

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. The structure of the Repertory study of Article 86 has been preserved in the present study.
2. It will be noted that the initial proposals mentioned in the Repertory study envisaged actual participation without vote in the work of the Council. The later proposals dealt with in the present study do not expressly relate to such direct participation and hence are less relevant to Article 86 of the Charter. They have, however, been dealt with here to complete the history of the question. They are also mentioned in this Supplement in the study of Article 85 in so far as they throw light on the relationship between the General Assembly and the Trusteeship Council.

I. GENERAL SURVEY

3. No elections to membership in the Trusteeship Council were held during the ninth session of the General Assembly. Consequently, the membership of the Trusteeship Council continued unchanged through its fifteenth and sixteenth sessions. At the tenth session of the General Assembly, elections were held to fill two prospective vacancies, and a further vacancy caused by the admission of Italy into the United Nations. (See paragraphs 7 and 8 below.)
4. The States members of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian administration have continued, by virtue of article 11 of the Trusteeship Agreement for that Territory, to participate, without vote, in the deliberations of the Council on questions relating to Somaliland. Ethiopia also has participated in the discussions of the Council relating to the frontier between it and Somaliland. There have been no other instances during the period under review in which other Members of the United Nations which are not members of the Trusteeship Council have participated in its work.
5. It will be recalled that the direct participation of representatives of indigenous inhabitants in the work of the Trusteeship Council was envisaged in certain resolutions of the General Assembly and the question of adopting procedures to that end was discussed at several sessions of the Trusteeship Council. The matter was further discussed in the Fourth Committee at the ninth session of the General Assembly and a resolution was adopted recommending further measures to the Trusteeship Council on the participation of indigenous inhabitants of the Trust Territories in the work of the Council. The resolution in question did not expressly envisage direct representation of indigenous populations in the Trusteeship Council, as previous General Assembly resolutions had done, but participation through the medium of the hearing of petitioners and through instructions to visiting missions to ascertain the trends of public opinion in the Territories visited by them. At its fifteenth session, the Trusteeship Council took note of the General Assembly resolution, but it has taken no steps expressly to give effect to the recommendations contained therein. It has continued to grant hearings to petitioners on a selective basis, while visiting missions have continued to ascertain the main trends of public opinion in the Territories visited by them on the basis of general provisions of their terms of reference.
6. The Council has continued to follow the same procedure for verifying its composition - by taking action on a report on credentials prepared by the Secretary-General. In that connexion, the question of the representation of China has been raised. On each occasion during the period under review, the Council decided not to vote separately on the credentials of delegations and approved the report of the Secretary-General as a whole.

II. ANALYTICAL SUMMARY OF PRACTICE

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

7. Elections of members of the Trusteeship Council by the General Assembly to fill vacancies caused by the expiration of the three-year term of certain members were held at the tenth session. On 20 October 1955, the General Assembly elected two members to fill the vacancies which would occur on the expiration on 31 December 1955 of the terms of El Salvador and Syria. Guatemala and Syria were elected. 1/

8. Consequent on the admission 2/ to the United Nations on 14 December 1955 of Italy, the Administering Authority for the Trust Territory of Somaliland under Italian administration, that State, in accordance with paragraph 1 a of Article 86, assumed membership on the Trusteeship Council. In order to ensure parity of membership on the Trusteeship Council between States which administer Trust Territories and those which do not, the General Assembly was called upon, in accordance with paragraph 1 c of Article 86, to elect one non-administering Member. On 16 December 1955, Burma was elected to fill the vacancy. 3/ There are now seven members which administer Trust Territories and seven which do not; five of the latter are elected by the General Assembly.

9. The annex to the present study sets forth in full the composition of the Trusteeship Council during the period under review.

10. All subsidiary organs established by the Council over this period have been composed equally of representatives of Administering and non-administering Members.

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

11. The participation of Italy in the work of the Trusteeship Council during its fifteenth and sixteenth sessions is dealt with in section C below.

12. The only other participation of non-member States in the work of the Council during the period under review has also been in respect of the Trust Territory of Somaliland under Italian administration. Exercising the rights set forth in article 11 of the Trusteeship Agreement, Colombia, Egypt and the Philippines, as States members of the Advisory Council have continued to participate without vote in the debates of the Trusteeship Council on questions specifically related to the Territory.

13. In particular during the annual examination 4/ by the Council of the annual report of the Administering Authority on the Territory, the States members concerned have, as a general rule, been represented by the same persons as those who represented them on the Advisory Council in the Territory itself. These representatives have made oral statements during the consideration of the annual reports, with which is considered at the same time the report 5/ of the Advisory Council to the Trusteeship Council. They

1/ G A (X), Plen., 536th mtg., paras. 7 and 9.

2/ G A resolution 995 (X).

3/ G A (X), Plen., 559th mtg., para. 127.

4/ T C (XVI), 625th-632nd, 634th, 635th, 637th and 644th mtgs.; T C (XVIII), 703rd-708th, 710th, 719th, 723rd and 725th mtgs.

5/ T C (XVI), annexes, a.i. 17, T/1172; T C (XVIII), annexes, a.i. 16, T/1245.

have also participated in the examination of petitions in the Standing Committee on Petitions.

14. During the eighteenth session, in response to a request by the delegation of Ethiopia, the Council agreed to invite a representative of that State to address the Council. 6/ The representative of Ethiopia subsequently participated in the discussions of the Council related to the frontier between Somaliland under Italian administration and Ethiopia.

15. With the exception noted above no States not members of the Trusteeship Council have participated in the work of its subsidiary bodies.

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

16. The participation in the work of the Trusteeship Council of Italy, as Administering Authority for the Trust Territory of Somaliland under Italian administration, continued to be governed throughout the sessions of the Council held in 1955 by the provisions of supplementary rules A to H of the Council's rules of procedure. Under these rules, Italy had in particular the right to be represented at all sessions of the Trusteeship Council and to participate without vote in the deliberations on questions relating to Somaliland or to the operation of the International Trusteeship System.

17. With the admission of Italy to the United Nations during the tenth session of the General Assembly, Italy assumed 7/ its seat as a member of the Trusteeship Council. Supplementary rules A to H 8/ ceased to be required and were rescinded.

D. Participation of representatives of the indigenous populations of Trust Territories in the work of the Trusteeship Council

18. When at its thirteenth session the Trusteeship Council decided not to adopt the draft resolution submitted by the representative of Syria on this question, the sponsor reserved the right to place it before the General Assembly. 9/ Accordingly, the representative of Syria submitted it to the Fourth Committee during the ninth session and subsequently revised it. 10/ The arguments adduced for and against its adoption were in large measure concerned with the constitutional relationship between the General Assembly and the Trusteeship Council and have in consequence been dealt with in this Supplement in the study of Article 85.

19. The draft resolution, as amended, was adopted by the Fourth Committee by 38 votes to 8, with 3 abstentions and by the General Assembly, as resolution 853 (IX), by 44 votes to 8, with 4 abstentions. The text of the operative part of the resolution is to be found in the study under Article 85.

20. It will be observed that General Assembly resolution 853 (IX), does not expressly recommend any direct participation without vote of representatives of the indigenous populations, but envisages the adoption by the Trusteeship Council of procedures, within the framework of the examination of petitions and of the dispatch of visiting missions to Trust Territories, by which the Council might be better informed of the

6/ T C (XVIII), 706th mtg., para. 1.

7/ T C (XVII), 653rd mtg., para. 2.

8/ T C (XVII), 654th mtg., paras. 35-37; 695th mtg., paras. 32-47.

9/ See also in the Repertory, vol. IV, under Article 86, paras. 49-65.

10/ A/C.4/L.332/Rev.1. (See also G A (IX), annexes, a.i. 13, p. 7 (A/C.4/L.332/Rev.2).)

views of the indigenous populations of the Trust Territories as to their advancement and progressive development towards self-government. These considerations are set forth in the second and third paragraphs of the preamble.

21. It has been explained in the study of Article 85 in this Supplement that the Trusteeship Council took note of General Assembly resolution 853 (IX), but did not adopt specific recommendations thereunder. It has been the practice of its visiting missions, operating under terms of reference which direct them "to give attention, 11/ to issues as may be appropriate in the light of discussions in the Trusteeship Council and the General Assembly, and of resolutions adopted by them," 11/ to include in their reports accounts of the views expressed to them by important political organizations and representative institutions. The Trusteeship Council has continued to grant oral hearings requested by representatives of certain indigenous organizations, but as noted in this Supplement in the study of Article 87 (b), it has rejected the requests of other organizations.

22. The hope was expressed in Trusteeship Council resolution 466 (XI) that the Administering Authorities would find it appropriate to appoint qualified indigenous inhabitants as part of their delegations. The lists 12/ of delegations at recent sessions of the Trusteeship Council show that four members of the Trusteeship Council have included in their delegations indigenous inhabitants of the Territories administered by them. In particular the delegation of Italy, at the eighteenth session of the Trusteeship Council, included the Prime Minister of the recently formed Somali Government and other Somali holders of important public offices; while at the seventeenth session the United Kingdom appointed to its delegation at the seventeenth session as special representatives for the Cameroons under British administration, the leader of Government Business in the Southern Cameroons House of Assembly and the Minister for Northern Cameroons Affairs in the Government of the Northern Region of Nigeria.

E. The question of the verification of the composition of the Trusteeship Council in accordance with the terms of the Charter

23. There have been no changes in the rule of procedure of the Council concerning the credentials of its members. The report of the Secretary-General on credentials has been considered by the Council as an item of its agenda, and has, at each of the last four regular sessions, been approved or adopted by it.

24. On each of these occasions, however, there has been discussion in the Council of the question of the representation of China. Thus at the fifteenth session the representative of the Soviet Union asked 13/ for a separate vote on the credentials of the representative occupying the seat of China, whom he did not consider to be the legitimate representative of that country. The representative of China replied 14/ that the delegation of which he was a member represented the legitimate Government of the Republic of China. The Council gave priority to a motion 15/ by the United States delegation, not to consider at that session any proposals to seat representatives of the Central People's Government or to exclude the representatives of the Government of the

11/ See, for example, T C resolution 1253 (XVI).

12/ Lists of delegations appear in the Official Records of each session of the Trusteeship Council following the Table of Contents.

13/ T C (XV), 608th mtg., para. 8.

14/ Ibid., para. 9.

15/ Ibid., para. 10.

Republic of China and to find the credentials of the representatives of the Government of the Republic of China to be in due and proper form, in accordance with the rules of procedure.

25. The United States proposal was adopted 16/ by 8 votes to 1, with 1 abstention, whereupon the Council adopted by 9 votes to none, with 1 abstention, a Belgian proposal to approve 17/ the report of the Secretary-General on credentials.

26. At its sixteenth session, the Council took up the question of a separate vote on the credentials of individual delegations and rejected a proposal to this effect by 9 votes to 3. At its seventeenth and eighteenth sessions, the Council rejected a proposal for a separate vote on the credentials of the delegation of China by 11 votes to 3 and 10 votes to 3, respectively. The reports of the Secretary-General on credentials were then adopted, as a whole, at the sixteenth session by 9 votes to none, with 3 abstentions, 18/ at the seventeenth session by 11 votes to none, with 3 abstentions, 19/ and at the eighteenth session by 10 votes to none, with 3 abstentions. 20/

F. Qualifications of representatives of members

27. There are no further decisions requiring treatment under this heading.

ANNEX

Membership of the Trusteeship Council

(during its fifteenth to eighteenth regular sessions
and fifth special session)

Members administering Trust Territories

Australia
Belgium
France
Italy a/
New Zealand
United Kingdom of Great Britain and Northern Ireland
United States of America

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

China
Union of Soviet Socialist Republics

a/ From 14 December 1955.

16/ Ibid., para. 28.
17/ Ibid., para. 35.
18/ T C (XVI), 645th mtg., paras. 22-26.
19/ T C (XVII), 695th mtg., paras. 49-52.
20/ T C (XVIII), 738th mtg., paras. 1-5.

Members elected by the General Assembly

	<u>Session of the General Assembly at which the member was elected</u>	<u>Regular sessions of the Trusteeship Council during which the member served</u>	<u>Special sessions of the Trusteeship Council during which the member served</u>
El Salvador	VII	XV - XVI	V
Syria	VII, X	XV - XVIII	V
Haiti	VIII	XV - XVIII	V
India	VIII	XV - XVIII	V
Guatemala	X	XVII - XVIII	
Burma	X	XVII - XVIII	

