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. As explained in the Introductory Note to the study under this Article in the Repertory, the term "functions of the United Nations" referred to in Article 85 has, in the practice of the General Assembly, been interpreted in its widest sense. Article 85 has thus been regarded as applying not only to the approval of terms of Trusteeship Agreements, but to all functions of the United Nations in supervising the administration of Trust Territories not designated as strategic areas.

2. Section A of the Analytical Summary of Practice in the corresponding study in the Repertory dealt with questions concerning the approval, alteration or amendment of Trusteeship Agreements. Since no Trusteeship Agreements have been approved, altered or amended during the period covered by the present study, there are no decisions specifically requiring treatment under this heading. Reference must, however, be made to the fact that the termination of the Trusteeship Agreements for Togoland under British administration was expressly proposed by the United Kingdom Government and endorsed by the Trusteeship Council at its eighteenth session. Furthermore, the question of the termination of the Trusteeship Agreement for Togoland under French administration has, by implication, been brought before the Trusteeship Council at the same session in connexion with the proposal of the French Government to hold a referendum in that Territory. The history of these events is briefly described in the General Survey, while further details are given under the heading "Progress towards self-government or independence" under Article 76.

3. Section B in the Repertory concerned the exercise by the General Assembly of supervisory functions over the administration of Trust Territories under Articles 87 and 88. In the period under review, the General Assembly has continued the practice of not considering reports submitted by the Administering Authorities directly, but of taking cognizance of them as they are reflected in the annual reports presented to it by the Trusteeship Council. The Fourth Committee of the General Assembly has, however,
Article 85

Paragraphs 4-8

granted a number of requests for hearing to petitioners wishing to appear before it and
has discussed further the question of establishing a procedure for dealing with such
requests in the future. There has been no further action by the General Assembly with
respect to the elaboration of questionnaires under Article 88. Section B of the
present study is therefore related solely to the question of oral hearings and
petitions before the Fourth Committee.

4. In section C of the Repertory the relationship between the General Assembly and the
Trusteeship Council was studied; it was divided into a number of headings and sub-
headings so as to analyse all types of actions by both organs bearing on that
relationship. The main outline of section C of the present study follows that of the
previous one. Since, however, the practice of the last two years has of necessity been
less varied and since, in any case, the main lines of the relationship between the
organs were established in the earlier practice, it has been found appropriate to
dispense with many of the sub-headings on this occasion.

5. A list of all resolutions relating to Trusteeship adopted by the General Assembly
during its ninth and tenth sessions appears in the annex to the study of Article 16.

I. GENERAL SURVEY

6. No further Trusteeship Agreements have been proposed during the period covered by
the present study, nor have proposals to alter or amend any existing Trusteeship
Agreements been put forward. There have, however, been items placed before the General
Assembly and the Trusteeship Council in respect of two Trust Territories which raise
the question of the termination of the Agreements for those Territories.

7. In its resolution 860 (IX) on the Togoland unification problem and the future of
the Trust Territory of Togoland under British administration, the General Assembly
referred to an explanatory memorandum it had received from the United Kingdom.
Government and (1) 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) 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
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; and (3) 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.

8. The Trusteeship Council instructed its 1955 Visiting Mission to Togoland under
British administration and Togoland under French administration to examine these
problems. The special report of the Visiting Mission on these problems was considered
by the Trusteeship Council at its fifth special session and transmitted to the General
Assembly as "a useful basis for determining the arrangements to be made in pursuance of
General Assembly resolution 860 (IX)". 1/ By resolution 944 (X), the General Assembly
accepted the recommendation of the Mission that a plebiscite should be held under
United Nations supervision to determine the wishes of the majority of the inhabitants

1/ T C resolution 1368 (S-5).
of Togoland under British administration in regard to: (a) the union of their Territory with an independent Gold Coast; or (b) separation of Togoland under British administration from the Gold Coast and its continuance under trusteeship pending the ultimate determination of its political future. The plebiscite, which took place on 9 May 1956 under United Nations supervision, showed a majority of 58 per cent for the union with the Gold Coast. In a memorandum addressed to the Trusteeship Council at its eighteenth session, the Administering Authority expressed its belief that the only right and practicable course of action was for the Trusteeship Council and the General Assembly to request it to make all necessary preparations for the termination of the Trusteeship Agreement and for the union of the Territory with the Gold Coast as soon as the latter attained independence. By its resolution 1496 (XVIII) of 30 July 1956, the Trusteeship Council recommended to the General Assembly that appropriate steps should be taken, in consultation with the Administering Authority, for the termination of the Trusteeship Agreement for the Territory to become effective upon the attainment of independence by the Gold Coast.

9. As regards Togoland under French administration, the General Assembly by resolution 944 (X) requested the Trusteeship Council to undertake, in consultation with the Administering Authority, a special study of the question of holding a consultation of the population of the Territory so as to ascertain their wishes concerning their future. After preliminary discussions at the seventeenth session, the Trusteeship Council, at its eighteenth session, had before it a memorandum by the French Government in which it stated that it was intending to promulgate a statute giving the Territory an autonomous regime and to hold a referendum in October 1956 in which the inhabitants would have an opportunity to choose between that statute and the continuance of the Trusteeship System. The Administering Authority requested the Trusteeship Council to make arrangements to appoint a mission of observers to follow the operation of the referendum. The Trusteeship Council did not adopt a draft resolution to that effect submitted by the representative of France and by resolution 1499 (XVIII) of 15 August 1956 decided to transmit the memorandum of the Administering Authority to the General Assembly at its eleventh session.

10. The other actions of the General Assembly on matters concerning the International Trusteeship System as it applies to the Trust Territories not designated as strategic have been taken during its consideration of the reports of the Trusteeship Council presented to it at each regular session and of related items. In addition to resolutions by which it has taken note of the reports of the Trusteeship Council and has recommended that the Council take into account the comments and suggestions made during the discussion of the report, the General Assembly has adopted resolutions containing recommendations to the Trusteeship Council on how it could conduct its work. The General Assembly has also made one recommendation to the Administering Authorities on matters of general concern to all Trust Territories. In respect of one particular Trust Territory, it has adopted recommendations addressed to the Administering Authority concerning the financing of economic development plans and addressed to the Administering Authority and the Government of a State adjoining the Territory concerning the question of the frontier between them.

2/ T C (XVIII), annexes, a.i. 12, p. 9, T/1270.
3/ T C (XVIII), annexes, a.i. 12, p. 12, T/1274/Rev.1 (English only).
5/ G A resolutions 858 (IX) and 948 (X).
6/ G A resolutions 853 (IX), 855 (IX), 856 (IX), 858 (IX), 859 (IX) and 946 (X).
7/ G A resolution 858 (IX).
8/ G A resolutions 855 (IX).
9/ G A resolutions 854 (IX) and 947 (X).
II. ANALYTICAL SUMMARY OF PRACTICE

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

11. There are no decisions requiring treatment under this heading.

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; recommendations concerning the content of certain annual reports submitted by the Administering Authorities under Article 88

12. There is no material which requires treatment under this heading.

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

13. The Fourth Committee, during the ninth session of the General Assembly, received six requests from organizations and political parties in the Cameroons under French administration that their representatives be allowed to make oral presentations to the Committee. The Committee decided in each case to grant the requests, but only two of these petitioners actually appeared before the Committee.

14. In addition to these, the Fourth Committee also received, at the same session, thirteen requests from groups and political parties in Togoland under British administration and Togoland under French administration that their representatives should be allowed to make oral presentations to the Committee in connexion with items 35 and 52 of its agenda: "The Togoland unification problem" and "The future of the Trust Territory of Togoland under United Kingdom trusteeship". Both of these requests were granted without objection. In connexion with one request, however, the opinion was expressed that it would not be appropriate for the Committee to hear a professional lawyer who did not reside in the Trust Territory plead the cause of the petitioners; such a lawyer might assist them outside the Committee but should not appear before the Committee as a petitioner.

15. At the tenth session of the General Assembly the Fourth Committee granted permission to seventeen petitioners to make oral presentations before it. Of these petitioners, thirteen wished to speak again in connexion with "The Togoland unification problem and the future of the Trust Territory of Togoland under British administration" which was again an item on the General Assembly's agenda. Despite certain opposition to granting a hearing to one political organization from Togoland under French administration on the grounds that a visiting mission had recently returned from that Territory and had doubtless given the fullest attention to the opinions of the petitioners there, the Committee decided to grant the hearing by a vote of 40 to 3, with 13 abstentions.

10/ G A (IX), annexes, a.i. 13, A/2840, paras. 40-51.
11/ G A (IX), annexes, a.i. 35 and 52, A/2873, paras. 2 and 3.
12/ G A (IX), 4th Com., 414th mtg., paras. 4 and 6.
13/ See also paras. 31-40 below.
14/ G A (X), 4th Com., 471st mtg., para. 49.
15/ Ibid., para. 56.
16. A second request for an oral presentation, received from the same organization, appeared to come, however, from a different group of that body. Nevertheless, the Committee decided 16/ by 35 votes to 2, with 12 abstentions to grant this second request for an oral hearing.

17. During the same session, the Fourth Committee received 17/ three requests for oral presentations from three political organizations in the Cameroons under French administration. The representative of the United Kingdom explained 18/ that he would vote against the draft resolution because these organizations had been dissolved by the Administering Authority in 1955; he suggested that the Committee, therefore, should not hear representatives from these organizations. He stated that under the Trusteeship Agreement the French Government had full rights of legislation and jurisdiction in the Trust Territory and that it would be contrary to the provisions of the Trusteeship Agreement, if the United Nations which was also a party to that Agreement, were to act in opposition to the Administering Authority. Subsequently, the Committee decided 19/ by 36 votes to 11, with 9 abstentions, to grant the hearings.

18. Finally, the Committee granted 20/ a hearing to a political organization in Somaliland under Italian administration and rejected a second request 21/ from the same Trust Territory, following objections 22/ by the representative of Ethiopia, on the grounds that the granting of such a hearing would infringe on the sovereignty of Ethiopia. The decision to reject the hearing was taken by 15 votes to none, with 26 abstentions.

19. At both sessions, all petitioners who had been granted hearings were given an opportunity to express their views in the form of statements which in each case were subsequently circulated as documents for the information of the members of the Fourth Committee. The petitioners further replied to questions put to them by members of the Committee and in some instances made supplementary statements before the Committee began its deliberations concerning the action it would take on the respective agenda items. Although the Committee did not adopt draft resolutions on the majority of the hearings it had granted, it referred in its draft resolutions on the agenda items in question to these oral presentations or it merely noted all the views expressed in the course of their debate. In the case of the hearings of petitioners from the Cameroons under French administration during the ninth session, the Fourth Committee submitted to the General Assembly a draft resolution 23/ containing the following provisions: the General Assembly noted the statements made by the petitioners and decided to transmit to the Trusteeship Council the texts of their statements with recommendations that the Council should continue to give attention to the matters raised by the petitioners, request its next visiting mission to study these matters and report accordingly to the General Assembly at its tenth session. This draft resolution was adopted 24/ by the General Assembly without change by 53 votes to none, with 1 abstention.

16/ Ibid., 475th mtg., para. 7.
17/ Ibid., 471st mtg., paras. 3-57.
19/ Ibid., para. 56.
20/ Ibid.
21/ Ibid., 510th mtg., para. 12.
22/ Ibid., para. 6.
23/ Draft resolution G of the Fourth Committee, G A (IX), annexes, a.i. 13, p. 15, A/2840, para. 52. For text, see G A resolution 659 (IX).
24/ G A (IX), Plen., 512th mtg., para. 73.
a. THE QUESTION WHETHER THE FOURTH COMMITTEE SHOULD HEAR ORAL PRESENTATIONS

20. During the ninth session of the General Assembly, when the Fourth Committee was considering requests for oral hearings, the various delegations agreed that, under Article 87 of the Charter, the General Assembly had the right to grant such requests for hearings and that the Fourth Committee was therefore competent to hear the petitioners; the precedent had in fact been set at earlier sessions of the General Assembly and it was considered that the information received from hearing petitioners had proved to be of great assistance to the Committee in appraising the situation in the Trust Territory concerned.

21. It was pointed out, however, that the Charter laid no obligation on the United Nations to hear all petitioners without distinction, and, in the opinion of one delegation, the Fourth Committee had unfortunately fallen into the practice of automatically granting requests for oral hearings without considering each on its merits; all such requests should not be granted indiscriminately. Another representative stated that his delegation would vote against all requests for hearings before the Fourth Committee unless, in its opinion, these requests were urgent; that would probably be the case with any requests which related directly to an item on the Committee's agenda. Another representative thought that to grant requests for hearings automatically would mean that any person who indicated a desire to be heard, however unqualified he might be, would be authorized to appear before the Committee, though it would not even be clear what section of the population he represented nor what was the real importance of the political party to which he belonged.

22. All requests for oral presentations received at the ninth session of the General Assembly were granted by the Fourth Committee.

b. THE QUESTION WHETHER ORAL PRESENTATIONS SHOULD BE MADE IN THE FIRST INSTANCE TO THE TRUSTEESHIP COUNCIL

23. During the consideration of requests for hearings at the ninth and tenth sessions of the General Assembly, certain delegations reiterated the positions which they had taken at earlier sessions, namely that oral presentations should be made in the first instance before the Trusteeship Council. They argued that in granting hearings to petitioners, the General Assembly was usurping the functions of the Trusteeship Council which was already adequately organized for the purpose of examining petitions. The Fourth Committee should regard the examination of all petitions by the Trusteeship Council as the normal procedure and should not depart from it save in exceptional cases. Petitioners should normally be heard in the first instance by the Trusteeship Council which was a principal organ of the United Nations set up to supervise the administration of the Trust Territories. At previous sessions, it was further argued, the Fourth Committee had spent much time hearing petitioners, but in the end had invariably referred their petitions to the Trusteeship Council; were the Trusteeship Council to deal with hearings in the first instance, the Fourth Committee would not be inundated by such requests which prevented it from dealing with the important business before it.

25/ G A (IX), 4th Com., 398th mtg.
26/ G A (IX), 4th Com., 398th mtg., para. 2.
27/ Ibid., para. 34.
28/ Ibid., para. 7.
29/ See paras. 13 and 14 above.
30/ G A (IX), 4th Com., 398th mtg., paras. 2, 5, 7, 9, 16, 25, 27, 34, 39 and 42; G A (X), 4th Com., 471st mtg., paras. 10, 25, 27, 41 and 46; 514th mtg., para. 18.
24. Those delegations—{which} favoured the Fourth Committee's granting requests for oral presentations, whether or not they had first been made before the Trusteeship Council, considered that the right to hear petitioners undoubtedly belonged to the General Assembly and only under its authority to the Trusteeship Council; the General Assembly should not relinquish that authority; more useful information about conditions in the Trust Territories and the peoples’ aspirations was supplied to the General Assembly by the oral hearing of petitioners than through the reports of the Administering Authorities and the Trusteeship Council; the hearing of petitioners was one of the ways of ensuring that the functions of the General Assembly in respect of Trust Territories were completely fulfilled.

25. At neither the ninth nor the tenth session of the General Assembly was any formal proposal made to the Fourth Committee to refer petitioners requesting an oral presentation to the Trusteeship Council and the Committee decided to hear the oral presentations itself.

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

26. During the tenth session of the General Assembly, a draft resolution 31/ entitled "Acceptance and examination of petitions concerning Trust Territories" was submitted 32/ for consideration by the Fourth Committee. In its amended form it read as follows:

"The Fourth Committee,

"Considering that Article 87 b of the Charter empowers the General Assembly to 'accept petitions and examine them in consultation with the administering authority',

"Bearing in mind that it has been the practice of the Fourth Committee to accept and examine petitions,

"Considering that the acceptance and examination of petitions has been conducted without any established procedures,

"Decides to establish a sub-committee composed of (five) members to study the advisability of establishing procedures for the acceptance and examination of petitions by the Fourth Committee, and to present if possible its report and recommendations to the Committee not later than 1 December 1955."

27. The sponsor of the draft resolution stated 33/ that it should be noted that the proposed sub-committee would merely study the "advisability" of such rules; he emphasized again that the carrying out of a study and not the examination of petitions was in question. The proposed sub-committee would decide whether it was advisable to establish procedures for the acceptance and examination of petitions by the Fourth Committee. He considered that the establishment of a regular procedure would be in the interests not only of the Fourth Committee, but of the petitioners themselves who would then know exactly what their rights were and how to exercise them. The sponsor also

32/ G A (X), 4th Com., 489th mtg., paras. 49-56; 490th mtg., paras. 1-55.
33/ Ibid., 489th mtg., para. 49.
pointed out the difference between his draft resolution and the two proposals rejected at previous sessions on the same question.

28. In support of the adoption of the draft resolution, the following arguments were set forth. When, under the prevailing practices, the Fourth Committee examined a request for a hearing, it was often unfamiliar with the nature of the problems which the petitioner wished to discuss. Thus when petitioners had been invited to come to New York, they had often raised complex problems to which the Committee had been unable to give proper attention. It had become apparent that those problems could have been dealt with more effectively by the Trusteeship Council or one of its visiting missions. These petitioners had therefore made a long and costly journey only to have their petitions referred to another body. The proposed sub-committee could profitably examine means of solving such difficulties. Rules would safeguard the rights of petitioners and would facilitate the Committee's task by providing means for avoiding doubt and confusion. As things stood, the Fourth Committee could decide to invite persons about whom it knew nothing and who might not represent the people on whose behalf they spoke. Thus, the present procedure could cause much dissatisfaction. If the peoples of the Trust Territories were to attain the objectives of the Charter, rules of procedure should be drawn up under which the Fourth Committee could exclude, not the petitioners whose rights were recognized in the Charter, but those who would only be wasting time and money in coming to New York and those who did not represent anything or anyone. Furthermore, petitioners who made the journey might acquire an adventitious personal prestige in the Territory which did not spring from any real political merit. Local politicians who sought merely to acquire authority in their party should not be permitted to do this gratuitously by visits to the United Nations.

29. Those arguing against the adoption of the draft resolution felt that any procedures advocated by the proposed sub-committee would in effect be restrictive and deprive the petitioners of their last court of appeal - the General Assembly. No need was seen for the proposed sub-committee since the Fourth Committee had never been swamped by requests for hearings and could perfectly well consider each on its own merits. The alleged need for rules was regarded as a mere pretext to restrict the right of petition. Rules would only lead to delay, as the Committee would have to consider in each case whether the rules had been strictly applied. In adopting a less liberal course, the Committee would be limiting the right of petitioners, which would not be in the interest of the peoples of the Trust Territories. By a rigid set of rules the United Nations might make itself inaccessible to the people who applied to it with spontaneity and trust and who made it possible for the Committee to gain a better understanding of conditions in the Trust Territories.

30. Subsequently, the draft resolution, as amended, was rejected by 26 votes to 15, with 9 abstentions.

d. THE QUESTION OF THE REPRESENTATION OF PETITIONERS BEFORE THE FOURTH COMMITTEE

31. In general, organizations granted hearings before the Fourth Committee have nominated representatives from the Territory concerned and no questions have arisen in this connexion. Two cases in which organizations have nominated an attorney residing in New York to represent them have given rise to discussion in the Fourth Committee.

28/ Ibid., 490th mtg., paras. 7 and 8.
29/ G A (X), 4th Com., 490th mtg., paras. 13, 14, 17, 18 and 20.
30/ G A (X), 4th Com., 490th mtg., paras. 2, 3, 11, 12, 24-37, 44, 45 and 49-51.
31/ Ibid., para. 55.
32. In a communication to the United Nations, the Juvento National Committee, to which the Fourth Committee of the General Assembly had agreed to grant an oral hearing at its tenth session, nominated as its spokesmen before the Fourth Committee Mr. T. Asare, who, though of Togoland origin, was a United States citizen and practised law in New York, and Mr. N. Amégah of Lomé in Togoland under French administration.

33. One delegation felt that the Fourth Committee should endorse previous decisions not to allow petitioners to be represented by professional attorneys. He pointed out that the fundamental distinction between oral hearings and written petitions was that in the former the petitioners were available for direct question and answer. That advantage was lost when the petitioner was represented by an attorney residing abroad.

34. The Secretariat was requested to inquire from Juvento whether it wished Mr. N. Amégah to be its spokesman. In its reply, Juvento quoted the names of two persons (Mr. N. Amégah and Mr. T. Asare) whom it designated as its spokesmen. At this point, various opinions were expressed: (1) since Juvento had made it clear that the two representatives in question were duly accredited, the Fourth Committee should decide by vote that it would hear both of them; (2) the Committee should decide to accept both Mr. Amégah and Mr. Asare as representatives of Juvento, with the clear understanding that Mr. Amégah would be the spokesman and Mr. Asare the adviser; (3) Mr. Asare would be recognized as Juvento's spokesman if Mr. Amégah were prevented from coming; and (4) it was not for the Fourth Committee to decide on the functions of petitioners' representatives and that the matter had to be settled by the interested parties themselves.

35. The following proposal was put to the vote in two parts.

- The first part reading: "The Committee decides to accept both Mr. Amégah and Mr. Asare as representatives of Juvento" was adopted by 45 votes to 2, with 7 abstentions.
- The second part reading: "with the clear understanding that Mr. Amégah will be the spokesman, if both are present" was adopted by 22 votes to 14, with 13 abstentions.

The proposal, as a whole, was adopted by 35 votes to 4, with 12 abstentions.

36. The Fourth Committee subsequently considered a further communication which contained a request that Mr. Asare should also be allowed to represent another political organization, the Togoland Reformation Movement, before the Committee. Although several delegations were of the opinion that petitioners requesting oral hearings were entitled to designate any representative whom they thought suitable, the
general opinion expressed \textsuperscript{48} was to the effect that petitioners should be represented by somebody from the Territory and not by Mr. Asare; if the petitioners could brief Mr. Asare, it would seem that they could equally well brief the Fourth Committee by transmitting to it the same written material that they had prepared for Mr. Asare.

37. The Committee decided to ask the Secretary-General to send a telegram to the Togoland Reformation Movement embodying the three following points:

(a) The Fourth Committee granted a hearing to the petitioners;

(b) The Committee suggested that the petitioners send a representative from the Territory for the hearing;

(c) The Committee suggested that, if the petitioners were unable to send a representative from the Territory, they might present their views to the Committee in writing.

The first two points were approved \textsuperscript{49} without objection and the third \textsuperscript{50} was approved by 25 votes to 6, with 12 abstentions.

38. No representative of the Togoland Reformation Movement appeared before the Fourth Committee during the tenth session of the General Assembly. The Committee decided \textsuperscript{51} to circulate a memorandum \textsuperscript{52} which was subsequently received from that organization.

39. Finally, a request \textsuperscript{53} of a similar nature was received from the Chairman of the Togoland Congress and Paramount Stool Father, Buem Borada, that Mr. A.K. Odame from the Trust Territory be allowed to make an oral presentation and that Mr. T. Asare of New York be permitted to assist him. The Committee decided \textsuperscript{54} to grant the request for the oral hearing on the understanding that Mr. Odame would be the representative, that he might obtain any assistance he required, but that Mr. Asare would not be allowed to appear.

40. Mr. Odame subsequently appeared before the Fourth Committee.

e. ACTION TAKEN TO FACILITATE THE TRAVEL OF REPRESENTATIVES OF PETITIONERS TO UNITED NATIONS HEADQUARTERS

41. During the tenth session of the General Assembly, the Fourth Committee received three requests for oral presentations from political organizations in the Cameroons under French administration, \textsuperscript{55} which had been declared dissolved by the Administering Authority during 1955. \textsuperscript{56} The Chairman of the Fourth Committee requested the Secretariat to inform the petitioners of the approximate date at which the agenda item on which they had requested to speak would be discussed. In response to these Secretariat communications, the petitioners requested the Committee to assist them to

\textsuperscript{48} Ibid., paras. 9 and 10.
\textsuperscript{49} Ibid., para. 29.
\textsuperscript{50} Ibid., para. 32.
\textsuperscript{51} G A (X), 4th Com., 528th mtg., para. 58.
\textsuperscript{52} A/C.4/325.
\textsuperscript{53} A/C.4/323.
\textsuperscript{54} G A (X), 4th Com., 518th mtg., para. 3.
\textsuperscript{55} A/C.4/302.
\textsuperscript{56} See para. 17 above.
obtain the necessary passports and visas to enable them to travel to United Nations Headquarters, explaining at the same time that since they had fled to the Cameroons under British administration they did not possess the necessary travel documents to undertake their journey. During the discussion 57 of this matter in the Fourth Committee, the representative of the United Kingdom indicated that since the petitioners were not British subjects or British protected persons the British passports they requested could not be granted them, but that there was nothing to prevent their departure from the British-administered Territory. In reply to an inquiry by one representative concerning the possible issue of United Nations travel documents to the petitioners by the Secretariat, the representative of the Secretary-General informed the Committee a laissez-passers, the official United Nations travel document, could be issued only to an official of the United Nations or of one of the specialized agencies. He stated further that all the Secretariat could do to expedite matters was to advise the petitioners as soon as the Committee granted a hearing and also to advise the governmental authorities concerned that petitioners would appear at the appropriate consular office to request visas. That had been done in the present case. At the same meeting the Committee adopted an oral proposal made by the representative of Liberia to request the Chairman of the Committee "to explore every possibility of helping the petitioners to reach New York".

42. At its 510th meeting, the Fourth Committee adopted the following draft resolution 58 proposed by the representative of Liberia:

"The Fourth Committee,

"Considering that some petitioners, who have been granted oral hearings but have been refused passports or travel documents by some administering Powers, have appealed to the United Nations to intervene to enable them to leave the Territory in which they are situated in order to appear before the General Assembly,

"Suggests that the Secretary-General should examine what measures could be taken to enable such petitioners to appear before the Fourth Committee of the General Assembly.""

43. The petitioners in question did not appear before the Fourth Committee.

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

44. There are no decisions requiring treatment under this heading.

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

45. At its ninth and tenth sessions, the General Assembly continued its practice, after considering the annual report of the Trusteeship Council, of adopting a

57/ G A (X), 4th Com., 496th mtg., paras. 11-21.
Article 85  Paragraphs 46-49

resolution 59/ by which it took note of the report in question and recommended that the Trusteeship Council, in its future deliberations, should take into account the comments and suggestions made in the discussion of the report in the General Assembly.

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

46. No conclusions of the Trusteeship Council were specifically endorsed by the General Assembly during the period under review. It may be noted that by resolution 944 (X), the General Assembly accepted or endorsed certain recommendations and conclusions of the United Nations Visiting Mission to the Trust Territories of Togoland under British administration and Togoland under French administration, 1955, the special report 60/ of which had been transmitted 61/ to the General Assembly by the Trusteeship Council.

c. RECOMMENDATIONS REGARDING MEASURES TO BE TAKEN BY THE TRUSTEESHIP COUNCIL IN DEALING WITH QUESTIONS OR PROBLEMS CONCERNING TRUST TERRITORIES; REQUESTS TO THE TRUSTEESHIP COUNCIL TO CARRY OUT SPECIAL STUDIES

47. During the period under review, the General Assembly has not addressed any recommendations to the Trusteeship Council requesting the Council to take measures on problems affecting Trust Territories in general or to study such problems. As regards one particular Trust Territory, Somaliland under Italian administration, the Council was, however, requested 62/ to continue its study of the question of financing development plans and, in the light of reports available to it, to endeavour to decide on practical measures for financing such plans. Reference may also be made here to the resolutions 63/ by which the General Assembly requested the Trusteeship Council to consider the arrangements which should be made to ascertain the wishes of the inhabitants of Togoland under British administration and Togoland under French administration as to their future.

48. In only one instance during the period covered by the present study has the General Assembly requested the Trusteeship Council to make a recommendation to the Administering Authorities. By paragraph 2 (b) of resolution 853 (IX), the General Assembly recommended to the Trusteeship Council that, in order to develop further the participation of the indigenous inhabitants in its work, it should request the Administering Authorities to make copies of their reports available to the peoples of the Territories.

49. There was no separate vote on this particular provision. The resolution as a whole was adopted 64/ by 44 votes to 8, with 4 abstentions.

59/ G A resolutions 857 (IX) and 948 (X).
60/ T C (S-5), Suppl. No. 2 (T/1218).
61/ T C resolution 1368 (S-5).
62/ G A resolution 855 (IX).
63/ G A resolutions 860 (IX) and 944 (X) respectively.
64/ G A (IX), Plen., 512th mtg., para. 57.
50. The General Assembly has continued to make recommendations to the Trusteeship Council concerning the latter's procedures and concerning the form and contents of the Council's reports to the General Assembly.

51. Thus by its resolution 853 (IX), the General Assembly recommended that the Council should make certain changes in its method of examining oral and written petitions and in its instructions to the visiting missions so as to ensure that the wishes of the indigenous inhabitants of the Trust Territories concerning their advancement should be ascertained. Resolutions 858 (IX) and 946 (X) on the attainment of self-government or independence by the Trust Territories contained recommendations for the Trusteeship Council to instruct its visiting missions to give special attention to that question in their report to the Council; the Council should itself elaborate procedures for considering the question, for adopting conclusions and recommendations relating thereto and for including in its reports to the General Assembly a separate section on the subject. By resolution 856 (IX), the General Assembly approved proposals by the Trusteeship Council for modifying the form of its reports to the General Assembly, but requested the Council to maintain the previous form of report in respect of Somaliland under Italian administration. Several resolutions 65/ contained requests that the Trusteeship Council should specially report on certain matters.

52. As in the past, certain objections have been made by representatives of Member States administering Trust Territories during the discussion of the proposals which led to some of these resolutions.

53. Thus in the course of the discussion 66/ in the Fourth Committee on the draft resolution 67/ proposed by Egypt, Haiti and Syria on the participation of indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council, certain representatives, noting that the proposal had been introduced and defeated in the Trusteeship Council, considered 68/ that it was contrary to the spirit of the Charter to regard the General Assembly as an appellate organ in which proposals rejected in the Trusteeship Council might be reintroduced. Such procedures would destroy the spirit of compromise which has been the aim sought by parity of membership in the Trusteeship Council between Administering Authorities and Members not administering Trust Territories. Furthermore, the effect of the draft resolution as a whole would be to recommend certain additions to and changes in the Trusteeship Council's rules of procedure and yet Article 90 of the Charter provided that the Council should adopt its own rules of procedure.

54. Replying to the argument in which the parity of representation on the Trusteeship Council had been invoked to exclude the idea of supervision by the General Assembly of the Trusteeship Council's activities, one representative stated 69/ his belief that it was that special composition of the Council which explained why it had been placed

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65/ See, for example, G A resolutions 860 (IX) and 944 (X).
66/ G A (IX), 4th Com., 437th-447th mtgs.
68/ G A (IX), 4th Com., 439th mtgs., paras. 49 and 50; 440th mtg., para. 5; and 444th mtg., para. 40.
69/ Ibid., 444th mtg., para. 25.
under the authority of the General Assembly. The General Assembly had to be able to express its views whenever the Council, precisely because of its composition, was prevented from taking any decision which general feeling in the United Nations considered to be appropriate.

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

55. The question whether the Trusteeship Council is required to carry out specific recommendations of the General Assembly has received further attention during the period under review during the discussion of certain General Assembly resolutions containing such recommendations. For the purpose of illustration, an account of certain discussions in the Council follows.

56. By its resolution 853 (IX) on the participation of the indigenous inhabitants of Trust Territories in the work of the Trusteeship Council, the General Assembly made recommendations to the Council on questions of procedure. The operative part reads as follows:

"The General Assembly,

......

1. Recommends to the Trusteeship Council that, in order to develop further the participation of the indigenous inhabitants in its work through the medium of visiting missions, it instruct each mission:

(a) Not only to consider such expressions of public opinion as may be spontaneously brought before it by all sections of the population, but also to take the initiative in seeking out public opinion on all important problems and to undertake popular consultations in whatever forms it may deem appropriate;

(b) To report fully on the development of the free expression of the wishes of the people and on the main trends of their opinions and to make recommendations concerning the further development of a free public opinion;

2. Recommends to the Council that, in order to develop further the participation of the indigenous inhabitants in its work through the medium of their right of petition, it should:

(a) Examine and propose concrete action upon, as part of its examination of conditions in each Trust Territory, petitions which may reflect public opinion on questions of general concern to the development of the Territory;

(b) Request the Administration Authorities to make copies of their annual reports promptly available to the peoples of the Territories;

(c) Instruct each visiting mission to encourage in the Trust Territories public discussion of and expression of views on the annual reports, and to report on the extent to which facilities have been made available to the population for the purpose;

3. Recommends to the Council that, as a means of ensuring, in cases which it deems urgent, that a given situation in a Trust Territory meets with the freely expressed wishes of the people, it should immediately grant a hearing to those qualified representatives of public opinion who apply for one, or in
the case of representatives who are unable to travel, the Council should examine all communications, letters or telegrams expressing their points of view;

"4. Reiterates the views and recommendations put forward in its resolutions 554 (VI) of 18 January 1952 and 653 (VII) of 21 December 1952."

57. When the Trusteeship Council considered 70/ General Assembly resolution 853 (IX), at its fifteenth session, it was proposed that the Council should take note of this resolution. One representative expressed 71/ the opinion that, if the Council took note of the Assembly resolution, that would imply that it had decided to give effect to it; in any case, whatever the Council might do, it would in the hierarchical order of things be bound by the Assembly decision, which could be invoked at any time.

58. Another representative stated 72/ that he could not agree that the Council was bound by the Assembly's decisions; each member of the Council voted on his Government's instructions and it might well happen that an Assembly resolution was reversed by a majority decision of the Council; the Assembly could make recommendations to the Administering Authorities, it could not force decisions on the Council.

59. Finally, two proposals were made in connexion with General Assembly resolution 853 (IX): (a) that the Trusteeship Council should take note of the Assembly resolution and (b) that the Council should defer consideration of the resolution to the sixteenth session. Proposal (a) was adopted 73/ by 10 votes to none, with 2 abstentions. The first vote on proposal (b) resulted in a tie, 6 in favour and 6 against. After a brief recess in accordance with rule 38 of the Trusteeship Council's rules of procedure, a second vote was taken on proposal (b). There were again 6 votes in favour and 6 against. Proposal (b) was not adopted. 74/

60. By its resolution 858 (IX) on the attainment by the Trust Territories of the objective of self-government or independence, the General Assembly recommended that the Trusteeship Council instruct its visiting missions "to give special attention in their reports to the Council to the question of attainment by the Trust Territories of self-government or independence in the light of resolutions 558 (VI) and 752 (VIII) and of the present resolution".

61. This paragraph of the resolution was not expressly discussed by the Trusteeship Council when it considered the General Assembly resolution. When, however, at its sixteenth session, the Trusteeship Council was considering 75/ the terms of reference to be given to the United Nations Visiting Mission to the Trust Territories of Togoland under British administration and Togoland under French administration, it had before it an amended draft resolution, 76/ the second and third operative paragraphs of which read:

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70/ T C (XV), 605th mtg., paras. 37-50.
71/ Ibid., para. 40.
72/ Ibid., para. 43.
73/ Ibid., para. 46.
74/ Ibid., paras. 47 and 50.
75/ T C (XVI), 633rd mtg., paras. 1-40.
76/ T C (XVI), annexes, a.i. 7, T/L.584/Rev.2.
"The Trusteeship Council,

"......

"2. Directs the Visiting Mission to give attention to the terms of General Assembly resolution 858 (IX) of 14 December 1954 on the attainment by the Trust Territories of the objective of self-government or independence, in particular to its operative paragraph 4;

"3. Directs the Visiting Mission to give attention to the terms of General Assembly resolution 853 (IX) of 14 December 1954 on the participation of the indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council, especially to its operative paragraph 1 and to sub-paragraph (c) of its operative paragraph 2;"

These paragraphs had not appeared in the original draft resolution submitted, nor in its first amended form. Certain delegations objected to their inclusion since they considered these paragraphs to be unnecessary inasmuch as the fourth operative paragraph already directed the Visiting Mission to give attention to discussions in the General Assembly and the Trusteeship Council and to all resolutions adopted by those two bodies. The fourth operative paragraph read:

"The Trusteeship Council,

"......

"4. Directs the Visiting Mission to give attention, as may be appropriate in the light of discussions in the Trusteeship Council and the General Assembly, and of resolutions adopted by them, to issues raised in connexion with the annual reports on the administration of the two Trust Territories concerned, in the petitions received by the Trusteeship Council relating to the Territories, in the reports of the previous periodic Visiting Missions to the Territories and in the observations of the Administering Authorities on those reports."

62. On the other hand, one representative pointed out that operative paragraph 3 of T/L.584/Rev.2 was based on General Assembly resolution 853 (IX). He did not see how a proposal directing the Visiting Mission to comply with the General Assembly's recommendation could be regarded as contentious.

63. Other delegations, while willing to vote for the adoption of T/L.584/Rev.2 if it was put to a vote, suggested however that the sponsor of this draft resolution might withdraw operative paragraphs 2 and 3 in order to avoid placing the Trusteeship Council in an awkward situation vis-à-vis the General Assembly.

64. A further amendment was proposed to delete operative paragraphs 2 and 3 and to add the words: "in particular, General Assembly resolutions 853 (IX) and 858 (IX) of 14 December 1954" after the words "resolutions adopted by them" occurring in operative paragraph 4. The Trusteeship Council did not adopt this amendment. There were 6 votes in favour and 6 against.

77/ T C (XVI), 633rd mtg., paras. 2, 4, 7, 8, 13 and 14.
78/ Ibid., para. 5.
79/ Ibid., paras. 9 and 10.
80/ Ibid., para. 17.
81/ Ibid., para. 21.
65. When put to the vote, the draft resolution contained in T/L.584/Rev.2 was not adopted. There were 6 votes in favour and 6 against. In its stead, the Council adopted the draft resolution contained in T/L.584/Rev.1 by 7 votes to none, with 5 abstentions. The resolution, as adopted, did not contain operative paragraphs 2 and 3 of T/L.584/Rev.2.

66. Several delegations, in explaining their vote, stated that they had not voted against the adoption of the draft resolution contained in T/L.584/Rev.1 since they presumed that the Secretary-General would in any case draw the attention of the Visiting Mission to General Assembly resolutions 853 (IX) and 858 (IX).

67. Similarly, in connexion with the terms of reference to be given to the Visiting Mission to the Trust Territories of the Cameroons under British administration and the Cameroons under French administration, the Trusteeship Council decided not to include two operative paragraphs which were identical with the second and third operative paragraphs of T/L.584/Rev.2.

68. At its fifth special session, the Trusteeship Council considered a draft resolution defining the terms of reference for the Visiting Mission to Trust Territories in the Pacific in 1956. It was verbally proposed by one representative to amend the draft resolution by inserting the words: "in particular General Assembly resolutions 853 (IX) and 858 (IX)" after the words "resolutions adopted by them". The sponsor of the amendment pointed out that General Assembly resolution 853 (IX) recommended that the Trusteeship Council should instruct visiting missions to encourage public discussion of, and expression of views on, the annual reports of the Administering Authorities in the Trust Territories.

69. Another delegation pointed out that it was clear that the Administering Authorities in the Trusteeship Council which had voted against General Assembly resolutions 853 (IX) and 858 (IX) in the General Assembly would be obliged to vote against any invitation to a subordinate organ of the Trusteeship Council to conform to these resolutions. Thus, if the proposed amendment were to be adopted, the Visiting Mission's instructions would be in opposition to the views of most of the Administering Authorities; it would hardly be wise for the Trusteeship Council to sow discord between the visiting missions and the Administering Authorities.

70. The verbal amendment, when put to the vote, was rejected by the Council by 6 votes to 5, with 1 abstention, and the draft resolution submitted in T/L.620 was adopted by 10 votes to none, with 2 abstentions and became Trusteeship Council resolution 1367 (S-5).
71. On the other hand, the requests made to the Trusteeship Council by the General Assembly to undertake special studies and to present special reports on particular topics have not given rise to objections by members of the Trusteeship Council, although in some cases practical difficulties or failures to agree over the conclusions to be included in such reports have occasioned delay in complying with such requests.

72. Thus with respect to the request contained in General Assembly resolution 855 (IX) that the Council should continue to study the question of financing economic development plans for Somaliland under Italian administration, and to report to the General Assembly at the tenth session, the Council, in its annual report 94/ to the General Assembly at that session, was able to note only the attempts which were being made to have the International Bank for Reconstruction and Development send a mission of experts to the Territory. In its subsequent report 95/ it did not specifically deal with the question, but declared that it proposed to consider the question further when the report of the Bank and the comments of the Administering Authority thereon became available.

73. With respect to the request contained in General Assembly resolution 860 (IX) that it should make a special study of the Togoland unification problem and the future of Togoland under British administration and report thereon to the General Assembly at its tenth session, the Trusteeship Council held a special session to consider the report of the Visiting Mission which had studied the problem, on its behalf, in the Territories concerned and adopted a special report 96/ as requested by the General Assembly. A further report 97/ on the same question was submitted by the Council in response to the request contained in General Assembly resolution 94 (X).

74. It may be noted that the Council did not include in its report to the General Assembly at its tenth session the separate section requested under General Assembly resolutions 752 (VIII) and 858 (IX) on the attainment by the Trust Territories of the objective of self-government or independence. Nevertheless, by its resolution 1254 (XVI) it had established procedures for reporting on the subject in the future. These procedures were further elaborated and employed by the Council during its seventeenth and eighteenth sessions in adopting the various sections of its report 98/ to the General Assembly at its eleventh session.

95/ G A (XI), Suppl. No. 4 (A/3170), p. 100.
96/ T C (S-5), Suppl. No. 2 (T/1218); T/1206 and Add.1.
97/ A/3169.
Chapter XIII

THE TRUSTEESHIP COUNCIL