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Item 18 of the Agenda

Negotiation and Adoption of a Draft Trusteeship  
Agreement for Italian Somaliland

DRAFT TRUSTEESHIP AGREEMENT  
FOR THE TERRITORY OF SOMALILAND  
UNDER ITALIAN ADMINISTRATION

Preamble

WHEREAS, Chapters XII and XIII of the Charter of the United Nations provide for an International Trusteeship System;

WHEREAS, by Article 23 of the Treaty of Peace between the Allied and Associated Powers and Italy, signed in Paris on 10 February 1947, Italy renounced all right and title to the Italian territorial possessions in Africa;

WHEREAS, under paragraph 3 of Annex XI of this Treaty, the General Assembly of the United Nations was requested to make recommendations regarding the future status of the territories referred to in Article 23 thereof;

WHEREAS, under paragraph 3 of Annex XI of this Treaty, the Governments of France, of the Union of Soviet Socialist Republics, of the United Kingdom of Great Britain and Northern Ireland, and of the United States of America agreed to accept the recommendation made by the General Assembly of the United Nations in this matter;

WHEREAS, the General Assembly, after having examined the question at its third and fourth sessions, adopted at its 250th plenary meeting on 21 November 1949

a resolution recommending, with respect to the territory formerly known as Italian Somaliland, that the Territory shall be an independent and sovereign state; that its independence shall become effective at the end of ten years from the date of approval of the Trusteeship Agreement by the General Assembly and that, during this period of ten years, the Territory shall be placed under the International Trusteeship System, with Italy as the Administering Authority, aided and advised by an Advisory Council composed of representatives of Colombia, Egypt and the Philippines;

WHEREAS, the Trusteeship Council, as requested by the General Assembly, has negotiated the draft of a Trusteeship Agreement with Italy and approved it at the eighth meeting of its sixth session on 27 January 1950;

WHEREAS, the Government of Italy has accepted responsibility as the Administering Authority of this Territory;

WHEREAS, the Governments of Colombia, Egypt and the Philippines have accepted the responsibility of designating representatives to aid and advise the Administering Authority in their capacity as members of the Advisory Council;

NOW, THEREFORE, THE GENERAL ASSEMBLY OF THE UNITED NATIONS approves the following terms of trusteeship for the Territory formerly known as Italian Somaliland:

#### Article 1

The territory to which this Agreement applies is the Territory formerly known as Italian Somaliland, hereinafter called the Territory, bounded by the Somaliland Protectorate, Ethiopia, Kenya, the Gulf of Aden and the Indian Ocean. Its boundaries, shall be those fixed by international agreement and, insofar as they are not already delimited, shall be delimited in accordance with a procedure approved by the General Assembly.

#### Article 2

Italy shall be entrusted with the administration of the Territory and the Government of Italy designated in this Agreement as the Administering Authority, shall be represented therein by an Administrator. The Administering Authority shall be responsible to the United Nations for the peace, order and good government of the Territory in accordance with the terms of this Agreement.

The Administering Authority shall be aided and advised by an Advisory Council composed of representatives of Colombia, Egypt and the Philippines.

The headquarters of the Administrator and of the Advisory Council shall be in Mogadishu.

### Article 3

The Administering Authority undertakes to administer the Territory in accordance with the provisions of the United Nations Charter relating to the International Trusteeship System as set out in Chapters XII and XIII thereof, the relevant parts of Resolution 289 (IV) of 21 November 1949 of the General Assembly and this Agreement, (which includes an Annex containing a Declaration of Constitutional Principles), with a view to making the independence of the Territory effective at the end of ten years from the date of the approval of this Agreement by the General Assembly.

The Administering Authority shall:

1. foster the development of free political institutions and promote the development of the inhabitants of the Territory towards independence; and to this end shall give to the inhabitants of the Territory a progressively increasing participation in the various organs of Government;
2. promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall regulate the use of natural resources; encourage the development of fisheries, agriculture, trade and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communication;
3. promote the social advancement of the inhabitants, and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect and improve the health of the inhabitants by the development of adequate health and hospital services for all sections of the population; control the traffic in arms and ammunition, opium and other dangerous drugs, alcohol and other spirituous liquors; prohibit all forms of slavery slave trade and child marriage; apply existing international conventions concerning prostitution; prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in time of public emergency with adequate remuneration and adequate protection of the welfare of the workers; and institute such other regulations as may be necessary to protect the inhabitants against any social abuses.

#### Article 4

The Administering Authority, recognizing the fact that education in its broadest sense is the only sure foundation on which any moral, social, political and economic advancement of the inhabitants of the Territory can be based, and believing that national independence with due respect for freedom and democracy can only be established on this basis, undertakes to establish a sound and effective system of education, with due regard for Islamic culture and religion.

The Administering Authority therefore undertakes to promote the educational advancement of the inhabitants, and to this end undertakes to establish as rapidly as possible a system of public education which shall include elementary, secondary, vocational (including institutions for the training of teachers) and technical schools, to provide free of charge at least elementary education, and to facilitate higher and professional education and cultural advancement in every possible way.

In particular, the Administering Authority shall take all appropriate steps

- (a) to provide that an adequate number of qualified students from among the indigenous population receive university or professional education outside the Territory, so as to ensure that sufficient qualified personnel will be available when the Territory becomes a sovereign independent state;
- (b) to combat illiteracy by all possible means; and
- (c) to ensure that instruction is given in schools and other educational institutions regarding the activities of the United Nations and its organs, the basic objectives of the International Trusteeship System and the Universal Declaration of Human Rights.

#### Article 5

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

Accordingly, the Administering Authority undertakes:

1. to make to the General Assembly of the United Nations an annual report on the basis of the questionnaire drawn up by the Trusteeship Council in accordance with Article 88 of the Charter of the United Nations and to include in this report information relating to the measures taken to give effect to the suggestions and recommendations of the General Assembly and of the Trusteeship Council;
2. to designate an accredited representative to be present at the sessions of the Trusteeship Council at which the reports of the Administering Authority and petitions relating to conditions in the Territory are considered;
3. to facilitate periodic visits to the Territory as provided for in Article 87 of the Charter of the United Nations at times and in accordance with arrangements to be agreed upon with the Administering Authority;
4. to render assistance to the General Assembly or the Trusteeship Council in the application of these arrangements and of such other arrangements as these organs of the United Nations may make in accordance with the terms of the present Agreement.

#### Article 6

The Administering Authority may maintain police forces and raise volunteer contingents for the maintenance of peace and good order in the Territory.

The Administering Authority, after consultation with the Advisory Council, may establish installations and take all measures in the Territory, including the progressive development of Somali defence forces, which may be necessary, within the limits laid down in the Charter of the United Nations, for the defence of the Territory and for the maintenance of international peace and security.

#### Article 7

The Administering Authority shall have full powers of legislation, administration and jurisdiction in the Territory, subject to the provisions of the Charter of the United Nations, of this Agreement and of the Annex attached hereto, and shall have power to apply to the Territory, temporarily and with such modifications as are considered necessary, such Italian laws as are appropriate

to the conditions and needs of the Territory and as are not incompatible with the attainment of its independence.

#### Article 8

The Advisory Council shall be fully informed by the Administering Authority on all matters relating to the political, economic, social and educational advancement of the inhabitants of the Territory, including legislation appertaining thereto, and may make to the Administering Authority such observations and recommendations as it may consider will be conducive to the attainment of the objectives of this Agreement.

The Administering Authority shall seek the advice of the Advisory Council on all measures envisaged for the inauguration, development and subsequent establishment of full self-government for the Territory; in particular it shall consult the Advisory Council regarding plans for:

- (a) the establishment and development of organs of self-government;
- (b) economic and financial development;
- (c) educational advancement;
- (d) labour and social advancement; and
- (e) the transfer of the functions of government to a duly constituted independent Government of the Territory,

The Administering Authority shall seek the advice of the Advisory Council on ordinances which, in accordance with Article 5 of Annex to this Agreement, the Administrator of the Territory may make and promulgate in exceptional circumstances.

#### Article 9

The Advisory Council shall be accorded such facilities and shall have free access to such sources of information as it may require for the performance of its functions.

#### Article 10

In the Territory Members of the Advisory Council shall enjoy full diplomatic privileges and immunities, and their staff shall enjoy the privileges and

immunities, and their staff shall enjoy the privileges and immunities which they would enjoy if the Convention on the Privileges and Immunities of the United Nations were applicable to the Territory.

#### Article 11

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

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

#### Article 12

The Administering Authority undertakes to maintain the application of the international agreements and conventions which are at present in force in the Territory, and to apply therein any conventions and recommendations made by the United Nations, or the specialized agencies referred to in Article 57 of the Charter of the United Nations, the application of which would be in the interests of the population and consistent with the basic objectives of the Trusteeship System, the provisions of Resolution 289 (IV) of 21 November 1949 of the General Assembly, and the terms of the present Agreement.

#### Article 13

The Administering Authority shall take all the necessary steps to enable the Territory to co-operate with the Specialized Agencies referred to in Article 57 of the Charter of the United Nations with other international agencies and regional organizations, and to participate in their activities.

#### Article 14

In order to promote the economic and social advancement of the indigenous population, the Administering Authority shall, in framing laws relating to the

holding or alienation of land or other natural resources, take into consideration the laws and customs of the indigenous population and respect their rights and safeguard their interests, both present and future.

The Administering Authority shall not, without the consent in each case of a two-thirds majority of the members of the Territorial Council (provided for in Article 4 of the Annex), permit the acquisition by non-indigenous persons or by companies or associations controlled by such persons of any rights over land in the Territory save on lease for a period to be determined by law. In cases involving the alienation to non-indigenous persons or to companies or associations controlled by such persons of areas of agricultural land in excess of one thousand acres, the Administering Authority shall also request in advance the advice of the Advisory Council. The Administering Authority shall include in its annual report to the Trusteeship Council a detailed account of such alienations.

The Administering Authority shall prohibit the acquisition by non-indigenous persons or by companies or associations controlled by such persons of any rights over any other natural resources in the Territory, save on lease or grant of concession for a period to be determined by law.

Nothing in this Article shall apply to building land within the municipal area of Mogadishu which may be disposed of in accordance with regulations prescribed by law.

#### Article 15

Subject to the provisions of Articles 14, 16 and 17 of this Agreement, the Administering Authority shall take all necessary steps to ensure equal treatment in social, economic, industrial and commercial matters for all States Members of the United Nations and their nationals and for its own nationals and to this end:

- (a) shall grant to all nationals of Members of the United Nations and to its own nationals freedom of transit and navigation, including freedom of transit and navigation by air, and the protection of person and property, subject to the requirements of public order and on condition of compliance with the local law;



- (b) shall ensure the same rights to all nationals of Members of the United Nations as to its own nationals in respect of entry into and residence in the Territory, acquisition of property, both movable and immovable, and the exercise of professions and trades;
- (c) shall not discriminate on grounds of nationality against nationals of any Member of the United Nations or its own nationals in matters relating to the grant of concessions for the development of the natural resources of the Territory and shall not grant concessions having the character of a general monopoly; and
- (d) shall ensure equal treatment in the administration of justice to the nationals of all Members of the United Nations and to its own nationals.

The rights conferred by this article on nationals of Members of the United Nations or on the Administering Authority's own nationals apply equally to companies and associations controlled by such nationals and organized in accordance with the law of any Member of the United Nations or with the law of the Administering Authority.

#### Article 16

Measures taken to give effect to Article 15 of this Agreement shall be subject always to the overriding duty of the Administering Authority, in accordance with Article 76 of the Charter of the United Nations, to promote the political, economic, social and educational advancement of the inhabitants of the Territory to carry out the other basic objectives of the International Trusteeship System and the provisions of Resolution 289 (IV) of the General Assembly of 21 November 1949 and to maintain peace, order and good government. In particular, the Administering Authority shall be free:

- (a) to organize essential public services and works on such terms and conditions as it thinks just;
- (b) to create monopolies of a purely fiscal character in order to provide the Territory with the fiscal resources which seem best suited to local requirements, or otherwise to serve the interests of the inhabitants;
- (c) where the interests of the economic advancement of the inhabitants may

require it, to establish, or permit to be established, for specific purposes, other monopolies or undertakings having in them an element of monopoly, under conditions of proper public control; provided that, in the selection of agencies to carry out the purposes of this paragraph, other than agencies controlled by the Government of the Territory or those in which that Government participates, the Administering Authority shall not discriminate on grounds of nationality against Members of the United Nations or their nationals.

#### Article 17

Nothing in this Agreement shall entitle any Member of the United Nations to claim for itself or for its nationals, companies and associations the benefits of Article 15 of this Agreement in any respect in which it does not give to the inhabitants, companies and associations of the Territory equality of treatment with the nationals, companies and associations of the State which it treats most favourably.

#### Article 18

The Administering Authority shall include in its first annual report to the Trusteeship Council a report on the position in the Territory of property belonging to nationals, associations and companies of Members of United Nations.

#### Article 19

The Administering Authority shall in a spirit of religious tolerance, ensure in the Territory complete freedom of conscience and religion and shall guarantee freedom of religious teaching and the free exercise of all forms of worship.

Missionaries of any faith shall be free to enter, travel and reside in the Territory; to acquire and possess property therein, subject to the conditions laid down in Article 14 of the present Agreement; to erect religious buildings and hospitals therein; and to open schools subject to such regulations as may be prescribed by law for the educational advancement of the inhabitants of the Territory.

The provisions of this Article shall be subject only to such limitations as may be necessary for the maintenance of public order and morality.

#### Article 20

The Administering Authority shall guarantee to the inhabitants of the Territory complete freedom of speech, of the press, of assembly and of petition, without distinction as to race, sex, language, political opinion or religion, subject only to the requirements of public order.

#### Article 21

Nothing in this Agreement shall affect the right of the Administering Authority or the Trusteeship Council to propose at any future date, the alteration or amendment of this Agreement in the interests of the Territory or for reasons not inconsistent with the basic objectives of the International Trusteeship System.

The provisions of this Agreement shall not be altered or amended except as provided in Articles 79 and 85 of the United Nations Charter.

#### Article 22

If any dispute whatever should arise between the Administering Authority and a State Member of the United Nations relating to the interpretation or the application of the provisions of this Agreement, such dispute, if it cannot be settled by direct negotiation or other means, shall be submitted to the International Court of Justice, provided for in Chapter XIV of the Charter of the United Nations.

#### Article 23

The present Agreement, of which the Declaration of Constitutional Principles attached hereto as an Annex is an integral part, shall enter into force as soon as it is approved by the General Assembly of the United Nations and ratified by Italy.

Nevertheless, after the Trusteeship Council and Italy have agreed upon the terms of trusteeship and pending approval of this Agreement by the General Assembly, the Administering Authority shall provisionally administer the Territory in accordance with the provisions of the Charter of the United Nations and of this Agreement and shall assume this provisional administration at a time and pursuant to arrangements for the orderly transfer of administration agreed upon between Italy and the United Kingdom of Great Britain and Northern

Ireland.

Article 24

The present Agreement shall cease to be in force ten years after the date of the approval of the Trusteeship Agreement by the General Assembly at the conclusion of which the Territory shall become an independent sovereign State.

Article 25

The Administering Authority shall submit to the Trusteeship Council at least 18 months before the expiration of the present Agreement, a plan for the orderly transfer of all the functions of government to a duly constituted independent Government of the Territory.

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ANNEX

DECLARATION OF CONSTITUTIONAL PRINCIPLES

Preamble

IN VIEW of the recommendation made by the General Assembly of the United Nations at its Fourth Regular Session with respect to placing the territory formerly known as Italian Somaliland under the International Trusteeship System with Italy as the Administering Authority;

CONSIDERING the provisions of the Charter of United Nations which establish an International Trusteeship System, the terms of this Trusteeship Agreement, of which this Declaration is an integral part, and in accordance with the provisions of Resolution 289 (IV) of the General Assembly;

FOR THE PURPOSE of solemnly guaranteeing the rights of the inhabitants of the Territory and of providing, in accordance with democratic principles, for the gradual development of institutions designed to ensure the establishment of full self-government and independence, and the attainment of the basic objectives of the International Trusteeship System in conformity with the Charter of the United Nations;

IT IS HEREBY DECLARED:

Article 1

The sovereignty of the Territory is vested in its people and shall be exercised by the Administering Authority on their behalf and in the manner prescribed herein by decision of the United Nations.

Article 2

The Administering Authority shall take the necessary steps to provide for the population of the Territory a status of citizenship of the Territory and to ensure their diplomatic and consular protection when outside the limits of the Territory and of the territory of the Administering Authority.

### Article 3

The Administrator shall be the chief executive officer of the Territory.

### Article 4

The Administrator shall appoint a Territorial Council, composed of inhabitants of the Territory and representative of its people.

In all matters other than defence and foreign affairs, the Administrator shall consult the Territorial Council.

The legislative authority shall normally be exercised by the Administrator after consultation with the Territorial Council until such time as an elective legislature has been established.

### Article 5

In exceptional circumstances the Administrator may, after consultation with the Advisory Council, make and promulgate such ordinances as in his opinion the circumstances demand.

These ordinances shall be laid before the Territorial Council as soon as may be practicable and the Administering Authority shall include an account of all such ordinances in its annual report to the Trusteeship Council.

### Article 6

In matters relating to defence and foreign affairs as in other matters, the Administering Authority shall be accountable to the Trusteeship Council, and shall take into account any recommendations which the Council may see fit to make.

#### Article 7

The Administering Authority shall establish a judicial system and shall ensure the absolute independence of the judiciary. The Administering Authority shall also ensure that representatives of the indigenous population be progressively entrusted with judicial functions and that the jurisdiction of courts of first instance be progressively widened.

As may be appropriate in each case, the Administering Authority shall apply local legislation, Islamic law, and local customary law.

#### Article 8

The Administering Authority, in accordance with the principles laid down in its own Constitution and legislation, shall guarantee to all inhabitants of the Territory human rights and fundamental freedoms and full equality before the law without distinction as to race, sex, language, political opinion or religion.

#### Article 9

The Administering Authority shall guarantee to all the inhabitants of the Territory full civil rights, and also such political rights as are consistent with the progressive political, social, economic and educational development of the inhabitants and with the development of a democratic representative system, due regard being paid to traditional institutions.

In particular, it shall guarantee:

1. the preservation of their personal and successional status with due regard to its evolutionary development;
2. their personal liberty, which may not be restricted except by warrant of judicial authority and only in cases and in accordance with regulations prescribed by law;
3. the inviolability of domicile, to which the competent authority may have access only by due legal process and in a manner prescribed in accordance with local customs and subject to the guarantees for the protection of personal liberty;
4. the freedom and secrecy of communication and correspondence, which may be limited only by means of a warrant of judicial authority stating the reasons and subject to the guarantees prescribed by law;

5. the rights of property, subject to expropriation carried out for a public purpose, after payment of fair compensation, and in accordance with regulations prescribed by law;
6. the free exercise of professions and occupations in accordance with local customs and with regulations prescribed by law;
7. the right to compete for public employment in accordance with regulations prescribed by law; and
8. the right to emigrate and to travel, subject to such regulations as may be prescribed by law for health and security reasons.

#### Article 10

The Administering Authority accepts as a standard of achievement for the Territory the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948.