

UNITED NATIONS 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.*

Introduction

1. The questions that arose at earlier sessions of the General Assembly and the Trusteeship Council concerning the application and interpretation of Article 85 were explained in detail in the Repertory and its Supplements Nos. 1 and 2. During the period under review no fundamental questions of interpretation arose in connection with the Article and most of the practices and procedures evolved at earlier sessions were continued in their general application.

2. It may be recalled that, in practice, the term "functions of the United Nations" referred to in Article 85 (I) 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, no Territories were placed under the International Trusteeship System and, consequently, no question arose concerning the approval of Trusteeship Agreements, nor were any Trusteeship Agreements altered or amended. **The Trusteeship Agreements for seven Trust Territories were, however, terminated by the General Assembly, in agreement with the Administering Authorities concerned.** In section A of the Analytical Summary of Practice reference is made to the **final action taken by the General Assembly in terminating the Agreements** and to the assistance sought from the Trusteeship Council in this regard. The **substantive aspects of terminating the Agreements and the preliminary arrangements decided upon by the General Assembly** in certain cases are dealt with in detail in this Supplement, under Article 76.

4. Section B of the previous studies of this Article in the Repertory and its Supplements Nos. I and 2 concerned the direct exercise by the General Assembly of certain of the specific functions referred to in Articles 87 and 88. In this study, **the material concerning the granting of oral hearings** has been included in section B. Detailed treatment with regard to the Questionnaire, however, will be found in this Supplement, under Article 88, and only a brief reference is made to that question in this study.

5. Section C of the previous studies dealt with the relationship between the General Assembly and the Trusteeship Council. It was divided into several headings and subheadings to facilitate analysis of all types of action by both organs bearing on that relationship. The earlier headings that remain applicable are repeated in this study.

6. A list of the resolutions pertaining to the International Trusteeship System that were adopted by the General Assembly from the fourteenth to the eighteenth sessions and during the twentieth session appears in this Supplement in the annex to the study of Article 16.

I. GENERAL SURVEY

7. During the period under review, the Trusteeship Agreements for the Trust Territories of the Cameroon under French administration, the Cameroons under United Kingdom administration, Ruanda-Urundi, Tanganyika, Somaliland under Italian administration, Togoland under French administration and Western Samoa were terminated by the General Assembly in agreement with the Administering Authorities concerned. Prior to termination, the Assembly took a number of decisions directed towards ascertaining the wishes of the inhabitants of certain of the Trust Territories concerning their future and, in this connection, sought the assistance of the Trusteeship Council. The Assembly also adopted a number of resolutions with a view to enabling the Trust Territories to function effectively after they emerged from trusteeship.

8. Requests for hearing were received and dealt with by the Fourth Committee of the Assembly. The majority of them came from the Trust Territories of Ruanda-Urundi, the Cameroons under French administration and the Cameroons under United Kingdom administration.

9. The Sub-Committee on the Questionnaire, which the General Assembly had established at its eighth session, was discontinued during the period under review.

10. The General Assembly continued the practice of adopting resolutions¹ relating to the reports of the Trusteeship Council, following its examination of the reports. At its twentieth session, however, it discontinued the practice of adopting a resolution in respect to the report of the Council as a whole. Instead, it adopted resolutions relating to the specific chapters of the report of the Trusteeship Council concerning conditions in Nauru and New Guinea²

¹ G A resolutions 1409 (XIV), 1610 (XV), 1701 (XVI), 1858 (XVII) and 1969 (XVIII). At the nineteenth session, the General Assembly, in view of the particular circumstances prevailing in that session, merely noted that the report had been received.

² G A resolutions 2111 (XX) and 2112 (XX)

II. ANALYTICAL SUMMARY OF PRACTICE

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

11. As noted above seven Trusteeship Agreements were terminated by the General Assembly, in agreement with the Administering Authorities concerned, on the achievement by the Trust Territories of the final objective of the International Trusteeship System: self-government or independence.

12. The General Assembly in resolution 1349 (XIII) resolved, in agreement with the Administering Authority, that, on 1 January 1960, when the Cameroons under French

administration would become independent the Trusteeship Agreement approved by the General Assembly on 13 December 1946 should cease to be in force in accordance with Article 76 b of the Charter of the United Nations. That decision was implemented as scheduled, that is to say, when the Cameroons under French administration became an independent sovereign state on 1 January 1960.

13. In resolution 1416 (XIV) the General Assembly noted that the Governments of France and of Togoland had agreed that the date on which the Republic of Togoland should become independent was to be 27 April 1960, and reiterated its decision³ that, on the date of independence of Togoland, which had been established as 27 April 1960, the Trusteeship Agreement for Togo-land under French administration, approved by the General Assembly on 13 December 1946, would cease to be in force.

14. In accordance with article 24 of the Trusteeship Agreement relating to Somaliland under Italian administration, trusteeship was to cease to be in force ten years after the date of its approval by the General Assembly, that is to say, on 2 December 1960, at which time the Trust Territory was to become an independent sovereign State.

15. The scheduled date of independence of Somaliland under Italian administration was advanced, however, to 1 July 1960 in response to the wish expressed by the Legislative Assembly and conveyed by the Government of Somalia. The General Assembly in resolution 1418 (XIV) took note of the fact that independence would be proclaimed on that date and resolved accordingly, in agreement with the Administering Authority, that on 1 July 1960, when Somalia would become independent, the Trusteeship Agreement approved by the General Assembly on 2 December 1950 would cease to be in force, the basic objectives of trusteeship having been attained.

16. As to the Trust Territory of the Cameroons under United Kingdom administration, the General Assembly decided in resolution 1608 (XV) that the plebiscites in the Northern Cameroons and in the Southern Cameroons having been taken separately with differing results, the Trusteeship Agreement of 13 December 1946 concerning the Cameroons under United Kingdom administration would be terminated in accordance with Article 76 b and in agreement with the Administering Authority, in the following manner:

- (a) With respect to the Northern Cameroons, on 1 June 1961, upon it's joining the Federation of Nigeria as a separate province of the Northern Region of Nigeria;
- (b) With respect to the Southern Cameroons, on 1 October 1961, upon it's joining the Republic of Cameroun.

17. In resolution 1626 (XVI) the General Assembly resolved, in agreement with the Administering Authority, that the Trusteeship Agreement for Western Samoa approved by the General Assembly on 13 December 1946, would cease to be in force upon the accession of Western Samoa to independence on 1 January 1962.

18. In resolution 1609 (XV) the General Assembly resolved, in agreement with the Administering Authority, that the Trusteeship Agreement for Tanganyika, approved by the General Assembly on 13 December 1946, would cease to be in force upon the accession of Tanganyika to independence on 28 December 1961. Subsequently, however, the General Assembly in resolution 1642 (XVI) took note of the advancement of the date of independence

for Tanganyika from 28 December 1961 to 9 December 1961 and resolved, in agreement with the Administering Authority, that the Trusteeship Agreement for Tanganyika would cease to be in force upon the accession of Tanganyika to independence on the new agreed date.

19. In resolution 1746 (XVI) the General Assembly decided, in agreement with the Administering Authority, to terminate the Trusteeship Agreement of 13 December 1946 in respect of Ruanda-Urundi on 1 July 1962, on which date Rwanda and Burundi would emerge as two independent and sovereign States.

20. Apart from the assistance provided by the Trusteeship Council by its submission to the General Assembly in its annual reports of information on the Trust Territories concerned and recommendations and conclusions on their advancement towards self-government or independence, the assistance of the Council was specifically sought by the Assembly in connection with the preliminary arrangements leading to the termination of certain of the Trusteeship Agreements.

21. Thus, in the case of Somaliland under Italian administration, the General Assembly, in resolution 1418 (XIV) by which, as already noted, it decided to terminate the Trusteeship Agreement, also expressed its confidence that the recommendations and observations of the Trusteeship Council concerning the broadening of the composition of the Political Committee and the Constituent Assembly, a popular confirmation of the constitution then under preparation through a referendum, and a modification of the existing electoral law would be implemented before the date on which the Trusteeship Agreement was terminated, and that the Administering Authority would furnish a report on the implementation of those recommendations to the Trusteeship Council at its twenty-sixth session.

22. The Administering Authority accordingly submitted such a report⁴ to the Council at its twenty-sixth session and by resolution 2015 (XXVI) the Council took note of the final steps by which the Administering Authority ensured an orderly transfer of the functions of government to the duly constituted, independent Government of Somalia, thus attaining the basic objectives of the International Trusteeship System.

23. In the case of Western Samoa, the General Assembly, having decided by resolution 1569 (XV) to appoint a United Nations Plebiscite Commissioner to supervise a plebiscite to ascertain the wishes of the inhabitants of Western Samoa concerning their future, requested the Commissioner to submit his report to the Trusteeship Council and requested the Council to transmit to the General Assembly at its sixteenth session the report of the Commissioner, together with any recommendations and observations it considered necessary.

24. The Council accordingly considered the report of the Plebiscite Commissioner and in resolution 2102 (XXVI) took note, with satisfaction, of the results of the plebiscite whereby the people of Western Samoa had, by an overwhelming majority, expressed their agreement with the Constitution for an independent Western Samoa and agreed, that, on 1 January 1962, the Trust Territory should become an independent State on the basis of that Constitution. The Council transmitted to the General Assembly, for consideration at its sixteenth session, the report of the Plebiscite Commissioner and the record of the Council's discussion with the recommendation that the Assembly, taking into account the wishes of the people of Western Samoa as expressed in the plebiscite, decide, in agreement with the Administering Authority, to terminate the Trusteeship Agreement for Western Samoa on 1 January 1962 when the Trust Territory would become independent.⁵

25. Similarly, in the case of the Cameroons under United Kingdom administration the General Assembly, having recommended by resolution 1350 (XII¹!), that separate plebiscites should be organized in the northern and southern parts of the Territory, requested the United Nations Plebiscite Commissioner to submit his reports on the plebiscites to the Trusteeship Council and requested the Council to transmit to it the reports, together with any recommendations and observations it considered necessary.

26. Subsequently, the Assembly by Resolution 1352 (XIV) made recommendations concerning the two questions that should be put at the plebiscite in the Southern Cameroons and the qualifications for voting in it.

27. The Plebiscite Commissioner transmitted a report to the Trusteeship Council at its tenth special session on the results of the plebiscite in the Northern Cameroons and the Council accordingly transmitted it to the Assembly⁶. At its fourteenth session, the Assembly recommended in resolution 1473 (XIV) that a further plebiscite be held in the Northern Cameroons and that the Administering Authority initiate without delay the separation of the administration of the Northern Cameroons from that of Nigeria. The Assembly further requested the Administering Authority to report on the process of separation to the Trusteeship Council and requested the Council to submit a report on the matter to the Assembly at its fifteenth session.

28. At its twenty-sixth session, the Council accordingly considered the future of the Territory and adopted a resolution transmitting the records of its discussion to the General Assembly. Under the resolution, the Council recommended, inter alia, that the Administering Authority ensure, in particular, the existence, until the completion of the plebiscites, of police forces wholly responsible to the authorities in the Territory; it expressed the hope that steps would be taken to extend the principle of universal adult suffrage and requested the Administering Authority to take appropriate steps to ensure that the people of the Territory would be fully informed, before the plebiscites, of the constitutional arrangements that would have to be made, at the appropriate time, to implement the decisions of the plebiscites.⁷

29. The United Nations Plebiscite Commissioner subsequently transmitted his report on the conduct of the two plebiscites to the Trusteeship Council and the Council at its eleventh special session, forwarded it under Resolution 2101 (S-II) to the General Assembly.

30. In connection with the termination of the Trusteeship Agreement for Ruanda-Urundi, by resolution 1419 (XIV) the General Assembly requested the Trusteeship Council to consider in detail the plans of political reforms envisaged for the Territory by the Administering Authority and to include its observations and recommendations on the plans in its report to the Assembly at its fifteenth session. The Assembly further requested the Council to dispatch its 1960 Visiting Mission to Trust Territories in East Africa early in 1960 so as to make it possible for the Mission to report to the Council, at its twenty-sixth session, on the conditions and causes of the recent disturbances in the Territory.

31. Accordingly, by resolution 2009 (XXV) the Council requested the 1960 Visiting Mission, inter alia, to take into account Assembly resolution 1419 (XIV) and to make a special investigation of the conditions and causes of the recent disturbances in Ruanda-Urundi.

32. The Council subsequently reported⁸ to the General Assembly, at its fifteenth session, on the plans for political reform and on the disturbances. In resolution 2018 (XXVI) after noting the progress made by the Trust Territory towards the objectives of the International Trusteeship System and the intention of the Administering Authority to hold elections in 1961 on the basis of universal adult suffrage under the super- vision of the United Nations, it recommended that the question of the future of Ruanda-Urundi be inscribed as a separate item in the provisional agenda of the fifteenth session of the General Assembly.

33. In connection with the termination of the Agreements, the Assembly, at its fourteenth session adopted a number of resolutions with a view to enabling the Trust Territories to function effectively after they emerged from trusteeship status and reached independence in particular resolution 1412 (XIV) on the preparation and training of indigenous civil cadres in the Trust Territories; resolution 1414 (XIV) on study of opportunities for international co-operation on behalf of the former Trust Territories which had become independent; resolution 1415 (XIV) concerning assistance to territories emerging from a trust status and to newly independent States and resolution 1417 (XIV) relating to assistance to Togoland under French administration.⁶

³ Contained in resolution 1253 (XIII).

⁴ T C (XXVI), Annexes, a.i. 15, T/1534.

⁵ G A (XVI), Suppl. No. 4, p. 19.

⁶ G A (XIV), Annexes, a.i. 41, A/4313; T C Resolution 2007 (S-10).

⁷ G A (XV), Suppl. No. 4, pp. 27 and 28.

⁸ G A (XV), Suppl. No. 4, p. 270.

⁹ For detailed treatment, see this *Supplement* under Article 76.