# ARTICLE 86

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TEXT OF ARTICLE 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:
   a. those Members administering trust territories;
   b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and
   c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

INTRODUCTORY NOTE

1. In describing the practice of United Nations organs in application of Article 86, the present study gives an account of the action taken by the General Assembly to complete and maintain parity of membership on the Trusteeship Council between Members administering Trust Territories and those which do not. The Council, in establishing its subsidiary bodies, has also, with very few exceptions, maintained such parity of membership.

2. Reference is also made to the rules of procedure governing the participation in its work, without the right to vote, of non-members of the Council, and the extent of such participation in practice. In that connexion, proposals presented in the General Assembly regarding full participation of non-members in the work of the subsidiary bodies of the Council are reviewed. Because of the position of Italy as an Administering Authority and, at the same time, as a non-member of the United Nations, a special section concerning its participation in the work of the Trusteeship Council is included.

3. The participation of representatives of specialized agencies in the work of the Trusteeship Council is discussed in this Repertory under Article 91.

4. It has been considered that the question of the participation of indigenous inhabitants of Trust Territories in the work of the Trusteeship Council, which has been the subject of decisions taken at several sessions of the Council and of the General Assembly, might most appropriately be discussed under Article 86.

5. Paragraphs 66-75 below deal with the procedure followed to verify the composition of the Trusteeship Council in accordance with the terms of the Charter and the relevant rule of procedure of the Council is quoted in that connexion.
6. Finally there is a brief section on the qualifications of representatives of members of the Trusteeship Council, a matter referred to in Article 86 (2). It will be noted that, essentially, the Trusteeship Council has taken no action under that paragraph except to reproduce it as rule 11 of its rules of procedure.

7. The composition of the Council during its first thirteen regular and four special sessions is set forth below in the annex to the present study.

GENERAL SURVEY

8. The composition of the Trusteeship Council was finally established with the adoption of General Assembly resolution 64 (I), following the adoption of resolution 63 (I), by which the Assembly approved the first eight Trusteeship Agreements. Under resolution 64 (I), the General Assembly noted that Australia, Belgium, France, New Zealand and the United Kingdom, as Administering Authorities, would be members of the Trusteeship Council in accordance with Article 86 (1) a and that China, the United States and the Union of Soviet Socialist Republics, being the Members mentioned by name in Article 23 which were not administering Trust Territories, would be members of the Trusteeship Council in accordance with Article 86 (1) b; under the same resolution Mexico and Iraq were elected members of the Trusteeship Council for a term of three years in accordance with Article 86 (1) c.

9. Elections to the Trusteeship Council have since been held by reason of: (1) the expiration of the three-year term for which members of the Council not administering Trust Territories are elected; (2) resignations of such members; and (3) changes in the number of members of the Council administering Trust Territories, which made necessary the election of additional members not administering Trust Territories.

10. Elections in consequence of the expiration of terms or to fill vacancies caused by resignation, were held at the fourth, fifth, sixth, seventh and eighth sessions of the General Assembly. Only one election, which took place at the second session of the General Assembly, was directed to restoring the parity of membership between administering and non-administering members of the Council; this was called for when the United States became an Administering Authority, thus increasing the number of members which administered Trust Territories to six and reducing to four the number of members which did not administer Trust Territories. On that occasion, the General Assembly elected Costa Rica and the Philippines to membership in the Trusteeship Council.

11. Rule 12 of the rules of procedure of the Trusteeship Council 1/ provides that "Members of the United Nations which are not members of the Trusteeship Council but which have proposed items on the agenda of that Council shall be invited to ... participate, without vote, in the deliberations on those items." In fact no agenda items have been proposed by non-members. On the other hand, the Council has, on occasion, invited non-members to participate, without vote, in the discussion on items specially referred to the Council by the General Assembly, in which they had a particular interest.

12. Under rules A to H inclusive of its supplementary rules of procedure, 2/ the Council took action to allow Italy, as the Administering Authority of the Trust
Territory of Somaliland, to participate, without vote, in the deliberations of the Council concerning the Trust Territory of Somaliland and general questions relating to the operation of the Trusteeship System, although Italy was not a Member of the United Nations.

13. The States members of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration, by virtue of article 11 of the Trusteeship Agreement for that Territory, have participated, without vote, in the deliberations of the Council on questions relating to Somaliland. Rules I to L inclusive of the supplementary rules of procedure elaborate that provision of the Trusteeship Agreement.

14. No representative of a State Member of the United Nations which was not at the same time a member of the Trusteeship Council has served on any of the subsidiary organs of the Council. 3/ 15. Although certain Administering Authorities have included indigenous inhabitants of Trust Territories under their administration in their delegations as special representatives or advisers, the Trusteeship Council has not, to date, adopted any decisions concerning the participation of indigenous inhabitants in the work of the Council in connexion with its consideration of annual reports or with other aspects of its work that related to their respective Trust Territories.

16. The Trusteeship Council has rejected proposals to exclude the representative of the Government of the Republic of China and, at its eighth session, decided to postpone any further discussion on this subject until the General Assembly had taken action on the question of the representation of China.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Parity of membership between Administering and non-administering Members of the United Nations

1. In the Trusteeship Council

17. Anticipating possible delay in convoking the Trusteeship Council pending the conclusion of Trusteeship Agreements for the Territories to be placed under the Trusteeship System, the Executive Committee of the Preparatory Commission recommended that the General Assembly establish a Temporary Trusteeship Committee in the interval to perform certain of the functions assigned by the Charter to the Trusteeship Council. 4/ That recommendation was not adopted by the Preparatory Commission. Instead, and on the recommendation of the Preparatory Commission, the General Assembly, by resolution 9 (I), urged the early conclusion of Trusteeship Agreements.

18. Following its approval of eight Trusteeship Agreements at the second part of its first session the General Assembly, in resolution 64 (I), declared that, in accordance with Article 86 (1) a, concerning Members of the United Nations administering Trust

3/ Senator Eduardo Cruz-Coke of Chile was invited by the Trusteeship Council to be a member of its Special Visiting Mission to Western Samoa in 1947 (see para. 23 below). Senator Cruz-Coke served, however, in a personal capacity and not as a representative of his Government.

Territories, Australia, Belgium, France, New Zealand and the United Kingdom would be members of the Trusteeship Council and that, by application of Article 86 (1) b, China, the United States, and the Union of Soviet Socialist Republics, being Members mentioned by name in Article 23 which were not administering Trust Territories, would also be members of the Trusteeship Council. The resolution added that:

"In accordance with Article 86 c, it is necessary, in order to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer Trust Territories and those which do not, that two members should be elected by the General Assembly."

19. By the same resolution, the General Assembly elected Mexico and Iraq to membership in the Trusteeship Council for a term of three years and directed the Secretary-General to convocate the first session of the Trusteeship Council not later than 15 March 1947.

20. On 18 July 1947 the United States, a member of the Trusteeship Council under Article 86 (1) b, became the Administering Authority under a Trusteeship Agreement for the Pacific Islands formerly mandated to Japan. Subsequently, at the second session of the General Assembly, the President of the Assembly stated in plenary meeting that:

"The United States has now become an administrator of a Trust Territory. Therefore, it is necessary to elect two additional members to the Trusteeship Council in order to restore the balance between trust-administering and non-trust-administering members, as required by Article 86, section 1, sub-paragraph c, of the Charter."

21. The General Assembly thereupon elected Costa Rica and the Philippines to the Trusteeship Council as non-administering members in accordance with Article 86 (1) c.

22. Subsequent elections of members of the Trusteeship Council by the General Assembly have been held to fill vacancies caused by the expiration of the three-year term or by resignations. They are set forth in detail in the annex to the present study.

2. In the subsidiary organs of the Trusteeship Council

23. The principle of parity of membership between Administering and non-administering Members of the United Nations has been observed in the composition of all the subsidiary organs of the Council, that is to say, visiting missions, the Standing Committee on Administrative Unions, the Standing Committee on Petitions, the Committee on Rural Economic Development of the Trust Territories, et cetera, with the three exceptions set forth below.

(a) The Special Visiting Mission to Western Samoa in 1947, as constituted at the first session, was composed of two persons representing two non-administering members of the Council, Mr. Francis B. Sayre (United States) and Mr. Awni Khalidy (Iraq)

5/ G A (II), Plen. 95th mtg.
6/ G A (II), Plen., 109th mtg.
7/ Persons and not States are appointed to visiting missions; they are, however, appointed by the Council from amongst representatives or other persons nominated by States which are members of the Council.
8/ T C (I), 27th mtg., p. 735.
and of one person representing an administering member, Mr. Pierre Ryckmans (Belgium). Subsequently, the representative of a non-administering member of the Council was replaced by a person who was a national of a State which was not a member of the Council, Senator Eduardo Cruz-Coke (Chile).

(b) The Committee which the President appointed 9/ at the first session of the Trusteeship Council to hold discussions with a committee of the Economic and Social Council on matters of common concern was composed of representatives of two non-administering members (Iraq and the United States) and of one administering member (France).

(c) The Committee which the President of the Trusteeship Council appointed 10/ at the third session to confer with a committee of the Security Council on strategic areas under trusteeship was composed of the President (who was the representative of China) and the representative of one other non-administering member (Mexico) and one administering member (New Zealand).

B. Participation of States not members of the Trusteeship Council in the work of the Council

1. In respect of special items of the agenda

24. Rule 12 of the rules of procedure of the Trusteeship Council 11/ provides as follows:

"Members of the United Nations which are not members of the Trusteeship Council but which have proposed items on the agenda of that Council shall be invited to have present, at the appropriate meetings of the Council, representatives who shall be entitled to participate, without vote, in the deliberations on those items."

25. The Official Records do not show any instance of a Member of the United Nations, which was not a member of the Trusteeship Council, being invited to participate, without vote, in the deliberations of the Council as a result of a proposal by that Member for the inclusion of an item in the agenda of the Council. There have been occasions, however, on which such Members have been invited to participate with respect to an item which they themselves had not proposed.

26. Thus, at the second special session, when the Council considered its responsibilities under General Assembly resolution 239 A (IV), section B, on the question of the disposal of the former Italian colonies, the representatives of Colombia, Egypt and Ethiopia were invited to participate in an advisory capacity, without the right to vote, in the preparation of a Trusteeship Agreement for

9/ T C (I), 26th mtg., p. 730.
10/ T C (III), 4th mtg., p. 41.
11/ Rule 9 e provides that the provisional agenda shall include consideration of "All items proposed by any Member of the United Nations".

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Somaliland. 12/ The representative of India was similarly invited inasmuch as India had proposed constitutional principles the texts of which were to be annexed to the Trusteeship Agreement.

27. Italy, which was not a Member of the United Nations, was also invited to participate since, under General Assembly resolution 289 A (IV), Italy 13/ had been designated as the Administering Authority for the Trust Territory of Somaliland. These four States also participated, without vote, in the discussions of the Committee on Italian Somaliland which the Trusteeship Council had established under resolution 112 (S-2) to seek agreement on the text of a draft Trusteeship Agreement and in the consideration of the draft Trusteeship Agreement proposed by that Committee at the sixth session of the Council.

28. Also at the second special session of the Council, when it considered its responsibilities under General Assembly resolution 303 (IV) on the question of an international régime for the Jerusalem area and the protection of the Holy Places, the representatives of Egypt, Lebanon and Syria were invited to take part in the work of the Council in an advisory capacity and without the right to vote. 14/ A similar invitation was extended to the representative of Argentina. 15/ However, the representative of Argentina declined the invitation, expressing regret that he did not feel able to take part in the work of the Trusteeship Council in the absence of instructions from his Government. 16/

29. At its sixth session, the Trusteeship Council, by 9 votes to none, with 2 abstentions, adopted resolution 118 (VI), by which it invited Israel and the Hashemite Kingdom of the Jordan to send qualified representatives to the Council to present the views of their respective Governments on the revision of the draft Statute for the City of Jerusalem and on its implementation. The President of the Council stated 17/ that if Governments decided to express their views to the Council, they would take part in the discussions in a consultative capacity, without the right to vote. Representatives of Israel and of the Hashemite Kingdom of the Jordan were seated 18/ at the Council table and participated in the deliberations of the Council at the meetings at which the draft Statute for the City of Jerusalem was considered.

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12/ T C (S-2), 2nd mtg., para. 33. Colombia and Egypt were designated under General Assembly resolution 289 A (IV), section B, as two of the three States that would form part of the United Nations Advisory Council for the Trust Territory of Somaliland. A third member of this Council, the Philippines, was a member of the Trusteeship Council. Ethiopia was invited since it bordered on Somaliland and had expressed a particular concern in the negotiation of the Trusteeship Agreement for that Territory.

13/ T C (S-2), 1st mtg., para. 46.

14/ T C (S-2), 4th mtg., para. 33.

15/ Prior to the meeting of the Trusteeship Council at which this invitation was extended, Argentina had been elected (G A (IV), Plen., 231st mtg.) to the Council to fill a vacancy which would occur at the forthcoming expiration of the term of office of a member of the Council. The membership of Argentina became effective on 1 January 1950.

16/ T C (S-2), 4th mtg., para. 35.

17/ T C (VI), 21st mtg., para. 5.

18/ T C (VI), 28th mtg.
2. In respect of the Trust Territory of Somaliland under Italian administration

30. The participation of Italy, as Administering Authority for the Trust Territory of Somaliland, in the work of the Trusteeship Council is, by reason of the related questions raised, dealt with under a separate heading (see paragraphs 40-48 below).

31. By resolution 289 A (IV), section B, the General Assembly recommended the establishment of an Advisory Council, composed of Colombia, Egypt and the Philippines, to aid and advise the Administering Authority. The Assembly also recommended that the Trusteeship Agreement include a provision requiring the Trusteeship Council to invite the States members of the Advisory Council, if they were not members of the Trusteeship Council, to participate without vote in the debates of the Trusteeship Council on any question relating to Somaliland under Italian administration.

32. The Trusteeship Council took this recommendation into account and article 11 of the Trusteeship Agreement accordingly reads as follows:

"States members of the Advisory Council, if they are not members of the Trusteeship Council, shall be entitled to participate without vote in the debates of the Trusteeship Council on any question specifically relating to the Territory.

"In the course of such debates, members of the Advisory Council or the majority of the members, acting in the name of the Advisory Council, or each of the members acting separately, may make to the Trusteeship Council such oral statements or may submit such written reports or memoranda as they may deem necessary for the Council's proper consideration of any question specifically relating to the Territory."

33. To implement this provision, the Trusteeship Council adopted supplementary rules of procedure 19/ relating to the participation in the sessions of the Trusteeship Council of States members of the Advisory Council for Somaliland under Italian administration which are not members of the Trusteeship Council. Rules I to L inclusive concerning the participation of the members of the Advisory Council relate to (1) notifications of the date and place of meetings of the Trusteeship Council; (2) the transmission to members of the Trusteeship Council and to the Administering Authority of reports, memoranda, or statements submitted by the Advisory Council and their inclusion in the provisional agenda; (3) the communication of the provisional agenda to the members of the Advisory Council; and (4) the circulation to them of all communications referred to in rule 24 relating to the Trust Territory and all written petitions concerning it. They also require notification to the members of the Advisory Council of requests for oral petitions or oral presentations relating to Somaliland.

34. In its report 20/ to the Council at its eighth session, the Committee on Rules of Procedure, instructed by the Council to draft the supplementary rules for its consideration, had, under draft rule K, included a paragraph by which, the States members of the Advisory Council which were not members of the Trusteeship Council would have been allowed to participate, without vote, in the deliberations of the Council concerning general questions relating to the operation of the Trusteeship System. The same privilege had been extended to Italy under supplementary rule A. The

20/ T C (VIII), Annex, a.i. 24, p. 3, T/L.123.
Trusteeship Council rejected the above-mentioned paragraph of draft rule K. The opinion was expressed that, were the paragraph to be retained, the scope of the provisions of the Trusteeship Agreement would be exceeded.

35. It has, however, been the general practice for the Advisory Council to submit an annual report containing a review of its activities, for consideration by the Trusteeship Council at the same session at which the annual report of the Administering Authority on the Territory is discussed. It has also been the practice for representatives of the States members of the Advisory Council to be present during the discussion of the annual report of the Administering Authority and to make oral statements to the Council on conditions in the Territory. In 1953 and 1954, those representatives also were present in the Standing Committee on Petitions during the discussion of petitions relating to the Territory.

3. In the work of the subsidiary organs of the Council

36. At the sixth session of the General Assembly, a draft resolution was submitted to the Fourth Committee by which the General Assembly would have recommended that:

"the Trusteeship Council . . . associate countries which are not members of the Council with the activities of its subsidiary organs."

37. Among the arguments adduced in favour of the draft resolution were those set forth below. (1) The distribution of seats in the Council between Administering Authorities and the non-administering Powers constituted a drawback since, under Article 66 (1) c, only a small number of seats could be allocated to the latter group. (2) Members of the Trusteeship Council the three-year term of office of which had expired were required simultaneously to give up their seats on the subsidiary organs of the Council, with the result that these organs could not continue to benefit by the experience of the former members of the Council. (3) The purpose of the draft resolution was, therefore, to make it possible — not mandatory — for a greater number of States to participate in the work of the subsidiary organs of the Council when those States were not members of the Council itself. (4) Precedents for such an arrangement existed, inasmuch as States which were not members of the Economic and Social Council took part in the work of the subsidiary organs of that body. (5) The work of the Trusteeship Council was increasing to such an extent that a heavy burden was being placed on the smaller delegations. Therefore, if non-members of the Trusteeship Council could be called upon to assist in the work of the subsidiary organs of the Council, the pressure of work on the members of the Council would be reduced.

38. Among the main arguments advanced against adopting the draft resolution were those set forth below. (1) The General Assembly had no authority to modify the rules of procedure of the Trusteeship Council. (2) If the General Assembly were to
approve the draft resolution, it would be going beyond the Charter. (3) The provisions of Article 86 (1) c required the Administering and the non-administering Members to be represented in equal numbers on the Trusteeship Council; therefore, the same principle should be observed in all the subsidiary organs of the Council. In the circumstances the draft resolution would be of no practical value since the number of Administering Authorities was limited and new members in the subsidiary organs would, therefore, merely replace the full members of the Council, thus introducing an unnecessary complication. (4) If, as some believed, the work of the Trusteeship Council was impaired by its small membership, the way to resolve the difficulty was to amend the Charter and not to increase the number of members of the subsidiary organs of the Council.

39. The draft resolution, with certain amendments, was adopted by the Fourth Committee by 25 votes to 14, with 11 abstentions. However, in the General Assembly it failed to secure the two-thirds majority required and was rejected 27/ by 28 votes to 18, with 10 abstentions.

C. Participation of Italy in the work of the Trusteeship Council

1. In the Trusteeship Council

40. Pursuant to the recommendation of the General Assembly under resolution 289 (IV) on the question of the disposal of the former Italian colonies and to the Trusteeship Agreement for the Territory of Somaliland, approved by the General Assembly under resolution 442 (V), Italy became the Administering Authority for that Territory.

41. Under article 3 of the Trusteeship Agreement, the Administering Authority undertakes to administer the Territory in accordance with the provisions of the Charter that relate to the Trusteeship System, the relevant parts of General Assembly resolution 289 (IV) and the terms of the Agreement. Article 5 of this Agreement provides as follows:

"The Administering Authority shall collaborate fully with the General Assembly of the United Nations and with the Trusteeship Council in the discharge of all their functions as defined in Articles 87 and 88 of the Charter of the United Nations.

"Accordingly, the Administering Authority undertakes:

"1. To make to the General Assembly of the United Nations an annual report on the basis of the questionnaire drawn up by the Trusteeship Council in accordance with Article 88 of the Charter of the United Nations, and to include in this report information relating to the measures taken to give effect to the suggestions and recommendations of the General Assembly and of the Trusteeship Council;

"2. To designate an accredited representative to be present at the sessions of the Trusteeship Council at which the reports of the Administering Authority and petitions relating to conditions in the Territory are considered;"

27/ G A (VI), Plen., 361st mtg.
"3. To facilitate periodic visits to the Territory as provided for in Article 87 of the Charter of the United Nations at times and in accordance with arrangements to be agreed upon with the Administering Authority;

"4. To render assistance to the General Assembly or the Trusteeship Council in the application of these arrangements and of such other arrangements as those organs of the United Nations may make in accordance with the terms of this Agreement."

42. At the eighth session of the Trusteeship Council, supplementary rules of procedure were adopted (see paragraph 33 above). Of these supplementary rules, rules A to H inclusive relate to the participation in the sessions of the Trusteeship Council of Italy as the Administering Authority for the Trust Territory of Somaliland.

43. Rule A provides for the participation without vote of a representative of the Government of Italy in deliberations relating (a) to the Trust Territory of Somaliland under Italian administration, and (b) to general questions concerning the operation of the Trusteeship System. The remaining supplementary rules relate to (1) notification of the date and place of the first meeting of each session of the Trusteeship Council and of the provisional agenda; (2) the inclusion of items in the provisional agenda upon the request of the Government of Italy; (3) the right of that Government to request a special session of the Trusteeship Council; (4) credentials; (5) communication to the Government of Italy of all documents relating to the sessions of the Trusteeship Council including accessibility to that Government of the Official Records of private meetings; (6) the right of the representative of Italy to submit draft resolutions and to propose other motions or amendments which, as far as they relate specifically to the Trust Territory of Somaliland, may be put to the vote without having been seconded; and (7) requests of the representative of Italy to have a statement of his views appended to the reports or recommendations of the Trusteeship Council.

44. At its 529th meeting, the Trusteeship Council adopted resolution 510 (VIII), entitled "Question of the full participation of Italy in the work of the Trusteeship Council". It read as follows:

"The Trusteeship Council,

"Having approved the supplementary rules of procedure relating to the participation of Italy in the work of the Trusteeship Council,

"Noting that rule A thereof provides for Italy's participation without vote in the deliberations of the Trusteeship Council relating to the Trust Territory of Somaliland under Italian administration and to general questions relating to the operation of the International Trusteeship System,

"Considering the desirability of assuring the full participation of Italy in the work of the Trusteeship Council,

"Taking note of the observations made by the representative of Italy regarding the application of Article 86 of the Charter in order to allow for Italy's membership in the Trusteeship Council as a State which administers a Trust Territory,

"Having in mind that the General Assembly has determined that Italy is a peace-loving State within the meaning of Article 4 of the Charter, is able and willing to carry out the obligations of the Charter, and should therefore be admitted to membership in the United Nations,
"Considering that the examination of the question of a fuller participation of Italy in the work of the Trusteeship Council is within the competence of the General Assembly,

"Decides to request the General Assembly to include in the agenda of its sixth regular session the question of the full participation of Italy in the work of the Trusteeship Council."

45. Pursuant to that resolution, and on the recommendation of the Fourth Committee, the General Assembly at its sixth session adopted 28/ resolution 550 (VI), by which it recommended that the Security Council give urgent consideration to the resolution in question with a view to recommending the immediate admission of Italy to membership in the United Nations. The preamble to the resolution noted that Italy had been charged by the United Nations with the administration of the Trust Territory of Somaliland and was exercising the responsibilities towards the United Nations defined in Chapters XII and XIII as an Administering Authority. The preamble further stated:

"Considering that Italy should be enabled to exercise those responsibilities with complete effectiveness,

"Being of the opinion, therefore, that it is necessary for Italy to become a member of the Trusteeship Council and for that purpose to be admitted to the United Nations, and having regard to the fact that Italy satisfies the conditions prescribed in Article 4, paragraph 1, of the Charter for membership in the United Nations,"

46. A draft resolution submitted to the Security Council in pursuance of this General Assembly recommendation failed of adoption. There were 10 votes in favour and one against (the vote against being that of a permanent member). 29/

2. In the subsidiary organs of the Trusteeship Council

47. The draft resolution (see paragraph 36 above) submitted to the Fourth Committee at the sixth session of the General Assembly 30/ by which the participation of States that were not members of the Trusteeship Council in the subsidiary organs of the Council would have been permitted, took special account of the position of non-members of the United Nations in paragraph 3 of the preamble. This paragraph read as follows:

"Noting that States which are not Members of the United Nations but which, without being members of the Trusteeship Council, have been associated with the work of the Council, might participate constructively in the work of the Council's subsidiary organs.

48. There was almost unanimous agreement in the Fourth Committee that Italy, by reason of its special position as an Administering Authority, should be allowed to participate in the work of the subsidiary organs of the Trusteeship Council. However, the draft resolution failed of adoption in the General Assembly, 31/ and no representative of Italy has ever been appointed to any of the subsidiary bodies of the Council.

28/ G A (VI), Plen., 352nd mtg.
29/ S C, 7th yr., 573rd mtg., p. 20.
30/ G A (VI), 4th Com., 237th and 238th mtgs., pp. 242-251. See also G A (VI), Annexes, a.i. 12, A/2061, para. 27.
31/ See para. 39 above.
D. Direct participation of representatives of the indigenous populations of Trust Territories in the work of the Trusteeship Council

1. Consideration of the question at the fourth session of the Council

49. The question of direct participation of representatives of the indigenous populations of Trust Territories in the work of the Council arose at the fourth session of the Trusteeship Council when the Council was considering whether to revise its rules of procedure. A proposal 32/ was made to add a new rule 75 bis immediately after rule 75 33/ which would give the population of Trust Territories the right to send representatives of their social, cultural and educational organizations as well as of representative bodies of self-government, if any existed, to the Trusteeship Council during the examination by the Council of reports on the Territory concerned.

50. Two amendments to rule 74 34/ were proposed. Under the first of these, 35/ a declaration to the effect that the inhabitants of a Trust Territory might designate a special representative with the same privileges and functions as the special representative of the Administering Authority would have been added to the rule. Under the second amendment, 36/ a new paragraph would have been added to the effect that, at the request of the Trusteeship Council, the Administering Authorities should facilitate the appearance before the Council of representatives of self-governing bodies or of social, economic or educational organizations of legally recognized status in the Territory who might make statements or answer questions asked by the Council.

51. None of the three above-mentioned proposals was adopted. The proposal for an added rule 75 bis was rejected by 6 votes to 4. 37/ The first amendment proposed to rule 74 was rejected by 6 votes to 5, 38/ and the second amendment proposed to rule 74 was not adopted, 6 votes having been cast in favour and 6 against. 39/

52. In the course of the discussion preceding the vote, the arguments set forth below were among those invoked 40/ in opposition to the general principle governing the three above-mentioned proposals. (1) Only the Administering Authority of the Trust Territory concerned could designate a representative for the Territory to the Trusteeship Council. (2) The proposals would have the effect of making the Administering Authorities defendants. (3) The proposed rule 75 bis would be a violation of the Charter and of the Trusteeship Agreements. (4) Rule 101 of the rules of procedure, dealing with the examination of the annual reports, already provided for obtaining "such other sources of information as may be available" and all the proposed amendments would break down the fundamental principle of trusteeship which conferred the sole responsibility for

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32/ T C (IV), Annex, p. 22 (T/235).
33/ Rule 75 reads: "The special representative of the Administering Authority may participate without vote in the examination and discussion of a report, except in a discussion directed to specific conclusions concerning it."
34/ Rule 74 reads: "In the examination of all annual reports the Administering Authority concerned shall be entitled to designate and to have present a special representative who should be well informed on the Territory involved."
35/ T C (IV), Annex, p. 23, T/238.
36/ Ibid., T/239.
37/ T C (IV), 7th mtg., p. 84.
38/ Ibid.
39/ T C (IV), 9th mtg., p. 106.
40/ T C (IV), 7th mtg., pp. 76 and 80; 8th mtg., pp. 90 and 91; 9th mtg., pp. 102 et seqq.
administration upon the Administering Authority concerned. (5) Any attempt to modify the Charter or the Trusteeship Agreements by amending the rules of procedure was ultra vires. (6) The rights of the inhabitants of the Trust Territories were sufficiently safeguarded through the right of petition and through personal contact with the visiting missions.

53. Among the views expressed by those favouring the proposals were those set forth below. (1) The amendments were in conformity with both the Charter and the Trusteeship Agreements. (2) The participation of representatives of the inhabitants in an advisory capacity in the work of the Trusteeship Council could not fail to contribute to their advancement towards self-government. (3) The proposals would not change the membership of the Council since the representatives of the indigenous inhabitants would have no right to vote. (4) The second amendment proposed to rule 74 (see paragraph 50 above) was flexible enough to allow representation for the indigenous population to start with legally organized bodies such as political parties, trade unions, co-operative societies, et cetera. (5) Since representation depended on the invitation of the Council, it could not possibly be carried out without the assent of at least some of the Administering Authorities. (6) While the system of petitions granting oral hearings to indigenous inhabitants had practical value, the petitioners were frequently ignorant of, or little informed on the procedure of the Council; thus it was sometimes difficult to consider their petitions. (7) The proposed amendments to the rules of procedure would provide procedures designed to complement the system of petitions.

2. Consideration of the question at the sixth session of the General Assembly

54. At its sixth session, on the recommendation of the Fourth Committee, the General Assembly, by 40 votes to 5, with 5 abstentions, adopted resolution 554 (VI), without debate. By this resolution, entitled "Participation of the indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council", the General Assembly noted and commended the practice of some of the specialized agencies and of the regional commissions of the United Nations permitting, on the proposal of the Administering Authorities concerned, the admission to those agencies and commissions of Non-Self-Governing and Trust Territories as "associate members". It invited the Trusteeship Council to examine the possibility of associating the inhabitants of the Trust Territories more closely in its work and to report on the result of its examination of this question to the General Assembly at its seventh regular session.

55. In opposition to the resolution in its draft form in the Fourth Committee the views set forth below were among those expressed. (1) There was an important difference between the resolution which spoke of "association of the Non-Self-Governing Territories in the work of the Special Committee" and the proposal being considered.
which spoke of "association of representatives of indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council". (2) In all the regional commissions and in the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the International Telecommunication Union (ITU) and other international bodies mentioned in the debate, the associate members represented Territories as persons in international public law, whereas under the draft resolution being considered, the Trusteeship Council would admit representatives of the peoples of the Territories and not their Governments. (3) The distinction drawn between the inhabitants of a Territory and the Territory proper was legally inadmissible, especially as in all international organizations the Trust Territories were represented by the Powers which had assumed the responsibility for administering them. (4) Finally, the draft resolution, if adopted, would be tantamount to a modification of the Charter.

56. In support of the draft resolution in the Fourth Committee the arguments set forth below were among those adduced. 47/ (1) Since a special representative of each Administering Authority was present during the examination of annual and other reports, the people being administered should also have a representative to inform the Council of their opinions on these reports. (2) Indigenous participation could be on the basis of associate membership as had been the practice of some regional economic commissions of the United Nations, UNESCO, WHO, ITU and other specialized agencies, with respect to Non-Self-Governing Territories participating in their work. (3) One representative of the indigenous inhabitants from each Territory might be chosen by an electoral college or similar existing bodies to represent the people of the Territory in the Trusteeship Council during the examination of annual and other reports and that representative should enjoy the same legal status as the special representative of the Administering Authority concerned. (4) The Trusteeship Council would determine the method of electing the representative and the method of electoral colleges suggested would promote the development of Trust Territories in accordance with Article 86 b. (5) The consideration of annual and other reports would be more fruitful if the Trusteeship Council had complementary information from two sources. (6) The draft resolution, if adopted, would express the desire of the General Assembly that the inhabitants of the Trust Territories should be more closely associated in the work of the Trusteeship Council, but at the same time would not restrict the right of the Council to seek practical means of attaining that objective.

3. Consideration of the question at the tenth and eleventh sessions of the Council

57. The Trusteeship Council again considered the question of the participation of the indigenous inhabitants of the Trust Territories in the work of the Council at its tenth and eleventh sessions. When the question was considered at the tenth session of the Council in pursuance of General Assembly resolution 55/4 (VI), a draft resolution 48/ was submitted under which the indigenous inhabitants of Trust Territories would have been accorded the right to send their representatives to participate, without vote, in the discussions of the Trusteeship Council concerning annual and other reports relating to their respective Territories.

58. In addition to the arguments previously adduced, the views set forth below were among those expressed 49/ in opposition to this draft resolution. (1) Since membership in the Trusteeship Council had been expressly defined in Article 86, changes affecting

47/ G A (VI), 4th Com., 237th mtg., paras. 3-10, 17-20, 25-32, 35-40 and 44. 48/ T C (X), Annexes, a.i. 12, T/L.239; see also para. 37 above. 49/ T C (X), 389th mtg., paras. 21-40, 44, 46 and 48-51.
it entailed amendment of the Charter, and should be dealt with under the provisions of Article 108. (2) Articles 87 and 91 provided for certain contacts between the inhabitants of Trust Territories and the Trusteeship Council through petitions, visiting missions, or participation in a specialized agency. (3) Direct participation in the work of the Trusteeship Council was provided for neither in the Charter nor in the Trusteeship Agreements. (4) Rules 13 and 74 of the rules of procedure of the Council 50/ recognized full freedom on the part of the Administering Authorities to designate their representatives to the Council. (5) The Charter had vested in the Administering Authorities the right to decide upon the form of their representation in the work of the Trusteeship Council. The Administering Authorities were the sole representatives of the peoples of the Trust Territories under their jurisdiction and were responsible for them to the United Nations. The arguments set forth below were among those adduced 51/ in support of the draft resolution. (1) Under the Charter, the indigenous people of the Trust Territories were to play an active part in the administration of their own country and to share in the taking of decisions of direct concern to their Territories. (2) Participation of the indigenous peoples in the work of the Council would, for example, help the Council to fight against abuses which petitioners brought to its attention.

59. After preliminary consideration of General Assembly resolution 55/4 (VI), the Trusteeship Council decided 52/ by resolution 426 (X), to establish a committee to examine the question of indigenous participation in the light of (a) the General Assembly resolution, (b) observations made by members of the Council during the discussion of the matter, and (c) any further comments which the Administering Authorities might care to make. The Trusteeship Council considered the report 53/ of this Committee at its eleventh session and adopted, 54/ by 7 votes to 2, with 2 abstentions, the draft resolution recommended by the Committee.

60. This draft became resolution 466 (XI), by which the Council, having considered General Assembly resolution 55/4 (VI) and Articles 76 and 86, recognized the unrestricted right of each Member State to determine the composition of its delegation as well as the desirability that the indigenous inhabitants of the Trust Territories be given every opportunity to develop their abilities in public affairs. It was of the opinion that the objective sought by General Assembly resolution 55/4 (VI) could best be realized by the inclusion, where practicable and appropriate, of indigenous inhabitants of the Trust Territories in the respective delegations appointed to the Trusteeship Council by the Administering Authorities and expressed the hope that the Administering Authorities would find it appropriate to associate qualified indigenous inhabitants from Trust Territories in the work of the Council as part of their delegations or in any other manner which they deemed desirable.

4. Consideration of the question at the seventh session of the General Assembly

61. At its seventh session, the General Assembly took note 55/ of the fact that the question had been considered by the Trusteeship Council at its tenth and eleventh sessions and noted also Trusteeship Council resolution 466 (XI). On the recommendation
of the Fourth Committee, the Assembly adopted resolution 653 (VII) without debate by 56 votes to 1, with 19 abstentions.

62. By this resolution, the Assembly expressed the opinion that the objectives of General Assembly 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. It shared the hope expressed by the Trusteeship Council under its resolution 466 (XI) that the Administering Authorities would find it appropriate to associate suitably qualified indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council as part of their delegations or in any other manner which they deemed desirable. It invited the Administering Authorities to give careful attention to Trusteeship Council resolution 466 (XI) and to General Assembly resolution 653 (VII) with a view to giving effect to the suggestions contained therein, and requested the Trusteeship Council to include in its reports to the General Assembly information on action taken pursuant to Trusteeship Council resolution 466 (XI) and to General Assembly resolution 653 (VII).

5. Consideration of the question at the twelfth and thirteenth sessions of the Council

63. At its twelfth session, the Trusteeship Council, having considered General Assembly resolution 653 (VII), adopted resolution 647 (XII) by 6 votes to 2, with 3 abstentions. By this resolution the Council noted that the question of the participation of the indigenous inhabitants in the government of the Territories was regularly examined by the Trusteeship Council during the examination of annual reports, reports of visiting missions, and petitions. It considered, however, that the question of the participation of the indigenous inhabitants in the work of the Council needed further study. It decided to establish a committee to examine the question in the light of General Assembly resolution 653 (VII) and to report to the Council at its thirteenth session.

64. In its report to the Council at its thirteenth session, the Committee emphasized the effort which its members had made to study the question as thoroughly as possible and to reconcile divergent views, but advised the Council that it had been unable to agree on any recommendation on the question. The Council considered the report of the Committee and a draft resolution by which the Council would draw attention to the fact that a seat at the Trusteeship Council table and participation in its deliberations, when appropriate, was not the only way in which indigenous inhabitants might take part in the work of the Council. The proposal contained the recommendation set forth below. (1) The Trusteeship Council should instruct each visiting mission not only to consider such public opinion as might spontaneously be brought before it, but to take the initiative in seeking out public opinion on all important problems in whatever form the visiting missions might deem appropriate and to report fully and to make recommendations to the Council on the development of the free expression of the wishes of the people and on the main trends of their opinions. (2) The Council should examine and take specific action, as part of its examination of conditions in each Trust Territory, on all petitions which might reflect public opinion on questions of general concern to the development of the Trust Territory. (3) It

56/ G A (VII), Plen., 410th mtg., para. 114.
57/ T C (XII), 480th and 481st mtgs.
58/ T C (XII), 481st mtg., para. 1.
59/ T C (XIII), Annexes, a.1. 9; T/L.447.
60/ Ibid., T/L.458. The same proposal had not been accepted by the Committee and the sponsor had reserved his right to submit it again to the Council.
should request the Administering Authorities to make copies of their annual reports promptly available to all organs of public opinion in each Territory concerned, and it should encourage these organs to examine the reports. (4) It should inform these organs that, within their right of petition, they might submit their own views to the United Nations and have these views considered by the Trusteeship Council. (5) In cases of urgency, in order to ensure that a given situation in a Trust Territory met with the freely expressed wishes of the people, the Trusteeship Council should be prepared to communicate with appropriate representatives of public opinion and ask them to submit their views on the problem in writing or by telegraph, or to invite such spokesmen to appear in person before it.

65. During the debate on this question, the members of the Council generally maintained the position which they had taken during previous discussions in the Trusteeship Council and the Fourth Committee. The proposal, as amended, was not adopted, 61/ 6 votes having been cast in favour and 6 against.

66. Article 86 (2) authorizes each member of the Trusteeship Council to designate one specially qualified person to represent it on the Council. Rule 14 of the rules of procedure of the Council provides that:

"1. The credentials of representatives on the Trusteeship Council shall normally be communicated to the Secretary-General not less than twenty-four hours before the meeting at which the representatives will take their seats. The credentials shall be issued either by the Head of the State or by the Minister of Foreign Affairs of the respective member Governments.

"2. The credentials shall be examined by the Secretary-General who shall submit a report thereon to the Trusteeship Council for approval."

The reports of the Secretary-General on credentials are issued as Council documents and are placed on the provisional agenda of the Council which to date has taken note, 62/ or accepted 63/ or adopted them. 64/

67. The question of the composition of the Council in accordance with the terms of the Charter arose in connexion with the question of the seating of the representative of the People's Republic of China as the representative entitled to occupy the seat of China as a permanent member of the Council.

68. At the seventh session, the question was placed before the Council when a draft resolution 65/ was submitted by the representative of the USSR. Under the terms of the draft resolution the Trusteeship Council would have decided to exclude "the representative of the Kuomintang group" from its membership.
69. In support of his draft resolution the representative of the USSR stated 66/ that the Central People's Government of the People's Republic of China had informed the United Nations that it did not recognize the right of "the representatives of the Kuomintang group" to represent China in the United Nations, that the delegation of the USSR endorsed that statement, and that it did not regard "the representative of the Kuomintang group" as the rightful representative of China and therefore demanded his exclusion from the Trusteeship Council.

70. In opposing the draft resolution, the representative of China stated 67/ that the Government of the Republic of China was the only legal Government of China, that the establishment of "the Mao Tse-tung régime" in Peiping had not changed the status of the delegation of China, which had been representing China since the birth of the United Nations, and that the position of that delegation had not been challenged at the sixth session of the Council 68/ although "the Mao Tse-tung régime" had already been set up.

71. The draft resolution was rejected by 9 votes to 1, with 2 abstentions.

72. The question arose again at the opening meetings of the eighth to the twelfth sessions of the Council inclusive. 69/

73. When, at each of these sessions, the representative of the USSR submitted a draft resolution similar in purport to that submitted at the seventh session, the Council did not put the draft resolution to a vote. Instead, the Council, in each case, adopted 70/ a proposal to postpone any further discussion of the question. Voting upon that proposal was as follows: at the eighth session, 10 votes to 2; at the ninth, tenth and eleventh sessions, 11 votes to 1; at the twelfth session, 10 votes to 1, with 1 abstention.

74. During the debate 71/ at the eighth session of the Council it was recalled that the General Assembly, by resolution 490 (V), had established a special committee to consider the question of the representation of China and to report to the General Assembly at its fifth session. The Assembly had further resolved that, pending a decision on that report, the representative of the Government of the Republic of China should be seated in the General Assembly with the same rights as other representatives. Attention was also drawn in the Trusteeship Council to General Assembly resolution 396 (V) 72/ which recommended that, whenever more than one authority claimed

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66/ T C (VII), 1st mtg., paras. 3-5.
67/ Ibid., paras. 10-14.
68/ The delegation of the USSR was not represented at this session.
69/ The question was raised again at the first meeting of the third special session of the Council when a procedure similar to that used at the seventh regular session was adopted, that is to say, a draft resolution submitted by the representative of the USSR was rejected by 9 votes to 2, with 1 abstention (T C (S-5). 1st mtg., para. 17).
70/ T C (VIII), 315th mtg., para. 66; T C (IX), 346th mtg., para. 31; T C (X), 386th mtg., para. 29; T C (XI), 412th mtg., para. 15; T C (XII), 461st mtg., para. 10.
71/ T C (VIII), 1st mtg.
72/ For the proceedings in connexion with General Assembly resolution 396 (V), see in this Repertory under Article 10. The agenda item entitled "Recognition by the United Nations of the representation of a Member State" was submitted to the General Assembly at its fifth session by the representative of Cuba (G A (V), Annexes, a.i. 61, A/1292 and A/1508). At its 325th plenary meeting on 14 December 1950, the General Assembly adopted resolution 396 (V) on this agenda item.
to be the government entitled to represent a Member State in the United Nations, the
question should be considered by the General Assembly and that the attitude of the
General Assembly should be taken into account in other organs of the United Nations.
At the eighth session of the Trusteeship Council the representative of the United
States, in proposing that further consideration of the draft resolution submitted by
the representative of the USSR should be postponed until the General Assembly had taken
action on the question of the representation of China, said that he had in mind General
Assembly resolution 396 (V) on the recognition by the United Nations of the
representation of a Member State. 73/

75. At the thirteenth and fourteenth sessions of the Council, similar objections were
raised in respect of the representation of China, but only in connexion with the
appointment of China to the subsidiary organs of the Council. 74/

F. Qualifications of representatives of members

76. Article 36 (2) is reproduced verbatim as rule 11 of the rules of procedure of
the Trusteeship Council. The Council has taken no other action directly under that
paragraph. At the time of the adoption of the rules of procedure, the observation 75/
was made in debate that it was for the Member States and not for the Trusteeship
Council to determine the qualifications of their representatives.

77. It may be noted, however, that by resolution 466 (XI) on the participation of
indigenous inhabitants of the Trust Territories in its work, the Council, while
recognizing that each Member of the United Nations had the unrestricted right to
determine the composition of its delegations, expressed the hope that the Administering
Authorities would find it appropriate to associate suitably qualified indigenous
inhabitants of Trust Territories in the work of the Trusteeship Council as part of their
dellegations or in any other desirable manner. Subsequently, two Administering
Authorities, France and the United States, included indigenous inhabitants of Trust
Territories under their administration in their delegations as special representatives
or advisers.

73/ T C (VIII), 315th mtg., para. 15.
74/ T C (XIII), 484th mtg., para. 11; 505th mtg., paras. 26-28; T C (XIV), 545th mtg.,
    paras. 49-51; 548th mtg., paras. 26 and 27.
75/ T C (I), 9th mtg., p. 181.
ANNEX

Membership of the Trusteeship Council
(during its first thirteen regular and four special sessions)

Members administering Trust Territories

- Australia
- Belgium
- France
- New Zealand
- United Kingdom
- United States a/

Members mentioned by name in Article 23 and not administering Trust Territories

- China
- Union of Soviet Socialist Republics

Members elected by the General Assembly

<table>
<thead>
<tr>
<th>Country</th>
<th>Session of the General Assembly at which the member was elected</th>
<th>Regular sessions of the Trusteeship Council during which the member served</th>
<th>Special sessions of the Trusteeship Council during which the member served</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iraq</td>
<td>I, IV</td>
<td>I to XI</td>
<td>I, II, III, IV</td>
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<tr>
<td>Mexico</td>
<td>I</td>
<td>I to V</td>
<td>I, II</td>
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<tr>
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<td>II</td>
<td>II to V b/</td>
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<td>Philippines</td>
<td>II</td>
<td>II to VII</td>
<td>III, IV</td>
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<tr>
<td>Argentina</td>
<td>IV</td>
<td>VI to IX b/</td>
<td>II, III, IV</td>
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<tr>
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<td>IV, c/ V</td>
<td>VI to XII</td>
<td>III, IV</td>
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<td>VIII to XII</td>
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<td>India</td>
<td>VIII</td>
<td>XIII to ...</td>
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</tbody>
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a/ Not an Administering Authority during the first session.
b/ Resigned before expiration of term.
c/ Elected to fill remainder of term of a member which had resigned (Costa Rica).
d/ Elected to fill remainder of term of a member which had resigned (Argentina).