

ARTICLE 85

CONTENTS

	<i>Paragraphs</i>
Text of Article 85	
Introductory note	1-6
I. General survey	7-11
II. Analytical summary of practice	12-23
A. Questions concerning the approval, alteration or amendment of trusteeship agreements; termination of trusteeship agreements	12
B. Questions concerning the exercise by the General Assembly and, under its authority, by the Trusteeship Council, 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	
**2. The hearing of oral presentations by the Fourth Committee of the General Assembly	
**(a) Hearing of petitioners	
**(b) Initiative taken by the Fourth Committee in inviting petitioners to appear before it	
**(c) The question of the capacity in which representatives of a Trust Territory could address the Fourth Committee	
C. The question of the relationship between the General Assembly and the Trusteeship Council	13-23
1. Action taken by the General Assembly with respect to the exercise by the Trusteeship Council of its responsibilities	13-14
(a) Action taken by the General Assembly on the annual reports submitted to it by the Trusteeship Council	13-14
**(b) Endorsement by the General Assembly of certain specific conclusions, recommendations and observations of 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	
**(d) Requests that the Trusteeship Council make recommendations to the Administering Authorities	
**(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	
2. Action taken by the Trusteeship Council on the recommendations made to it by the General Assembly	15-22
(a) Recommendations made by the Committee on the Elimination of Racial Discrimination	15-20
(b) Recommendations made by the General Assembly regarding visiting missions	21-22
3. Recommendations made by the General Assembly to the Administering Authority to implement its resolutions and report to the Trusteeship Council and the Special Committee	23

ARTICLE 85

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. The provisions of Article 85 are essentially an elaboration of the terms of Article 16 of the Charter. During the period under review, the General Assembly and the Trusteeship Council continued to perform functions under this Article in the manner described in the previous *Repertory* studies.

2. As explained in a previous study of this Article in the *Repertory*,¹ the term "functions of the United Nations" referred to in Article 85, paragraph 1, was interpreted by the General Assembly in its widest sense as applying not only to the approval of the trusteeship agreements, but to all functions of the United Nations in supervising the administration of Trust Territories not designated as strategic areas.

3. During the period under review, the last Trusteeship Agreement for an area not designated as strategic, that of the Trust Territory of New Guinea, was terminated due to that Territory's attainment of independence in 1975. As the substantive aspects of terminating the Agreement are dealt with in detail under Article 76 of the present *Supplement*, this study of Article 85 will focus on questions concerning the relationship between the Trusteeship Council and the General Assembly, and particularly on those elements of the relationship that were affected by the termination of the Trusteeship Agreement for the Territory of New Guinea.

4. Section II.B in previous *Repertory* studies concerned the direct exercise by the General Assembly of supervisory functions in the administration of Trust Territories under Articles 87 and 88. During the period under review, there remained only one Trust Territory considered under Articles 87 and 88, the Trust Territory of New Guinea, which attained

¹See *Repertory, Supplement No. 3*, vol. III, under Article 85, para. 2.

independence as Papua New Guinea in 1975. During the period under review, and up to 1975, the General Assembly continued its practice of not considering directly the reports submitted by the Administering Authorities, but of taking them into consideration as they were reflected in reports submitted to the General Assembly by the Trusteeship Council² and by the Special Committee on decolonization. Thus there was no new material requiring treatment under section II.B.1. Furthermore, there were no changes in practice with regard to section II.B.2 (a) and (b). Consequently, only the material concerning the capacity in which representatives of a Trust Territory could address the Fourth Committee of the General Assembly has been included in section B.

5. Section II.C of the previous *Repertory* studies of this Article concerned the relationship between the General Assembly and the Trusteeship Council. The section was divided under several headings and sub-headings to facilitate analysis of all types of action by both organs bearing on that relationship. The earlier headings that remain applicable are repeated in the present study. Of note in this section are the recommendations made by the Committee on the Elimination of Racial Discrimination, and those made by the General Assembly regarding visiting missions.

6. A list of resolutions pertaining to the international trusteeship system that were adopted by the General Assembly during the period under review appears in the present *Supplement* as an annex to the study of Article 16.

²For consideration by the Trusteeship Council of annual reports of the Administering Authorities, see the present *Supplement*, under Article 87.

I. GENERAL SURVEY

7. During the period under review, no Territories were placed under the international trusteeship system, and consequently no questions arose concerning the approval of trusteeship agreements, nor were existing trusteeship agreements altered or amended.

8. The General Assembly, at its twenty-ninth session, agreed that its Trusteeship Agreement with the Trust Territory of New Guinea (administered jointly since 1971 with the Non-Self-Governing Territory of Papua, as Papua New Guinea) would cease being in force when the Territory acceded to independence on 16 September 1975.³

9. The Trusteeship Council continued to follow the procedures described in previous *Repertory* studies in regard to the examination of the annual reports of the Administering

³G A resolution 3284 (XXIX).

Authorities, the submission of its reports to the General Assembly, together with its conclusions and recommendations on the Territory of New Guinea, and to follow the procedures described in rules 76 to 92 of its rules of procedure in examining the communications, petitions and observations of the Administering Authorities on the relevant petitions concerning the Territory.

10. The Trusteeship Council continued to dispatch visiting missions to the Territory, and as described more fully under Articles 73 and 86 in the present *Supplement*, two of those visiting missions included members from the Special Committee on decolonization.

11. The General Assembly continued the practice of adopting separate resolutions relating to the specific chapters of the reports of the Trusteeship Council concerning conditions in the Territory of Papua New Guinea.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Questions concerning the approval, alteration or amendment of trusteeship agreements; termination of trusteeship agreements

12. By its resolution 3284 (XXIX), the General Assembly, in agreement with the Administering Authority, decided to terminate the Trusteeship Agreement for the Territory of New Guinea on the date on which Papua New Guinea became independent. The substantive aspects of the termination of New Guinea's Trusteeship Agreement are dealt with in the present *Supplement* under Article 76.

B. Questions concerning the exercise by the General Assembly and, under its authority, by the Trusteeship Council, 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**

****2. THE HEARING OF ORAL PRESENTATIONS BY THE FOURTH COMMITTEE OF THE GENERAL ASSEMBLY**

**** (a) *Hearing of petitioners***

**** (b) *Initiative taken by the Fourth Committee in inviting petitioners to appear before it***

**** (c) *The question of the capacity in which representatives of a Trust Territory could address the Fourth Committee***

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

1. ACTION 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*

13. During the period under review, the General Assembly, in its resolutions 2701 (XXV), 2865 (XXVI), 2977 (XXVII), 3109 (XXVIII) and 3284 (XXIX), concerning the Territory of Papua New Guinea, recorded that it had examined or considered the annual reports of the Trusteeship Council on the Territory. As described under Article 76 in the present *Supplement*,⁴ from 1971 on, the Administering Authority treated the Trust Territory of New Guinea and the Non-Self-Governing Territory of Papua as a single administrative unit. The General Assembly, from the twenty-sixth session on, reflected this by considering the two Territories together under the agenda item entitled "The question of Papua New Guinea".

14. The General Assembly continued to adopt resolutions in which it took note of the report of the Special Committee on decolonization, and the Special Committee continued to include in its report a chapter on the Trust Territory of the Pacific Islands as well as its own recommendations regarding the Territory.⁵

**** (b) *Endorsement by the General Assembly of certain specific conclusions, recommendations and observations of the Trusteeship Council***

⁴See the present *Supplement*, under Article 76, para. 37.

⁵G A resolutions 31/143, 32/42 and 33/44.

**** (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**

**** (d) Requests that the Trusteeship Council make recommendations to the Administering Authorities**

**** (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**

2. ACTION TAKEN BY THE TRUSTEESHIP COUNCIL
ON THE RECOMMENDATIONS MADE TO IT
BY THE GENERAL ASSEMBLY

(a) *Recommendations made by the Committee on the Elimination of Racial Discrimination*

15. The General Assembly, by paragraphs 2 and 3 of its resolution 2106 B (XX) of 14 July 1961, requested the Trusteeship Council to transmit copies of petitions relevant to racial discrimination along with copies of the annual reports submitted by the Administering Authorities to the General Assembly's Committee on the Elimination of Racial Discrimination. The Committee on racial discrimination, following its first meeting in January 1970, requested the Trusteeship Council to continue complying with the provisions of resolution 2106 B (XX). It also addressed a communication to the Trusteeship Council requesting that body to provide information on the background of petitioners, and to indicate those sections of each Trusteeship Council report that are relevant to the International Convention on the Eradication of All Forms of Racial Discrimination.⁶

16. Pursuant to the request contained in resolution 2106 B (XX), the Trusteeship Council decided:⁷ (a) to instruct the Secretariat to transmit to the Committee on the Elimination of Racial Discrimination the reports of the Administering Authority as soon as they were received; (b) to authorize the President of the Council to propose to the Council those petitions which related to racial discrimination; (c) that the Council should decide which petitions to transmit to the Committee; and (d) that the President would subsequently instruct the Secretariat to transmit the relevant petitions to the Committee.

17. Pursuant to the other requests by the General Assembly, the Trusteeship Council decided to instruct the Secretariat to transfer information on action taken on petitions, but noted that the Council could not provide information regarding its petitioners as it was not in the habit of inquiring into their bona fides. The Trusteeship Council also decided to comply with the request to transmit reports submitted by the Administering Authority in accordance with Article 88 of the Charter as well as other relevant reports and working papers prepared by the Secretariat. With

regard to the Committee's request that the Council should indicate the portions of its report that were directly relevant to the principles and objectives of the International Convention of the Elimination of All Forms of Racial Discrimination, the President of the Trusteeship Council suggested that compliance would be difficult and inappropriate. The Committee on the Elimination of Racial Discrimination, being a body of experts, would be better suited than the Council to decide which portions of the Trusteeship report were most relevant to racial discrimination.⁸

18. During its thirty-seventh session, at its 1369th meeting, the Trusteeship Council agreed that none of the petitions before it related to racial discrimination. At its 1386th meeting, during its thirty-eighth session, the Council decided to transmit two petitions⁹ to the Committee on the Elimination of Racial Discrimination, together with the relevant documents connected with them. From the thirty-ninth to the forty-second session, the Trusteeship Council forwarded no further petitions to the Committee, considering that it had received no petitions related to racial discrimination.¹⁰ Subsequent to the forty-second session, the Council removed the agenda item regarding cooperation with the Committee on Elimination of Racial Discrimination from its consideration.¹¹

19. During the period under review, the Committee on the Elimination of Racial Discrimination made recommendations and observations regarding matters of racial discrimination in Trust Territories,¹² including a request that the subsequent visiting missions to the Trust Territory of New Guinea should gather information on the legislative, judicial and administrative measures taken by the Administering Authority relating to the objectives of the Convention on the Elimination of All Forms of Racial Discrimination and forward the information to the Committee.¹³ From the thirty-ninth to the forty-second session, the Trusteeship Council took note of the recommendations and observations and invited the Administering Authorities to take note of them in their reports to the General Assembly.¹⁴

20. Regarding the request concerning visiting missions, the Trusteeship Council decided to entertain it in conjunction with its consideration of the dispatch of a visiting mission to the Trust Territory of New Guinea.¹⁵

⁸Ibid.

⁹T/PET.8/833 and T/PET.8/34.

¹⁰T/PV.1403, T/PV.1419, T/PV.1429 and T/PV.1449.

¹¹See the present *Supplement*, under Article 83.

¹²G A (26), Suppl. No. 18, chap. VII, sect. B, sub-section 5 (IV); G A (27), Suppl. No. 18, chap. IX, sect. B, sub-section 4 (VI); G A (28), Suppl. No. 18, chap. VII, sect. III, sub-sections D and E; and G A (29), Suppl. No. 18, chap. V, sect. C, sub-sections 4 and 5.

¹³G A (26), Suppl. No. 18, chap. VII, sect. B, sub-section 5 (IV), sect. III, para. 3.

¹⁴T/PV.1402, T/PV.1418, T/PV.1428 and T/PV.1443.

¹⁵T/PV.1402.

⁶CERD/C/R.11.

⁷T/PV.1367, pp. 16-20.

(b) *Recommendations made by the General Assembly regarding visiting missions*

21. The General Assembly, by its resolution 2590 (XXIV) of 16 December 1969,¹⁶ had requested "the Trusteeship Council to include in its periodic visiting missions to the Trust Territory of New Guinea non-members of the Trusteeship Council, in consultation with the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples¹⁷ and the Administering Authority, in accordance with the Charter of the United Nations". During the period under review, that request was complied with, as documented in the study of Article 73e in the present *Supplement*.

22. The Chairman of the Special Committee on decolonization met with the Administering Authority with regard to a petition¹⁸ sent by the Mariana Islands District Legislature inviting the Special Committee on decolonization to send a visiting mission to the Territory. The Mariana Islands was part of the Trust Territory of the Pacific Islands which, as a designated strategic area, was considered by the Trusteeship Council on behalf of the Security Council, not the General Assembly.¹⁹ An account of the consultations was included in the report of the Chairman on the question of sending visiting missions to Non-Self-Governing Territories.²⁰ The Special Committee, in its recommendations on the Territory in its report to the General Assembly at its twenty-sixth session, took note of the invitation and the negative response of the Administering Authority, and urged the Administering Authority to reconsider its position.²¹ During the period under review, no visiting mission was sent by the Special Committee to the Trust Territory of the Pacific Islands, though periodic visiting missions continued to be dispatched by the Trusteeship Council.²²

¹⁶See *Repertory, Supplement No. 4*, vol. II, under Article 73, para. 523.

¹⁷Referred to in this study as the Special Committee on decolonization.

¹⁸T/COM.10/L.69.

¹⁹See the present *Supplement*, under Article 83.

²⁰A/8424 (Part IV), annex I, paras. 14-17.

²¹G A (26), Suppl. No. 23, vol. III, chap. XVIII, paras. 5-7.

²²See the present *Supplement*, under Article 83.

3. RECOMMENDATIONS MADE BY THE GENERAL ASSEMBLY TO THE ADMINISTERING AUTHORITY TO IMPLEMENT ITS RESOLUTIONS AND REPORT TO THE TRUSTEESHIP COUNCIL AND THE SPECIAL COMMITTEE

23. The General Assembly, by its resolution 2700 (XXV), on the question of Papua and the Trust Territory of New Guinea, reaffirmed its earlier resolutions regarding the Territory and called upon the administering Power to prescribe, in consultation with the freely elected representatives of the people of the Territory, a specific timetable for the free exercise of their right to self-determination and independence. By its resolution 2865 (XXVI), on the question of Papua New Guinea, the Assembly called upon "the administering Power to take all necessary steps to ensure the speedy attainment by Papua New Guinea of self-government and independence as a single political and territorial entity". It made further recommendations regarding, inter alia, the discouragement of separatist groups, the intensification of political and other education, and the expansion of measures to promote ownership by the people of Papua New Guinea in enterprises throughout all sectors of the economy. By its resolution 2977 (XXVII), the General Assembly welcomed the timetable submitted by the administering Power for the attainment of full self-government and called upon the administering Power to prepare, in consultation with the Government of Papua New Guinea, a timetable for independence. By its resolution 3109 (XXVIII), the Assembly called upon the administering Power and the Government of Papua New Guinea to consult on the timing of the attainment of independence of the Territory. By its resolution 3284 (XXIX), the General Assembly requested the administering Power to notify the Secretary-General of the date on which Papua New Guinea would accede to independence and on which the Trusteeship Agreement should cease to be in force. In all of these resolutions except the last, the General Assembly also requested the administering Power to report on the implementation of its resolutions to the Trusteeship Council and to the Special Committee.

CHAPTER XIII
THE TRUSTEESHIP COUNCIL

