

# ARTICLE 85

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## TEXT OF ARTICLE 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.
2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

## INTRODUCTORY NOTE

1. Article 85 deals with the functions of the General Assembly in respect of Trusteeship Agreements for all areas not designated as strategic, and, at the same time, with its relationship with the Trusteeship Council in respect of such Agreements.
2. The term "functions of the United Nations with regard to Trusteeship Agreements" has, in the practice of the General Assembly, been interpreted in its widest sense. Article 85 has been considered to apply not only to the approval of terms of Trusteeship Agreements and of their alteration and amendment, but to all functions of the United Nations in supervising the administration of Trust Territories not designated as strategic areas. In view of the wide interpretation given to this Article and because of the desirability of dealing in one place with all the activities of the General Assembly which illustrate its relationship with the Trusteeship Council, the present study deals also with actions taken by the General Assembly which might have been dealt with in connexion with Articles in Chapter XIII, in particular Article 87.
3. The General Survey briefly reviews the action taken by the General Assembly with regard to the approval of Trusteeship Agreements and to its relationship with the Trusteeship Council in respect of such Agreements. Questions bearing upon Article 85 which have arisen in the course of the work of the General Assembly and also of the Trusteeship Council are dealt with in the Analytical Summary of Practice. Section A of the Analytical Summary deals with questions which have arisen concerning the exercise of the function relating to the approval, alteration or amendment of Trusteeship Agreements. The precise terms of the Agreements are, however, discussed elsewhere, in particular in the studies on Article 76 in respect of provisions directly related to the objectives of the Trusteeship System, on Article 79 in respect of parties to the Agreements, and on Article 81.
4. Section B contains a brief account of the extent to which the General Assembly has itself directly exercised the functions referred to in Articles 87 and 88, and describes in greater detail the various procedural questions which have arisen in this connexion. The actions of the Trusteeship Council, which in the vast majority of cases has exercised directly the functions enumerated in Article 87, are dealt with in this Repertory under that Article.

5. The Trusteeship Council in assisting the General Assembly to carry out these functions operates, according to Article 85 (2), under the authority of the General Assembly. Similar language is also used in Article 87: "The General Assembly and, under its authority, the Trusteeship Council in carrying out their functions, may...". The interpretation of this provision in Article 85 (2), together with the fact that under Article 85 (1) it is the General Assembly which is given the authority to exercise the functions of the United Nations with regard to Trusteeship Agreements for all areas not designated as strategic, has given rise to the principal question under Article 85, namely, the nature of the relationship between the General Assembly and the Trusteeship Council. In the General Assembly, the right of the Assembly to make certain recommendations to the Trusteeship Council has been the subject of debate, while the Trusteeship Council has discussed the question whether it was required, under Articles 85 and 87, to carry out specific directives of the General Assembly. The relationship between the General Assembly and the Trusteeship Council is dealt with in Section C, in which an analysis is made of the various types of recommendations which the General Assembly has made to the Trusteeship Council and the different opinions expressed in the Assembly concerning these recommendations. A summary is also given of the debates which have occurred in the Trusteeship Council on the implementation of specific General Assembly directives.

6. A list of all resolutions concerning trusteeship adopted by the General Assembly from its first to its ninth sessions inclusive appears in the annex to the study on Article 16 in this Repertory.

## I. GENERAL SURVEY

7. Article 85 provides that the General Assembly, assisted by the Trusteeship Council, operating under its authority, shall perform the functions of the United Nations with regard to Trusteeship Agreements for all areas not designated as strategic. As has been mentioned in the Introductory Note, these functions fall into two main categories: (1) the approval of the terms of the Trusteeship Agreements and of their alteration or amendment as specifically provided in Article 85 (1); and, (2) the functions referred to in Chapter XIII, particularly in Article 87.

8. How the Trusteeship Council shall assist the General Assembly in carrying out these functions has not been defined by the adoption of formal resolutions by the two organs concerned as was the case for strategic areas (see in this Repertory under Article 83). In practice, the function of approving Trusteeship Agreements has necessarily been carried out by the General Assembly itself, with assistance from the Trusteeship Council in one case, while the functions enumerated in Article 87 have, in the vast majority of cases, been directly exercised by the Trusteeship Council, which has given an account of its actions in its reports presented at each regular session of the General Assembly. The actions of the General Assembly with regard to such functions have taken place, for the most part, indirectly, consequent upon its consideration of the report of the Trusteeship Council, but in a few cases the Assembly has directly exercised functions under Article 87.

9. In all, the General Assembly, in application of Article 85 (1), has approved the terms of ten Trusteeship Agreements for areas not designated as strategic. The Agreements for the Trust Territories of New Guinea, Tanganyika, the Cameroons and Togoland under British administration, the Cameroons and Togoland under French administration, Ruanda-Urundi and Western Samoa were approved by General Assembly resolution 63 (I). The Agreement for Nauru was approved by General Assembly resolution 140 (II), and the Agreement for Somaliland under Italian administration was approved by General Assembly resolution 442 (V).

10. Rule 104 of the rules of procedure of the Council provides that, in pursuance of the duty imposed upon it by Article 85, the Council may submit to the General Assembly recommendations concerning the functions of the United Nations with regard to Trusteeship Agreements, including the approval of the terms of Trusteeship Agreements and of their alteration or amendment. 1/
11. The first eight Trusteeship Agreements were necessarily approved without assistance from the Trusteeship Council since, until they had been approved and the Administering Authorities were known, the Trusteeship Council could not be established. Nor was the assistance of the Trusteeship Council requested by the General Assembly in the case of the Agreement for Nauru. In submitting the draft Agreement to the General Assembly, the representative of Australia stated 2/ that the Governments concerned were aware that Article 85 provided that the Trusteeship Council should assist the General Assembly in the examination of Trusteeship Agreements but felt that, if that provision were insisted upon in this case, the approval of the Agreement would be delayed for at least twelve months.
12. The Sub-Committee established 3/ by the Fourth Committee of the General Assembly to examine the draft Trusteeship Agreement in question consisted, however, of the members of the Trusteeship Council with the addition of two representatives of non-administering States.
13. In one case, the Trusteeship Council was requested 4/ by the General Assembly to negotiate with Italy, the Administering Authority, the draft of a Trusteeship Agreement. It accordingly negotiated such a draft Agreement, 5/ which it unanimously adopted at its sixth session and transmitted, together with a Declaration of Constitutional Principles, to the General Assembly for approval. Since the approval of this Agreement, no other non-strategic areas have been placed under the International Trusteeship System and the question of whether or not the Trusteeship Council would be called upon to negotiate and give prior approval to the terms of any further draft Agreements has not therefore arisen.
14. No alterations or amendments have been made to date in the terms of the ten Trusteeship Agreements for the Trust Territories not designated as strategic. It may, however, be noted that article 24 of the Trusteeship Agreement for Somaliland under Italian administration 6/ contains a provision that the Agreement shall cease to be in force ten years after the date of its approval by the General Assembly, at which time the Territory shall become an independent sovereign State.
15. The question of the revision, or the termination, of the Trusteeship Agreement for Togoland under British administration was raised at the eighth session of the General Assembly in connexion with the Togoland unification problem. By resolution 750 C (VIII) the General Assembly, having noted that the Government of the Gold Coast, with which Togoland is administered as an integral part, had published a series of proposals for constitutional changes designed to effect a further transfer of executive and legislative powers from the Administering Authority to the Government of the Gold Coast and to serve as an interim measure leading towards full self-government for the Gold Coast within the British Commonwealth of Nations, and, having noted that the

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1/ United Nations Publications, Sales No.: 1952.I.19.  
2/ G A (II), 4th Com., 35th mtg., p. 26.  
3/ Ibid., p. 28.  
4/ G A resolution 289 (IV).  
5/ G A (V), Suppl. No. 10 (A/1294).  
6/ United Nations Publications, Sales No.: 1951.VI.A.1.

Visiting Mission to Trust Territories in West Africa, 1952, in its report 7/ on Togoland under British administration, had raised the question of the compatibility of the provisions of the Trusteeship Agreement with any further appreciable transfer of executive and legislative authority to the Government of the Gold Coast, and had expressed the opinion that the prospect of a further constitutional advance in the Gold Coast might require the position of the Trust Territory to be reviewed with particular care within a very short period of time, expressed the opinion that further changes in the Constitution of the Gold Coast, might, to the extent that they provided for an increased measure of self-government, necessitate revision of the existing Trusteeship Agreement in respect of the Trust Territory in so far as concerned the existing administrative union.

16. Subsequent to the adoption of this resolution, the Government of the United Kingdom, in a letter 8/ dated 21 June 1954 addressed to the Secretary-General, proposed that an item entitled "The future of the Trust Territory of Togoland under United Kingdom trusteeship" be included in the agenda of the ninth session of the General Assembly. In the accompanying memorandum, the Administering Authority invited the attention of the Assembly to certain matters affecting the Trust Territory of Togoland and stated that, in the opinion of Her Majesty's Government, these matters would make necessary a review of the arrangements under which the Territory was at present administered. It noted that it would be possible: (a) to amend or to replace the present Trusteeship Agreement; or (b) to terminate the Agreement, without replacement, on the grounds that the objectives of the International Trusteeship System had been substantially achieved in the Territory. For reasons set out in the memorandum, the Government of the United Kingdom declared that it favoured the second of these alternatives, namely the termination of the Trusteeship Agreement.

17. The question of the revision or the termination of the Trusteeship Agreement for the Territory of Togoland under British administration was included in the agenda of the ninth session of the General Assembly under the item proposed by the Government of the United Kingdom.

18. It might be noted in this connexion that a copy of the letter and of its enclosure was also sent 9/ by the Government of the United Kingdom to the President of the Trusteeship Council for the information of the Council in connexion with its consideration of General Assembly resolution 750 C (VIII) concerning the Togoland unification problem. No suggestions were made in the course of discussion at the fourteenth session of the Council that it should make any recommendations to the General Assembly concerning the alteration or amendment of the Trusteeship Agreement. By resolution 1002 (XIV), the Council recommended only that the General Assembly place the proposal contained in the memorandum of the United Kingdom early on its agenda for the ninth session, along with the item entitled "The Togoland unification problem".

19. The two items were accordingly considered together by the General Assembly at its ninth session. By resolution 860 (IX), the General Assembly took the steps set forth below. (1) It decided, in view of the eventual revision or termination of the Trusteeship Agreement, that steps should be taken, in the light of the particular circumstances of the Trust Territory, to ascertain the wishes of the inhabitants as to their future, without prejudice to the eventual solution that they might choose. (2) It requested the Trusteeship Council to take into account the views expressed in the Fourth Committee at the ninth and previous sessions of the General Assembly, to

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7/ T C (XIII), Suppl. No. 2 (T/1107).  
8/ G A (IX), Annexes, a.i. 35 and 52, p. 1, A/2660.  
9/ T/1130.

consider what arrangements should be made in pursuance of the above-mentioned decision and to report thereon to the General Assembly at its tenth session. (3) It further requested the Trusteeship Council to dispatch a special mission to the Trust Territories of Togoland under British administration and Togoland under French administration to make a special study of these problems and to submit its report thereon in time for the Council to report to the General Assembly at its tenth session.

20. With regard to other actions taken by the General Assembly, in respect of matters concerning the International Trusteeship System as it applies to the Trust Territories not designated as strategic, the General Assembly has examined at each regular session, beginning with its second, the general reports submitted by the Trusteeship Council. It has also received three separate reports 10/ on trusteeship matters from the Trusteeship Council in response to specific requests made to that organ. After considering these reports, the General Assembly has adopted resolutions 11/ by which it has made recommendations to the Trusteeship Council. At the same time it has also, in the exercise of its general supervisory authority over the operation of the International Trusteeship System, adopted a number of resolutions 12/ by which it has made direct recommendations to the Administering Authorities and to the people of certain Trust Territories, observations on the conditions in certain Trust Territories and general statements of principle on matters concerning the Trust Territories. In addition, it has initiated a programme for making available to qualified students from Trust Territories, fellowships, scholarships and internships offered by Members of the United Nations. 13/

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. Questions concerning the approval, alteration or amendment of Trusteeship Agreements

#### 1. *Approval of the first eight Trusteeship Agreements: the question whether a Power submitting a draft Agreement is obliged to accept amendments proposed by the General Assembly to the terms of the Agreement*

21. Drafts of the first eight Trusteeship Agreements were submitted for the approval of the General Assembly by the Government of Australia for New Guinea, by the Government of Belgium for Ruanda-Urundi, by the Government of France for the Cameroons under French mandate and Togoland under French mandate, by the Government of New Zealand for Western Samoa, and by the Government of the United Kingdom for Tanganyika, the Cameroons under British mandate, and Togoland under British mandate.

10/ G A (VII), Suppl. No. 12 (A/2151); G A (VIII), Annexes, a.i. 31, p. 1, A/2424; A/2669.

11/ G A resolutions 139 (II), 223 (III), 224 (III), 225 (III), 320 (IV), 321 (IV), 322 (IV), 323 (IV), 324 (IV), 325 (IV), 326 (IV), 431 (V), 432 (V), 433 (V), 434 (V), 435 (V), 437 (V), 438 (V), 441 (V), 552 (VI), 553 (VI), 554 (VI), 555 (VI), 556 (VI), 557 (VI), 559 (VI), 560 (VI), 561 (VI), 563 (VI), 649 (VII), 652 (VII), 653 (VII), 654 (VII), 655 (VII), 656 (VII), 750 (VIII), 751 (VIII), 752 (VIII), 753 (VIII), 756 (VIII), 757 (VIII), 758 (VIII), 853 (IX), 855 (IX), 856 (IX), 857 (IX), 858 (IX), 859 (IX) and 860 (IX).

12/ G A resolutions 226 (III), 322 (IV), 323 (IV), 324 (IV), 436 (V), 439 (V), 440 (V), 441 (V), 552 (VI), 555 (VI), 556 (VI), 557 (VI), 558 (VI), 560 (VI), 562 (VI), 563 (VI), 649 (VII), 652 (VII), 653 (VII), 655 (VII), 656 (VII), 750 (VIII), 752 (VIII), 753 (VIII), 754 (VIII), 755 (VIII), 757 (VIII) and 758 (VIII).

13/ G A resolutions 557 (VI) and 753 (VIII).

22. The representative of one of the Mandatory Powers, in submitting draft Trusteeship Agreements, noted 14/ that, under Article 85, the General Assembly had the power to approve the terms of the Trusteeship Agreements presented to it, which implied the power to disapprove such terms. The Assembly nevertheless would have no power of itself, he stated, to make amendments to the Agreements, although it would be open to the Assembly, before giving approval, to recommend any amendments it might favour.

23. Subsequently, during the consideration of the draft Agreements, the Fourth Committee approved 15/ three amendments to the terms of the drafts which the Governments of Australia, France, New Zealand and the United Kingdom stated 16/ to be unacceptable to their Governments. The question therefore arose as to whether it was obligatory for a Government submitting a draft Agreement to accept amendments proposed by the General Assembly to the terms of the Agreement.

24. The Chairman ruled 17/ that if the Mandatory Power submitting the draft Agreement refused to accept the amendment recommended to it, the Committee would have to decide, when it voted on the draft Agreement as a whole, whether it considered the amendment of such importance that it should recommend to the General Assembly to reject the draft Agreement unless it contained the amendment in question. He stated that it should be noted that the Trusteeship Agreements were not proposed by the General Assembly, but by the Mandatory Powers.

25. This interpretation was not acceptable to all Members. The representative of one Member considered that the Committee should not be asked to voice its approval of draft Agreements, the modifications of which had not been accepted by the Mandatory Powers, and stated that the Mandatory Powers were either free to withdraw their draft Agreements, or to accept the decision of the General Assembly. Another stated that he did not doubt that the draft Agreements would be approved by a large majority, and as a result many useful and important resolutions made by the Fourth Committee would be invalidated. In spite of appearances, the vote of approval would not, he said, be the result of free discussion, nor would it be based on the merit of the resolutions. Either the draft Agreements must be approved or there would be no Trusteeship Council. 18/

26. The ruling of the Chairman (see paragraph 24 above) was not, however, formally challenged, and the terms of the draft Agreements were approved 19/ by the Fourth Committee (and finally approved 20/ by the General Assembly) without the amendments recommended by the Fourth Committee, which were unacceptable to the Mandatory Powers submitting the draft Agreements.

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14/ G A (I/2), 4th Com., part I, 14th mtg., p. 68.

15/ Ibid., 23rd and 24th mtgs.

16/ Ibid., 26th mtg.

17/ G A (I/2), 4th Com., part I, 22nd mtg., p. 134.

18/ Ibid., 22nd mtg., India, p. 135; 26th mtg., Chile, p. 171.

19/ Ibid., 26th mtg., p. 174.

20/ G A (I/2), Plen., 62nd mtg., pp. 1287 and 1288.

*2. The question of including provisions in the Trusteeship Agreements for the review and modification of the Agreements*

27. During the discussion 21/ of the first eight draft Trusteeship Agreements at the second part of the first session of the General Assembly, two proposals were made in the Fourth Committee concerning the revision of the Trusteeship Agreements. Under the first proposal, provision would be made in all Agreements for their review and modification, this review to take place after five years. Under an amendment to this proposal, the period would be extended to ten years. Under the second proposal, the Agreements would terminate after ten years, at which time they would be subject to review and modification.

28. The Committee adopted that part of the first proposal which provided for the review and modification of the Trusteeship Agreements, by 20 votes to 14, with 1 abstention. That part of the first proposal which would have provided for a review after five years was rejected by 12 votes to 9, with 13 abstentions. The amendment to the first proposal calling for a review after ten years was approved 22/ by 20 votes to 7, with 8 abstentions. Since the first proposal concerning the fixing of a time limit for the revision of the Trusteeship Agreements had been approved, the sponsor of the second withdrew his proposal. 23/

29. Subsequent to the approval of this modification in the terms of the eight draft Agreements, representatives of certain Mandatory Powers which had submitted the draft Agreements indicated that the modification would be unacceptable to their Governments. The terms of the draft Agreements as approved by the Fourth Committee and finally approved by the General Assembly did not, therefore, contain this amendment (see paragraphs 23-26 above).

**B. Questions concerning the exercise by the General Assembly of functions under Articles 87 and 88**

*1. Requests for reports from the Administering Authorities: consideration of these reports; recommendation concerning the content of certain annual reports submitted by the Administering Authorities under Article 88*

30. In all cases, it has been the Trusteeship Council which has, under Article 87 a, directly considered the annual reports submitted to the General Assembly by the Administering Authorities under Article 88. On occasion, the General Assembly has, however, requested the Administering Authorities to submit other reports to it direct. It has also made recommendations on the contents of the annual reports.

31. At its fifth session, the General Assembly requested 24/ the Administering Authorities of those Trust Territories where corporal punishment still existed to report on this matter to the General Assembly at its next regular session, and at its sixth session, the Assembly included in its agenda the question of corporal punishment in Trust Territories. At the same session, the General Assembly also invited 25/ the Administering Authorities of each Trust Territory, other than Somaliland under Italian administration, to include certain information in their annual reports.

21/ For texts of relevant statements, see G A (I/2), 4th Com., part I, 23rd mtg., India, p. 146; USSR, p. 139.

22/ Ibid., 23rd mtg., p. 147.

23/ Ibid., 24th mtg., p. 147.

24/ G A resolution 440 (V).

25/ G A resolution 558 (VI).

32. At these sessions no questions were raised as to whether or not these were proper actions on the part of the General Assembly. At the fourth session, however, in connexion with a draft resolution 26/ submitted to the Fourth Committee, by which the General Assembly would call upon all Administering Authorities to furnish the General Assembly at its next session with certain information on the development of the Trust Territories towards self-determination, self-government or independence, several representatives stated 27/ that the procedure involved confused the functions of the General Assembly with those of the Trusteeship Council. It was argued, in opposition to the draft resolution, that it was the function of the Council to exercise supervision over the administration of the Trust Territories, to obtain such information as might be required from the Administering Authorities, and to report to the General Assembly. On the basis of such reports, the General Assembly formed its own opinion on the administration of the Trust Territories. It was, however, not stated in the Charter that the General Assembly should be the direct recipient of information from the Administering Authorities.

33. In support of the draft resolution, attention was drawn to Article 85 and it was pointed out that there was no provision in the Charter which stated that the General Assembly did not exercise authority over the Trust Territories, or that such authority was the monopoly of the Trusteeship Council.

34. Subsequently, the draft resolution was referred to a sub-committee which, in its report, 28/ recommended the adoption by the Fourth Committee of a draft resolution in which the wording in question would be amended so that the General Assembly would call upon all the Administering Authorities to furnish the Trusteeship Council with the information required.

35. The question whether or not the General Assembly would be assuming a function of the Trusteeship Council if it requested the Administering Authorities to furnish it direct with information was consequently not discussed further.

## *2. The hearing of oral presentations by the Fourth Committee of the General Assembly*

36. While the rules of procedure of the General Assembly contain no provisions for the acceptance and examination of petitions under Article 87 b, as do the rules of procedure of the Trusteeship Council, the Fourth Committee of the General Assembly has, at various sessions, granted oral hearings to petitioners from Trust Territories not designated as strategic. The questions set forth below have arisen in connexion with the hearing by the Fourth Committee of such oral presentations.

### a. THE QUESTION WHETHER THE FOURTH COMMITTEE SHOULD HEAR ORAL PRESENTATIONS

37. The first hearing by the Fourth Committee of oral presentations from petitioners from non-strategic Trust Territories occurred at the sixth session of the General Assembly, when requests were received for such hearings from the All-Ewe Conference and the Togoland Congress, both from Togoland under British administration. During the debate 29/ preceding the decision to grant the hearings, one representative opposed a

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26/ G A (IV), 4th Com., Annex, p. 1, A/C.4/L.3.

27/ For texts of relevant statements, see G A (IV), 4th Com., 94th mtg., Australia, paras. 20-23; France, paras. 3 and 4; Philippines, paras. 12-17; United States, para. 30; 95th mtg., USSR, paras. 35-44.

28/ G A (IV), 4th Com., Annex, pp. 3 and 4, A/C.4/L.15.

29/ G A (VI), 4th Com., 202nd mtg., Belgium, paras. 15 and 16; Guatemala, para. 22.

hearing of the petitioners by the Committee without a decision of principle having been taken by the General Assembly in plenary session as to whether its Committees should hear representatives of bodies other than Member States.

38. In reply, it was pointed out that, under Article 87, the General Assembly might accept and examine petitions and that its Fourth Committee was, therefore, entitled to hear petitioners without further authorization from the General Assembly in plenary session.

39. It was decided by 44 votes to none, with 8 abstentions, to grant hearings to representatives of the All-Ewe Conference and the Togoland Congress. 30/

b. THE QUESTION WHETHER PETITIONS SHOULD BE EXAMINED IN  
THE FIRST INSTANCE BY THE TRUSTEESHIP COUNCIL

40. In the course of the discussion on the request for a hearing of representatives of the All-Ewe Conference at the sixth session of the General Assembly (see paragraphs 37-39 above), it was suggested 31/ in the Fourth Committee that petitions should, in the first instance, be examined by the Trusteeship Council. At the seventh session, this suggestion was repeated in the course of a general discussion 32/ on principles of action to be taken with regard to a series of requests for hearings. The arguments in favour of the suggested procedure were that, although there was no question as to the right of the General Assembly and, therefore, of its Fourth Committee to hear petitioners, it was customary for the Trusteeship Council, which had been established to assist the General Assembly in carrying out its functions, to accept and examine petitions and it had, accordingly, an established procedure for this purpose. It was considered, therefore, to be a more regular procedure for the Trusteeship Council to examine petitions first, on the understanding that the petitioners could ask to be heard before the Fourth Committee if they failed to find satisfaction with the decision of the Council. Furthermore, the General Assembly should give careful consideration to the question of requests for oral hearings; it must not establish a practice which could give rise to an avalanche of similar requests for hearings in the future.

41. On the other hand, it was argued that the right to accept and examine petitions belonged primarily to the General Assembly and that the Trusteeship Council, when it examined petitions, functioned only under the authority of the General Assembly. There was, therefore, nothing to prevent the Assembly, if it so decided, from taking up petitions directly, and by doing so it would not be trespassing on the competence of the Council in any way.

42. In the specific case of a request for an oral hearing from the Chairman of the Togoland Congress, 33/a draft resolution 34/ was submitted which read as follows:

30/ G A (VI), 4th Com., 202nd mtg., para. 24.

31/ *Ibid.*, paras. 15 and 16.

32/ For texts of relevant statements, see G A (VII), 4th Com., 252nd mtg., United States, para. 14; Australia, para. 16; France, para. 3; Dominican Republic, para. 32; 265th mtg., Dominican Republic, paras. 6 and 7.

33/ G A (VII), Annexes, a.i. 32, p. 3, A/C.4/211.

34/ G A (VII), 4th Com., 263rd mtg., paras. 25-28.

"The Fourth Committee,

"Decides to instruct the Secretary-General to reply to the communication from the Chairman of the Togoland Congress to the effect that in the first instance he should address himself to the Trusteeship Council in accordance with rule 80 of that Council's rules of procedure and, if he fails to find satisfaction from the decisions of the Council, renew his request to the Fourth Committee specifying with precision the matters on which he wishes to address the Committee."

43. The draft resolution was rejected by 30 votes to 15, with 8 abstentions. The request for an oral hearing was granted by 39 votes to 9, with 6 abstentions. 35/

C. THE QUESTION OF ESTABLISHING A PROCEDURE FOR DEALING WITH  
REQUESTS FOR ORAL HEARINGS IN THE FOURTH COMMITTEE

44. At the seventh session of the General Assembly, it was pointed out that the Fourth Committee had no established procedure for dealing with the requests for oral hearings which it continued to receive. Certain representatives were of the opinion that, if the Fourth Committee approved all requests for hearings submitted to it without exercising some selectivity, the Committee would be overwhelmed with requests for hearings in the future. 36/

45. In order to remedy this situation, a draft resolution was submitted which, after amendment, read as follows: 37/

"The Fourth Committee,

"Considering that, since a large number of requests for hearings have been received from the Trust Territories and since the rules of procedure of the General Assembly contain no explicit provisions prescribing how such requests should be dealt with, the discussion of the items on the agenda of the Fourth Committee may, as a result, be prolonged considerably;

"Considering; therefore, that rules or provisions should be adopted which regulate such hearings, without prejudice to the principle of the right of petition;

"Decides

"1. To appoint a sub-committee from among its members, consisting of ..., with instructions to study and recommend to the Fourth Committee a suitable procedure for dealing with the granting of hearings requested of the Committee by individuals or institutions in the Trust Territories;

"2. To request the said sub-committee to submit to the Fourth Committee a report on its work during this session;

"3. To request the Secretary-General's co-operation with a view to expediting the sub-committee's performance of its function."

35/ Ibid., para. 43.

36/ G A (VII). 4th Com., 252nd mtg., United Kingdom. para. 2; Australia. para. 16; 263rd mtg., United States, para. 8; United Kingdom. paras. 23 and 44; Canada, para. 29; 265th mtg., Netherlands, Israel, Cuba, Denmark and New Zealand. paras. 22-31.

37/ G A (VII). Annexes, a.i. 12, p. 7, A/C.4/L.240/Rev.1.

46. In opposition to the draft resolution, the views set forth below were among those expressed. 38/ (1) No procedural difficulties had, in fact, arisen on previous occasions when the Fourth Committee had granted oral hearings. (2) It was questioned whether the Fourth Committee should draw up rules of procedure governing the granting of oral requests in the absence of any specific request by the General Assembly to do so. (3) The proposal contained in the draft resolution would limit the right of the General Assembly to receive and examine petitions.

47. In view of the doubts expressed concerning the draft resolution, the sponsor withdrew it. 39/

48. The question of establishing a procedure to be followed by the Fourth Committee in considering applications for hearings from petitioners was again raised 40/ at the eighth session of the General Assembly, and a draft resolution 41/ was submitted in the Fourth Committee which, in its revised text, read as follows:

"The Fourth Committee,

"1. Decides to establish a sub-committee consisting of eight members to make recommendations regarding the procedure to be followed by the Fourth Committee in considering applications for hearings from petitioners in respect of the affairs of Trust Territories, including the considerations to be taken into account by the Fourth Committee in reaching decisions on individual cases;

"2. Invites this sub-committee to submit its report within fourteen days of the appointment of its members."

49. The sponsor of the draft resolution stated that his delegation had submitted the draft resolution to meet what it felt to be the general desire to establish some standard procedure for dealing with requests for oral hearings. He wished to make it quite clear, however, that the sub-committee to be established would be concerned only with the general procedural problem. The decision whether to grant individual requests would remain with the Fourth Committee.

50. In the course of discussion, certain criteria which might be followed by the Fourth Committee in deciding whether or not to grant requests for oral hearings were suggested, as set forth below. (1) The problem raised by the petitioner should be specifically stated and should be of sufficient importance to merit a hearing. (2) The Committee should take into account the character of the petitioner and the organization

38/ For texts of relevant statements, see G A (VII), 4th Com., 281st mtg., Byelorussian SSR. paras. 78 and 79; Poland. paras. 65-67; USSR. paras. 68-71; 282nd mtg., Belgium. para. 69.

39/ Ibid., 282nd mtg., Dominican Republic, para. 71.

40/ For texts of relevant statements, see G A (VIII), 4th Com., 318th mtg.: India, para. 8; New Zealand, para. 65; Syria, paras. 18-20; United Kingdom, paras. 5 and 6; United States, paras. 29 and 30; 319th mtg.: Canada, para. 1; Dominican Republic, paras. 54-58; France, para. 3; Guatemala, paras. 51-53; Netherlands, para. 40; Union of South Africa, paras. 42-45; Yugoslavia, paras. 34-37; 320th mtg.: Bolivia, para. 39; Ethiopia, para. 53; India, para. 25; Indonesia, para. 33; Mexico, para. 24; Pakistan, para. 55; Venezuela, para. 37; Yemen, para. 49.

41/ G A (VIII), Annexes, a.1. 13, p. 2, A/C.4/L.271/Rev.1.

which he represented. (3) The petitioner should be a person who could provide useful and relevant information and should normally be an inhabitant of the Territory concerned. (4) The Committee should not grant hearings to lawyers who were not residents of the Territories concerned. (5) The Committee should take into account the past actions and decisions of the Trusteeship Council and of the General Assembly on the problem raised by the petitioners.

51. Arguments both for and against the draft resolution were adduced similar to those which had been advanced at the previous session.

52. The revised draft resolution was rejected by 23 votes to 22, with 12 abstentions. 42/

### 3. *Establishment of a sub-committee of the General Assembly to study the Questionnaire*

53. Whereas the functions defined in Article 87 may be exercised by the General Assembly and, under its authority, by the Trusteeship Council, the function referred to in Article 88, namely the formulation of a questionnaire on the political, economic, social and educational advancement of the inhabitants of each Trust Territory, is a function assigned specifically to the Trusteeship Council.

54. At the eighth session of the General Assembly, however, in the Fourth Committee amendments 43/ were proposed to a draft resolution concerning the preparation of the Questionnaire by the Trusteeship Council; under these amendments, the General Assembly would instruct a sub-committee to (a) examine the Questionnaire formulated by the Trusteeship Council; (b) study such changes as might be necessary to adapt it to the special conditions of each Territory; and (c) submit its conclusions to the Trusteeship Council which would be invited to undertake, on the basis of the work of the sub-committee, the preparation of separate questionnaires adapted to the particular circumstances of each Trust Territory.

55. There was objection 44/ to this procedure on the ground that the amendment was contrary to Article 88 which expressly conferred on the Trusteeship Council the right to formulate the Questionnaire. A sub-committee of the General Assembly should not, therefore, take the place of the Council in performing that function.

56. The amendments were adopted in a roll-call vote by 32 votes to 3, with 17 abstentions. The draft resolution, as amended, was adopted 45/ by 43 votes to 4, with 5 abstentions.

57. The draft resolution was adopted 46/ by the General Assembly in plenary meeting by 41 votes to 4, with 5 abstentions and became resolution 751 (VIII).

42/ G A (VIII), 4th Com., 320th mtg., para. 58.

43/ G A (VIII), Annexes, a.i. 13, p. 2, A/C.4/L.319.

44/ G A (VIII), 4th Com., 389th mtg., Haiti, para. 6; Syria, paras. 16 and 17; 392nd mtg., Uruguay, para. 13.

45/ Ibid., 392nd mtg., para. 28.

46/ G A (VIII), Plen., 471st mtg.

C. The question of the relationship between the General Assembly  
and the Trusteeship Council

1. *Actions taken by the General Assembly with respect to the exercise  
by the Trusteeship Council of its responsibilities*

a. ACTION TAKEN BY THE GENERAL ASSEMBLY ON THE ANNUAL REPORTS  
SUBMITTED TO IT BY THE TRUSTEESHIP COUNCIL

58. At each session, after its consideration of the annual report of the Trusteeship Council, the General Assembly normally adopts a resolution on that report. <sup>47/</sup> Under all such resolutions the General Assembly has taken note of the annual report, rather than approved its contents. In this connexion, a sponsor of the draft resolution, <sup>48/</sup> which served as the basis for the final resolution adopted at the third session of the General Assembly on the report of the Council covering its second and third sessions, stated that it was not desirable to ask the Assembly to approve the report, since it was a report of considerable length and would give rise to many differing views. <sup>49/</sup>

59. Two questions have arisen with respect to the recommendations which the General Assembly should make to the Council in connexion with the consideration by the Assembly of the annual reports.

- i. The question whether the General Assembly should recommend that the Council take into consideration, in its future work, the comments and suggestions made during the consideration of the annual report in the Fourth Committee

60. By the resolutions <sup>50/</sup> adopted on the annual reports of the Council, the General Assembly has, in varying language, resolved, or recommended, that the Council take into consideration, in its future work, the comments and suggestions made during the discussion of the relevant annual report of the Trusteeship Council in the Fourth Committee.

61. No objections were raised to this procedure at the second and third sessions of the Assembly, but at the fifth session, in the Fourth Committee, the opinion was expressed that the General Assembly should ask the Trusteeship Council to study only those proposals and suggestions approved by the majority of the Fourth Committee, in view of the fact that opposing views and criticisms expressed might give justification

<sup>47/</sup> A resolution has been adopted on all annual reports except the report of the Council covering its fourth and fifth sessions, considered by the General Assembly at its fourth session.

<sup>48/</sup> G A (VI), Annexes, a.i. 55, p. 2, A/C.4/L.144.

<sup>49/</sup> G A (III/1), 4th Com., 66th mtg., United States, pp. 169 and 170.

<sup>50/</sup> By resolution 139 (II) on the report of the Council covering its first session, the General Assembly resolved that all comments made by Members on the report during the discussion be transmitted to the Trusteeship Council for consideration in its future work. By resolutions 223 (III), 431 (V), 559 (VI), 654 (VII) and 756 (VIII), it made recommendations to the effect that the Council, in its future work, should consider the comments and suggestions made during the discussion of the relevant reports in the Fourth Committee. No resolution on this matter was adopted at the fourth session of the General Assembly.

to some members of the Council for opposing the implementation of recommendations adopted by the General Assembly. If the members of the Council desired to study the comments and suggestions made, they could consult the records of the meetings of the Fourth Committee. 51/ A separate vote was therefore requested on that paragraph of the draft resolution before the Committee under which the Assembly would recommend that the Council should, at its next session, consider the comments and suggestions made during the consideration of the report at the fifth session of the General Assembly. 52/

62. The paragraph in question was adopted by 32 votes to 2, with 14 abstentions.

63. The draft resolution as a whole was adopted by 31 votes to none, with 17 abstentions.

64. The draft resolution was adopted 53/ by the General Assembly in plenary meeting by 45 votes to none, with 7 abstentions and became resolution 431 (V).

- ii. The question whether the General Assembly should recommend that the Council report back to the General Assembly on the conclusions and the action taken upon comments and suggestions made in the Fourth Committee

65. At the third session of the General Assembly, a draft resolution 54/ was submitted to the Fourth Committee under which the General Assembly would have recommended that the Trusteeship Council include in its next annual report to the General Assembly the conclusions which it had reached and the action which it might have found appropriate to take upon the comments and suggestions made at the third session of the General Assembly during the discussion of the report of the Council covering its second and third sessions.

66. It was stated in support of the draft resolution that the proposal was consistent with Article 85 and that it was essential that all suggestions made be taken into account by the Council. The rejection of the proposal would vitiate the work of the Fourth Committee in that connexion.

67. There was objection to the proposal on the ground that, although the Council had to report back to the General Assembly in cases where decisions had been taken by the Assembly, it would be difficult to request the Council to report on all minority viewpoints. 55/

68. The draft resolution was rejected by 23 votes to 13. 56/

b. ENDORSEMENT BY THE GENERAL ASSEMBLY OF CERTAIN SPECIFIC CONCLUSIONS, RECOMMENDATIONS AND OBSERVATIONS OF THE TRUSTEESHIP COUNCIL

69. At various sessions, the General Assembly has endorsed certain specific conclusions, recommendations and observations made by the Trusteeship Council in the

51/ G A (V), 4th Com., 154th mtg., Philippines, para. 38.

52/ G A (V), Annexes, a.i. 13, p. 12, A/C.4/L.69.

53/ G A (V), Plen., vol. I, 316th mtg.

54/ G A (VI), Annexes, a.i. 36, p. 10, A/C.4/L.146.

55/ G A (III/1), 4th Com., 74th mtg., Chairman (Iran), p. 269; Mexico, p. 269; United States, p. 269.

56/ G A (III/1), 4th Com., 74th mtg., p. 270.

discharge of its responsibilities. Thus, at its third session, the Assembly endorsed 57/ an observation of the Council concerning administrative unions, while at its fourth session it expressed its full support 58/ of the recommendation of the Council to the Administering Authorities that they adopt measures which would hasten the advancement of the Trust Territories towards self-government or independence. Normally, however, the General Assembly has not endorsed resolutions of the Trusteeship Council.

C. RECOMMENDATION REGARDING MEASURES TO BE TAKEN BY THE TRUSTEESHIP COUNCIL  
IN DEALING WITH QUESTIONS OR PROBLEMS CONCERNING TRUST TERRITORIES; RE-  
QUESTS TO THE TRUSTEESHIP COUNCIL TO CARRY OUT SPECIAL STUDIES

70. At various sessions, the General Assembly has adopted resolutions by which it has recommended to the Trusteeship Council measures to deal with the various questions and problems that have arisen concerning the Trust Territories. It has also recommended that the Council carry out special studies of certain questions concerning the Trust Territories and, in doing so, has suggested the criteria which might be borne in mind in such studies.

71. Thus, at its fourth session, the General Assembly recommended 59/ that the Trusteeship Council adopt suitable measures for solving in a broad and humanitarian spirit such important social problems as migrant labour and penal sanctions for the breach of labour contracts by indigenous inhabitants. At the same session, in recommending that the Council complete an investigation of administrative unions initiated by the General Assembly at its third session, the Assembly suggested 60/ the criteria which the Council might bear in mind in order to complete its investigation. At its fifth session, the General Assembly recommended 61/ that the Council continue to devote particular attention, in consultation with the Administering Authorities and the specialized agencies, to long-range programmes of educational development in the Trust Territories, with a view to enabling the inhabitants of those Territories to take over the responsibilities of complete self-government at the earliest possible date. It also recommended that the Council carry out a study of the prevailing policies, laws and practices which in the Trust Territories related to land, land utilization and the alienation of land, and laid down the criteria to be borne in mind in the study. 62/

d. REQUESTS THAT THE TRUSTEESHIP COUNCIL MAKE RECOMMENDATIONS TO THE  
ADMINISTERING AUTHORITIES

72. The General Assembly has, in certain instances, given general guidance to the Trusteeship Council as to the recommendations which, in its view, should be made to the Administering Authorities. Thus, for instance, at its fourth session, it recommended 63/ that the Council make the necessary recommendations to the Administering

57/ G A resolution 224 (III).

58/ G A resolution 320 (IV). See also G A resolutions 322 (IV) and 323 (IV).

59/ G A resolution 323 (IV).

60/ G A resolution 326 (IV).

61/ G A resolution 437 (V).

62/ G A resolution 438 (V). See also G A resolutions 224 (III), 555 (VI), 557 (VI), 561 (VI), 563 (VI), 649 (VII), 652 (VII), 655 (VII), 656 (VII), 750 (VIII), 752 (VIII), 757 (VIII) and 758 (VIII) which contain recommendations of a similar nature.

63/ G A resolution 324 (IV).

Authorities on the development and promotion in the Trust Territories of the diffusion of information on the United Nations and on the International Trusteeship System, and drew the attention of the Council to the necessity of requesting the Administering Authorities to study the possibility of including in the curricula of schools in the Trust Territories instruction on the United Nations, the International Trusteeship System and the special status of Trust Territories. Again, at the same session, the General Assembly recommended 64/ that the Trusteeship Council examine all laws and statutes and ordinances, as well as their application, in the Trust Territories and make positive recommendations to the Administering Authorities concerned with a view to the abolition of all discriminatory provisions or practices.

73. The Official Records of the General Assembly, in connexion with the adoption of these resolutions and of others of a similar nature, 65/ show that no objection of principle was raised when the General Assembly made such recommendations to the Council as long as the final action to be taken was left to the discretion of the Council.

74. The General Assembly has also requested 66/ the Trusteeship Council to make specific recommendations to the Administering Authorities.

75. The right of the General Assembly to make such requests for specific recommendations to the Trusteeship Council was challenged at the fourth session of the General Assembly, when a draft resolution was submitted to the Fourth Committee by which, in its revised form, 67/ the General Assembly would request the Trusteeship Council to recommend to the Administering Authorities concerned that the flag of the United Nations be flown over all Trust Territories side by side with the flag of the Administering Authorities concerned and with the territorial flag if there was one.

76. Certain representatives believed that the procedure envisaged under the draft resolution was derogatory to the dignity of the Trusteeship Council as one of the principal organs of the United Nations. 68/ An amendment was therefore submitted under which the General Assembly would have requested the Trusteeship Council to study the possibility of inviting the Administering Authorities concerned to fly the United Nations flag where appropriate in all Trust Territories. 69/ This, the sponsor explained, would make it clear that the matter was in no way prejudged but was subject to a decision by the Trusteeship Council.

77. The amendment was rejected by 26 votes to 7, with 7 abstentions. The draft resolution was adopted in a roll-call vote by 35 votes to 5, with 4 abstentions.

78. The draft resolution was adopted 70/ by the General Assembly by 48 votes to 5, with 4 abstentions and became resolution 325 (IV).

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64/ G A resolution 323 (IV).

65/ G A resolutions 224 (III) and 438 (V).

66/ See, for example, G A resolutions 225 (III) and 325 (IV).

67/ G A (IV), 4th Com., Annex, p. 3, A/C.4/L.11/Rev.1.

68/ G A (IV), 4th Com., 96th mtg., France, paras. 23-28; United Kingdom, paras. 21 and 22; 97th mtg., Australia, para. 5.

69/ G A (IV), 4th Com., 96th mtg., para. 22, A/C.4/L.14.

70/ G A (IV), Plen., 240th mtg.

e. RECOMMENDATIONS MADE BY THE GENERAL ASSEMBLY CONCERNING THE PROCEDURES OF THE TRUSTEESHIP COUNCIL AND THE ANNUAL REPORTS OF THE COUNCIL TO THE GENERAL ASSEMBLY

79. At various sessions, the General Assembly has made recommendations to the Council concerning the latter's general procedure, 71/ its procedures with respect to the organization of visiting missions 72/ and its procedures with respect to its examination of petitions. 73/ It has also made recommendations on the arrangement of the subject-matter included in the annual reports of the Council to the General Assembly 74/ and has requested that the Trusteeship Council include sections in its annual reports on matters of interest to the General Assembly, or has requested that the Council prepare special reports. 75/

80. Certain questions relating to the application of Article 85 were raised in the course of the discussion of these recommendations in the Fourth Committee of the General Assembly, and are set forth below.

- i. The question whether the Trusteeship Council is bound to consider the inclusion in its rules of procedure of "all provisions required to assist the General Assembly in carrying out its functions with regard to the Trusteeship System"

81. At the fifth session of the General Assembly, during the consideration by the Fourth Committee of a draft resolution concerning the annual report of the Trusteeship Council to the General Assembly, a proposal 76/ was submitted under which the preamble to the draft resolution in question would include the following paragraph:

"Considering that certain rules of procedure of the Trusteeship Council relate to the preparation of the Annual Report; that under Article 90 of the Charter the Council adopts its own rules of procedure; and that in doing so the Council is at all times bound to consider the inclusion of all provisions required to assist the General Assembly in carrying out its functions with regard to the Trusteeship System as provided in the Charter;".

82. The sponsor stated that, although the Council was free to adopt its own rules of procedure, it was nevertheless required by Article 85 (2) to assist the General Assembly in discharging the functions enumerated in Chapter XII. His delegation considered the paragraph quoted above to be a correct interpretation of this relationship.

83. Other representatives were unable to accept this interpretation and objection was raised to the attempt to define the relationship between the Trusteeship Council and the General Assembly. It was pointed out that, under Article 90, the Trusteeship

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71/ G A resolution 432 (V).

72/ G A resolutions 321 (IV), 434 (V) and 553 (VI).

73/ G A resolutions 321 (IV), 435 (V) and 552 (VI).

74/ G A resolution 433 (V), See also in this Repertory under Article 87.

75/ G A resolutions 320 (IV), 322 (IV), 323 (IV), 324 (IV), 432 (V), 434 (V), 437 (V), 438 (V), 441 (V), 556 (VI), 557 (VI), 560 (VI), 652 (VI), 653 (VI), 655 (VII), 656 (VII), 750 (VIII), 752 (VIII), 757 (VIII) and 758 (VIII).

76/ G A (V), 4th Com., 164th mtg., paras. 96-98.

Council adopted its own rules and had competence to take its own decisions. 77/

84. The proposal was adopted by the Fourth Committee in a roll-call vote by 25 votes to 13, with 10 abstentions. 78/

85. The proposal was, however, not adopted 79/ by the General Assembly in plenary meeting, having failed to obtain the required two-thirds majority, the vote having been 25 votes in favour, 16 against and 14 abstentions.

ii. The question whether the General Assembly may recommend specific procedures to the Trusteeship Council, and the constitutional basis for such action

86. At the fifth session of the General Assembly, in the course of the debate on the report of the Trusteeship Council, a draft resolution 80/ concerning the general procedures of the Council was submitted to the Fourth Committee. Under this draft resolution, the General Assembly would make the specific recommendation that the Council establish a special committee of the whole, to be charged with certain defined tasks. This draft resolution was referred to a sub-committee which, in its report, 81/ recommended the adoption by the Fourth Committee of a draft which closely followed the original proposal.

87. During the discussion 82/ of the draft resolution submitted by the Sub-Committee, the view was expressed that, although it might be agreed that the time had come for the Council to review its procedures, the General Assembly should not impose a definite procedure on the Council. It was pointed out that, under Article 90, the Council adopted its own rules of procedure; the decision in the matter should therefore be left to it.

88. An amendment was then submitted under which the preamble of the draft resolution would contain the statement that a review by the Council of its method of work appeared to be required on the one hand, for the effective discharge of its duties, and, on the other hand, in order to enable it to render to the General Assembly effective assistance in accomplishing the tasks conferred upon the Assembly by Article 85 (1). 83/

89. There was objection to that amendment on the grounds that (a) it was out of place to refer to Article 85 and it would seem to be more appropriate in this connexion to refer to Article 90, and (b) the amendment was not necessary, since it might be presumed that the Trusteeship Council was aware of its duties under the Charter. 84/

90. The sponsor of the amendment stated that, while the Trusteeship Council could certainly adopt its own rules of procedure and settle its procedural questions, the fact remained that it acted under the authority of the General Assembly and that the

77/ Ibid., 164th mtg., Cuba, paras. 125-128; United Kingdom, paras. 2-6; G A (V), Plen., vol. I, 316th mtg., United States, paras. 122 and 123.

78/ G A (V), 4th Com., 166th mtg., para. 63.

79/ G A (V), Plen., vol. I, 316th mtg., para. 131.

80/ G A (V), Annexes, a.i. 13, p. 1, A/C.4/L.70.

81/ Ibid., p. 5, A/C.4/L.88.

82/ G A (V), 4th Com., 164th mtg.

83/ G A (V), 4th Com., 164th mtg., Cuba, paras. 50-54.

84/ Ibid., United Kingdom, paras. 69-72; United States, paras. 73-76.

reference to Article 85 was, therefore, in order. In view of the objections raised, however, he withdrew his proposed amendment. 85/

91. In the course of this discussion, an amended draft 86/ had been submitted under which the Council would be left free to choose the procedure which it considered best, but under which it would be invited to explain the reasons for its decisions to the General Assembly at its next session. This text was further amended by specifying that the Council, in making its review, should take into account the observations and suggestions made during the discussion of the matter at the fifth session of the Assembly.

92. The draft resolution, as amended, was adopted by 43 votes to none, with 4 abstentions.

93. The draft resolution was adopted 87/ by the General Assembly in plenary meeting by 53 votes to 1, with 3 abstentions, and became resolution 432 (V).

94. At the same session, the General Assembly adopted two further resolutions concerning the procedures of the Council with respect to the organization and functioning of visiting missions and the examination of petitions. Under both resolutions, the Assembly made specific recommendations to the Council.

95. Discussion on the organization and functioning of visiting missions was originally based upon a draft resolution 88/ submitted to the Fourth Committee under which the General Assembly would recommend that the Trusteeship Council review the organization of periodic visits and would make specific suggestions, to be considered by the Council, on how the organization of the visiting missions might be improved. The operative part of this draft resolution was subsequently embodied in a new text 89/ drafted by a sub-committee appointed to consider the possibility of co-ordinating and amalgamating a number of draft resolutions relating to the report of the Trusteeship Council.

96. During the discussion 90/ of the draft resolution offered by the Sub-Committee, several representatives expressed their doubts as to the advisability of the General Assembly's suggesting detailed procedures to the Trusteeship Council on the way it should organize the visiting missions. It was stated, for instance, that the detailed organization of visiting missions was essentially a matter for the Trusteeship Council, that the more freedom of action the General Assembly could give to the Council the better, and that the best way to give effect to the desire of the General Assembly for a review of the organization of such missions was to adopt a resolution couched in general terms, by which the Trusteeship Council would be requested to review the organization and work of the visiting missions. It was also stated that, whilst it was clear that the Council was under the authority of the General Assembly, the latter should exercise its authority in such a way as to leave the Council a certain amount of freedom of action.

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85/ G A (V), 4th Com., 164th mtg., Cuba, para. 82.

86/ G A (V), Annexes, a.i. 13, p. 12, A/C.4/L.88.

87/ G A (V), Plen., vol. I, 316th mtg.

88/ G A (V), Annexes, a.i. 13, p. 3, A/C.4/L.74.

89/ Ibid., p. 14, A/C.4/L.98.

90/ G A (V), 4th Com., 167th mtg., para. 14; 168th mtg., para. 13.

97. As adopted by the Fourth Committee, the draft resolution contained an amendment, 91/ submitted in the course of a paragraph by paragraph vote, 92/ by which the following text would be inserted in the preamble:

"Considering that, under Article 85, paragraph 1, of the Charter, the functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic shall be exercised by the General Assembly,".

Further, under the terms of the draft resolution, the General Assembly would recommend that the Council, in its review of the organization and methods of functioning of visiting missions, take into account the specific proposals contained in the operative part of the draft text.

98. The draft resolution was adopted 93/ by the General Assembly in plenary meeting by 41 votes to none, with 14 abstentions, and became resolution 434 (V).

99. Similar doubts as to the advisability of recommending specific procedures to the Trusteeship Council were expressed 94/ in the Fourth Committee during the discussion of a draft resolution 95/ concerning petitions embodying six specific suggestions as to how the Council might revise its procedures in this respect.

100. The draft resolution, by which the General Assembly would recommend that the Council consider four specific proposals concerning the procedures of the Council with respect to the examination of petitions, was amended in the same sense as resolution 434 (V) and was adopted by 30 votes to 3, with 14 abstentions.

101. The draft resolution was adopted 96/ by the General Assembly in plenary meeting by 47 votes to none, with 8 abstentions, and became resolution 435 (V).

102. Both the above-mentioned resolutions had invoked Article 85 (1) as one of the legal bases on which the General Assembly might make such recommendations to the Trusteeship Council.

103. At its sixth session, the General Assembly adopted two further resolutions concerning the organization and methods of functioning of visiting missions and the examination of petitions, under both of which it recommended specific measures to the Council with respect to its procedures in these matters. The relevant discussion is set forth below.

104. In the course of the debate on the report of the Trusteeship Council, in the Fourth Committee, a draft resolution 97/ was submitted under which the General Assembly would make specific recommendations to the Council regarding its procedures with respect to the organization and functioning of visiting missions.

105. During the consideration 98/ of this draft resolution, it was again claimed that the Assembly should not give directives to the Council with regard to its rules of

91/ G A (V), Annexes, a.i. 13, p. 15.

92/ G A (V), 4th Com., 169th mtg.

93/ G A (V), Plen., vol. I, 316th mtg.

94/ G A (V), 4th Com., 170th and 171st mtgs.

95/ G A (V), Annexes, a.i. 13, p. 16, A/C.4/L.99.

96/ G A (V), Plen., vol. I, 316th mtg.

97/ G A (VI), Annexes, a.i. 12, para. 15, A/C.4/L.186.

98/ For texts of relevant statements, see G A (VI), 4th Com., 239th mtg., Belgium, paras. 14-18; Brazil, paras. 31-35; Cuba, paras. 20-23.

procedure for, under Article 90, the Council was master of its own procedure.

106. In support of the draft resolution, it was stated that Article 90 in no way prejudiced the provisions of Article 37, which expressly stated that the General Assembly, and under its authority, the Trusteeship Council might accept petitions. Hence, it was clear that the Charter did not recognize the independence of the Council in this matter. Furthermore, there had already been occasions when the General Assembly had given the Trusteeship Council directives on the conduct of its work; such a procedure was fully in accordance with the terms of the Charter. Under the Charter, the Trusteeship Council was required to carry out its functions under the authority of the General Assembly. as indicated in Article 85 (2).

107. The draft resolution, with amendments, was adopted by the Fourth Committee in a roll-call vote by 35 votes to 7, with 8 abstentions.

108. The draft resolution was adopted 99/ by the General Assembly in plenary meeting by 41 votes to 5, with 5 abstentions, and became resolution 553 (VI).

109. Similar objections were raised during the discussion of the second draft resolution 100/ on the procedures of the Council with respect to the examination of petitions, under which the Assembly would make the specific recommendation, among others, that the Council should constitute a standing committee for the examination of petitions to meet between sessions of the Council. The views set forth below were among those expressed 101/ in opposition to the draft resolution. (1) It was not consonant with the power given to the Trusteeship Council by Article 90. (2) Under Article 90, the Council was given sole competence to adopt its rules of procedure. (3) The proposal might be construed as interference with the right of the Trusteeship Council to adopt its own rules of procedure. (4) The General Assembly should not seek to make detailed recommendations to the Council, which was one of the principal organs of the United Nations. (5) Broad suggestions which the Council could examine in the light of its own technical knowledge and practical experience would be more appropriate.

110. The draft resolution in a revised form, 102/ but still containing specific suggestions to the Council, was adopted by the Committee in a roll-call vote by 39 votes to 5, with 5 abstentions.

111. The draft resolution was adopted 103/ by the General Assembly in plenary meeting by 39 votes to 5, with 8 abstentions, and became resolution 552 (VI).

iii. The question whether the preparation of the annual report of the Trusteeship Council to the General Assembly constitutes "assistance" to the General Assembly within the meaning of Article 85 (2)

112. At its fifth session, the General Assembly, under resolution 433 (V), made specific recommendations to the Trusteeship Council concerning the arrangement of the subject-matter in the annual report of the Council to the General Assembly.

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99/ G A (VI), Plen., 361st mtg.

100/ G A (VI), Annexes, a.i. 12, p. 25, A/C.4/L.165.

101/ G A (VI), 4th Com., 235th mtg., Australia, paras. 10-15; 236th mtg., Australia, para. 14; Belgium, para. 11; New Zealand, paras. 18 and 19.

102/ G A (VI), Annexes, a.i. 12, p. 25, A/C.4/L.165/Rev.1.

103/ G A (VI), Plen., 361st mtg.

113. In the debate 104/ in the Fourth Committee on the resolution at its draft stage, there was a general agreement on the principle that the General Assembly might ask the Trusteeship Council to prepare its report in whatever way seemed best to the General Assembly. It was stated, for instance, that the General Assembly had a greater right to indicate to the Council the form of its annual report which was, after all, prepared for submission to the General Assembly, than it had to make specific recommendations regarding the rules of procedure and methods of work of the Council, and that, since the Council submitted a report on its work to the Assembly, it was only natural that the Assembly should express its views as to the form which that report should take.

114. Although agreement on the question whether the Assembly might make recommendations to the Council regarding the form of its report was complete and there were no arguments advanced to the contrary, discussion arose as to the legal basis on which the General Assembly might make these recommendations to the Council.

115. Under the draft resolution, 105/ as amended 106/ in the course of discussion, the General Assembly would make four specific recommendations to the Council as to the way in which it might organize its annual report. Article 85 (2) was cited as the basis for making the recommendations. Thus, the preamble to the draft resolution, as amended and accepted as the basis for discussion, read, in part, as follows:

"The General Assembly,

"Considering that under Article 85, paragraph 2, of the Charter, the Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out its functions with regard to the Trusteeship System,

"Considering that the annual report of the Trusteeship Council is prepared principally for the use and assistance of the General Assembly,". 107/

116. In considering this draft resolution, the view was expressed 108/ that the use of Article 85 as the legal basis on which the General Assembly would make its recommendations on the annual report of the Trusteeship Council was incorrect. Before approving the terms of Trusteeship Agreements or their modification, the General Assembly could, for instance, request the Council to study the draft Agreements; it could also request the Council to make a special study of administrative unions. These requests related to ways in which the Trusteeship Council could assist the General Assembly in accordance with Article 85. The preparation of annual reports, however, did not constitute assistance to the General Assembly by the Trusteeship Council, so that there was no justification for referring to Article 85 in the preamble to the draft resolution. If any Article had to be referred to, it should rather be Article 15. The first preambular paragraph of the draft resolution which referred to Article 85

104/ G A (V), 4th Com., 164th mtg., United Kingdom, paras. 91-95; 165th mtg., Belgium, paras. 29-31.

105/ G A (V), Annexes, a.i. 13, p. 2, A/C.4/L.72.

106/ Ibid., p. 5, A/C.4/L.88, para. 10; ibid., p. 8, A/C.4/L.89.

107/ Ibid., p. 13.

108/ G A (V), 4th Com., 166th mtg., Belgium, paras. 23-26.

should therefore be deleted, together with the second paragraph, which stated that the Trusteeship Council prepared its report with a view to assisting the General Assembly.

117. In reply, it was argued 109/ that the Trusteeship Council, in preparing its reports to the General Assembly, was, in fact, assisting the Assembly in carrying out its functions. It was true that the immediate purpose of the reports mentioned in Article 15 was to inform the General Assembly of the situation in the Trust Territories as reflected in the reports of the Administering Authorities and to bring to the attention of the General Assembly the suggestions and recommendations which it might adopt in respect of those Territories. However, as indicated in the rules of procedure of the Council, "the principal purpose of the annual reports was to give the General Assembly a comprehensive picture of the activities of the Council and an account of the manner in which the Council had carried out its responsibilities under the International Trusteeship System, and that, in turn, was to enable the Trusteeship Council to assist the General Assembly in the latter's functions."

118. Subsequently, a second draft resolution 110/ was submitted to replace the text under discussion. In the new draft, the two paragraphs in question would be replaced by the following text:

"The General Assembly,

"Considering that under Article 15, paragraph 2, of the Charter, the General Assembly receives and considers the reports of the Trusteeship Council,".

119. The first paragraph of the preamble of the earlier draft resolution (see paragraph 115 above) was adopted 111/ by 35 votes to none, with 10 abstentions.

120. The preamble to the second draft resolution which was voted upon as an amendment to the second paragraph of the original draft resolution, was adopted 112/ by 26 votes to 17, with 4 abstentions.

121. The draft resolution as a whole, containing these two paragraphs, was adopted 113/ by the General Assembly in plenary meeting by 53 votes to none, with 2 abstentions, and became resolution 443 (V).

f. THE QUESTION WHETHER THE GENERAL ASSEMBLY MAY MAKE RECOMMENDATIONS CONCERNING THE COMPOSITION OF SUBSIDIARY BODIES OF THE TRUSTEESHIP COUNCIL 114/

122. At the sixth session of the General Assembly, there were two cases in which the General Assembly made recommendations to the Council concerning the composition of subsidiary bodies of the latter.

123. In the first case, a draft resolution 115/ was submitted to the Fourth Committee under which the General Assembly would have recommended to the Trusteeship

109/ Ibid., Philippines, paras. 30-33.

110/ Ibid., para. 47.

111/ Ibid., para. 53.

112/ Ibid., para. 61.

113/ G A (V), Plen., vol. I, 316th mtg.

114/ See also in this Repertory under Article 36.

115/ G A (VI), Annexes, a.i. 12, p. 20, A/C.4/L.176.

Council to associate countries which were not members of the Council with the activities of its subsidiary organs.

124. In the course of discussion, 116/ objections were raised to this draft resolution on the grounds that the functions and composition of the Council were laid down in the Charter and that it was, therefore, for the Council to decide on the composition of its subsidiary organs.

125. In support of the draft resolution, it was pointed out that the Council operated under the authority of the General Assembly and that the Assembly, therefore, could direct the work of the Council and make recommendations to it.

126. Subsequently, an amendment to the draft resolution was proposed which, however, did not alter the substance of the text. The amendment read as follows: "Recommends the Trusteeship Council ... to associate Members who are not represented on the Council, with the activities of its subsidiary organs". 117/ This amendment was accepted 118/ by the sponsor.

127. The draft resolution, as amended, was adopted 119/ by the Fourth Committee in a roll-call vote by 25 votes to 14, with 11 abstentions.

128. The draft resolution was not adopted 120/ by the General Assembly in plenary meeting, having failed to obtain the required two-thirds majority. The result of the vote was 28 votes in favour, 18 against, with 10 abstentions.

129. In the second case, the General Assembly adopted resolution 553 (VI), by which it recommended that, whenever it was necessary for practical reasons to appoint members to visiting missions other than representatives who sat on the Trusteeship Council, the Council consider inviting Members of the United Nations which were not members of the Trusteeship Council to nominate suitably qualified persons.

130. In connexion with the discussion of the resolution at its draft stage in the Fourth Committee no questions were raised as to the right of the General Assembly to make recommendations to the Council concerning the composition of its subsidiary organs.

g. RECOMMENDATIONS TO ASSOCIATE THE INHABITANTS OF THE TRUST TERRITORIES  
IN THE WORK OF THE TRUSTEESHIP COUNCIL

131. The General Assembly has adopted two resolutions concerning the participation of the indigenous inhabitants of Trust Territories in the work of the Trusteeship Council.

132. By resolution 554 (VI), the General Assembly invited the Trusteeship Council to examine the possibility of associating the inhabitants of the Trust Territories more closely in its work. By resolution 653 (VII), the General Assembly, having noted the consideration given to the above-mentioned matter by the Trusteeship Council, expressed

116/ G A (VI), 4th Com., 238th mtg., Belgium, paras. 21-23; Iraq, paras. 52-62; New Zealand, paras. 42-46; USSR, para. 1; United Kingdom, paras. 3-9.

117/ G A (VI), Annexes, a.i. 12, p. 12, A/C.4/L.190.

118/ G A (VI), 4th Com., 238th mtg., Iraq, paras. 52-62.

119/ Ibid., para. 72.

120/ G A (VI), Plen., 361st mtg.

the opinion that the objects of resolution 554 (VI) would be better achieved through the active participation of members of the indigenous population of the Trust Territories in the government of those Territories and in the work of the Trusteeship Council. 121/

h. RECOMMENDATIONS MADE BY THE GENERAL ASSEMBLY TO THE TRUSTEESHIP COUNCIL  
CONCERNING THE FORMULATION OF THE QUESTIONNAIRE

133. The formulation of a questionnaire on the political, economic, social and educational advancement of the inhabitants of each Trust Territory is assigned specifically to the Trusteeship Council under Article 88. The General Assembly has, nevertheless, adopted two resolutions concerning the formulation of this Questionnaire.

134. By resolution 656 (VII), the General Assembly requested the Council further to consider the desirability of preparing a special questionnaire for Somaliland under Italian administration. Similarly, by resolution 751 (VIII), the General Assembly invited the Trusteeship Council to undertake the preparation of separate questionnaires adapted to the particular circumstances of each Trust Territory.

135. In support of the draft resolution 122/ upon which the latter resolution was based, the sponsor stated that the annual reports prepared by the Administering Authorities in accordance with the Questionnaire were submitted to the General Assembly and that the Trusteeship Council examined them under the authority of the General Assembly. He considered that the annual reports of the Administering Authorities which were based on the revised Questionnaire prepared by the Trusteeship Council contained insufficient information and did not allow the General Assembly satisfactorily to exercise its functions.

*2. Action taken by the Trusteeship Council on the recommendations made to it by the General Assembly*

*The question whether the Trusteeship Council is required under Article 85 (2) and Article 87 to carry out specific recommendations of the General Assembly*

136. All items relating to recommendations made by the General Assembly to the Trusteeship Council concerning the exercise of its responsibilities with respect to the functions referred to in Articles 87 and 88 have been included in the agenda of the Trusteeship Council and have been considered by it. In cases in which these recommendations have been formulated in general terms, the Council has considered itself free to use its discretion in any subsequent action it might take upon them. In cases in which the General Assembly has made specific recommendations, or has indicated that it would desire the Council to take a certain course of action, debate has occurred, in some instances, on the question whether the Council was required, under Article 85 (2) and Article 87, to carry out these recommendations. In one case, the Trusteeship Council took no action on a recommendation of the General Assembly.

121/ Although no references were made to Article 85 during the debates on these recommendations, they are noted in this study since they concern an action taken by the General Assembly with respect to the Trusteeship Council and thereby concern the relationship between the two organs.

122/ G A (VIII), Annexes, a.i. 13, p. 2, A/C.4/L.319.

137. By way of illustration, two instances in which debate occurred concerning the implementation by the Trusteeship Council of specific recommendations of the General Assembly are set forth below (see paragraphs 138-146 and 147-161) together with the case in which the Council took no action (see paragraphs 163-168 below).

a. RECOMMENDATION OF THE GENERAL ASSEMBLY WITH REGARD TO REPORTS  
OF VISITING MISSIONS

138. At its fourth session, the General Assembly, by resolution 321 (IV), recommended that the Trusteeship Council direct visiting missions to report fully on the steps taken towards the realization of the objectives set forth in Article 76 b under the headings of political, economic, social and educational advancement, and in particular on the steps taken towards self-government or independence.

139. This recommendation was considered by the Trusteeship Council at its sixth session in connexion with the arrangements being made for the Visiting Mission to the Trust Territories in the Pacific as a result of which draft terms of reference were submitted for the Mission. Under the revised text, 123/ the Mission would be directed to report as fully as possible on the steps taken in the Trust Territories towards the realization of the objectives set forth in Article 76 b under the headings of political, economic, social and educational advancement, and in particular on the steps taken towards self-government or independence.

140. There was objection to the use of the words "in particular" in the draft terms of reference on the ground that they laid stress on what was only one of the several objectives of the Mission. It was argued that the words in question had been taken from General Assembly resolution 321 (IV), and thus represented a suggestion which was not binding on the Trusteeship Council. The function of the Council was not merely to implement the orders of the General Assembly, and the Council should refrain from instructing the Mission to follow any detailed recommendation of the General Assembly which the Council knew to be impracticable. The arguments set forth below were among those advanced in support of this view. (1) The Council was not merely an executive organ of the General Assembly; it was a principal organ under Article 7 and should follow the recommendations of the General Assembly only in so far as they did not conflict with those provisions of the Charter which related to the Trusteeship Council. (2) The General Assembly recommendation to the Council was only a request that should be discussed, not an instruction to be followed, for the Council could not accept instructions from the General Assembly to vote one way or another.

141. On the other hand, it was argued that the Council would be lacking in respect to the Assembly if it failed to instruct the Visiting Mission to carry out its task in the precise manner stipulated by the Assembly; the Council should not give the Mission a directive which differed in substance from that laid down by the General Assembly since the Council could make arrangements for visiting missions only under the authority of the Assembly.

142. The President of the Council thought it his duty formally to remind the Council of the actual wording of Article 7. That wording showed that the Trusteeship Council was a deliberative organ, which adopted its decisions by majority vote and had powers of its own. While the General Assembly might address recommendations and resolutions to the Trusteeship Council asking it to take up the study of a particular question, the Trusteeship Council retained discretion with regard to the application, in accordance

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123/ T C (VI), 2nd mtg., para. 53, T/451.

with the wishes of the majority of its members, of any decision it might adopt in connexion with the above-mentioned General Assembly resolution. While the General Assembly could give the Council instructions, there was no question of the Council being deprived of the right to deliberate and take decisions by majority vote. 124/

143. Subsequently, two amendments to the draft terms of reference were submitted. Under the first of these, 125/ the words "and in particular on the steps taken towards self-government or independence" would be replaced by the words "taking into account the terms of General Assembly resolution 321 (IV) of 15 November 1949". Under the second amendment, 126/ the same words would have been replaced by the phrase "as well as the terms of General Assembly resolution 321 (IV) of 15 November 1949".

144. The second amendment was voted upon first and was rejected in a roll-call vote by 6 votes to 4, with 1 abstention. The first amendment was then adopted by 7 votes to 3, with 1 abstention.

145. The paragraph as a whole, as amended, was adopted by 7 votes to 4.

146. The draft terms of reference, as amended, were adopted by 9 votes to none, with 2 abstentions. 127/

b. REQUEST OF THE GENERAL ASSEMBLY WITH REGARD TO THE FLYING OF THE  
FLAG OF THE UNITED NATIONS IN TRUST TERRITORIES

147. In the second instance, a similar debate occurred in the Council in connexion with the discussion on the implementation of a recommendation made by the General Assembly under resolution 325 (IV), by which it requested the Trusteeship Council to recommend to the Administering Authorities concerned that the flag of the United Nations be flown over all Trust Territories side by side with the flag of the Administering Authority concerned and with the territorial flag if there was one.

148. This recommendation was considered by the Council at its sixth session and a draft resolution 128/ was submitted, by which the Trusteeship Council would have recommended to the Administering Authorities concerned that the flag of the United Nations be flown over all Trust Territories side by side with the flag of the Administering Authority concerned and with the territorial flag if there was one.

149. In submitting the draft resolution, one of its sponsors stated that the purpose was to ensure that the Council did all it could to give effect to the General Assembly resolution; it could not reasonably be argued that the Trusteeship Council should not comply with the wishes of the General Assembly.

150. Representatives of certain members which were Administering Authorities of Trust Territories not designated as strategic indicated that the draft resolution was unacceptable to their Governments. It was stated that the draft resolution showed a

124/ For texts of relevant statements, see T C (VI), 9th mtg.: United Kingdom, para. 77; 10th mtg.: Belgium, paras. 39-41; China, para. 30; Iraq, paras. 23 and 45; Philippines, paras. 29 and 38; the President, para. 34; United Kingdom, para. 27; United States, paras. 31 and 32.

125/ T C (VI), 10th mtg., Dominican Republic, para. 73.

126/ T C (VI), 11th mtg., Argentina, para. 3.

127/ T C (VI), 11th mtg., paras. 23-38.

128/ T/9.

misunderstanding of the respective functions of the Trusteeship Council and of the Administering Authorities.

151. In reply, it was urged that members of the Council, particularly those representing Governments which were Administering Authorities, draw a distinction between the responsibilities of the Trusteeship Council towards the General Assembly and the responsibilities of the Administering Authorities towards both the Trusteeship Council and the General Assembly. One of the responsibilities of the Trusteeship Council towards the General Assembly was to give effect to requests made to it by the latter. In adopting its resolution, the General Assembly had requested the Council to make certain recommendations to the Administering Authorities concerned. There were no grounds for disputing the duty of the Council to do all it could to comply with that request.

152. In support of the draft resolution, it was further stressed that the responsibility of the United Nations for supervision over Trust Territories as well as for all trusteeship matters was vested in the General Assembly. Under Article 85, the Trusteeship Council, operating under the authority of the General Assembly, was required to assist the General Assembly in carrying out its functions; further, under Article 87, it was made clear that the Trusteeship Council acted under the direct authority of the General Assembly. For the Trusteeship Council to reject the resolution of the General Assembly would be contrary to the Charter. 129/

153. In a roll-call vote, 5 votes were cast in favour of the draft resolution and 5 against, with 1 abstention.

154. The President ruled that, in accordance with rule 38 of the rules of procedure, a second vote would be taken at the following meeting. 130/

155. The President also stated that it was clear, under the provisions of the Charter, that members of the Council were entirely free to vote as they pleased in all circumstances. Hence, it was conceivable that a majority of the Council might adopt an attitude opposed to that taken by the General Assembly. In the case in point, the General Assembly had been free to address the resolution in question direct to the Administering Authorities. Inasmuch as the General Assembly had, however, requested the Council to take a decision in the matter, it was open to the Council to take a position different from that of the General Assembly. It was unlikely that Members of the United Nations which had opposed the particular proposal in the General Assembly would adopt a different attitude in respect of a similar proposal submitted in the Trusteeship Council. 131/

156. In a second roll-call vote at the following meeting, 5 votes were cast in favour of the draft resolution and 5 against, with 1 abstention.

157. In accordance with rule 38 of the rules of procedure, the draft resolution was deemed lost. 132/

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129/ For texts of relevant statements, see T C (VI), 76th mtg.: Australia, para. 63; France, paras. 68-70; New Zealand, para. 62; Philippines, paras. 56, 57 and 71; United Kingdom, para. 59; 77th mtg.: Iraq, paras. 14 and 17; Philippines, paras. 5-7.

130/ T C (VI), 76th mtg., para. 72.

131/ Ibid., para. 85.

132/ T C (VI), 77th mtg., para. 21.

158. At the seventh session of the Council, a draft resolution concerning the use of the United Nations flag in Trust Territories was again submitted; operative paragraph 2 was identical with that submitted at the sixth session, and provided that the Trusteeship Council would recommend to the Administering Authorities concerned that the flag of the United Nations be flown over all Trust Territories side by side with the flag of the Administering Authority and with the territorial flag if there was one. 133/

159. An amendment 134/ to the draft resolution was proposed by which the following words would be added at the end of the paragraph: "it being understood, however, that in carrying out the terms of this resolution, the Administering Authorities have latitude to handle any practical difficulties of administration which this recommendation might create".

160. One representative expressed regret 135/ at the decision taken by the General Assembly under resolution 325 (IV). while stating that the General Assembly could certainly make recommendations and submit them to anyone it saw fit. The Trusteeship Council, however, was a deliberative rather than an executive organ and could, therefore, reject a recommendation. That was a constitutional problem which had not been resolved in the Charter. While maintaining that the resolution of the General Assembly was unacceptable to him for both legal and constitutional reasons, his delegation would, however, support the proposed amendment as a compromise.

161. The amendment was adopted by 7 votes to none, with 4 abstentions.

162. The draft resolution, as amended, was adopted 136/ by 6 votes to 2, with 3 abstentions.

c. INVITATION OF THE GENERAL ASSEMBLY TO THE TRUSTEESHIP COUNCIL TO EXAMINE  
THE POSSIBILITY OF ASSOCIATING THE INHABITANTS OF THE TRUST TERRITORIES  
MORE CLOSELY IN ITS WORK

163. In the third instance, the General Assembly, at its sixth session, adopted resolution 554 (VI), by which it invited the Trusteeship Council to examine the possibility of associating the inhabitants of the Trust Territories more closely in its work. The Trusteeship Council accordingly considered this resolution at its tenth and eleventh sessions and adopted resolution 446 (XI), by which it expressed the hope that the Administering Authorities would find it appropriate to associate suitably qualified indigenous inhabitants of the Trust Territories in the work of the Council, as part of their delegations or in any other manner which they might deem desirable.

164. At its seventh session, the General Assembly adopted resolution 653 (VII), by which it expressed the opinion that the objectives of its earlier resolution would be better achieved through the active participation of members of the indigenous population of the Trust Territories in the government of those Territories and in the work of the Trusteeship Council.

165. The Council considered this resolution at its twelfth and thirteenth sessions. At its twelfth session, it established a sub-committee to examine the question of the

133/ T C (VII), Annex, vol. I, p. 84, T/112.

134/ Ibid., T/113.

135/ T C (VII), 30th mtg., France, paras. 40 and 41.

136/ Ibid., paras. 48 and 53.

participation of the indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council in the light of the General Assembly resolution. The Sub-Committee, however, reported 137/ to the Council at its thirteenth session that it had been unable to agree on any recommendation.

166. At a later stage, a draft resolution 138/ was submitted to the Council containing recommendations on the question under consideration. The sponsor subsequently accepted 139/ certain amendments to the draft resolution.

167. The Council voted upon the draft resolution, as amended. The votes having been equally divided on two successive occasions, however, the draft resolution was deemed lost 140/ according to rule 38 of the rules of procedure of the Council.

168. No further action was taken by the Council on this resolution of the General Assembly.

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137/ T C (XIII), Annexes, a.i. 9, p. 1, T/L.447.

138/ Ibid., p. 2, T/L.458.

139/ T C (XIII), 523rd mtg.

140/ T C (XIII), 524th mtg., para. 13.

**Chapter XIII**

**THE TRUSTEESHIP COUNCIL**

