited<sup>44</sup> the Special Committee on decolonization to dispatch a mission to the Territory to supervise the holding of a referendum there. A discussion ensued as to whether a visiting mission composed in part of members of the Special Committee on decolonization could be dispatched to the Territory.

32. The representative of the Administering Authority referred to an earlier observation which stated the position of his Government.<sup>45</sup> In sum, the United States delegate recalled Articles 83, paragraphs 1 and 3, of the Charter which provided for consideration of issues regarding strategic trust areas by the Security Council and the Trusteeship Council. The delegate further recalled Security Council resolution 70 (1949) of 7 March 1949, whereby the Council, in conformity with Article 83, paragraph 3, of the Charter, had expressly requested the Trusteeship Council to perform the United Nations functions under the international trusteeship system relating to political, economic, social and educational matters in the strategic areas. He concluded that normal and established practice required that the Trusteeship Council should observe the referendum and report its findings to the Security Council.<sup>46</sup>

33. The representative of the Soviet Union asked the Administering Authority if, on the part of the population of Micronesia, a request were made regarding the Special Committee, which was ultimately responsible for the future of the Territory, would the United States object to the participation of Special Committee members in such a mission.<sup>47</sup> The United States delegate referred to his previous response.<sup>48</sup>

34. Two draft resolutions were submitted regarding visiting missions. According to one,<sup>49</sup> the Trusteeship Council would dispatch a mission to observe a referendum on whether to accept the proposed Constitution for the Federated States of Micronesia, to be held on 12 July 1978. According to the second,<sup>50</sup> the Trusteeship Council would dispatch a periodic visiting mission to the Territory sometime in 1979.

35. The representative of the Soviet Union objected to the draft resolution regarding the mission to observe the referendum, noting that under it the referendum would take place in the Caroline and Marshall islands, and therefore not in all of Micronesia.<sup>51</sup> He reiterated that his delegation considered this to be a unilateral action conferring commonwealth status upon the Caroline and Marshall islands alone, and as such was a violation of Article 83 of the Charter. The sending of a mission to observe such an exercise could constitute Trusteeship Council approval of the dismemberment of the Territory. Since the Congress of

<sup>44</sup>T/OBS.10/44.

<sup>45</sup>Ibid.

<sup>46</sup>T/PV.1475, p. 12, United States.

<sup>47</sup>Ibid., p. 13, Soviet Union.

<sup>48</sup>Ibid., p. 16, United States.

<sup>49</sup>T/L.1209.

<sup>50</sup>T/L.1210.

<sup>51</sup>The six districts of the Trust Territories were: Northern Mariana Islands, Marshall Islands, Palau, Ponape, Truk and Yap. Palau, Ponape, Truk and Yap were sometimes referred to collectively as the "Caroline Islands".

<sup>40</sup>T/PV.1443, pp. 4-5, Soviet Union.

<sup>41</sup>T/L.1195.

<sup>42</sup>T/1771.

<sup>43</sup>T/1774.

Micronesia did not object, however, he said his delegation would abstain from voting.<sup>52</sup> The first resolution was consequently adopted by 3 votes to none, with 1 abstention. The draft resolution regarding the periodic visiting mission was adopted unanimously.<sup>53</sup>

36. At its forty-fifth session, the Trusteeship Council adopted resolutions concerning arrangements for the dispatch of two other visiting missions. By its resolution 2165 (XLV) of 31 May 1978, adopted by 3 votes to none, with 1 abstention, the Council decided to send a visiting mission to observe the constitutional referendum in the Trust Territory of the Pacific Islands on 12 July 1978. It further decided that the mission should be composed of six members to be nominated by the Governments of France and the United Kingdom.<sup>54</sup> This represented a further deviation from the practice of the Council with regard to the composition of its visiting missions.

37. The representative of the Soviet Union also objected to the purpose of the mission on the grounds, inter alia, that he considered the referendum to be a unilateral action by the Administering Authority to dismember the Territory in violation of Article 83. He suggested that the dispatch of a visiting mission to observe such a referendum might be regarded as constituting Trusteeship Council approval of the dismemberment of the Territory.<sup>55</sup>

38. By its resolution 2166 (XLV) of 31 May 1978, the Trusteeship Council decided to dispatch a periodic visiting mission to the Trust Territory of the Pacific Islands in 1979, and also decided that it should be composed of members of the Council wishing to participate, except the Administering Authority, which would provide an escort officer. The Council furthermore directed the visiting mission to investigate and report as fully as possible on the steps taken in the Trust Territory towards the realization of the objectives set forth in Article 76b of the Charter and to pay special attention to the question of the future of the Territory. It is worth noting, in the light of the discussion in paragraph 16 above, that in the resolution the Council also directed the visiting mission to give attention to those issues raised in connection with the annual reports on the administration of the Territory, in the petitions received by the Council concerning the Territory, in the reports of the previous periodic visiting missions to the Territory and in the observations of the Administering Authority on those reports.

39. The mission visited the Territory in June and July 1978 and subsequently issued its report. The Council considered the report at its forty-sixth session, and the discussion of any relevant matters in regard thereto therefore falls within the scope of *Repertory, Supplement No. 6*.

<sup>52</sup>T/PV.1480, Soviet Union, p. 3.

<sup>53</sup>Ibid., p. 2.

<sup>54</sup>The representative of the Soviet Union had informed the President of the Council that it did not wish to participate in the Mission. See T/1795, p. 1, footnote 2.

<sup>55</sup>T/PV.1480, Soviet Union, p. 2.

## **B. Consideration by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the Committee on the Elimination of Racial Discrimination**

40. The previous *Repertory Supplement* included no information under this heading. In the present *Supplement*, however, the item requires some treatment as the termination of the relationship between the Trusteeship Council and the General Assembly (see paras. 7-11 above) affected the consideration by the Special Committee on decolonization of the Trust Territory as a strategic area under Article 83. In addition, questions relating to the consideration by the Committee on the Elimination of Racial Discrimination of matters in the strategic area have also been included. As a result of the termination of the relationship between the Trusteeship Council and the General Assembly, the relationship between the Trusteeship Council and the Committee on the Elimination of Racial Discrimination was also terminated, as described below. The modes of cooperation that existed between the Committee and the Trusteeship Council prior to 1975 are described in the present *Supplement* under Article 85.

41. Prior to the termination of the Trusteeship Agreement regarding New Guinea, the practice of the Trusteeship Council was to draw attention through a letter from the President of the Trusteeship Council to the Chairman of the Special Committee informing the latter of decisions taken by the Council "concerning the two Trust Territories" and expressing the willingness of the President to discuss with the Chairman any further assistance which the Special Committee might require of the Council.<sup>56</sup> The Special Committee on decolonization continued to consider the strategic Trust Territory as well as the other Territories, and issued conclusions and recommendations which it forwarded to the Administering Authority.<sup>57</sup> The Administering Authority did not participate in discussions of the Trust Territory in the Special Committee.

42. The question of the Special Committee's consideration of the strategic area was raised at the twenty-fifth session of the General Assembly, during the general debate in the Fourth Committee. Responding to the reference by one delegate to the United States administration of the Trust Territory of the Pacific Islands, the representative of the United States, speaking on a point of order, noted that the report of the Trusteeship Council, to which the delegate had referred, was addressed to the Security Council and not to the General Assembly. Invoking Articles 82 and 83, he said

<sup>56</sup>*Repertory, Supplement No. 3*, vol. III, under Article 83, paras. 23-28.

<sup>57</sup>G A (25), Suppl. No. 23, vol. III, chap. XIV, paras. 24 and 27 (b) (F); G A (26), Suppl. No. 23, vol. III, chap. XVIII, paras. 5 and 15; G A (27), Suppl. No. 23, vol. IV, chap. XIX, paras. 8 and 9; G A (28), Suppl. No. 23, vol. IV, chap. XX, paras. 8 and 9; G A (29), Suppl. No. 23, vol. IV, chap. XVIII, paras. 7 and 8; G A (30), Suppl. No. 23, vol. III, chap. XXIV, paras. 8 and 9.

that the Territory was therefore beyond the purview of the Fourth Committee.<sup>58</sup>

43. Two other delegates expressed the view that the fact that the Administering Authority's report was submitted to the Security Council did not preclude its being considered by the General Assembly.<sup>59</sup> The Chairman noted that the item was on the agenda of the Special Committee and that the Committee was competent to deal with the question.<sup>60</sup> The representative of the United States said that he disagreed with the ruling, though he did not press for a vote on it. Nonetheless he said his delegation would abstain from participating in the debate because he did not believe the Committee should be discussing the matter.<sup>61</sup>

44. Subsequent to the removal of the Trust Territory of New Guinea from consideration by the Trusteeship Council in 1975, the Trusteeship Council decided to stop reporting to the General Assembly, of which the Special Committee was a subsidiary body (see paras. 7-11).

45. In 1975, the Special Committee on decolonization requested its Chairman to convey to the President of the Trusteeship Council its sentiments concerning the Council's decision not to report to the General Assembly, which had resulted in the discontinuance of the Council's cooperation with the Special Committee.<sup>62</sup> Nonetheless, the Special Committee on decolonization continued to adopt decisions<sup>63</sup> regarding the Trust Territory of the Pacific Islands in which it, *inter alia*, reiterated its view that General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on decolonization, continued to apply to the Territory.

46. During the meetings of the Fourth Committee at the thirty-first session, one delegate said that it was regrettable that the Trusteeship Council had decided not to report to the General Assembly on the Trust Territory of the Pacific Islands and to discontinue its cooperation with the Special Committee on decolonization, and further that the decision would hamper the Special Committee in fulfilling the mandate conferred on it by the General Assembly.<sup>64</sup> Another delegate called attention to the report of the Special Committee<sup>65</sup> in which it reiterated its regret at the refusal of the Administering Authority to participate in the examination of the Pacific Islands. The delegate also characterized as unfortunate the Trusteeship Council's decision not to submit a report to the General Assembly, and thus to suspend cooperation with the Assembly.<sup>66</sup>

47. In the plenary meetings of the General Assembly at its thirty-first session, during debates on the agenda item regarding the implementation of the Declaration on decolonization, the representative of the Soviet Union

referred to the chapter on the Trust Territory of the Pacific Islands contained in the report of the Special Committee on decolonization and stated that it was completely incorrect that the Trusteeship Council should arbitrarily cease to submit reports to the General Assembly, and that the Secretariat should remove the item from the agenda of the session. He noted that it had previously been on the agenda, and that the removal of the question from the agenda could only be decided by the General Assembly and the Security Council, for the Trusteeship Council was subordinate to them.<sup>67</sup>

48. In reply, the representative of the United States pointed out that the Charter provided that all functions of the United Nations relating to Trust Territories designated as strategic should be exercised by the Security Council, which had delegated its functions to the Trusteeship Council. For those reasons, the United States was of the view that any consideration of the Territory by the Special Committee on decolonization was inappropriate, and the Assembly was reminded that the United States had not participated in those deliberations.<sup>68</sup>

49. At the forty-third session of the Trusteeship Council, in 1976, during debate of the agenda item concerning cooperation between the Council and another General Assembly Committee, the Committee on the Elimination of Racial Discrimination, arguments were issued which had implicit and explicit constitutional relevance to the relationship between the Trusteeship Council and the Special Committee. The representative of the United States stated that his Government believed, in the light of Article 83, paragraph 1, of the Charter, and in view of the fact that there no longer existed any Trust Territory with respect to which the General Assembly exercised jurisdiction under Article 85, that the question of cooperation between the Trusteeship Council and the Committees of the General Assembly did not arise.<sup>69</sup>

50. The representative of the Soviet Union drew attention to the second paragraph of Article 83, which reads: "The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area". Those objectives involved basic questions on the adoption of measures in accordance with the Charter of the United Nations with regard to all basic issues which were currently considered by the General Assembly in keeping, naturally, with the provisions of Article 80. The Soviet delegate further argued, with regard to the cooperation with the Special Committee on decolonization, that in previous years the Trusteeship Council had adopted recommendations on cooperation with the Special Committee concerning, *inter alia*, questions relating to the Pacific Islands. He cited the report from the previous year stating that the President of the Council had informed the Chairman of the Special Committee of the Council's recommendations relating to the strategic Trust Territory and expressing the willingness of the President to discuss with the Chairman of the Special Committee any further assistance which the Committee

<sup>58</sup>G A (25), 4th Comm., 1906th mtg., para. 21.

<sup>59</sup>*Ibid.*, para. 22, Sudan and Zambia.

<sup>60</sup>*Ibid.*, para. 23.

<sup>61</sup>*Ibid.*, para. 28.

<sup>62</sup>A/AC.109/PV.1043.

<sup>63</sup>G A (31), Suppl. No. 23, vol. III, chap. XXIV, para. 12; G A (32), Suppl. No. 23, vol. III, chap. XXIII, para. 8; G A (33), Suppl. No. 23, vol. III, chap. XX, para. 11.

<sup>64</sup>G A (31), 4th Comm., 23rd mtg., para. 36, Cuba.

<sup>65</sup>A/31/23/Add.8 (Part III, chap. XXIV, part B, para. 12 (3)).

<sup>66</sup>G A (31), 4th Comm., 23rd mtg., paras. 43-44, Czechoslovakia.

<sup>67</sup>G A (31), Plen., 86th mtg., para. 116.

<sup>68</sup>*Ibid.*, 104th mtg., para. 214.

<sup>69</sup>T/PV.1458, p. 51, United States.

might require from the Council.<sup>70</sup> The Soviet Union was of the view that decisions and recommendations similar to those adopted in previous years should also be adopted at the current session. The representatives of France and the United Kingdom both stated that they believed all the functions of the Organization relating to strategic Trust Territories should be exercised by the Security Council. Regarding the objectives set forth in Article 76, the representative of the United Kingdom suggested that the Trusteeship Council should draw the attention of the Security Council to its view that the objectives of Article 76 were being discharged in the Territory.<sup>71</sup>

<sup>70</sup>Ibid., p. 52, Soviet Union.

<sup>71</sup>Ibid., pp. 53-55, France, United Kingdom.

51. The President of the Trusteeship Council said that, given the debate, which revealed a lack of unanimity on the question, he did not feel authorized to address a letter to the Chairman of the Special Committee on decolonization. The Council therefore decided to draw the attention of the Security Council to the conclusions and recommendations that had been adopted with regard to the attainment of self-government or independence by the Trust Territory as well as the statements made by the Trusteeship Council on the question, including the reservations of the Soviet Union.<sup>72</sup> This practice was maintained for the remainder of the period under review, as were the reservations of the Soviet Union.<sup>73</sup>

<sup>72</sup>Ibid., pp. 57-60.

<sup>73</sup>T/PV.1466, p. 44, Soviet Union; T/PV.1468, p. 12, Soviet Union; and T/PV.1479, pp. 36-46, Soviet Union.