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STATUT INTERNATIONAL DU  
SUD-OUEST AFRICAIN



INTERNATIONAL STATUS OF  
SOUTH-WEST AFRICA

COUR INTERNATIONALE DE JUSTICE

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MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

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# STATUT INTERNATIONAL DU SUD-OUEST AFRICAIN

AVIS CONSULTATIF DU 11 JUILLET 1950



INTERNATIONAL COURT OF JUSTICE

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PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

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# INTERNATIONAL STATUS OF SOUTH-WEST AFRICA

ADVISORY OPINION OF JULY 11th, 1950



PREMIÈRE PARTIE

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REQUÊTE POUR AVIS CONSULTATIF  
ET PIÈCES DE LA PROCÉDURE ÉCRITE

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PART I

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REQUEST FOR ADVISORY OPINION  
AND DOCUMENTS OF THE WRITTEN  
PROCEEDINGS

SECTION A.—REQUEST  
FOR ADVISORY OPINION

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I.—LETTER FROM THE SECRETARY-GENERAL OF THE  
UNITED NATIONS TO THE PRESIDENT OF THE INTER-  
NATIONAL COURT OF JUSTICE, THE HAGUE

United Nations, Lake Success.

New York, 19 December 1949.

LEG 46/05 (5) HTL

Sir,

I have the honour to inform you that the General Assembly of the United Nations, by a resolution adopted at its 269th Plenary Meeting held on 6 December 1949, in connexion with the item of agenda "Question of South-West Africa", decided to submit the following questions to the International Court of Justice with a request for an advisory opinion :

"What is the international status of the Territory of South-West Africa and what are the international obligations of the Union of South Africa arising therefrom, in particular :

(a) Does the Union of South Africa continue to have international obligations under the Mandate for South-West Africa and, if so, what are those obligations ?

(b) Are the provisions of Chapter XII of the Charter applicable and, if so, in what manner, to the Territory of South-West Africa ?

(c) Has the Union of South Africa the competence to modify the international status of the Territory of South-West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the Territory ?"

In accordance with its terms, I am transmitting herewith the afore-mentioned resolution, in two copies, one in English and one in French, both duly certified. I shall also transmit to the Court all relevant documents referred to in the said resolution, as soon as possible.

I have, etc.

(Signed) TRYGVE LIE,  
Secretary-General.

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II.—RESOLUTION ADOPTED BY THE GENERAL  
ASSEMBLY OF THE UNITED NATIONS  
ON DECEMBER 6th, 1949

QUESTION OF SOUTH-WEST AFRICA: REQUEST FOR AN  
ADVISORY OPINION OF THE INTERNATIONAL COURT OF  
JUSTICE

*The General Assembly,*

*Recalling* its previous resolutions 65 (I) of 14 December 1946, 141 (II) of 1 November 1947 and 227 (III) of 26 November 1948 concerning the Territory of South-West Africa,

*Considering* that it is desirable that the General Assembly, for its further consideration of the question, should obtain an advisory opinion on its legal aspects,

1. *Decides* to submit the following questions to the International Court of Justice with a request for an advisory opinion which shall be transmitted to the General Assembly before its fifth regular session, if possible :

“What is the international status of the Territory of South-West Africa and what are the international obligations of the Union of South Africa arising therefrom, in particular :

(a) Does the Union of South Africa continue to have international obligations under the Mandate for South-West Africa and, if so, what are those obligations ?

(b) Are the provisions of Chapter XII of the Charter applicable and, if so, in what manner, to the Territory of South-West Africa ?

(c) Has the Union of South Africa the competence to modify the international status of the Territory of South-West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the Territory ?”

2. *Requests* the Secretary-General to transmit the present resolution to the International Court of Justice, in accordance with Article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question.

The Secretary-General shall include among these documents the text of Article 22 of the Covenant of the League of Nations ; the text of the Mandate for German South-West Africa, confirmed by the Council of the League on 17 December 1920 ; relevant documentation concerning the objectives and the functions of the Mandates System ; the text of the resolution adopted by the League of

Nations on the question of Mandates on 18 April 1946 ; the text of Articles 77 and 80 of the Charter and data on the discussion of these articles in the San Francisco Conference and the General Assembly ; the report of the Fourth Committee and the official records, including the annexes, of the consideration of the question of South-West Africa at the fourth session of the General Assembly.

*269th plenary meeting,  
6 December 1949.*

Certified true copy

For the Secretary-General,  
(Signed) Dr. IVAN KERNO,  
Assistant Secretary-General in charge  
of the Legal Department.

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## SECTION B.—DOCUMENTS TRANSMITTED

### 1. DOCUMENTS TRANSMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE SECRETARY-GENERAL IN ACCORDANCE WITH RESOLUTION 338 (IV) ADOPTED BY THE GENERAL ASSEMBLY ON 6 DECEMBER, 1949

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The Treaty of Peace between the Allied and Associated Powers and Germany, 28 June, 1919—Part IV—German rights and interests outside Germany (excerpt)—Articles 118-127.

The Treaty of Peace between the Allied and Associated Powers and Germany, 28 June, 1919—Part I—The Covenant of the League of Nations (excerpt)—Article 22.

League of Nations—The records of the First Assembly—Meetings of the Committees (II)—Minutes of the Sixth Committee—Allocation of mandates (Annex 17 *b* ; Appendix 2).

Terms of League of Nations Mandates—Mandate for German South-West Africa.

Document republished by the United Nations [A/70].

League of Nations—Treaty Series—Publication of treaties and international engagements registered with the Secretariat of the League of Nations—No. 310.—Treaty concerning the re-establishment of peace between Germany and the United States of America, signed at Berlin, 25 August, 1921 (excerpt). [Volume XII, 1922, Numbers 1, 2, 3 and 4.]

Constitution of a Permanent Mandates Commission approved by the Council on 1 December, 1920.

*See below : League of Nations—Responsibilities of the League arising out of Article 22 (Man-*

*dates*)—*Report by the Council to the Assembly*  
—*Annex 14.*

League of Nations—Official Journal—Minutes of the sixteenth session of the Council—Second meeting (excerpt)—531. Allowances to members of the Permanent Mandates Commission. [3rd Year, No. 2—February, 1922.]

League of Nations—Official Journal—Minutes of the forty-sixth session of the Council—Fourth meeting (excerpt)—Question of the appointment of an additional member on the Permanent Mandates Commission. [8th Year, No. 10—October, 1927.]

League of Nations—Permanent Mandates Commission—Rules of procedure submitted for the approval of the Council of the League of Nations. [C. 404. M.295. 1921. VI.]

Rules of procedure of the Permanent Mandates Commission.

*See above League of Nations—Official Journal—Minutes of the sixteenth session of the Council—Second meeting (excerpt)—Paragraph 535. [3rd Year, No. 2—February, 1922.]*

League of Nations—Permanent Mandates Commission—Rules of procedure. [C.404(2). M. 295(2). 1921. VI.]

Obligations falling upon the League of Nations under the terms of Article 22 of the Covenant (Mandates). (Report presented by the Belgian Representative, M. Hymans, and adopted by the Council of the League of Nations at San Sebastian on 5 August, 1920.)

*See below League of Nations—Responsibilities of the League arising out of Article 22 (Mandates)—Report by the Council to the Assembly—Annex 4.*

League of Nations—Responsibilities of the League arising out of Article 22 (Mandates)—Report by the Council to the Assembly [20/48/161].

League of Nations—Official Journal—4th Year, No. 3, March, 1923—Twenty-third session of the Council—Procedure in respect of petitions regarding inhabitants of mandated territories (Annex 457). [C 44(1). M.73. 1923. VI.]

League of Nations—Permanent Mandates Commission—Minutes of the twelfth session (including the Report of the Commission to the Council)—Annex 4: Summary of the procedure to be followed in the matter of petitions concerning mandated territories. [C.545. M.194. 1927. VI.]

League of Nations—"C" Mandates—Questionnaire intended to facilitate the preparation of the annual reports of the mandatory Powers. [C.397. M.299. 1921. VI.]

League of Nations—B and C Mandates—List of questions which the Permanent Mandates Commission desires should be dealt with in the annual reports of the mandatory Powers. [A. 14. 1926. VI.]

The Mandates System: Origin, Principles, Application.  
*See Series of League of Nations Publications, Geneva, April 1945. [VI. A. Mandates, 1945, VI. A. I.]*

League of Nations—Official Journal—Special Supplement No. 194—Records of the twentieth (conclusion) and twenty-first ordinary sessions of the Assembly:

Second plenary meeting (excerpt)—Speech by Mr. Leif Egeland (Union of South Africa).

Fourth plenary meeting (excerpt)—Speech by Professor Bailey (Australia).

Seventh plenary meeting (excerpt).

Minutes of the First Committee (General Questions)—Third meeting (excerpt): 10. Assumption by the United Nations of certain functions, powers and activities of the League (continued): Mandates System.

Annex 24 C.—Mandates [resolution].

## II. CHARTER OF THE UNITED NATIONS

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Meeting of the heads of delegations to organize the Conference, 26 April, 1945 [29, DC/4] (excerpt)<sup>1</sup>.

*Plenary sessions of the Conference**Records of proceedings*

Verbatim minutes of the second plenary session, 27 April, 1945, speech by Mr. Forde (Australia) [20, P/6]

See Volume 1\*,  
pp. 177 and 178.

Addendum to verbatim minutes of the fifth plenary session, 30 April, 1945 [42, P/10 (a)]

See Volume 1,  
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Verbatim minutes of the seventh plenary session, 1 May, 1945 [58, P/15], speech by Mr. Fraser (New Zealand)

See Volume 1,  
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*Commission II—General Assembly**Records of proceedings*

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Terms of reference for Commission II, Statement by the President, 3 May, 1945 [74, II/2]

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*Committee II/4—Trusteeship System**Records of proceedings*

Summary report of 1st meeting, 5 May, 1945 [113, II/4/2]

See Volume 10,  
pp. 423 and 424.

<sup>1</sup> Reproduced on page 37 of this volume. [Note by the Registrar.]

\* All references in this column are to volumes of the *Documents of the United Nations Conference on International Organization, San Francisco, 1945*, United Nations Information Organizations, New York.

- Summary report of 2nd meeting, 10 May, 1945  
[241, II/4/7] See Volume 10,  
pp. 428 and 429.
- Summary report of 3rd meeting, 11 May, 1945  
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- Summary report of 4th meeting, 14 May, 1945  
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- Summary report of 6th meeting, 17 May, 1945  
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- Corrigenda to the summary report of the  
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- Summary report of 7th meeting, 18 May, 1945  
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*Documents*

- Opinion of the Department of Foreign Relations of Mexico [2, G/7 (c)] See Volume 3, pp. 139 to 142, 145 to 148 and 162.
- Observations of the Government of Venezuela [2, G/7 (d) (l)] See Volume 3, pp. 222 and 223.
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- Amendment submitted on behalf of Australia [2, G/14 (l)] See Volume 3, pp. 548 and 549.
- International Trusteeship System, French preliminary draft [2, G/26 (a)] See Volume 3, pp. 604 to 606.
- Arrangements for international trusteeship, additional chapter proposed by the United States [2, G/26 (c)] See Volume 3, pp. 607 and 608.
- Territorial trusteeship, United Kingdom draft of chapter for inclusion in United Nations Charter [2, G/26 (d)] See Volume 3, pp. 609 to 614.
- Draft proposals of the Chinese delegation on international territorial trusteeship [2, G/26 (e)] See Volume 3, pp. 615 to 617.
- Analysis of papers presented by Australia, China, France, United Kingdom and United States [230, II/4/5] See Volume 10, pp. 641 to 655.
- Amendments of the Soviet delegation to the United States draft on trusteeship system [2, G/26 (f)] See Volume 3, pp. 618 and 619.
- Supplement to analysis of papers presented by Australia, China, France, United Kingdom and United States—Analysis of proposal on trusteeship of the Soviet Union entitled "Amendments of the Soviet delegation to the United States draft on trusteeship system" [324, II/4/5 (a)] See Volume 10, pp. 671 to 673.

- Proposed working paper for chapter on dependent territories and arrangements for international trusteeship [323, II/4/12] See Volume 10, pp. 677 to 683.
- Proposed new part (c) to be added to working paper submitted by the delegation of Australia [575, II/4/12 (a)] See Volume 10, pp. 695 and 696.
- Amendment proposed by the delegation of Guatemala, 14 May, 1945 [386, II/4/15] See Volume 10, p. 463.
- Revised amendment proposed by the delegation of Guatemala, 16 May, 1945 [405, II/4/15 (f)] See Volume 10, p. 465.
- Additional provisions to be included in the chapter on trusteeship submitted by the delegation of Egypt [871, II/4/34] See Volume 10, p. 510.
- Working paper for chapter on dependent territories and arrangements for international trusteeship [892, II/4/36] See Volume 10, pp. 525 to 528.
- Proposed text for chapter on dependent territories and arrangements for international trusteeship [912, II/4/37] See Volume 10, pp. 533 to 536.
- Text of section B of chapter on dependent territories and arrangements for international trusteeship [1010, II/4/37 (f)] See Volume 10, pp. 555 to 558.
- Redraft of working paper, Section A [WD. 390, II/4/42] See Volume 10, pp. 570 and 571.
- Draft report of the rapporteur of Committee II/4 [1091, II/4/44] See Volume 10, pp. 574 to 580.
- Annex A to report of rapporteur of Committee II/4 See Volume 10, pp. 581 to 585.
- Annex B to report of rapporteur of Committee II/4 See Volume 10, p. 586.
- Report of the rapporteur of Committee II/4 [1115, II/4/44 (1) (a)] See Volume 10, pp. 607 to 613.





- Speech by the rapporteur of the Steering Committee  
Speech by Lord Halifax pp. 628 and 629, p. 631.
- Verbatim minutes of the closing plenary session, 26 June, 1945 [1209, P/19]:  
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- Revised report of the rapporteur of Commission II to the plenary session [1180, II/18 (1)] See Volume 8, pp. 265 to 272.
- Charter of the United Nations and Statute of the International Court of Justice See Volume 15, pp. 335 to 364.

## IV. RECORDS OF THE GENERAL ASSEMBLY, FIRST PART OF THE FIRST SESSION

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**Folder 6***Fourth Committee**Records of proceedings and documents*

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Resolutions adopted on the report of the Fourth Committee—9 (1). Non-Self-Governing Peoples.

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- Delegation of India: draft resolution relating to South-West Africa (Annex 13 c) A/C.4/65.
- Communications received by the Secretariat relating to territories to which the trusteeship system might apply in accordance with Article 77 of the Charter—Memorandum prepared by the Secretariat  
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- Statement by the delegation of the Union of South Africa regarding documents A/C.4/95 and A/C.4/96—Annex 3 *g* A/C.4/118.
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Consideration of proposed new trusteeship agreements: question of South-West Africa—Communication from the Government of the Union of South Africa on "steps taken by the Union Government to inform the population of South-West Africa of the outcome of the discussions at the last session of the United Nations General Assembly regarding the future of the Territory" (General Assembly Resolutions 9 (I) of 9 February, 1946, and 65 (I) of 14 December, 1946)—Note by the Secretary-General

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- Reply of the Government of the Union of South Africa to the Trusteeship Council questionnaire on the report to the United Nations on the administration of South-West Africa for the year 1946 T/175.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 1.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 2.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 3.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 4.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 5.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 6.
- Communications received by the Secretary-General under rule 24 of the rules of procedure for the Trusteeship Council T/181/Add. 7.
- Report of the Drafting Committee on the report on the administration of the Trust Territory of South-West Africa for 1946 T/209.

Report of the Trusteeship Council covering its second and third sessions—Chapter VII—South-West Africa—Report on the administration of South-West Africa for 1946 A/603.

IX. RECORDS OF THE GENERAL ASSEMBLY, FIRST PART OF THE THIRD SESSION

**Folder 30**

*Inclusion of item in the agenda*

*Documents*

Agenda of the General Assembly, Third Session.

Distribution of work among the Committees.

**Folder 31**

*Fourth Committee*

*Records of proceedings*

76th meeting.

77th meeting.

78th meeting.

79th meeting.

80th meeting.

81st meeting.

82nd meeting.

83rd meeting.

84th meeting.

85th meeting.

**Folder 32**

*Fourth Committee*

*Documents*

Report of the Fourth Committee A/734.

Denmark, Norway and Uruguay : draft resolution  
See A/734, pp. 405 and 406. A/C.4/163/Corr. I.

Denmark, Norway and Uruguay : revised draft resolution  
See A/734, pp. 407 and 411. A/C.4/163/Rev. I.

- India : draft resolution  
*See A/734, pp. 407 and 408.* A/C.4/164.
- Greece : amendment to the draft resolution of Denmark, Norway and Uruguay (A/C.4/163)  
*See A/734, pp. 406 and 407.* A/C.4/165.
- Cuba : amendment to the draft resolution submitted by Denmark, Norway and Uruguay (A/C.4/163)  
*See A/734, pp. 408 and 409.* A/C.4/166.
- India : sub-amendment to the amendment of Cuba (A/C.4/166) to the draft resolution of Denmark, Norway and Uruguay (A/C.4/163/Rev. 1)  
*See Folder 31, 82nd meeting, pp. 358 and 359.* A/C.4/167.
- India : sub-amendment to the amendment of Cuba (A/C.4/166) to the draft resolution of Denmark, Norway and Uruguay (A/C.4/163/Rev. 1)  
*See A/734, pp. 408 and 410.* A/C.4/167/Rev. 1.
- Burma and Philippines : amendment to the revised draft resolution of Denmark, Norway and Uruguay (A/C.4/163/Rev. 1)  
*See Folder 31, 83rd meeting, p. 371.* A/C.4/168.
- Belgium : amendment to the draft resolution of Denmark, Norway and Uruguay (A/C.4/163/Rev. 1)  
*See Folder 31, 82nd meeting, p. 362.* A/C.4/169.
- India : amendment to the revised draft resolution of Denmark, Norway and Uruguay (A/C.4/163/Rev. 1)  
*See Folder 31, 84th meeting, p. 373.* A/C.4/170.
- Report of the Government of the Union of South Africa on the administration of South-West Africa : report of the Trusteeship Council—Letter dated 19 November, 1948, from the Delegation of the Union of South Africa to the Chairman of the Fourth Committee A/C.4/171.
- Draft report of the Fourth Committee  
*Same text as A/734.* A/C.4/172.
- [*Note—See Folder 29 for :*  
*Report of the Trusteeship Council covering its second and third sessions—Chapter VII—South-West Africa—Report on the administration of South-West Africa for 1946* A/603.]

**Folder 33***Plenary meetings of the General Assembly  
Records of proceedings and documents*

164th plenary meeting—Report of the Government of the Union of South Africa on the administration of South-West Africa. Report of the Trusteeship Council: report of the Fourth Committee.

[*Note—See Folder 29 for :*

*Report of the Trusteeship Council covering its second and third sessions—Chapter VII—South-West Africa—Report on the administration of South-West Africa for 1946* A/603.

*See Folder 32 for :*

*Report of the Fourth Committee* A/734.]

**Folder 34***Plenary meetings of the General Assembly  
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227 (III). Question of South-West Africa.

**X. RECORDS OF THE TRUSTEESHIP COUNCIL, FIFTH SESSION****Folder 35***Meetings of the Trusteeship Council  
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1st meeting.  
25th meeting.  
27th meeting.

**Folder 36***Trusteeship Council  
Documents*

Question of South-West Africa—Note by the Secretary-General T/371.  
Question of South-West Africa: draft resolution submitted by the Philippines T/383.

[*Note—See Folder 42 for :*

*Letter from Mr. J. R. Jordaan, deputy permanent representative of the Union of South Africa to the United Nations, addressed to the Secretary-General*

A/929.]

### Folder 37

#### *South-West Africa Constitution Act*

Letter from Mr. J. R. Jordaan, deputy permanent representative of the Union of South Africa to the United Nations, addressed to the Secretary-General

A/929.

South-West Africa Constitution Act, 1925—  
The Laws of South-West Africa, 1925 : Proclamations and principal Government notices issued in South-West Africa, 1st January to 31st December, 1925 (excerpt).

### Folder 38

#### *Trusteeship Council*

##### *Resolution*

III (V). Question of South-West Africa.

## XI. RECORDS OF THE GENERAL ASSEMBLY, FOURTH SESSION

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#### *Inclusion of item in the agenda*

##### *Document*

Agenda of the General Assembly—Fourth Session

A/994, A/994/Add. 1  
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Distribution of work among the Committees.

### Folder 40

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128th meeting.  
129th meeting.  
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- India : draft resolution A/C.4/L.53.  
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- Denmark, Norway, Syria and Thailand : draft resolution A/C.4/L.54.  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council—Report of the Fourth Committee—Paragraph 34 (i) (A/1180).*
- India : draft resolution A/C.4/L.55.  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council—Report of the Fourth Committee—Paragraph 34 (ii) (A/1180).*
- Guatemala : proposal A/C.4/L.56.
- Guatemala : revised proposal A/C.4/L.56/Rev. I.  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council—Report of the Fourth Committee—Paragraph 7 (A/1180).*
- Dominican Republic : amendment to the proposal submitted by Guatemala (A/C.4/L.56) A/C.4/L.58.  
*See Folder 40, 132nd meeting, paragraph 2.*
- Union of Soviet Socialist Republics : amendment to the draft resolution submitted by India (A/C.4/L.53) A/C.4/L.61.  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council*

—*Report of the Fourth Committee—Paragraph 32 (A/1180).*

- Guatemala : amendment to the draft resolution submitted by India (A/C.4/L.53)  
*See Folder 40, 136th meeting, paragraphs 48 and 49.* A/C.4/L.63.
- Denmark, India, Norway, Syria and Thailand : draft resolution  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council—Report of the Fourth Committee—Paragraph 35 (A/1180).* A/C.4/L.64.
- Communications received by the Secretary-General A/C.4/L.57 and A/C.4/L.57/Corr. 1.
- Resolution adopted by the Fourth Committee at its 134th meeting, on 23 November, 1949  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council—Report of the Fourth Committee—Paragraph 10 (A/1180).* A/C.4/L.60.
- Report of Sub-Committee 7 to the Fourth Committee A/C.4/L.62.
- Question of South-West Africa : report of the Trusteeship Council—Draft report of the Fourth Committee  
*See Folder 42—Question of South-West Africa : report of the Trusteeship Council—Report of the Fourth Committee—(A/1180).* A/C.4/L.65.
- Documents submitted by the Reverend Michael Scott A/C.4/L.66.

#### Folder 42

*Plenary meetings of the General Assembly*

*Records of proceedings and documents*

269th plenary meeting.

- Letter from Mr. J. R. Jordaan, deputy permanent representative of the Union of South Africa to the United Nations, addressed to the Secretary-General A/929.



- Report of the Trusteeship Council covering its fourth and fifth sessions—3. Question of South-West Africa A/933.
- Note by the Secretary-General A/962.
- Question of South-West Africa: report of the Trusteeship Council—Report of the Fourth Committee A/1180.
- Question of South-West Africa—Argentina, Belgium, Brazil, Canada, China, Denmark, Dominican Republic, Guatemala, Iraq, Lebanon, Mexico, Norway, Syria, Thailand, Turkey, United States of America, Uruguay: amendment to draft resolution II proposed by the Fourth Committee (A/1180) A/1197.
- See 269th plenary meeting, paragraph 53.*

### Folder 43

#### *Plenary meetings of the General Assembly*

##### *Resolutions*

Resolutions adopted on the reports of the Fourth Committee—337 (IV). Question of South-West Africa: reiteration of previous resolutions and submission of reports. 338 (IV). Question of South-West Africa: request for an advisory opinion of the International Court of Justice.

## 2. DOCUMENTS SUBMITTED TO THE COURT BY THE SECRETARY-GENERAL OF THE UNITED NATIONS AT THE REQUEST OF THE COURT

### XXVIII

#### *Non-self-governing territories*

Summary of information transmitted to the Secretary-General during 1946.

United Nations Publications, Sales No. 1947 VIB 1.

#### *Fourth Session*

Special Committee on information transmitted under Article 73(e) of the Charter.

Non-self-governing territories.

Date of receipt of information on territories enumerated. Item IV of the Provisional Agenda

A/AC.28.W.6

*Fourth Session*

Information from non-self-governing territories. Summary and analysis of information transmitted under Article 73 (e) of the Charter

A/915.

Report of the Secretary-General.

*Fourth Session*

Information from non-self-governing territories.

Summary and analysis of information transmitted under Article 73 (e) of the Charter

A/915 Addendum 1.

Report of the Secretary-General.

**(Question of South-West Africa—  
Documents transmitted by the  
Secretary-General [Folder 3])**

UNITED NATIONS CONFERENCE ON INTERNATIONAL  
ORGANIZATION

(Excerpt)

Doc. 29.  
DC/4.

MEETING OF THE HEADS OF DELEGATIONS  
TO ORGANIZE THE CONFERENCE, 26 APRIL, 1945

*C. Trusteeship*

Mr. FRASER (New Zealand) and Mr. FORDE (Australia) drew the attention of the Committee to the functions of Technical Committee 4 of Commission II as described in the Secretariat document which reads:

"To prepare and recommend to Commission II, and to Commission III, as necessary, draft provisions on principles and mechanism of a system of international trusteeship for such dependent territories as may by subsequent agreement be placed thereunder."

They pointed out that the last words of this sentence might be taken to restrict the scope of the discussion on trusteeship in the Conference. The temporary Chairman stated that there would be no such restriction.

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The Committee gave the chapters a critical first reading in which certain language questions were noted. These points were gone over with Prime Minister Fraser of New Zealand, Chairman of Committee II/4, who joined the meeting after the evening meeting of Commission II had approved the work of Committee II/4. Messrs. Van der Plas (Netherlands), Poynton (United Kingdom) and Gerig (United States), in addition to the Secretary of Committee II/4, Mr. Chase, were in attendance.

The two examinations of the text are here reported together.

## CHAPTER XII

The placement of the "declaration concerning non-self-governing territories", which was Section A of the text of Committee II/4 and was assigned as Chapter XII, was reviewed with Mr. Fraser. The Chairman said that a "declaration" in the middle of the Charter as a separate chapter bothered him, but he saw no objection to a "declaration" being a section in a chapter. He suggested combining it with Chapter XII (A), on the trusteeship system and calling it "provisions with respect to non-self-governing territories". Mr. Fraser thought the question was one of drafting, but Committee II/4 in dividing its text into Sections A and B laid stress upon the line of demarcation between the voluntary nature of Section A (Chapter XII) and the contractual nature of the trusteeship system. The difference was distinctive and wide. The Committee decided not to try to combine its two chapters, and reconsidered the title of Chapter XII.

*The Committee tentatively entitled Chapter XII "Policy regarding non-self-governing territories".*

### *Article 73*

The article was accepted as a unilateral declaration of Member States, each for itself, which stated the principles they recognized in carrying responsibilities which they had or might have. It was pointed out by Mr. Van der Plas that the declaration applied to all non-self-governing territories, to those of colonial status on a voluntary basis and to those of the trust status, among the obligations assumed for them, on a contractual basis.

The Committee called Mr. Fraser's attention to the phrase "which have responsibilities", which it believed applied to future acquisition of responsibility. On Mr. Bailey's suggestion "have or assume" was considered.

The word "yet" was held to apply to any degree of self-government short of a "full measure", up to which the responsibility of the Member exists. Mr. Fraser said it held out anticipation and hope to developing peoples.

Mr. Fraser accepted as better drafting a recasting of the last part of the main paragraph in order to bring out the limitation of the obligation assumed by the Charter.

*The Committee amended the first clause to "which have or assume responsibilities".*

*The Committee replaced "other members of the world community" with "the rest of the world".*

## CHAPTER XII (A)

*Article 75*

In the Committee's discussion of terms the opinion developed that in the phrase "international system of trusteeship" the adjective properly modified "trusteeship" and in this connexion it was noted that elsewhere in the text simply "trusteeship system" should be used. Mr. Fouques-Duparc observed that search was being continued for a French word other than "*tutelle*" as the equivalent of "trusteeship".

*The Committee adopted international "trusteeship system" as a standard phrase.*

The deletion of the clause "and set up suitable machinery for these purposes" was suggested by the Chairman to be unnecessary since the next chapter established that machinery. Mr. Fraser approved the Committee's view, saying that the clause was due to transitional phrasing. It was deemed clearer to make the "hereafter" clause a separate sentence. Mr. Fraser also approved this drafting.

*The Committee recast Article 75 to read :*

"The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereafter referred to as trust territories."

*Article 76*

The exact significance of the language in subparagraph *b* and possible changes of its order or breaking it up by subdivision were discussed. In view of the extensive negotiations from which the language originated, no changes were made.

*In the French text of subparagraph b "administrative" was deleted after "autonomie" (self-government).*

It was noted that the omission of "health" was due to its implied coverage in the word "social".

*In subparagraph c the reading was amended to "and to encourage recognition".*

The Chairman noted that here was the first use of "interdependence" in the Charter.

The final clause of subparagraph *d* was discussed and its references examined. The idea of attainment was shifted to that of objectives. After Mr. Fraser approved the redrafting the Committee decided it referred to subparagraph *c*, as well as to *a* and *b*.

*The Committee adopted as the final clause of subparagraph d "without prejudice to the foregoing objectives and subject to the provisions of Article 80".*

The Committee discussed at some length the clause "alter in any manner the rights whatsoever, of any States or any peoples". The Committee eliminated the comma. Messrs. Golunsky and Robertson insisted the text had been laboriously negotiated. The Chairman proposed to read "in any manner whatsoever", but Mr. Robertson was confirmed by Mr. Gerig in saying that the intention of Committee II/4 was "to freeze the present position, *bona fide* rights, doubtful rights, rights that are pure figments" after the Charter just as they were before it. No change was made.

Mr. Jebb commented on the rendering of "in or of itself" by "*directement ou indirectement*" in the French.

#### Article 81

Mr. Robertson suggested beginning with "each trusteeship agreement shall include" instead of using the phrase "in each case". There was debate on the meaning of "each case", whether it signified a single agreement for each territory so as to cover several cases or a multi-lateral agreement. On Mr. Golunsky's suggestion that "in each case" really meant "for each territory", the Committee accepted the phrase but changed its position.

*The Committee adopted the order "shall in each case include".*

*The term "trust territory" was standardized in the article.*

A "State" or "Member" as an administering authority was considered. Mr. Gerig said that Committee II/4 in its report to Commission II (Doc. 1115; II/4/44 (1) (a)) explained that cessation of membership did not prevent exercise of the position of administering authority. The Committee concluded that "State" was used in the technical sense it had adopted.

*In paragraph 2 the Committee read "any special agreement or agreements".*

*In paragraph 2 the word "also" was deleted.*

#### Article 81 (X)

*The Committee decided to make Article 80, paragraph 2, a separate Article 81 (X).*

#### Article 82

In discussing paragraph 2 Mr. Jebb pointed out that the basic objectives were set forth and not provided for in Article 76 and questioned how subparagraphs *a* and *d* could all be applicable to the people. Mr. Bailey suggested they were applicable to the administration of an area, and the Chairman proposed "shall apply in each strategic area". Mr. Gerig called attention to the fact that "apply" is broader than "applicable". With Mr. Fraser these points were gone over in detail, including a reading of Article 76. Mr. Fraser emphasized that Committee II/4 wishes to ensure application of the objectives, so far as they could be applied, to the people of the strategic areas. Mr. Poynton said the application in a strategic area of Article 76, subparagraph *d*, was a matter of policy, not of drafting. Mr. Fraser agreed to the Committee's revision with the understanding that

the Security Council", since the Assembly's functions are clearly stated in Article 84.

*The Committee approved the elimination of Article 85, and the addition of the following paragraph 2 to Article 84:*

"2. The Trusteeship Council, under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions."

*Article 86*

Mr. Golunsky raised a question about the eligibility for redesignation of the "specially qualified representatives", pointing out that the members of other bodies were States, but these were persons and experts. Mr. Bailey said this case was different, since it was hoped that experts would be chosen for the Council, and that they might be re-eligible.

The Chairman said that he thought the word "States" should be replaced by "Members"; this was changed to "Members of the United Nations" on the suggestion of Mr. Golunsky, who said that the word might otherwise mean members of the Trusteeship Council. The Chairman remarked to Mr. Fraser that the Committee was not using the term "States Members".

Mr. Robertson suggested the addition in *b* of the word "permanent", but it was pointed out that there had been considerable debate in Committee II/4 on this point; the permanent members of the Security Council were not mentioned here, because they were not members of the Trusteeship Council by virtue of their membership in the Security Council, but because of their world-wide interests. Mr. Robertson suggested using a "such .... as" construction.

In recasting *c* Mr. Fraser suggested "so that" instead of "in order to". It was brought out that only Members of the United Nations would be eligible for election to the Trusteeship Council, which would be by a two-thirds vote of the General Assembly present and voting. The language of the clause was recast in the course of the discussion.

*The Committee adopted the following Article 86:*

"The Trusteeship Council shall consist of specially qualified representatives designated as follows: (a) one each by the Members of the United Nations administering trust territories; (b) one each by such of the Members mentioned by name in Article 23 as are not administering trust territories; and (c) one each by as many other Members of the United Nations elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of representatives is equally divided between administering and non-administering Members of the United Nations."

*Article 87*

Mr. Golunsky noted that this text differed from that of Committee II/4 (Doc. WD 374, CO/154, June 18, 1945) in which the General Assembly, rather than the Trusteeship Council, possessed the functions in question and the latter carried out functions "under the authority of the Assembly". Mr. Fraser indicated that that was what Committee II/4



*Article 90*

Mr. Jebb stated that the words at the end of the article following "agencies" should be stricken out ; they were no longer needed as a result of the decision to define "specialized agencies" in Chapter IX. He also proposed a rearrangement of the sentence.

*The Committee accepted the following text of Article 90 :*

"The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned."

(The Committee here returned to Chapter XII (Doc. 411, CO/171, June 20, 1945) and Chapter XII (A) (Doc. WD 412, CO/172, June 20, 1945) and conferred with Mr. Fraser on the textual changes previously discussed by the Co-ordination Committee.)

It was felt that it could not be changed since it was the exact wording of the Committee II/4, though it literally meant that the institutions must already be free if they were to be progressively developed.

Discussion showed a consensus that "to further international peace and security" implied contributing to their maintenance, and that introducing the full standardized phrase would here be limitative. Furtherance of the cause was broader than maintaining a condition. A desire to restate the point was given up after a discussion of the importance which Committee II/4 attached to the exact wording to which it had agreed.

*The Committee in subparagraph d restored Committee II/4's "when and where appropriate with specialized international bodies" and deleted "with appropriate specialized international bodies".*

*The Committee in subparagraph d adopted "this article" as the proper reading for "this paragraph".*

Mr. Bailey questioned the accuracy and neatness of the reference defining the exception at the end of subparagraph *e*. The exact definition was in Article (77) 75, but the Committee thought it better to refer to chapters, since the reference of Committee II/4 was to its Section B.

*The Committee at the end of subparagraph e read: "those territories to which Chapters XII and XIII apply".*

#### *Article (76) 74*

The Committee debated at length its substitution of "the rest of the world" for "other members of the world community". Messrs. Gerig and Poynton expressed their understanding that Committee II/4 meant "world community" to include non-members as well as Members, but to exclude enemy States for the present. The Chairman and Mr. Jebb said "world community" was not the same as the Organization, and Mr. Golunsky said in using that phrase one must think of the interests of each, whereas one thought of "the rest of the world" as a whole. Mr. Poynton said the original phrase was directed at meeting the criticism that a colonial policy of one State might lead to international friction. After examining "other nations" and similar phrases, the Committee retained "the rest of the world".

## CHAPTER XII

Mr. Bailey called the Committee's attention to the existence of Doc. 1044; II/4/37 (2) which was a revision of Section B of Committee II/4's decisions (the present Chapters XII and XIII), only an earlier edition of which was in the hands of the Committee as Doc. WD 374, CO/154. References to the new text were made in the ensuing discussions.

#### *Article (77) 75*

*The Committee read "hereinafter" in the second sentence.*

#### *Article (79) 77*

*At the request of Committee II/4 "as to which" was put back into paragraph 2.*

of Committee II/4, was before the Committee, after preliminary examination and revision, in the following form :

"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*."

A question of style was resolved by concluding that Members were represented in rather than on a council.

*The Committee adopted the redrafted text.*

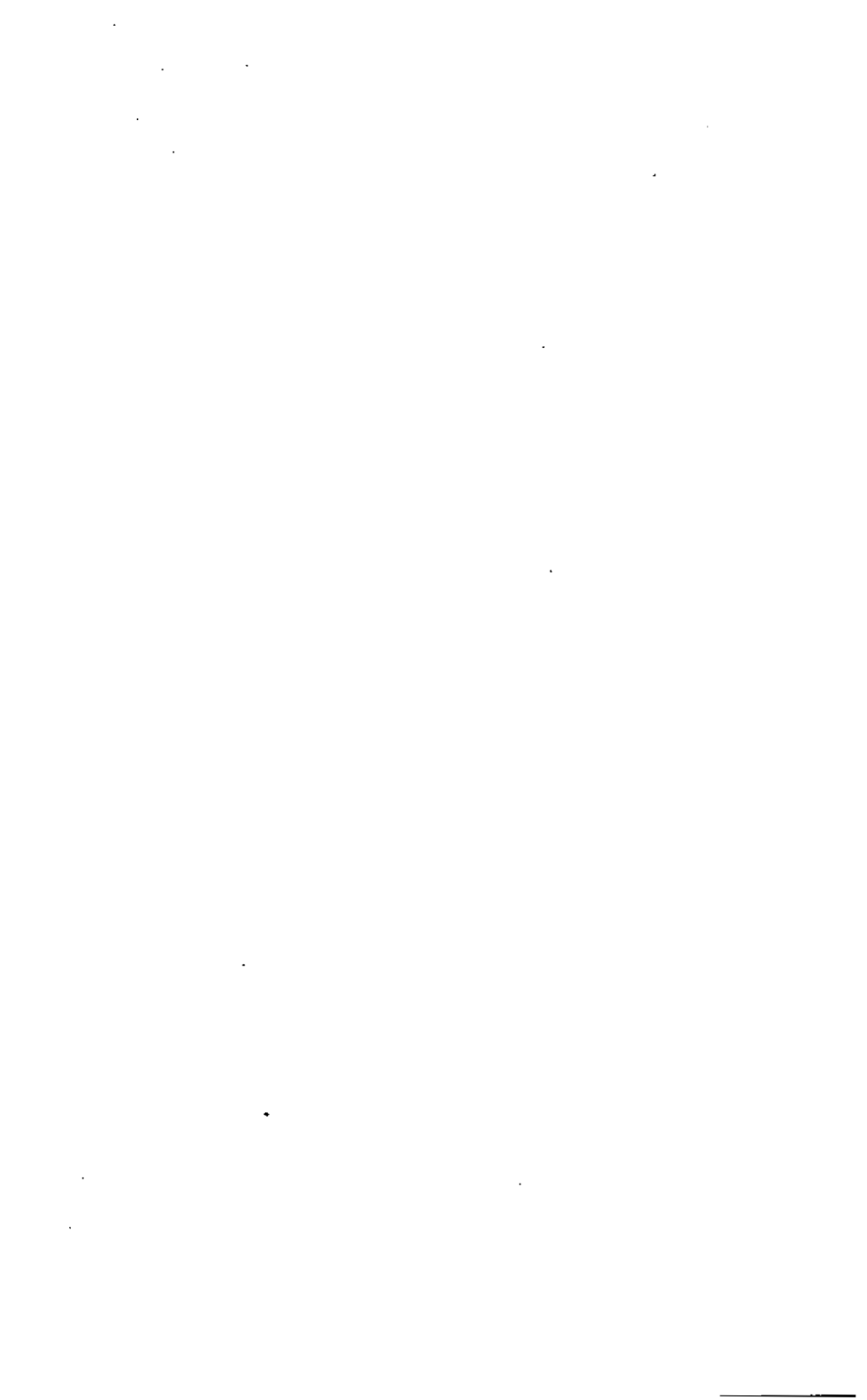
*Article (89) 87*

The extent of authority inherent in the General Assembly and assigned to the Trusteeship Council and the relationship between their joint functions was discussed at some length in defining the source of authority for the specific functions set forth in this article. The discussion was related to the assignments described in Article (87) 85. It had been agreed not to put the material in Chapter IV, General Assembly. It was now proposed to add it to Article (87) 85 as paragraph 3 beginning it "in particular". Consideration of emphasizing the position of the General Assembly led to a review of previous debates and proposals to begin all three paragraphs of Article (87) 85 with "The General Assembly and the Trusteeship Council", "The General Assembly and under its authority the Trusteeship Council", or "The Trusteeship Council shall assist the General Assembly". The project of combining this article with the general article led only to the change recorded above in Article (87) 85, paragraph 2. At one time in the course of the discussion it was thought possible to make two paragraphs of Article (89) 87, the first ascribing functions to the Trusteeship Council and the second saying that "the General Assembly may itself exercise all these functions and powers". The Committee reached this decision, but upon the Secretary's reading it on the review of the changes in the galley, the debate was resumed. The Chairman pointed out that Committee II/4 intended to grant joint powers. The Committee went back to the original language of Committee II/4.

*The Committee gave up the attempt to combine Article (89) 87 with Article (87) 85.*

*The Committee reverted to "The General Assembly, and under its authority the Trusteeship Council, in carrying out its functions" in lieu of its former text.*

*In subparagraph d the Committee read "the terms of the trusteeship agreements".*



UNITED NATIONS CONFERENCE ON INTERNATIONAL  
ORGANIZATION

CO-ORDINATION COMMITTEE

CO/174.

TRUSTEESHIP CHAPTER, SECTION A

A. DECLARATION

*(Final text adopted by Committee II/4, 20 June, 1945)*

1. States Members of the United Nations which have responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost the well-being of the inhabitants of such territories within the system of international peace and security, and to this end :

- (a) to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment and their protection against abuses;
- (b) to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples, and their varying stages of advancement;
- (c) to further international peace and security;
- (d) to promote constructive measures of development, to encourage research, and to co-operate with one another, and when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this paragraph; and
- (e) to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Section B of this chapter applies.

2. States Members also agree that their policy in respect of such territories, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of other members of the world community, in social, economic, and commercial matters.

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UNITED NATIONS CONFERENCE ON INTERNATIONAL  
ORGANIZATION

CO-ORDINATION COMMITTEE

CO/154.

TRUSTEESHIP CHAPTER, SECTION B

B. INTERNATIONAL TRUSTEESHIP SYSTEM

*(Final text adopted by Committee II/4, 15 June, 1945)*

1. The United Nations shall establish under its authority an international system of trusteeship for the administration and supervision of such territories, hereafter called trust territories, as may be placed thereunder by subsequent individual agreements and set up suitable machinery for these purposes.

2. The basic objectives of the trusteeship system, in accordance with the purposes of the United Nations laid down in Chapter I of the Charter, shall be :

- (a) to further international peace and security ;
- (b) to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development toward self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement ;
- (c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, language, religion, or sex, and recognition of the interdependence of the peoples of the world ; and
- (d) to insure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of (a) and (b) above, and subject to the provisions of paragraph 5 below.

3. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements : (a) territories now held under mandate ; (b) territories which may be detached from enemy States as a result of this war ; and (c) territories voluntarily placed under the system by States responsible for their administration. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms. The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which should be based on respect for the principle of sovereign equality.

4. The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the States directly concerned, including the mandatory Power in the case of territories held under mandate by one of the United Nations, and shall be approved as provided for in paragraphs 8 and 10 below.

5. Except as may be agreed upon in individual trusteeship agreements, made under paragraphs 3, 4, and 6, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any States or any peoples or the terms of existing international instruments to which Member States may respectively be parties. This paragraph shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in paragraph 3.

6. The trusteeship agreement in each case shall include the terms under which the territory will be administered and designate the authority which shall exercise the administration of the trust territory. Such authority, hereafter called the administering authority, may be one or more States or the United Nations itself.

7. In addition, there may also be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreements made under Chapter VIII, Section B, paragraph 5.

8. All functions of the United Nations relating to such strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council. The basic objectives as provided for in paragraph B, 2, above shall be applicable to the people of each strategic area. The Security Council shall, without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council provided for in paragraph 11 below to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas, subject to the provisions of the trusteeship agreements.

9. It shall be the duty of the administering authority to insure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority shall be empowered to make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations undertaken by the administering authority for the Security Council in this regard and for local defense and the maintenance of law and order within the trust territory.

10. 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.

11. In order to assist the General Assembly to carry out those functions under the trusteeship system not reserved to the Security Council, there shall be established a Trusteeship Council which shall operate under the authority of the Assembly. The Trusteeship Council shall consist of specially qualified representatives designated (a) one each by the States administering trust territories; (b) one each by the States mentioned by name in Chapter VI, Section A, which are not administering trust territories; and (c) one each by a sufficient number of other States elected for three-year periods by the General Assembly in order that the total number of representatives is equally divided between administering and non-administering States. The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of other bodies which are brought into relationship with the United Nations, in regard to matters with which they are respectively concerned.

12. The Trusteeship Council shall adopt its own rules of procedure and the method of selecting its president. The Trusteeship Council shall meet as required in accordance with rules adopted by the Council. These rules shall include provision for the calling of a meeting on the request of a majority of the members of the Council.

13. The General Assembly, and under its authority, the Trusteeship Council, in carrying out their functions, shall be empowered to consider reports submitted by the administering authority, to accept petitions and examine them in consultation with the administering authority, to provide for periodic visits to the respective trust territories at times agreed upon with the administering authority, and to take these and other actions in conformity with the terms of the trusteeship agreements.

14. The administering authority in each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of a questionnaire formulated by the Trusteeship Council on the political, economic, social, and educational advancement of the inhabitants of the trust territory.

15. There shall be a permanent staff of the Trusteeship Council, which shall constitute a part of the Secretariat of the United Nations.

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political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement ;

(c) to further international peace and security ;

(d) to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this paragraph ; and

(e) to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapter XII (A) of the present Charter applies.

*Article 74.*—States Members also agree that their policy in respect of such territories, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of other members of the world community, in social, economic, and commercial matters.

de tenir compte des aspirations politiques des populations, et de les aider dans le développement progressif de leurs libres institutions politiques, dans la mesure appropriée aux circonstances particulières de chaque territoire et de ses populations et à leurs degrés variables d'avancement ;

c) d'affermir la paix et la sécurité internationales ;

d) de favoriser des mesures constructives de développement, d'encourager des travaux de recherches, de coopérer l'un avec l'autre et, quand et où cela serait possible, avec les organismes internationaux spécialisés, en vue d'atteindre les buts sociaux, économiques et scientifiques indiqués au présent paragraphe ;

e) de communiquer régulièrement au Secrétaire général, à titre d'information, sous réserve des exigences de la sécurité et de considérations d'ordre constitutionnel, des renseignements statistiques et autres de nature technique relatifs aux conditions économiques, sociales et d'éducation des territoires autres que ceux auxquels s'appliquent les dispositions du chapitre XII (A) de la présente Charte.

*Article 74.* — Les Membres reconnaissent également que leur politique doit être fondée, dans ces territoires comme dans leurs territoires métropolitains, sur le principe général du bon voisinage, compte tenu des intérêts et de la prospérité des autres membres de la communauté mondiale dans le domaine social, économique et commercial.

tion of the interdependence of the peoples of the world; and

(d) to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of (a) and (b) above, and subject to the provisions of paragraph 5 below.

*Article 77.*—1. The international trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements: (a) territories now held under mandate; (b) territories which may be detached from enemy States as a result of this war; and (c) territories voluntarily placed under the system by States responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

*Article 78.*—The international trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which should be based on respect for the principle of sovereign equality.

*Article 79.*—The terms of trusteeship for each territory to be placed under the international trusteeship system, including any alteration or amendment, shall be agreed upon by the States directly concerned, including the mandatory Power

religion, et développer la conscience de l'interdépendance des peuples du monde; et

d) assurer l'égalité de traitement dans le domaine social, économique et commercial à tous les Membres de l'Organisation et à leurs ressortissants, et assurer également à ces derniers, l'égalité de traitement dans l'administration de la justice, sans porter préjudice à la réalisation des fins énoncées aux alinéas a) et b) ci-dessus, et sous réserve des dispositions du paragraphe 5 ci-dessous.

*Article 77.* — 1. Le régime international de tutelle s'appliquera aux territoires rentrant dans les catégories ci-dessous et qui viendraient à être placés sous ce régime en vertu d'accords de tutelle: a) territoires actuellement sous mandat; b) territoires qui pourront être détachés d'États ennemis par suite de la présente guerre; c) territoires volontairement placés sous ce régime par les États responsables de leur administration.

2. Il sera déterminé par accord ultérieur quels territoires de ces diverses catégories seront placés sous le régime de tutelle et dans quelles conditions.

*Article 78.* — Le régime international de tutelle ne s'appliquera pas aux pays devenus Membres de l'Organisation des Nations Unies, leurs relations mutuelles étant fondées sur le respect du principe de l'égalité.

*Article 79.* — Les termes de la tutelle, pour chacun des territoires destinés à être placés sous le régime international de tutelle, de même que toute modification et tout amendement de ces termes, feront l'objet d'un accord entre les États directement inté-

which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreements made under Article 47.

*Article 82.*—1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives as provided for in paragraph 1 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council provided for in paragraph 11 below to perform those functions of the United Nations under the international trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

*Article 83.*—It shall be the duty of the administering authority to insure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority shall be empowered to make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations undertaken by the administering authority for the Security Council in this regard and for local defense and the maintenance of law and order within the trust territory.

*Article 84.*—The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic,

partie ou la totalité du territoire sous tutelle, sans préjudice de tout accord spécial conclu en application de l'article 47.

*Article 82.* — 1. En ce qui concerne les zones stratégiques, toutes les fonctions dévolues à l'Organisation des Nations Unies, y compris l'approbation des termes de la tutelle ainsi que de la modification et de l'amendement éventuels de ceux-ci, sont exercées par le Conseil de Sécurité.

2. Les buts essentiels prévus au paragraphe 1 s'appliquent aux populations de chacune des zones stratégiques.

3. Le Conseil de Sécurité, tout en respectant les dispositions des accords de tutelle et sous réserve des exigences de la sécurité, aura recours à l'assistance du Conseil de Tutelle prévu au paragraphe 11, dans l'exercice des fonctions que les Nations Unies assument du fait du régime de tutelle en matière politique, économique et sociale, et en matière d'instruction, dans les zones stratégiques.

*Article 83.* — L'autorité chargée de l'administration a le devoir de veiller à ce que le territoire sous tutelle contribue au maintien de la paix et de la sécurité internationales. A cette fin, elle a le droit d'utiliser des contingents volontaires, les facilités et l'aide du territoire pour remplir les obligations qu'elle a contractées à cet égard envers le Conseil de Sécurité et pour assurer la défense du territoire sous tutelle, le respect de la loi et le maintien de l'ordre intérieur.

*Article 84.* — En ce qui concerne les accords de tutelle relatifs à toutes les zones qui ne sont pas désignées comme

*Functions and powers*

*Article 87.*—The Trusteeship Council, in carrying out its functions may: (a) consider reports submitted by the administering authority; (b) accept petitions and examine them in consultation with the administering authority; (c) provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and (d) take these and other actions in conformity with the trusteeship agreements.

*Article 88.*—The Trusteeship Council shall formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority in each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

*Procedure*

*Article 89.*—1. The Trusteeship Council shall adopt its own rules of procedure and the method of selecting its president.

2. The Trusteeship Council shall meet as required in accordance with its rules of procedure. These rules shall include provision for the calling of a meeting on the request of a majority of the members of the Council.

*Article 90.*—The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and, in regard to matters with which they are respectively concerned, of specialized agencies brought into relationship with the United Nations in accordance with the provisions of Article 68.

*Fonctions et pouvoirs*

*Article 87.* — Le Conseil de Tutelle a qualité, dans l'exercice de ses fonctions, a) pour examiner les rapports qui lui sont soumis par l'autorité chargée de l'administration; b) recevoir des pétitions et les examiner en consultation avec cette autorité; c) faire procéder à des visites périodiques dans les territoires administrés par ladite autorité à des dates convenues avec elle; d) prendre ces dispositions et toutes autres conformément aux accords de tutelle.

*Article 88.* — Pour chaque territoire relevant de la compétence de l'Assemblée générale, l'autorité chargée de l'administration adresse à l'Assemblée un rapport annuel rédigé d'après un questionnaire établi par le Conseil de Tutelle, portant sur les progrès de la population du territoire dans les domaines politique, économique et social, et dans celui de l'instruction.

*Procédure*

*Article 89.* — 1. Le Conseil de Tutelle adopte son règlement et fixe le mode de désignation de son président.

2. Il se réunit comme le prescrit son règlement; celui-ci comprend des dispositions prévoyant la convocation du Conseil à la demande de la majorité de ses membres.

*Article 90.* — Le Conseil de Tutelle recourt, quand il y a lieu, à l'assistance du Conseil économique et social et, pour les questions relevant de leurs compétences respectives, à celle des institutions reliées à l'Organisation conformément aux dispositions de l'article 68.