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Special report of the Trusteeship Council
ON
administrative unions affecting Trust Territories
and on the status of the Cameroons and Togoland
under French administration arising out of their
membership in the French Union

GENERAL ASSEMBLY
OFFICIAL RECORDS : SEVENTH SESSION
SUPPLEMENT No. 12 (A/2151)

NEW YORK, 1952

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NOTE

All United Nations documents are designated by symbols, i.e., capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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INTRODUCTION

1. The General Assembly by its resolution 563 (VI) of 18 January 1952 requested the Trusteeship Council, in order that the Assembly might be enabled to arrive at conclusions concerning existing administrative unions affecting Trust Territories,

"...to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, and of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union with special reference to:

"(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

"(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement". The Council therefore requested its Standing Committee on Administrative Unions,

"... to prepare, in addition to its regular reports, a draft report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party and of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union, with special reference to (a) the considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly, and, (b) the compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreements, as well as with the interests of the inhabitants of the Trust Territories."

2. The Standing Committee submitted its report on 17 July 1952. It was considered by the Council on 23 July.

3. In considering General Assembly resolution 563 (VI), the Council on 28 February 1952 at its 387th meeting, decided to request its Standing Committee, in considering that resolution, to bear in mind also "the interests of the inhabitants of the Trust Territories concerned," thereby widening somewhat the scope of the investigation in order to take fully into consideration all the relevant provisions of the United Nations Charter and the Trusteeship Agreements.

4. The Council took special note of its resolution 293 (VII) on administrative unions, adopted on 17 July 1950, in which it had already addressed itself to the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV) and which it still considers to be an important analysis of the question under review. In that connexion, the Council also draws attention to the safeguards which it established in paragraph 7 of its resolution 293 (VII), and to the establishment of a Standing Committee on Administrative Unions which would regularly examine the operation of administrative unions and report to the Council at each session on any union in which a Trust Territory then under review participates.

5. The Council, although realizing that the provisions of the various Trusteeship Agreements authorizing the establishment of administrative unions are generally similar, is of the opinion that it could not reach any realistic and satisfactory conclusions concerning the questions raised in General Assembly resolution 563 (VI) without giving in its analysis due regard to the differing ethnic, geographical and historical factors in the Territories concerned, the differing degree of political advancement achieved therein, the practical operation of the administrative arrangements and the individual laws establishing those arrangements.

6. The Council authorized the Standing Committee on Administrative Unions to consult with the Administering Authorities concerned and to secure from them such additional information as might be necessary. In accordance with that authorization, the Standing Committee, at its 9th meeting, on 5 March 1952, decided to request the Administering Authorities concerned to submit to it any observations which they might wish to make with regard to administrative arrangements affecting the Trust Territories under their administration, taking into account General Assembly resolution 563 (VI).

7. In reply to that request, the Governments of Belgium, France and the United Kingdom submitted certain written observations to the Standing Committee,¹ and, on the request of the Standing Committee, the representatives of Australia, Belgium, France and the United Kingdom made oral statements at the 10th, 14th, 16th, 24th, 29th and 30th meetings on 10 March, 6, 11 and 26 June, and 2 and 10 July 1952, respectively.

¹ T/C.1/L.21, 22, 23.

Review of the resolutions adopted by the General Assembly and the Trusteeship Council prior to the sixth session of the General Assembly with respect to administrative unions affecting Trust Territories

8. By resolution 224 (III) of 18 November 1948, the General Assembly requested the Trusteeship Council to investigate the question of administrative unions in all its aspects, with special reference to unions already constituted or proposed. The Assembly further requested the Council, in the light of that investigation, to recommend such safeguards as it might deem necessary to preserve the distinct political status of the Trust Territories and to request, whenever appropriate, an advisory opinion of the International Court of Justice as to whether such unions were within the scope of and compatible with the stipulations of the Charter and the terms of the Trusteeship Agreements.

9. In conformity with the terms of that resolution, the Trusteeship Council, at its fourth session, adopted on 27 January 1949 resolution 81 (IV) whereby it established a Committee on Administrative Unions composed of six members of the Council to undertake preparatory work with the purpose of facilitating the investigation by the Council of questions arising in connexion with customs, fiscal and administrative unions of federations and common services involving Trust Territories and to draw up an outline of the various aspects of the problem.

10. The Committee on Administrative Unions, composed of China, France, Mexico, New Zealand, the Union of Soviet Socialist Republics and the United States of America, after having studied the documentation available to it, came to the conclusion that it would require further elucidation on some aspects of existing and proposed administrative unions and, subsequently, decided to draw up separate lists of questions to be addressed to the Administering Authorities concerned. The questions concerning the Trust Territories of Tanganyika, Ruanda-Urundi, the Cameroons and Togoland under British administration, and New Guinea appeared as annexes I to V of the Committee's interim report² to the Council. The Committee was divided on the question whether it was competent to examine, within its terms of reference, the problems arising from the establishment of the French Union as affecting the Trust Territories under French administration.

11. The Trusteeship Council considered the Committee's interim report at the 34th to 36th meetings of its fourth session, when it heard the oral replies of the special representative of the United Kingdom Government to the Committee's questions concerning the East African Inter-Territorial Organization affecting Tanganyika. The Council also adopted, on 10 March 1949, resolution 82 (IV) instructing the Committee to make, exceptionally, and in addition to its regular duties, a study of the relations between France and the Trust Territories under French administration.

12. The Committee was informed by the United Kingdom delegation that it did not consider that the

arrangements by which the Cameroons and Togoland under British administration were administered as integral parts of Nigeria and the Gold Coast respectively fell within the scope of General Assembly resolution 224 (III) or the competence of the Committee, and that, accordingly, the United Kingdom did not intend to make available the documentation requested or answer the questions addressed to it by the Committee. In the view of the United Kingdom Government the administrative arrangements affecting Togoland and the Cameroons under British administration derived their authority from article 5 (a) of the Trusteeship Agreements concerned. Subsequently, the United Kingdom Government, while maintaining its position that the arrangements were outside the scope of resolution 224 (III), agreed to make the material requested available to the Committee.

13. On 3 June 1949, the Committee completed consideration of the subject and adopted its report³ to the Council.

14. At its fifth session, the Trusteeship Council considered and adopted, with certain amendments, a draft resolution presented by Mexico and the United States of America. By that resolution (109 (V)), the Council transmitted to the General Assembly the report of the Committee, the replies of the Administering Authorities to the questions prepared by the Committee and other documentation collected by it during its study. The Council informed the General Assembly that it would continue to study and examine the operation of existing or future administrative unions. It also recalled that the General Assembly had approved the Trusteeship Agreements on the assurance of the Administering Powers that those Agreements did not give them power to establish any form of political association which would involve annexation of the Territories or extinguish their status as Trust Territories. In that connexion, the Council noted the assurances of the Administering Authorities that the administrative arrangements under consideration did not extinguish the political identity of the Trust Territories and were not inconsistent with the objectives of the International Trusteeship System or with the terms of the Trusteeship Agreements. The Council decided that, in order to safeguard the identity and status of the Trust Territories, it should continue to study, during its regular examinations of conditions in Trust Territories, the effects of existing or proposed administrative unions on the political, economic, social and educational advancement of the inhabitants, on the status of the Trust Territories as such and on their separate development as distinct entities; finally, it requested the Administering Authorities concerned to furnish in their annual reports separate records, statistics and other information in order to safeguard the effective exercise of the Council's supervisory functions.

² T/263.

³ T/338 and Add.1.

15. At its fourth session, the General Assembly, on 15 November 1949, adopted resolution 326 (IV) by which it recommended to the Trusteeship Council that it should complete its investigations and present a special report to the Assembly at its next regular session on the results of the Council's investigation and the action taken by it, with particular reference to any safeguards which the Council considered to be necessary, and that the Council should continue to observe the development of such unions and report to the General Assembly at its regular sessions. The resolution also recommended the Trusteeship Council to pay particular attention to the desirability (a) of obtaining from the Administering Authorities prior information of their intentions to create new administrative unions or extend the scope of existing unions; (b) of the Administering Authority concerned accepting such supervision by the Trusteeship Council over any unified administration as the Council might consider necessary; (c) of establishing a separate judicial organization in each Trust Territory; (d) of establishing a separate legislative body in each Trust Territory, with headquarters in the Territory; and (e) of taking into account, before any administrative union is established, the freely expressed wishes of the inhabitants concerned.

16. On 31 March 1950, the Trusteeship Council adopted resolution 129 (VI) in which it decided that the Committee on Administrative Unions should continue its study of questions arising in connexion with customs, fiscal and administrative unions or federations and common services involving Trust Territories, so that the Council might complete its investigation in accordance with the terms of the General Assembly resolutions. The Committee was instructed to complete the documentation on the question and to submit a report to the Council. The President subsequently completed the membership of the Committee by appointing Argentina to take the place of Mexico, and the Philippines to serve during the absence of the Union of Soviet Socialist Republics.

17. The Committee on Administrative Unions submitted its report⁴ to the Trusteeship Council on 11 July 1950. The Council, on 17 July 1950, considered and adopted the draft resolution recommended by the Committee, and decided to transmit the Committee's report to the General Assembly. The resolution (293 (VII)) provided, *inter alia*, that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards were necessary, and drew them to the attention of the Administering Authorities concerned:

"(a) That the Administering Authorities furnish clear and precise separate financial, statistical and other data relating to Trust Territories participating in administrative unions;

"(b) That the Administering Authority facilitate the access of visiting missions to such information on an administrative union as may be necessary to enable the mission to report fully on the Trust Territory concerned;

"(c) That the Administering Authorities continue to maintain the boundaries, separate status and identity of Trust Territories participating in administrative unions;

"(d) That the Administering Authorities ensure, with regard to Trust Territories participating in administrative unions, that expenditures on the administration, welfare and development of any such Trust Territory for a given year be not less than the total amount of public revenue derived from the Territory in that year."

18. The resolution also included a decision to establish a Standing Committee on Administrative Unions, which would regularly examine the operation of administrative unions and report to the Council at each session on any union in which a Trust Territory then under review participated. The Standing Committee was established at the seventh session of the Council and consisted of Argentina, the Philippines, New Zealand and the United States of America. When the Philippines ceased to be a member of the Council on 1 January 1951, and Argentina stated its inability to continue membership on the Standing Committee, the President of the Council during the eighth session, appointed China and Thailand to replace them.

19. The report of the Committee on Administrative Unions was submitted to the General Assembly at its fifth session as part of the Council's report covering its first special session, its second special session and its sixth and seventh sessions (A/1306).⁵ The General Assembly, by resolution 443 (V) of 12 December 1950, decided to hold over consideration of the report until its sixth session.

20. The Standing Committee submitted to the Council at its ninth session, separate reports on the Trust Territories of Tanganyika,⁶ New Guinea,⁷ Togoland under British administration,⁸ the Cameroons under British administration⁹ and Ruanda-Urundi.¹⁰ The Council considered and adopted those reports in connexion with the examination of the annual reports on the administration of the Trust Territories concerned and decided that the recommendations should be placed in the appropriate sections of the Council's report dealing with conditions in the Territories.

⁴ T/L.96.

⁵ *Official Records of the General Assembly, Fifth Session, Supplement No. 4.*

⁶ T/915.

⁷ T/916.

⁸ T/917.

⁹ T/918.

¹⁰ T/919.

CHAPTER II

Provisions of the Trusteeship Agreements for the Trust Territories governing the establishment of administrative unions

21. (a) In accordance with article 3 of the Trusteeship Agreement for the Cameroons under British administration, for Togoland under British administration and for Ruanda-Urundi, the Administering Authority "undertakes to administer the Territory in such a manner as to achieve the basic objectives of the International Trusteeship System laid down in Article 76 of the United Nations Charter. The Administering Authority further undertakes to collaborate fully with the General Assembly of the United Nations and the Trusteeship Council in the discharge of all their functions as defined in Article 87 of the United Nations Charter."

(b) In accordance with article 3 of the Trusteeship Agreement for Tanganyika, "the Administering Authority undertakes to administer Tanganyika in such a manner as to achieve the basic objectives of the International Trusteeship System laid down in Article 76 of the United Nations Charter. The Administering Authority further undertakes to collaborate fully with the General Assembly of the United Nations and the Trusteeship Council in the discharge of all their functions as defined in Article 87 of the United Nations Charter, and to facilitate any periodic visits to Tanganyika which they deem necessary, at times to be agreed upon with the Administering Authority".

(c) In accordance with article 3 of the Trusteeship Agreement for the Territory of New Guinea, the Administering Authority "undertakes to administer the Territory in accordance with the provisions of the Charter and in such manner as to achieve, in the Territory, the basic objectives of the International Trusteeship System, which are set forth in Article 76 of the Charter". The Administering Authority further undertakes "to co-operate with the Trusteeship Council in the discharge of all the Council's functions under Articles 87 and 88 of the Charter".

(d) In accordance with article 2 of the Trusteeship Agreements for the Cameroons and Togoland under French administration, the French Government, in its capacity of Administering Authority for those Territories under the terms of Article 81 of the Charter of the United Nations, "undertakes to exercise therein the duties of trusteeship as defined in the said Charter, to promote the basic objectives of the Trusteeship System laid down in Article 76 [of the Charter] and to collaborate fully with the General Assembly and the Trusteeship Council in the discharge of their functions as defined in Articles 87 and 88".

22. (a) In accordance with article 5 (a) of the Trusteeship Agreements for the Cameroons and Togoland under British administration, the Administering Authority "shall have full powers of legislation, administration and jurisdiction in the Territory and shall administer it in accordance with the Authority's own laws as an integral part of its territory with

such modifications as may be required by local conditions and subject to the provisions of the United Nations Charter and of this Agreement".

(b) In accordance with article 5, paragraph 1, of the Trusteeship Agreement for Ruanda-Urundi, the Administering Authority "shall have full powers of legislation, administration and jurisdiction in the Territory of Ruanda-Urundi and shall administer it in accordance with Belgian law as an integral part of Belgian territory, subject to the provisions of the Charter and of this Agreement".

(c) In accordance with article 5 (a) of the Trusteeship Agreement for Tanganyika, the Administering Authority "shall have full powers of legislation, administration and jurisdiction in Tanganyika, subject to the provisions of the United Nations Charter and the Trusteeship Agreement".

(d) In accordance with article 4 of the Trusteeship Agreement for the Territory of New Guinea, the Administering Authority "shall be responsible for the peace, order, good government and defence of the Territory and for this purpose shall have the same powers of legislation, administration and jurisdiction in and over the Territory as if it were an integral part of Australia, and will be entitled to apply to the Territory, subject to such modifications as it deems desirable, such laws of the Commonwealth of Australia as it deems appropriate to the needs and conditions of the Territory".

(e) In accordance with article 4A, paragraph 1, of the Trusteeship Agreements for the Cameroons and Togoland under French administration, the Administering Authority "shall have full powers of legislation, administration and jurisdiction in the Territory and shall administer it in accordance with French law as an integral part of French territory, subject to the provisions of the Charter and of this Agreement".

(f) In connexion with the discussion of the clause "as an integral part of French territory", in article 4A, paragraph 1 of the Trusteeship Agreements for the Cameroons and Togoland under French administration, Sub-Committee 1 of the Fourth Committee, at the second part of the first session of the General Assembly took note of the declaration of the representative of France that it was the interpretation of his Government that the words "as an integral part" were necessary as a matter of administrative convenience and were not considered to be granting to the Government of France the power to diminish the political individuality of the Trust Territories.¹¹

(g) According to the statement of the representative of Australia,¹² the clause "as if it were an integral part of Australia" which derived from the old "C" Mandate for New Guinea, gave support, in the interests of the inhabitants of New Guinea, to the provision of services common with Papua, and was intended

¹¹ *Official Records of the General Assembly, Second Part of the First Session, Plenary Meetings, A/258, pp. 1543-1544.*

¹² *Ibid., Fourth Committee, part II, A/C.4/Sub.1/8, p. 120.*

merely to ensure to the Trust Territory the advantages of unified administration.

(h) In connexion with the discussion of the "as an integral part" clause of the Trusteeship Agreements for the Cameroons and Togoland under British administration (article 5 (a)) by Sub-Committee 1 of the Fourth Committee, at the second part of the first session of the General Assembly, the representative of the United Kingdom stated that "the retention of the words 'as an integral part' did not involve administration as an integral part of the United Kingdom itself and did not imply British sovereignty in these areas."¹³

(i) Explaining the clause "as an integral part of its territory" in respect to the Cameroons and Togoland under British administration, the representative of the United Kingdom also stated that it was essential that both Trust Territories, which were not sufficiently large and self-contained, should be administered as integral parts of the neighbouring British territories of Nigeria and of the Gold Coast Colony respectively. He was willing to substitute references to Nigeria and the Gold Coast in the phrase in order to read "as an integral part of Nigeria and the Gold Coast" to demonstrate that it was not the intention that those Trust Territories should be administered as an integral part of the United Kingdom.¹⁴

(j) In connexion with the discussion of the clause "as an integral part of Belgian territory", in paragraph 1 of article 5 of the Trusteeship Agreement for the Territory of Ruanda-Urundi, Sub-Committee 1 of the Fourth Committee, at the second part of the first session of the General Assembly, took note of the declaration of the representative of Belgium that it was the interpretation of his Government that the words "as an integral part" were necessary as a matter of administrative convenience and were not considered as granting to the Government of Belgium the power to diminish the political individuality of the Trust Territory.¹⁵

(k) The statements made by the representatives of the Administering Authorities during the negotiation of the clause, "as an integral part", in the respective Trusteeship Agreements demonstrate that the use of the phrase has been dictated by the need to administer each Trust Territory as a part of adjacent territories under the sovereignty or control of the Administering Authority concerned. The Administering Authorities emphasized that they did not regard the clause as conferring power to diminish the political individuality of the Trust Territories, neither did it imply sovereignty over those Trust Territories.

23. (a) In accordance with article 5 (b) of the Trusteeship Agreements for the Cameroons and for Togoland under British administration, the Administering Authority "shall be entitled to constitute the Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control, and to establish common services between such territories and the Territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this Agreement".

(b) In accordance with article 5, paragraph 2 of the Trusteeship Agreement for Ruanda-Urundi, the Administering Authority is empowered "to constitute Ruanda-Urundi into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty and to establish common services between such territories and Ruanda-Urundi, provided that such measures are not inconsistent with the objectives of the International Trusteeship System and with the provisions of the Agreement".

(c) In accordance with article 5 of the Trusteeship Agreement for New Guinea, the Administering Authority "shall be at liberty to bring the Territory into a customs, fiscal or administrative union or federation with other dependent territories under its jurisdiction or control, and to establish common services between the Territory and any or all of these territories, if, in its opinion, it would be in the interests of the Territory and not inconsistent with the basic objectives of the Trusteeship System to do so".

(d) In accordance with article 5 (b) of the Trusteeship Agreement for Tanganyika, the Administering Authority "shall be entitled to constitute Tanganyika into a customs, fiscal or administrative union or federation with adjacent territories under his sovereignty or control, and to establish common services between such territories and Tanganyika where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this Agreement".

(e) The Trusteeship Agreements for Togoland and the Cameroons under French administration both set forth, in article 4A, paragraph 2, certain conditions under which the Administering Authority would be entitled to apply a customs fiscal or administrative union or federation, or to establish services common to the Trust Territory and adjacent territories. Such measures may be established with the consent of the territorial representative assembly, to ensure better administration, provided that they should promote the objectives of the International Trusteeship System.

(f) During the consideration of the draft Trusteeship Agreements, Sub-Committee 1 of the Fourth Committee took note of the following assurance:

"In connexion with the provisions of the Trusteeship Agreements concerning the right of the Administering Authorities to constitute the Trust Territories administered by them into customs, fiscal or administrative unions or federations with adjacent territories under their sovereignty or control... the delegations of Australia, Belgium, France and the United Kingdom, being the delegations of States submitting the Trusteeship Agreements for the approval of the General Assembly, wish to give assurance that they do not consider the terms of the articles above quoted as giving powers to the Administering Authority to establish any form of political association between the Trust Territories respectively administered by them and adjacent territories which would involve annexation of the Trust Territories in any sense or would have the

¹⁴ *Ibid.*, Fourth Committee, part II, A/C.4/Sub.1/81, pp. 118-119.

¹⁵ *Ibid.*, Plenary Meetings, A/258, pp. 1543-1544.

¹³ *Ibid.*, Plenary Meetings, A/258, p. 1544.

effect of extinguishing their status as Trust Territories".¹⁶

24. Measures applied under these provisions of the Trusteeship Agreements should not directly or indirectly threaten, endanger or prejudice the status and political integrity of the Trust Territory and its separate development as a distinct entity of international law. It would appear necessary to examine, if possible, the practical consequences resulting from the operation of an administrative union, and to see whether there exist elements in it which may tend towards a *de facto* establishment of a political union which may potentially threaten the political status and integrity of the Trust Territory and prejudice the attainment of the objectives of the Trusteeship System.¹⁷

25. In this connexion, reference is made to General Assembly resolution 224 (III) of 18 November 1948, which is also quoted in the Trusteeship Council's resolution 81 (IV) of 27 January 1949 containing the Committee's terms of reference. The relevant clause reads as follows:

"The General Assembly,

"...

"Endorses the observation of the Trusteeship Council that an administrative union 'must remain strictly administrative in its nature and its scope and that its operation must not have the effect of creating any conditions which will obstruct the separate development of the Trust Territory, in the fields of political, economic, social and educational advancement, as a distinct entity';

"Recommends accordingly that the Trusteeship Council should:

"(a) Investigate these questions in all their aspects with special reference to such unions already constituted or proposed..."

26. The emphasis of the General Assembly's resolution lies on the examination of "an administrative union", therefore of any administrative union, and on the investigation of "these questions in all their aspects" with the view to discovering whether such unions remain strictly administrative in their nature and their scope and will not obstruct the separate development of the Trust Territory. It may be that different names are used for such unions or that they derive from different provisions of respective Trusteeship Agreements, but no such union should create conditions which may interfere with "the separate development of the Trust Territory, in the fields of political, economic, social and educational advancement, as a distinct entity".¹⁸

27. Reference is also made to the recommendation of Sub-Committee 1 of the Fourth Committee to the General Assembly that the letter should instruct the Trusteeship Council:

"(a) To observe whether the Trusteeship Agreements which have been approved by the General Assembly operate in fact to achieve the basic objectives of the Trusteeship System.

"(b) If it is of the opinion that, in the light of changing circumstances and practical experience, some alteration or amendment of any such Trusteeship Agreement would promote the more rapid achievement of the basic objectives of the Trusteeship System, to submit such proposed alterations or amendments to the Administering Authority so that, if agreed on pursuant to Article 79, such alterations or amendments may then be submitted to the General Assembly for approval."¹⁹

CHAPTER III

The administrative union affecting the Trust Territory of Tanganyika

A. SUMMARY OF HISTORICAL EVENTS PRECEDING THE PRESENT ADMINISTRATIVE UNION

28. For a summary of the historical events preceding the present administrative union, see the *Official Records of the Trusteeship Council, Fourth Session Supplement No. 3*, pages 158-162.

B. LAWS ESTABLISHING THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION

29. For the laws establishing the East Africa Inter-Territorial Organization, see the *Official Records of*

the General Assembly, Fifth Session, Supplement No. 4, pages 203-204.

30. The East Africa (High Commission) Order-in-Council, 1947, has now been revised and amended by the East Africa (High Commission) (Amendment) Order in Council, 1951, which became effective on 1 January 1952. Section 2 of the latter Order amends section 3 of the Principal Order by deleting the words "for a period of four years" and by substituting the words "until the 31st day of December, 1955." By this amendment, part III (The Assembly) and part IV (Legislation and Legislative Procedure) continue in operation until 31 December 1955.

¹⁶ *Ibid.*, pp. 1544-1545.

¹⁷ Observations of the Committee on Administrative Unions, first report, T/338, 6 June 1949, in *Official Records of the Trusteeship Council, Fifth Session, Annex*, p. 262.

¹⁸ *Ibid.*, pp. 262-263.

¹⁹ *Official Records of the General Assembly, Second Part of the First Session, Plenary Meetings*, A/258, p. 1545.

C. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE GENERAL ASSEMBLY, BY THE TRUSTEESHIP COUNCIL AND ITS SUBSIDIARY ORGANS, AND OBSERVATIONS MADE BY THE ADMINISTERING AUTHORITY

General

31. At its third session, the Trusteeship Council:

Noted that the Inter-Territorial Organization was put into effect without prior consultation with the Trusteeship Council.

Noted that the Inter-Territorial Organization was put into effect without full prior consultation of the indigenous inhabitants of Tanganyika.

Noted the assurance by the Administering Authority that no extension of the authority of the East African Central Assembly or of the East African High Commission as regards Tanganyika is possible without the express approval of the Tanganyika Legislative Council.

Welcomed the assurance given by the Administering Authority that it is the firm intention of the Administering Authority to maintain the present status and identity of Tanganyika and that no plan is envisaged which would involve annexation or the loss by Tanganyika of its status as a Trust Territory.

Considered it premature to form a definite opinion regarding the Inter-Territorial Organization and decided to postpone further consideration of the plan until further information had become available.

Desired to be kept informed regarding the effect of the Inter-Territorial Organization upon the political, economic, social and educational advancement of the indigenous population.

Expressed hope that the Administering Authority would consult the Trusteeship Council before undertaking any extension or modification of the present arrangement which might affect the status of Tanganyika.²⁰

32. At its third session, the General Assembly (resolution 224 (III)), endorsing the observation of the Trusteeship Council, recommended, *inter alia*, that the Trusteeship Council should:

"(b) ... recommend such safeguards as the Council may deem necessary to preserve the distinct political status of the Trust Territories and to enable the Council effectively to exercise supervisory functions over such Territories;

"(c) Request, whenever appropriate, an advisory opinion of the International Court of Justice as to whether such unions are within the scope of and compatible with, the stipulations of the Charter and the terms of the Trusteeship Agreements as approved by the General Assembly."

33. At its seventh session, the Council approved the report of the Committee on Administrative Unions (A/1306, annex) which, with regard to this question, stated as follows:

²⁰ Official Records of the General Assembly, Third Session, Supplement No. 4, A/603, p. 31.

²¹ Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 206.

"The objective in setting up administrative unions and common services envisaged under article 5 (b) of the Trusteeship Agreement is to provide a legal framework for the operation of certain services which are in fact and by their nature interterritorial and which can be more advantageously and more effectively administered on that basis. The establishment of any administrative union or common services involves necessarily a certain reduction of the administrative control of each territory affected over matters relating to the amalgamated services.

"The political status and the territorial integrity of the Trust Territory of Tanganyika must be understood to mean its continued existence within the present frontiers as a separate and distinct entity of international law. The establishment of the East Africa Inter-Territorial Organization should not therefore threaten, endanger or compromise Tanganyika's political status and territorial integrity directly or indirectly. It should be asked whether, in view of the great disproportion in the economic strength of Tanganyika on the one side, and of Kenya and Uganda on the other side, Tanganyika's economic and political life may become dependent upon that of Kenya and Uganda."²¹

34. From the data examined, the Visiting Mission to East Africa, 1948, *inter alia*, concluded that the organization was more than a mere administrative organization but fell short of a complete political union. It would be a purely administrative union if it possessed only powers of administration over certain common services, and would be a political union if it possessed full powers of legislation over any or all of the common services.²²

35. At its seventh session the Trusteeship Council, on the recommendation of the Committee on Administrative Unions, passed a resolution in that connexion. For relevant parts, see paragraph 72 (a) below.

36. The 1951 Visiting Mission observed in this connexion that the "Administering Authority has given precise assurances that political fusion is not intended."²³ It was of the opinion that the interterritorial arrangement on the existing basis is operating to the advantage of Tanganyika but believes that the organization should be kept strictly within its present limits.

37. At its eleventh session, the Trusteeship Council, on the recommendation of the Standing Committee, made the following observations:

(a) The Council, noting the provisions of the East Africa (High Commission) (Amendment) Order-in-Council, 1951, continuing the operation of the East Africa Central Legislative Assembly until 31 December 1955, is of the opinion that this extension for a further period of four years may not be disadvantageous to the development of the Trust Territory.

(b) The Council,

(i) Noting that the African representatives on the Legislative Council of Tanganyika supported the

²² Official Records of the Trusteeship Council, Fourth Session, Supplement No. 3, T/218 and Add.1, p. 60.

²³ T/946, para. 136.

motion proposing the continuation of the East Africa Central Legislative Assembly for a further period of four years,

(ii) Noting the statement of the special representative that all administrative officials had been instructed to take every opportunity to explain the question of the continuation of the East Africa Central Legislative Assembly to the African population whenever they met with chiefs, councils and people, and that they had done so without eliciting any unfavourable reaction,

(iii) Noting that a number of petitions have raised objections concerning the East Africa Inter-Territorial Organization,

Is of the opinion that it is as yet not fully informed concerning the means taken by the Administering Authority to ascertain the freely expressed wishes of the people.

(c) In this connexion, the Council expresses the hope that the Administering Authority will take all possible steps to inform the people concerning the operations and implications of the administrative union and consult with them before any review of the present arrangements is undertaken, and requests the Administering Authority to furnish to the Council regularly detailed information on the actions taken in this respect.

East Africa Central Legislative Assembly

38. At its seventh session, the Council noted that the provision concerning the East Africa Central Legislative Assembly would cease to have effect on 1 January 1952. The Council suggested (resolution 293 (VII)) that the "Administering Authority consider in that connexion and from time to time thereafter whether the allocation of legislative powers between the East Africa Legislative Assembly and the Legislative Council of Tanganyika is conducive to the advancement of the inhabitants of the Trust Territory and to the attainment of the objectives of the Trusteeship System".

39. At its ninth session, the Council, on the recommendation of the Standing Committee, adopted certain conclusions pertaining to the future of the East Africa Central Legislative Assembly (see also paragraph 76 (b) below).

Exercise of functions of supervision by the United Nations

40. The Committee on Administrative Unions, in 1950, referred to a statement made by the representative of the United Kingdom which included the following points with regard to the exercise of functions of supervision by the United Nations:

"(a) Under the terms of the Trusteeship Agreement, His Majesty's Government in the United Kingdom is the authority responsible for the administration of Tanganyika. Thus, it is His Majesty's Government in the United Kingdom which, in respect of the administration of Tanganyika, has accepted the supervision of the United Nations and is subject to that supervision, not the Government of Tanganyika nor any other authority.

"(b) In the view of the Administering Authority, therefore, it would be incorrect to suggest that the High Commission and its organs were, in so far as matters relating to Tanganyika are concerned, subject to the supervision of the United Nations as defined in Article 87 of the Charter.

"(c) Nevertheless, in its annual reports the Administering Authority will continue to furnish full information concerning Tanganyika's participation in East African Inter-territorial arrangements and recognizes that the Council will wish to examine this information and, if necessary, furnish the Administering Authority with its views, observations or recommendations thereon. But this does not imply that the United Nations has any function of supervision with respect to the East Africa High Commission and its organs nor is His Majesty's Government prepared to contemplate such supervision in any degree. His Majesty's Government does not foresee that this situation will in practice in any way prevent or hinder the Council from exercising its function of supervision with respect to Tanganyika as provided for in the Charter and the Trusteeship Agreement."²⁴

41. In connexion with the safeguard, enumerated in paragraph 7 (b) of Council resolution 293 (VII), that the "Administering Authority facilitate the access of visiting missions to such information on an administrative union as may be necessary to enable the mission to report fully on the Trust Territory", the Committee took note of a statement of the representative of the United Kingdom according to which the Secretary of State for the Colonies would always be pleased to receive future visiting missions to Tanganyika if they should care to call on him in London and the Chairman or Administrator of the East Africa High Commission would be glad to receive visiting missions to Tanganyika should they be passing through Nairobi and care to call on him and make the acquaintance of the principal officers of the High Commission.²⁵

Maintenance of boundaries, separate status and identity

42. By its resolution 293 (VII), the Council:

"Considers that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and draws them to the attention of the Administering Authorities concerned:

"...

"(c) That the Administering Authorities continue to maintain the boundaries, separate status and identity of Trust Territories participating in administrative unions."

43. At its ninth and eleventh sessions the Trusteeship Council noted that no information existed which would

²⁴ *Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 208.*

²⁵ *Ibid.*

suggest that the boundaries of the Territory have not been maintained.

Effect of the East Africa Inter-Territorial Organization on the administrative organization of Tanganyika

44. On the question of how the Inter-Territorial Organization might affect the administrative organization in Tanganyika, the Committee on Administrative Unions, 1950, made, *inter alia*, the following observations:

"2. Considering the very large number of services which the Government of Tanganyika would normally administer and which have been taken over by the Inter-Territorial Organization, the number of employees in the railway services (including railway artisans, etc.) and of employees in the posts and telegraphs services is almost two-thirds of the total number of public servants of Tanganyika. The Visiting Mission to Tanganyika referred to the fact that the collection of one-half of the total revenue of Tanganyika is being undertaken by the East Africa Inter-Territorial Organization on behalf of the Tanganyika Government. The Visiting Mission reported the anxiety expressed by many Africans and Asians as well as by some Europeans that the Tanganyika Government would become merely a provincial government and the Tanganyika Legislative Council merely a provincial council.

"3. The Committee on Administrative Unions was of the opinion that among the basic problems connected with the employment of Tanganyika's inhabitants in the High Commission and its different organs, consideration should be given to the methods of selection of employees and distribution of leading posts on a non-discriminatory basis; their responsibilities and loyalty to a body which is outside the direct control of the Government of Tanganyika; staff regulations, transfer and dismissal; freedom of organization, social insurance and wages. With regard to these problems the administrative policy of the High Commission affecting a large number of public employees of Tanganyika may influence the development of the Trust Territory.

"4. The Committee is of the opinion that, in view of the specific status of Tanganyika as a Trust Territory, special provision should be made whereby the Tanganyika Legislative Assembly could inform the East Africa Central Legislative Assembly of its views on any bill introduced in that Assembly."²⁶

45. At its eleventh session, the Trusteeship Council, on the recommendation of the Standing Committee, made the following observations:

(a) Noting that the High Commission services retain a racial element in regard to salary scales,

(b) Recalling that the three territories forming the East Africa Inter-Territorial Organization have not only a different legal and constitutional status, but have also distinct Native institutions and customs, and diverse degrees of cultural development, and

(c) Noting the statement of the Administering Authority²⁷, that although the nominal prospects of the

African members of the High Commission services appear more limited than the prospects of those in the territorial departmental services, favourable points of conversion were in fact granted to African members of the service on their absorption into the High Commission services, is of the opinion that the Administering Authority should take all possible steps to ensure that the employment conditions prevailing for the inhabitants of Tanganyika in the services of the High Commission are no less favourable than those enjoyed by those inhabitants in the service of the Government of Tanganyika.

General economic effects

46. The Committee on Administrative Unions, 1950, during its discussion on the economic implications of the East Africa Inter-Territorial Organization, drew attention to the report of the Visiting Mission, 1948, referring to the opposition of certain sections of the population of Tanganyika to the organization, due to fear of too great economic influence on the part of Kenya Colony, where the seat of the organization and its services are located.²⁸

Effect of the Inter-Territorial Organization on the application of the equal treatment provision of Article 76 d of the Charter

47. The Committee on Administrative Unions, 1950, stated in its report that the special representative of the Administering Authority made a statement before the Council to the effect that the establishment and operation of the organization would not affect the equal treatment provision of Article 76 d of the Charter in its application to Tanganyika and that, furthermore, Kenya and Uganda are subject to the provisions of the Congo Basin Treaty which also provide for equality of treatment in economic and commercial matters and that those territories give no favoured-nation treatment in relation to custom duties.²⁹

Separate financial, statistical and other data

48. At its seventh session the Trusteeship Council in implementation of General Assembly resolution 224 (III) recommended that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, one of the safeguards necessary was that the Administering Authorities furnish clear and precise financial, statistical and other data relating to Trust Territories participating in administrative unions.

49. With regard to that safeguard, the Council on the recommendation of the Standing Committee noted at its ninth³⁰ and eleventh sessions that the annual reports on the administration of Tanganyika for 1948, 1949, 1950 and 1951 contain separate financial, statistical and other data relating to that Territory. The Council noted, however, that some services under the East African High Commission, namely, the East

²⁸ Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 210.

²⁹ Ibid., p. 211.

³⁰ Official Records of the General Assembly, Sixth Session, Supplement No. 4, A/1856, p. 33.

²⁶ Ibid., p. 209.

²⁷ T/953/Add.4, p. 11.

African Posts and Telegraphs Department and the East African Railways and Harbour Administration, were so closely integrated that it was impracticable to give separate financial figures for the Territory of Tanganyika alone.

Expenditure in the Trust Territory

50. At its eleventh session the Council recommended that the Administering Authorities ensure, with regard to Trust Territories participating in administrative unions, that expenditures on the administration, welfare and development of any such Trust Territory for a given year be not less than the total amount of public revenue derived from the Territory in that year.

51. At its ninth session, the Council, on the recommendation of the Standing Committee, noted that "according to the information contained in the annual reports for 1949 and 1950, the total revenue derived from the Trust Territory of Tanganyika amounted to:

1948 (actual)	1949 (actual)	1950 (estimated)	1951 (estimated)
£6,965,058	£8,585,646	£8,492,095	£9,936,263

and the total expenditure on the administration, welfare, and development of the Trust Territory (Territorial and Development Plan Account) amounted to:

1948 (actual)	1949 (actual)	1950 (estimated)	1951 (estimated)
£7,378,331	£9,459,540	£12,651,388	£15,052,431

"Therefore expenditures on the administration, welfare and development of Tanganyika for the last four years will be not less than the total amount of public revenue derived from the Territory."³¹

52. At its eleventh session, the Trusteeship Council, on the recommendation of the Standing Committee, noted that, according to the information contained in the annual report for 1951 the total revenue including Colonial Development and Welfare grants accruing to the Trust Territory of Tanganyika amounted to:

1949 (actual)	1950 (actual)	1951 (actual)	1952 (estimated)
£10,327,408	£13,323,763	£16,278,985	£19,484,247

and the total expenditure on the administration, welfare, and development of the Trust Territory amounted to:

1949 (actual)	1950 (actual)	1951 (actual)	1952 (estimated)
£9,459,540	£13,560,957	£16,134,855	£19,383,872

Therefore expenditure on the administration, welfare and development of Tanganyika for the last three years will be not less than the total amount of public revenue derived from the Territory.

East African Industrial Council

53. The report of the Committee on Administrative Unions, 1950, states that:

"4. The Committee on Administrative Unions notes that licensing on an inter-territorial basis could

create certain problems, such as the domination of the scheme by a particular group or territory, which might hinder the economic advancement of Tanganyika Territory.

"5. It further notes that, although equal territorial representation on the East African Industrial Council is maintained, industrial incentive may be stronger in Kenya where the major part of secondary industry is already located, where Europeans are more numerous and where their influence is greater and where the industrial development has been stronger and more rapid.

"6. The Committee is of the opinion that the protection of industries from competition by licensing is an aspect deserving careful and detailed examination. The reasons stated by the special representative, which are the criteria by which applications for licences are judged, confer broad powers on the Industrial Council. In those instances where competition is ruled out, the maintenance of fair pricing, from the standpoint of the consumer, seems to require the formulation of explicit policies and measures for the prevention of abuses.

"7. Accordingly, the Committee feels that the Administering Authority should keep very careful watch in respect of this matter, especially in the granting of licences, in order that the economic development of Tanganyika is not hindered."³²

54. At its ninth session the Council, on the recommendation of the Standing Committee, adopted the following conclusions:

"(a) Is of the opinion, having considered the information on this subject, that continued care should be exercised in order that inter-territorial and industrial planning does not prejudice the economic development of the Trust Territory and that the policies pursued in the licensing of new industries do not discourage economic initiative;

"(b) Notes that, in connexion with the granting of a licence to Nyanza Textiles Industries Limited to establish a textile mill in Uganda, the Industrial Council had made a Declaration prohibiting until 1954 the establishment in any of the East African territories, including Tanganyika, of cotton yarn or cotton piece goods industries. This Declaration derived its authority as far as Tanganyika was concerned from an ordinance (No. 72 of 1949) authorizing the Council by declarations of this character to protect new industry from uneconomic competition during the early stages of its development. Parallel ordinances were enacted in the other two territories.

"(c) Takes special note in this connexion of the statement of the representative of the Administering Authority that no applications for licences to establish a cotton spinning or weaving industry in Tanganyika had been received or were known to be pending at the time of the Declaration.

"(d) Intends to examine with particular care the future operations of the East African Industrial

³¹ *Ibid.*

³² *Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 210.*

Council under this legislation with a view to safeguarding the interests of the Trust Territory.”³³

55. The second Visiting Mission to East Africa made, *inter alia*, the following observations in its report on the operations of the East African Industrial Council:

“One field in which the Tanganyika Government has surrendered some measure of its economic control over the Territory is that of industrial licensing...

“In its discussion with officials in Tanganyika, the Mission found no great enthusiasm for the industrial licensing system, although officials of the High Commission in Nairobi said that it was largely on the initiative of Tanganyika that the system had been introduced...

“In this connexion, the Mission recalls the opinion expressed by the Trusteeship Council at its ninth session that continued care should be exercised in order that inter-territorial and industrial planning should not prejudice the economic development of the Trust Territory and that the policies pursued in the licensing of new industries should not discourage economic initiative.”³⁴

56. In that connexion, the Administering Authority made the following observations:

“The question of industrial licensing is one which is kept constantly under review and the Administration is fully alive to the need to ensure that the licensing system does not operate to the disadvantage of the Territory or discourage local initiative. The main reason for the introduction of the present system is that briefly summarized by the Mission in paragraph 128 [T/946]. The position was more fully stated by the United Kingdom representative at the seventh meeting of the Standing Committee on Administrative Unions held on 31 May 1951 (see Trusteeship Council document T/C.1/SR.7 of 7 June 1951). So far the system has exercised no influence on the economic development of Tanganyika and at present there seems little likelihood of its doing so. There is certainly no present intention of widening the scope of the system. At the same time the existing territorial legislation on this subject is not considered to be entirely satisfactory and the draft of a new Ordinance is under consideration.”³⁵

57. At its eleventh session the Trusteeship Council, on the recommendation of the Standing Committee, made the following observations in that connexion:

(a) The Trusteeship Council, noting the statements of the Administering Authority regarding the operation of the East African Industrial Council, and in particular the statement that existing territorial legislation on the subject was not considered to be entirely satisfactory and that the draft of a new ordinance was under consideration, is of the opinion that, as long as sufficient information concerning the operation of the East African Industrial Council is not available, the Council is unable to assess properly the activities of the Industrial Council. Therefore, it is hoped that

the minutes of the East African Industrial Council will be made available to the Trusteeship Council.

(b) The Council further notes that the general powers provided under article 3 of the ordinance establishing the East African Industrial Council have not so far been made operative and that it has, as far as the Trusteeship Council is aware, confined its activities to licensing only.

(c) The Council notes that one new licence for the manufacture of blankets of waste cotton and *rami* has been granted to Hill Brown Ltd., but it has no information whether the application from the Moshi Trading Co. has or has not been granted.

(d) The Council expresses the hope that the Administering Authority, in preparing the draft of a new ordinance for the East African Industrial Council, will take all possible steps to ensure that the future economic interests of the Trust Territory are fully safeguarded and that consideration will be given to adequate participation in the activities of the East African Industrial Council of suitably qualified representatives of the indigenous population of the Trust Territory.

East African Railways and Harbour Administration, and the Posts and Telegraph Department

58. The Committee on Administrative Unions, 1950, made reference to the possible effects of the conversion of the Railways and Harbour Administration and the Post and Telegraph Departments, as well as other services, into amalgamated “self-contained services” which might deprive the Tanganyika Government of considerable revenue and power to expend such revenue, thereby affecting the fiscal policies of the Trust Territory and indirectly affecting social and educational policies.³⁶

59. With regard to the functioning of these two organizations, the second Visiting Mission to East Africa expressed the opinion that the “amalgamation of the Tanganyika railways with the Kenya and Uganda railways has resulted in substantial advantages for Tanganyika”, and that “it should be recalled that the East Africa Posts and Telegraph Department has existed as a combined service since 1934 and that the main effect of the 1947 proposals was to convert it into a department with its own self-contained financial accounts”.³⁷

60. At the eleventh session the Council, on the recommendation of the Standing Committee, expressed the hope that, with regard to the operations of the Railway and Harbour Administration, the Administering Authority would continue to take all steps to safeguard the economic interests of Tanganyika.

Effect of the common customs policy on Tanganyika

61. The Committee on Administrative Unions, 1950, stated in its report:

“17. The Central Development Commission of Tanganyika has referred to the fact that the secondary industries in Tanganyika are not well developed,

³³ *Ibid.*, Sixth Session, Supplement No. 4, pp. 32-33.

³⁴ T/946, paras. 127, 129, 130.

³⁵ T/977, pp. 9-10.

³⁶ For the detailed statement made by the special representative of the Administering Authority, see the *Official Records of the General Assembly, Fifth Session, Supplement No. 4*, p. 211.

³⁷ T/946, paras. 120, 125.

that they are more developed in Kenya, and that the existence of customs agreements has tended to hinder the development of secondary industries in Tanganyika. At the same time the Central Development Commission of Tanganyika has observed that because of existing customs unions Tanganyika has lost much revenue.

"18. The Committee asked the special representative of the Administering Authority to clarify this statement and give figures concerning secondary industries in Kenya and Tanganyika in order to show that the customs union does or does not tend to discourage the development of secondary industries in Tanganyika, and inquired as to whether there are measures which the Government of Tanganyika itself may take for the protection of secondary industries in Tanganyika.

"19. The special representative stated that it cannot be said that secondary industries are as yet well developed in any part of East Africa. He regretted that he was unable to give figures concerning secondary industries in Kenya and Tanganyika as requested, since these were not available.

"20. The Committee on Administrative Unions is of the opinion that even though figures may not be readily available as regards secondary industries in Kenya, Tanganyika and Uganda, the Trusteeship Council should be informed as to what measures the Administering Authority proposes in the field of customs policy in order to safeguard to an appropriate degree the development of existing and potential secondary industries in Tanganyika."³⁸

62. The second Visiting Mission to East Africa observed that the three Territories have virtually the same customs and excise tariffs and pursue parallel policies in their systems of price control and of import and export controls. But it emphasized that this arrangement does not fall within the scope of the East Africa High Commission. The Mission continued: "Undoubtedly, a number of practical difficulties arise from the existence of this incomplete customs union. It is important, however, that the Tanganyika Government should retain in full its right to control the economy of the Territory and to direct its future economic development, while pursuing the aim of uniformity whenever this is consistent with Tanganyika's interests."³⁹

63. On the actual mechanics of collection of custom and excise duties, aside from policy, and their transference back to respective governments of the Territories, the Mission was of the opinion that this method of collection, which has been working for many years, was operating quite satisfactorily.

64. At its eleventh session, on the recommendations of the Standing Committee, the Trusteeship Council made the following observations:

The Council, although realizing that customs arrangements are not within the competence of the East Africa Inter-Territorial Organization, is nevertheless of the opinion that customs arrangements are closely connected with the operations of the administrative

union, and hopes that the Administering Authority will take all necessary precautions to ensure that the financial interests of the Trust Territory are in no way subordinated to the other territories participating in the administrative union, and to ensure that the appropriate organs of Tanganyika are given full opportunity to express their views on all matters relating to customs arrangements.

Effect of the operation of the East Africa Inter-Territorial Organization on social development

65. The Committee on Administrative Unions, 1950, noted in its report that "the special representative of the Administering Authority stated that an international convention would be applied to Tanganyika even in cases where circumstances in Kenya or Uganda would not allow such application".⁴⁰

66. The report went on to state: "The three territories forming the East Africa Inter-Territorial Organization have not only a different legal and constitutional status, but have also distinct Native institutions and customs, and diverse degrees of cultural development. Kenya has, in comparison with Tanganyika, a larger number of European settlers. The influence of these settlers on race relations and on the administration of Kenya was among the main reasons for opposition to the administrative union scheme as expressed to the Visiting Mission by articulate sections of the African and Asian inhabitants of Tanganyika".

67. Regarding the effects of the organization on the social advancement of the inhabitants, the special representative referred the Committee to the fact that social advancement of the inhabitants was not among the subjects of the amalgamated services. The Committee, however, noted in its report "that a very large number of the inhabitants of Tanganyika will come directly or indirectly within the purview of the High Commission in respect of social matters and working conditions of the employees of the common services, provisions concerning the hygiene and security of their employment, social insurance, invalidity and old-age pension scheme, unemployment insurance; all these and other questions will be influenced by the social policy of the High Commission in respect of its public servants in Tanganyika".⁴¹

68. See also paragraph 45 above.

Co-operation between the East Africa Inter-Territorial Organization and the Central African Council

69. At its ninth session, the Council adopted the following conclusions:

"(a) Takes note of certain discussions in the East Africa Central Legislative Assembly;

"(b) Notes also that a resolution for closer co-operation in the field of communications and defence was adopted;

"(c) Notes, furthermore, that the African representatives in the East Africa Central Legislative Assembly had opposed this resolution;

³⁸ *Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 212.*

³⁹ T/946, para. 126.

⁴⁰ *Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 212.*

⁴¹ *Ibid.*

"(d) Takes note in this connexion of the statement of the representative of the Administering Authority that the Central African Council to whom this resolution was addressed had up to the present made no response and that, in these circumstances, the resolution remained inoperative and could have no effect on the question of the administrative union affecting Tanganyika."⁴²

D. OBSERVATIONS PURSUANT TO PARAGRAPHS 3 (a) AND 3 (b) OF GENERAL ASSEMBLY RESOLUTION 563 (VI)

70. By resolution 563 (VI), the General Assembly requested the Trusteeship Council "in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party... with special reference to:

"(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

"(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement."

Observations regarding the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV)

71. The considerations set out in paragraph 1 of General Assembly resolution 326 (IV) were the subject of observations by the Council transmitted to the Assembly under Trusteeship Council resolution 293 (VII). Moreover, the Council in its annual review of conditions in the Trust Territory of Tanganyika has, assisted by the work of its Standing Committee on Administrative Unions, adopted conclusions on a current basis relating to various of the considerations enumerated in General Assembly resolution 326 (IV). In the light of paragraph 3 (a) of General Assembly resolution 563 (VI), the Council undertook a further examination of the considerations set out in paragraph 1 of Assembly resolution 326 (IV) as they apply to Tanganyika.

72. Paragraph 1 (a) of General Assembly resolution 326 (IV) refers to "the desirability of having the Administering Authorities inform the Trusteeship Council beforehand when they propose to create new administrative unions of Trust Territories with adjacent territories, or extend the scope of any existing union or federation".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"Notes that part 1, section 3, of the East Africa (High Commission) Order in Council, 1947, limits the duration of the East Africa Central Legislative Assembly, its composition and functions, to a period of four years, and that all provisions con-

cerning the East Africa Central Legislative Assembly shall cease to have effect on 1 January 1952;

"Draws attention to the resolution of the Trusteeship Council regarding the East Africa Inter-Territorial Organization adopted at the third session, which reads as follows:

"Expresses the hope that the Administering Authority will consult the Trusteeship Council before undertaking any extension or modification of the present arrangement which might affect the status of Tanganyika;"

"Considers that the Administering Authority, in reviewing the composition and functions of the East Africa Central Legislative Assembly, should take all possible steps to ensure that the interests of Tanganyika are adequately safeguarded".

(b) At its ninth session the Trusteeship Council, on the recommendation of the Standing Committee, made the following observations:

"Notes with appreciation the statement of the Administering Authority that it will inform the Standing Committee in due course when decisions concerning the future status of the East Africa Central Legislative Assembly have been reached;

"Notes also that there have been no additions to the list of scheduled services with respect to which the East Africa Central Legislative Assembly may pass laws."⁴³

(c) In that connexion, the Council, at its eleventh session,

(i) Noted that the Standing Committee on Administrative Unions was informed, by a letter dated 6 December 1951 from the United Kingdom delegation, that the East Africa (High Commission) (Amendment) Order-in-Council, 1951, had come into operation, and that the effect of it was to continue in operation until 31 December 1955 parts III and IV of the East Africa (High Commission) Order-in-Council, 1947; and

(ii) Reiterated the hope that the Administering Authority would consult the Trusteeship Council before undertaking any further extension or modification of the existing arrangements which might affect the status of the Trust Territory.

73. Paragraph 1 (b) of General Assembly resolution 326 (IV) refers to "the desirability, should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial, statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibility under the Charter".

(a) With respect to the above, resolution 293 (VII) of the Council reads as follows:

"Agrees that at present the Government of the United Kingdom is furnishing clear and precise separate financial, statistical and other data relating

⁴² Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 33.

⁴³ Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 32.

to the Territory of Tanganyika which the Trusteeship Council considers necessary for the effective discharge of its responsibility under the Charter."

(b) Furthermore, in resolution 293 (VII), the Council drew the attention of the Administering Authority, *inter alia*, to the following safeguard:

"That the Administering Authorities furnish clear and precise financial, statistical and other data relating to Trust Territories participating in administrative unions."

(c) At its ninth session, the Council, on the recommendation of the Standing Committee on Administrative Unions, adopted the following conclusions:

"With regard to the safeguards enumerated in sub-paragraph 7 (a) of the Trusteeship Council's resolution 293 (VII), the Council:

"(a) Notes that the annual reports on the administration of Tanganyika for 1949 and 1950 contain separate financial, statistical and other data relating to the Territory of Tanganyika;

"(b) Notes, however, that some services under the East Africa High Commission, namely, the East African Posts and Telegraphs Department and the East African Railways and Harbours Administration, are so closely integrated that it is impracticable to give separate financial figures for the Territory of Tanganyika alone."⁴⁴

(d) At its eleventh session the Council, on the recommendation of its Standing Committee, adopted for 1951 a conclusion identical with that adopted at the ninth session.

74. Paragraph 1 (c) of General Assembly resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory".

With respect to the above, resolution 293 (VII) of the Council reads as follows:

"Notes that a separate judicial organization is established in the Trust Territory of Tanganyika and that local appellate jurisdiction, and then only under specific provisions, lies to the Court of Appeal for Eastern Africa which has jurisdiction over Kenya, Uganda, Zanzibar and the Trust Territory."

75. Paragraph 1 (d) of General Assembly resolution 326 (IV) refers to "the desirability of establishing in each Trust Territory a separate legislative body with increasing powers and with headquarters within the Trust Territory, and of eliminating any type of legislative action originating in any other legislative body with headquarters in the Non-Self-Governing Territory".

(a) With respect to the above, resolution 293 (VII) of the Council reads, *inter alia*, as follows:

"Notes that a separate Legislative Council exists in Tanganyika which, subject to the Governor's right not to assent to any bills submitted to him by the Legislative Council, has full legislative and budgetary competence within the Trust Territory and

"Notes that the East Africa Central Legislative Assembly, which is located in Kenya, has powers of legislation in respect of certain specified matters listed in the Third Schedule of the East Africa (High Commission) Order-in-Council, 1947, subject to the right of the High Commission not to assent to any bills submitted to it by the Legislative Assembly, such assent requiring the approval of all three members of the High Commission including the Governor of Tanganyika, and

"Notes that the High Commission, with a similar right not to assent, may 'with the advice and consent of the Legislative Councils of the territories ... make laws for the peace, order and good government of the Territories';

"...

"Suggests that the Administering Authority consider in that connexion and from time to time thereafter whether the allocation of legislative powers between the East Africa [Central] Legislative Assembly and the Legislative Council of Tanganyika is conducive to the advancement of the inhabitants of the Trust Territory and to the attainment of the objectives of the Trusteeship System."

(b) The Council notes that the East Africa (High Commission) (Amendment) Order-in-Council, 1951, which extends the life of the East Africa Central Legislative Assembly, makes no change in the allocation of legislative powers.

76. Paragraph 1 (e) of General Assembly resolution 326 (IV) refers to "the desirability of taking into account, before any administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territories concerned".

(a) With respect to the above, resolution 293 (VII) of the Council reads as follows:

"Noting that the East Africa High Commission may, with the approval, signified by resolution, of the Legislative Councils of the Territories and with the consent of the Secretary of State, by Orders duly published, add to the list of common services or subjects set out in the Order-in-Council, 1947, provided that, if the High Commission shall be satisfied that there has been substantial opposition, in the Legislative Council of any one or more of the Territories, to the passing of any such resolution, the High Commission shall not proceed to make any such Order, until a motion for such a resolution has again been proposed and debated in the Legislative Council or Councils in question, nor, if the consent of a Secretary of State has previously been obtained, until such consent has again been obtained.

"Takes note of the statement of the representative of the United Kingdom that it was most unlikely that any addition to the list of scheduled services would be made in the event of substantial opposition in the Legislative Council of any of the Territories; and

"Notes the assurance of the representative of the United Kingdom that the fullest consideration would

⁴⁴ *Ibid.*, p. 33.

be given to the wishes of the people in this, as in other matters."

(b) At its ninth session the Council, on the recommendation of the Standing Committee made, *inter alia*, the following observations:

"(c) Notes from the memorandum of the Administering Authority, dated 30 April 1951, that the Legislative Council of Tanganyika has adopted unanimously a motion proposing the continuation of the East Africa Central Legislative Assembly for a further period of four years;

"(d) Notes further that this motion was adopted with the concurring vote of the African representatives on the Legislative Council and recalls that the African representatives on the Legislative Council of Tanganyika abstained from voting when, in 1947, the establishment of the East Africa Inter-Territorial Organization was discussed in the Legislative Council;

"(e) Recalls in this connexion the statement of the special representative of the Administering Authority that proposals concerning the re-examination of the East Africa Inter-Territorial Organization in so far as the East Africa Central Legislative Assembly, its powers, functions and constitution are concerned, would be explained to the people, that their reaction would be tested, but not necessarily in a representative body covering the whole of the Territory, and that it was customary for consultation to take place at meetings between the government spokesmen and the people in their own areas;

"(f) Expresses the hope, with reference to the conclusion reached by the previous Committee on Administrative Unions that it was 'of the opinion that a more explicit procedure for ascertaining public opinion and for the appropriate weighing of the opinion of the various sections of the population would seem to be desirable', that the Administering Authority will examine and weigh public opinion in the Territory before revising the provisions relating to the composition and functions of the East Africa Central Legislative Assembly."⁴⁵

(c) The Council is of the opinion that the Administering Authority should continue to ascertain public

opinion in the Trust Territory before any further changes are made with regard to the East Africa Inter-Territorial Organization and should inform the Council to that effect.

Observations regarding paragraph 3 (b) of General Assembly resolution 563 (VI)

77. The Trusteeship Council,

(a) Recognizing that the common customs, fiscal, and administrative services organized on an inter-territorial basis may have definite advantages to the individual territories participating in such arrangements;

(b) Recognizing that such arrangements should not, in any way, interfere with the progressive development of a Trust Territory and that its interests should not be subordinated to the interests of any of the other territories participating in the administrative union;

(c) Recalling that, by article 5 (b) of the Trusteeship Agreement for Tanganyika, the Administering Authority shall be entitled to constitute Tanganyika into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control, and to establish common services between such territories and Tanganyika where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of the Agreement;

(1) Is of the opinion that the instruments establishing the East Africa Inter-Territorial Organization do not appear to be incompatible with the Charter of the United Nations and with the Trusteeship Agreement for Tanganyika;

(2) Is not firmly convinced, however, that some of the operations under the East Africa Inter-Territorial Organization, including the operations of the East African Industrial Council, may not prejudice the future economic development of the Trust Territory;

(3) Remains therefore of the opinion that all the operations of the administrative union affecting Tanganyika must be continually examined so as to ensure that the interterritorial arrangements do not interfere with the attainment of the objectives of the Trusteeship System.

CHAPTER IV

The administrative union affecting the Trust Territory of Ruanda-Urundi

A. SUMMARY OF HISTORICAL EVENTS PRECEDING THE ESTABLISHMENT OF THE PRESENT ADMINISTRATIVE UNION

78. For details see document T/AC.14/2, dated 8 February 1949.

B. LAWS ESTABLISHING THE ADMINISTRATIVE UNION

79. See the report of the Trusteeship Council covering its first special session, its second special session, and its sixth and seventh sessions.⁴⁶

⁴⁵ Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 32.

⁴⁶ Official Records of the General Assembly, Fifth Session, Supplement No. 4, pp. 200-201.

80. At the 14th meeting of the Standing Committee on Administrative Unions the representative of the Administering Authority made additional explanations and corrections to the statement made before the Committee on Administrative Unions on 27 January 1949, and summarized in paragraph 3 of chapter VI, A of the Committee's report⁴⁷ regarding the actual operation of the administrative union of Ruanda-Urundi and the Belgian Congo. A summary of the additional statement follows.

(a) The question of the advisability of taking legal action in order to bring the legal form of the administrative arrangements more fully into accord with existing administrative practices had been closely studied in Brussels. It had been decided that no action was necessary, since existing practices, which are considered by the Visiting Mission to be satisfactory, do not conflict with the law of 1925. The latter had been drafted so flexibly and in such general terms that wishes expressed by the Trusteeship Council concerning the administration of the Trust Territory could be met without amending the law. When, for example, the Council had expressed the wish that the budget for the Trust Territory should be submitted to the Administering Authority directly, not through the intermediary of the Governor-General of the Belgian Congo, that was done without any violation of or change in the law. Another example: the judicial organization had been modified, and a Court of Appeal for Ruanda set up in the Territory, without requiring any change in the law.

(b) The representative of the Administering Authority further stated that an explanation of the historical events leading to the establishment of the Vice-Governor-General of Ruanda-Urundi might help to dispel any anxieties the Council might have in that respect. Early in the century, the Katanga Province of the Belgian Congo had been constituted as a Vice-Governor-General in order to expedite and simplify administration. Communications between Elizabethville, the chief town in Katanga Province, and Brussels were much faster than between Boma, the administrative centre of the Belgian Congo, and Elizabethville. It had therefore been decided to give the Governor of Katanga wider powers than the other provincial governors, and to permit him to communicate directly with Brussels. He had been granted, in his province, the same executive and the same emergency legislative powers as the Governor-General himself. The Governor of Ruanda-Urundi had been granted the status of Vice-Governor-General so that there would be no doubt about his legislative and executive powers, which were the same as the Governor-General's. In later years, the status of Vice-Governor-General had been abolished as far as provincial governors of the Belgian Congo were concerned. It had been retained for the Governor of Ruanda-Urundi alone.

(c) The representative of the Administering Authority further stated the following: The Governor-General of the Congo is the head of the administrative union; nevertheless, his powers with regard to Ruanda-Urundi are exercised only in such union matters as customs. On all other matters, the Vice-Governor-

General of Ruanda-Urundi has equal and independent executive and legislative powers. For that reason, in chapter VI of the report,⁴⁸ in the summary of the statement made by the representative of Belgium in the Committee on Administrative Unions on 27 January 1949,⁴⁹ the first sentence in paragraph 3 (d) reading, "The laws of the Belgian Congo are applied to Ruanda-Urundi with the concurrence of the Vice-Governor-General" is incorrect. It would be more correct to state: "The laws of the Belgian Congo are applied to Ruanda-Urundi *by act* of the Vice-Governor-General", since all laws are applied to Ruanda-Urundi by ordinance of the Vice-Governor-General.

(d) The representative of the Administering Authority further stated that the first Visiting Mission's statement that Ruanda-Urundi was placed on the same footing as a province of the Belgian Congo and that high Native policy in Ruanda-Urundi was decided in Leopoldville appeared to be based on a misconception. No provincial governor in the Belgian Congo has status comparable to that of the Vice-Governor-General of Ruanda-Urundi. Furthermore, high Native policy was not decided in Leopoldville. The decree of 14 October 1943 on the political organization of Ruanda-Urundi and the law concerning indigenous courts in Ruanda-Urundi were quite unlike anything existing in the Belgian Congo. They had been enacted by the King on the direct proposal of the Vice-Governor-General without the intervention of the Governor-General of the Belgian Congo, except in an advisory capacity.

(e) To the question concerning the possibility of granting separate legislative status to the Vice-Governor-General's Council, the representative of the Administering Authority further stated that the Council was entirely separate from the Council of Government in the Belgian Congo, and was not represented on the latter. When the indigenous inhabitants of Ruanda-Urundi could protect their own interests, the advisory council would be replaced by a legislative body; until that time the existing arrangement was the best possible.

(f) The representative of the Administering Authority further stated that a separate code of laws for the Trust Territory of Ruanda-Urundi had been published in 1949. The Administering Authority would always be prepared to consider legislative modifications to remove any provisions incompatible with the Trusteeship Agreement or the United Nations Charter.

(g) The representative of the Administering Authority further stated that, according to article 6 of the law of 21 August 1925, the provisions of Congolese laws which are contrary to the stipulations of the Mandate or of the agreements approved by the laws of 20 October 1924, shall not apply to Ruanda-Urundi. As the Trusteeship Agreement for Ruanda-Urundi had been approved by the Belgian Parliament in 1949, any provision that had applied to the Mandate now automatically applied to the Trusteeship Agreement. Consequently, if any provisions of Congolese laws were contrary to the stipulations of the Trusteeship Agreement, such provisions would not apply to Ruanda-Urundi.

⁴⁸ *Ibid.*

⁴⁹ T/236.

⁴⁷ *Ibid.*, p. 200.

(h) To the second Visiting Mission's comments on educational policy in the Trust Territory based on a pamphlet drawn up by the Government-General of the Congo, the representative of the Administering Authority further stated that the pamphlet was directed to a consideration of certain technical issues. On the other hand, Ruanda-Urundi's Ten-Year Plan took into consideration the particular needs of Ruanda-Urundi. For example, the *groupe scolaire d'Astrida* was an educational institution different from anything in the Belgian Congo. The courses at Astrida were carefully adapted to the particular requirements of the Trust Territory and, more particularly, to promoting the political education of the indigenous inhabitants.

(i) The representative of the Administering Authority stated that no judicial union exists between Ruanda-Urundi and the Belgian Congo. The Territory has its own subordinate tribunals and Court of Appeal.

81. The Council endorses the opinion expressed by the second Visiting Mission in its report, dated 27 December 1951, under chapter I, C.⁵⁰ to the effect that, while the existing practical arrangements linking the Belgian Congo and Ruanda-Urundi do not impair the separate status and identity of the Trust Territory, and while it appears that, under existing practices, the Administration of the Trust Territory exercises considerably more independence of action than would be indicated under a strict reading of the instruments establishing the administrative union, nevertheless a higher degree of formal independence on the part of the Administration of Ruanda-Urundi is warranted.

C. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE GENERAL ASSEMBLY, BY THE TRUSTEESHIP COUNCIL AND ITS SUBSIDIARY ORGANS, AND OBSERVATIONS MADE BY THE ADMINISTERING AUTHORITY CONCERNING THE ADMINISTRATIVE UNION OF RUANDA-URUNDI

82. At its third session, the Trusteeship Council observed that the Trust Territory of Ruanda-Urundi had been united administratively with the Belgian Congo since 1925, but took note of the assurance of the Administering Authority that its separate juridical personality had been preserved. The Council expressed the hope that, in view of the fact that Ruanda-Urundi was now a Trust Territory, its separate political entity would continue to be preserved, either by a revision of the law of 21 August 1925 or by some other suitable measure.⁵¹

83. The first Visiting Mission to the Trust Territory, 1948, in its report dated 31 October 1948,⁵² made a few comments on the question of the administrative union of Ruanda-Urundi with the Belgian Congo. It appeared to the members of the Mission that Ruanda-Urundi certainly had a distinct personality of its own, which did not seem to be threatened by the administrative union. The Mission gave examples of advan-

tages of the union: the Territory's ability to enjoy the benefit of the skilled technical services of the Government-General, and the participation of Ruanda-Urundi in the Indigenous Welfare Fund. On the other hand, the Mission stated that, under the present system, based on the law of 21 August 1925, Ruanda-Urundi was placed on the same footing as a province of the Belgian Congo; although it was true that Belgian Congo legislation applied to it only under special guarantees; high Native policy in Ruanda-Urundi was nevertheless decided in Leopoldville, where the laws were drafted.

84. Consequently, the Mission felt justified in recommending that the Belgian Government should render the administrative union with the Belgian Congo more flexible, in order to give Ruanda-Urundi a more independent character.

In order to attain those aims, the Visiting Mission suggested:

(a) A less rigid control of Ruanda-Urundi by the Governor-General of the Belgian Congo;

(b) To differentiate further the status of Ruanda-Urundi from that of a Belgian Congo province;

(c) To make, if possible, the Government of Ruanda-Urundi, for some purposes, directly responsible to the Minister of the Colonies at Brussels;

(d) That the influence of the Government-General at Leopoldville take the form of technical advice rather than that of superior orders.

85. The Government of Belgium replied to those suggestions as follows:

(a) It would not be possible to consider a more flexible system of control of Ruanda-Urundi by the Governor-General of the Belgian Congo since, apart from the needs of the customs union, which involved a single administration in respect of customs, Ruanda-Urundi had in practice a political, economic and social life entirely independent of the Congo;⁵³

(b) According to the view of the Belgian Government, the status of Ruanda-Urundi was entirely different from that of a province of the Belgian Congo;⁵⁴

(c) It saw no advantage to the Territory in making the government of Ruanda-Urundi directly responsible to the Minister of Colonies at Brussels. In the view of the Belgian Government, all the benefits derived from the close collaboration with the Belgian Congo would be lost;⁵⁵

(d) In practice, no legislative provision or administrative measure was adopted by the Governor-General for Ruanda-Urundi without previous consultation with the Governor of that Territory.⁵⁶

86. The Government of Belgium stated⁵⁷ that it was not accurate to speak of an amalgamation of services and common legislation, because the legislation of Ruanda-Urundi and that of the Belgian Congo were not identical and because although their administrative services were identical in structure, all the administra-

⁵⁰ T/948, para. 77. See para. 97 of the present report.

⁵¹ *Official Records of the General Assembly, Third Session, Supplement No. 4, A/603, p. 6.*

⁵² *Official Records of the Trusteeship Council, Fourth Session, Supplement No. 2, T/217, p. 17.*

⁵³ T/AC.14/28, p. 13.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*, p. 6.

⁵⁷ *Ibid.*, p. 19.

tive departments of the Trust Territory, were directly subordinate to the Governor of Ruanda-Urundi. The interdependence of the administrative departments had the advantage of allowing a more suitable choice of personnel for Ruanda-Urundi; and, in view of the fact that the Trust Territory had many economic characteristics identical with those of certain regions of the Belgian Congo, many legislative provisions of the Colony might be applied successfully to Ruanda-Urundi. The employment of experienced staff, and the rational application of legislation evolved from experience and study carried out in the Belgian Congo, had spared Ruanda-Urundi many costly experiments; it was for that reason that the economic position of Ruanda-Urundi had developed as rapidly as it had done. Furthermore, the Government of Belgium stated that, if there were substantial opposition on the part of the indigenous population to the administrative union, the whole scheme would be reviewed.

87. At its third session, the General Assembly, in resolution 224 (III), endorsing the observation of the Trusteeship Council referred to in paragraph 82 above, recommended, *inter alia*, that the Trusteeship Council should:

(b) ... recommend such safeguards as the Council may deem necessary to preserve the distinct political status of the Trust Territories and to enable the Council effectively to exercise supervisory functions over such Territories;

(c) Request, whenever appropriate, an advisory opinion of the International Court of Justice as to whether such unions are within the scope of and compatible with, the stipulations of the Charter and the terms of the Trusteeship Agreements as approved by the General Assembly.

88. The Committee on Administrative Unions, in its final report of 11 July 1950, dealing with "general characteristics of the administrative union of Ruanda-Urundi and the Belgian Congo" made the following observations:

"3. The objective in setting up administrative unions and common services envisaged under article 5 (2) of the Trusteeship Agreement for Ruanda-Urundi is to provide a legal framework for the operation of certain services which are in fact and by their nature inter-territorial.

"4. The political status and the territorial integrity of the Trust Territory of Ruanda-Urundi must be understood to mean its continued existence within the present frontiers as a separate and distinct entity of international law. The establishment of the administrative union of Ruanda-Urundi and the Belgian Congo should not therefore, threaten, endanger or compromise Ruanda-Urundi's political status and territorial integrity directly or indirectly.

"5. It is worthy of note that in the report of its seventh session (19-30 October 1925, C.649.M.238, 1925, VI) the Permanent Mandates Commission of the League of Nations examined the text of the law on the administration of Ruanda-Urundi dated 21 August 1925. The representative of the Belgian

Government stated that the Mandatory Power, conforming strictly to the terms of the Mandate, was, in framing the law, in no way influenced by any desire for annexation. He further declared that no provision of the law was intended to confer upon the inhabitants of the Territory the status of Belgian subjects. He added that the Belgian Government in no respect wished to change the policy of indirect administration in the Mandated Territory."⁵⁸

89. In the same report, the Committee on Administrative Unions agreed that there was "no evidence to indicate that the administrative union of Ruanda-Urundi and the Belgian Congo is incompatible with the provisions of the Charter of the United Nations and the Trusteeship Agreement for Ruanda-Urundi. On the contrary, the operation of the administrative union was at present well within the framework of the existing instruments".⁵⁹

90. The Committee took special note in the same report of the declaration of the representative of Belgium that his Government, while recognizing no obligation to consult the Trusteeship Council before taking administrative steps concerning the Trust Territory, in fact did not intend to extend the scope of the existing administrative union of Ruanda-Urundi and was ready to envisage modifications to the present administrative arrangements if, as a result of changed circumstances at some later stage, the Trusteeship Council should come to the opinion that the existing administrative union was detrimental to the interests of the inhabitants of the Trust Territory. In the view of the Committee, an administrative union was not a static institution and, for that reason, the Trusteeship Council would, no doubt, continue to examine regularly the operations of the administrative union between Ruanda-Urundi and the Belgian Congo, particularly when the Council examined the annual reports on the Territory.

91. The Committee also agreed that there was at present no evidence to indicate that the separate legal status of the Trust Territory of Ruanda-Urundi was endangered by the administrative union with the Belgian Congo and that there was at present no evidence to indicate that its status was likely to be endangered in the foreseeable future. After hearing the information presented by the representative of Belgium, the Committee considered that the legal personality of the Trust Territory was well preserved within the present framework and that the existing arrangements did not endanger the free evolution of the indigenous inhabitants of the Trust Territory towards self-government or independence.

92. The Committee, in its final report, took note of the statement of the representative of the Government of Belgium that the preparation of a code of laws (*recueil des lois*) was being undertaken for the Territory of Ruanda-Urundi, and that this was another proof that the Trust Territory was not to be compared with a province of the Belgian Congo.

93. The Committee felt that the Administering Authority should consider the desirability of reviewing the legal form of the administrative arrangements between Ruanda-Urundi and the Belgian Congo with a view

⁵⁸ T/L.96, Chapter VI, B.

⁵⁹ T/L.96, Chapter VI, C.

to bringing it more fully into accord with the existing practices.⁶⁰

94. At its seventh session, the Council adopted resolution 293 (VII) addressing itself to the considerations enumerated in General Assembly resolution 326 (IV). For the Council's conclusion, see paragraphs 108 to 112 below.

95. In its resolution 293 (VII), the Trusteeship Council

"*Considers* that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and draws them to the attention of the Administering Authorities concerned:

"(a) That the Administering Authorities furnish clear and precise separate financial, statistical and other data relating to Trust Territories participating in administrative unions;

"(b) That the Administering Authority facilitate the access of visiting missions to such information on an administrative union as may be necessary to enable the mission to report fully on the Trust Territory concerned;

"(c) That the Administering Authorities continue to maintain the boundaries, separate status and identity of Trust Territories participating in administrative unions;

"(d) That the Administering Authorities ensure, with regard to Trust Territories participating in administrative unions, that expenditures on the administration, welfare and development of any such Trust Territory for a given year be not less than the total amount of public revenue derived from the Territory in that year."

96. At its ninth session, the Council on the recommendation of the Standing Committee adopted the following conclusion:

"I. *The Trusteeship Council*, noting the conclusions reached by the Committee on Administrative Unions that the Administering Authority should consider the desirability of reviewing the legal form of the administrative arrangements between Ruanda-Urundi and the Belgian Congo with a view to bringing it more fully into accord with the existing practices, realizing that, thus far, the Administering Authority has not had sufficient time to undertake the steps necessary for a full consideration of the subject raised by the Committee on Administrative Unions, expresses the hope that the Administering Authority will inform the Standing Committee with regard to any review of or action upon the legal form of the administrative union affecting Ruanda-Urundi."⁶¹

97. The second Visiting Mission to East Africa, in its report dated 27 December 1951, under chapter I, C, made the following comments on the question of the

administrative union of Ruanda-Urundi with the Belgian Congo:

"74. The Mission had the opportunity to observe certain features of the existing arrangements during its stay in the Territory and had discussions on the subject with the Governor-General of the Belgian Congo, the Governor of Ruanda-Urundi and the Belgian Minister of Colonies. The Mission considers that the existing arrangements result in certain definite advantages for the Trust Territory. It is clear, for example, that Ruanda-Urundi benefits substantially from the availability of the technical, administrative, and research services of the Government-General at Leopoldville. The cost of establishing comparable services in the Trust Territory itself would no doubt be prohibitive. Mention has already been made in the present report of the advantages to the Trust Territory of the use of resources from the Indigenous Welfare Fund, established primarily as the result of activities carried on in the Congo.

"75. The Mission made particular inquiries on the question of the degree to which the educational policy of the Trust Territory is determined by the authorities of the Belgian Congo and is made to accord with educational policies of that Non-Self-Governing Territory. The Mission was informed that the basis for the organization of education in Ruanda-Urundi is the system set forth in the pamphlet *Organisation de l'enseignement privé pour indigènes avec le concours des sociétés de missions chrétiennes* as planned by the Government-General of the Congo in 1948. In particular the Mission was informed as follows: 'The types of schools, subsidies and curricula are also determined by the general principles set forth in that pamphlet. It has also served as a basis for the educational programme contained in the Ruanda-Urundi Ten-Year Plan, the requirements and means of implementation of which have been determined by the authorities of Ruanda-Urundi.'

"76. The Mission's substantive comments on the system of education in Ruanda-Urundi are set out elsewhere in the present report. Attention is being drawn at this point to the situation arising from the existence of a common education system for both Territories because the Mission considers it important that the Administering Authority of a Trust Territory should carry out its responsibilities in the educational field by establishing educational programmes designed especially for the needs of that Territory in the light of its international status and the prevailing conditions.

"77. The Mission is of the opinion that the existing practical arrangements linking the Belgian Congo and Ruanda-Urundi do not impair the separate status and identity of the Trust Territory. This observation applies not only to its legal status but in a much wider sense as well; from the standpoints of population, language, culture, social organization and resources — to mention only the more noteworthy factors — Ruanda-Urundi is in fact a distinct entity. The Mission feels that, in view of its separate characteristics, the Territory requires the formulation and execution of programmes designed especially for it. The Mission was glad to note that the Ten-

⁶⁰ *Ibid.*

⁶¹ *Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 59.*

Year Plan for Ruanda-Urundi was drawn up specially for it and that a separate plan has been prepared for the Territory to which it is linked in an administrative union. The need for independence of action on the part of the officials responsible for the administration of the Trust Territory is already recognized to a considerable extent. For example, the Mission learned that the budget of Ruanda-Urundi is prepared wholly in the Territory. The Governor-General of the Belgian Congo may make comments on the budget, but it is submitted as originally prepared, to the Ministry of Colonies in Brussels. In other respects too, it appears that, under existing practices, the Administration of the Trust Territory exercises considerably more independence of action than would be indicated under a strict reading of the instruments establishing the administrative union. The Mission believes, however, that a higher degree of formal independence on the part of the latter Administration is warranted. The Mission concurs with the conclusion reached by the Committee on Administrative Unions of the Trusteeship Council that the Administering Authority should consider the desirability of reviewing the legal form of the administrative arrangements between Ruanda-Urundi and the Belgian Congo, with a view to bringing it more fully into accord with the existing practices.”⁶²

98. At its eleventh session, the Trusteeship Council, on the recommendation of the Standing Committee, adopted the following conclusions and recommendations:

(a) The Trusteeship Council takes note of the statement made by the representative of the Administering Authority, on 6 June 1952, at the 14th meeting of the Standing Committee on Administrative Unions, to the effect that the advisability of taking legal action had been closely studied by his Government and that it had been decided that no action was necessary, since the law governing the administrative union did not conflict with the existing administrative practices.

The Trusteeship Council, noting the conclusions reached by the Standing Committee on Administrative Unions,⁶³ is of the opinion that the law of 21 August 1925 was not sufficiently precise with regard to provisions of the Trusteeship Agreement, and recommends that the Government of Belgium should give further consideration to bringing the law of 1925 into accord with present-day practices.

(b) The Trusteeship Council, noting that the second Visiting Mission, in its report dated 27 December 1951⁶⁴ under chapter I, C, had drawn attention to the situation arising from the existence of a common system of education for the Trust Territory of Ruanda-Urundi and the Belgian Congo as set forth in the pamphlet *Organisation de l'enseignement privé pour indigènes avec le concours des sociétés de missions chrétiennes*, issued by the Governor-General of the Congo in 1948, and noting that the representative of the Belgian Government explained to the Standing Committee that the pamphlet was devoted to a con-

sideration of certain general technical issues and that the Ruanda-Urundi Ten-Year Plan had taken into consideration the particular educational needs of the Territory, expresses the hope that the Belgian Government will continue to apply to the Trust Territory educational measures specially and distinctively designed for the particular requirements of the Trust Territory.

Separate financial, statistical and other data

99. For recommendations and conclusions on the subject, see paragraph 109 below.

Visiting missions

100. At its ninth session the Council adopted, on the recommendation of the Standing Committee, the following conclusion:

“With regard to the safeguards enumerated in sub-paragraph 7 (b) of Trusteeship Council resolution 293 (VII), the Council notes that neither the Committee on Administrative Unions nor the Trusteeship Council has expressed any doubts concerning the willingness of the Belgian Government to facilitate the access of visiting missions to such information on the administrative union of Ruanda-Urundi with the Belgian Congo as may be necessary to enable visiting missions to report fully on the Trust Territory.”⁶⁵

101. At its eleventh session the Council, on the recommendation of the Standing Committee, adopted a conclusion identical with that adopted at the ninth session. The Council notes, in that connexion that, in its report on Ruanda-Urundi dated 27 December 1951, the United Nations Visiting Mission to Trust Territories in East Africa, 1951, states that a meeting with the Governor-General of the Belgian Congo took place on 23 July 1951 in Leopoldville, in the Belgian Congo, and that on 16 October 1951 the Mission had an interview with the Minister for Colonies and officials of the Ministry in Brussels.⁶⁶

Maintenance of boundaries, separate status and identity

102. At its ninth and eleventh sessions, the Council, on the recommendation of the Standing Committee, adopted the following conclusion:

With regard to the safeguards enumerated in sub-paragraph 7 (c) of Trusteeship Council resolution 293 (VII), the Council notes that there exists no information which would suggest that the boundaries of the Territory have not been maintained.

Expenditure in the Trust Territory

103. At its ninth session the Council, on the recommendation of the Standing Committee, adopted the following conclusions:

“With regard to the safeguards enumerated in sub-paragraph 7 (d) of Trusteeship Council resolution 293 (VII), the Council notes that according to the information contained in the annual reports

⁶² T/948, paras. 74-77.

⁶³ T/1011.

⁶⁴ T/948.

⁶⁵ *Official Records of the General Assembly, Sixth Session, Supplement No. 4*, p. 59.

⁶⁶ T/948, paras. 7 and 13.

for 1949 and 1950 the total revenue derived from the Trust Territory amounted to:

1948 (estimates)	1949 (estimates)	1950 (estimates)
200,458,000 frs.	232,062,000 frs.	276,919,000 frs.

"and the total ordinary and extraordinary expenditure on the administrative welfare and development of the Trust Territory amounted to:

1948 (actual)	1949 (estimates)	1950 (estimates)
227,168,563.57 frs.	407,826,000 frs.	327,334,161.85 frs.

"Therefore expenditure on the administration, welfare and development of Ruanda-Urundi for the last three years was not less than the total amount of public revenue derived from the Trust Territory."⁶⁷

104. At its eleventh session, the Council, on the recommendation of the Standing Committee, adopted the following conclusions:

With regard to the safeguards enumerated in sub-paragraph 7 (d) of Trusteeship Council resolution 293 (VII), the Council notes that, according to the information contained in the annual reports for 1949, 1950, and 1951, the total revenue derived from the Trust Territory of Ruanda-Urundi amounted to:

1949 (estimates)	1950 (estimates)	1951 (estimates)
232,062,000 frs.	276,191,000 frs.	321,297,000 frs.

It notes further that the total ordinary expenditure on the administration, welfare and development of the Trust Territory amounted to:

1949 (estimates)	1950 (estimates)	1951 (estimates)
407,826,000 frs.	327,334,161.85 frs.	335,164,570.31 frs.

Therefore estimated expenditure on the administration, welfare and development of Ruanda-Urundi for the last three years was not less than the total amount of estimated public revenue derived from the Trust Territory.

D. OBSERVATIONS PURSUANT TO PARAGRAPHS 3 (a) AND 3 (b) OF GENERAL ASSEMBLY RESOLUTION 563 (VI)

105. By resolution 563 (VI), the General Assembly on 18 January 1952 requested the Trusteeship Council, in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, ... with special reference to:

"(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

"(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement."

⁶⁷ Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 59.

Observations regarding the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV)

106. The considerations set out in paragraph 1 of General Assembly resolution 326 (IV) were the subject of observations by the Council transmitted to the Assembly under Trusteeship Council resolution 293 (VII). Moreover, in its annual review of conditions in the Trust Territory of Ruanda-Urundi the Council assisted by the work of its Standing Committee on Administrative Unions, has adopted conclusions on a current basis relating to various of the considerations enumerated in General Assembly resolution 326 (IV). In the light of paragraph 3 (a) of General Assembly resolution 563 (VI), the Council undertook a further examination of the considerations set out in paragraph 1 of Assembly resolution 326 (IV) as they apply to Ruanda-Urundi.

107. Paragraph 1 (a) of resolution 326 (IV) refers to "the desirability of having the Administering Authorities inform the Trusteeship Council beforehand when they propose to create new administrative unions of Trust Territories with adjacent territories, or extend the scope of any existing union or federation".

108. With respect to the above, resolution 293 (VII) of the Trusteeship Council reads as follows:

"Takes note of the statement of the representative of Belgium that the Government of Belgium does not intend to extend the scope of the existing administrative union between Ruanda-Urundi and the Belgian Congo."

109. Paragraph 1 (b) of General Assembly resolution 326 (IV) refers to "the desirability, should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial, statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibilities under the Charter".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads as follows:

"Agrees that at present the Belgian Government is furnishing clear and precise separate financial, statistical and other data relating to the Trust Territory of Ruanda-Urundi which the Trusteeship Council considers necessary for the effective discharge of its responsibility under the Charter."

(b) Furthermore, in resolution 293 (VII), the Council drew the attention of the Administering Authority, *inter alia*, to the following safeguard:

"That the Administering Authorities furnish clear and precise separate financial, statistical and other data relating to Trust Territories participating in administrative unions."

(c) At its ninth session, the Council, on the recommendation of the Standing Committee on Administrative Unions, adopted the following conclusions:

"With respect to the safeguards enumerated in sub-paragraph 7 (a) of Trusteeship Council reso-

lution 293 (VII), the Council notes that the annual reports on the administration of Ruanda-Urundi for 1949 and 1950 contained separate financial, statistical and other data relating to the Trust Territory."⁶⁸

(d) At its eleventh session, the Council, on the recommendation of its Standing Committee, adopted for 1951 a conclusion identical with that adopted at the ninth session.

110. Paragraph 1 (c) of General Assembly resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council:

"Notes that a separate judicial organization is established in the Trust Territory of Ruanda-Urundi in relation to the Belgian Congo."

(b) In that connexion, the Council takes note of the statement of the representative of Belgium, made at the 14th meeting of the Standing Committee on Administrative Unions, that no judicial union exists between Ruanda-Urundi and the Belgian Congo and that the Trust Territory has its own subordinate tribunals and Court of Appeal.

111. Paragraph 1 (d) of General Assembly resolution 326 (IV) refers to "the desirability of establishing in each Trust Territory a separate legislative body with increasing powers and with headquarters within the Trust Territory, and of eliminating any type of legislative action originating in any other legislative body with headquarters in a Non-Self-Governing Territory".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads as follows:

"Takes note of the fact that no legislative body with headquarters in the Belgian Congo has legislative authority over the Trust Territory of Ruanda-Urundi and that the Vice-Government-General's Council, which has advisory functions and which in the future may be developed into a legislative body, is located inside the Trust Territory."

(b) At its ninth session, the Council adopted the following recommendation:

"The Council, noting that the Council of Vice-Government-General is still a consultative body, and considering that this organ might become a valuable medium for political education, recommends that the Administering Authority further explore the possibilities of developing the importance of this organ of government and expresses the hope that the Administering Authority will soon be able to review the functions of this Council with a view to delegating to it some powers of legislation.

"The Council, recalling that, in 1949, the Administering Authority had appointed the Bami as *ex-officio* members of the Council of Vice-Government-General with African alternates, noting with

satisfaction that, in 1951, one more indigenous member and alternate have been appointed to this Council, recommends that the number of African members on this Council be further increased."⁶⁹

(c) In this connexion reference is made to the statement of the representative of Belgium as contained in paragraph 80 (b) above.

112. Paragraph 1 (e) of General Assembly resolution 326 (IV) refers to "the desirability of taking into account, before any administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territories concerned".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads as follows:

"Takes note of the statement of the representative of Belgium that if there were substantial opposition to the administrative union the existing arrangement would be reviewed."

(b) In this connexion the Council takes note of the statement of the representative of Belgium, made to the Standing Committee, that the people of the Trust Territory of Ruanda-Urundi were satisfied with the administrative union and wished it to be continued.

Observations regarding paragraph 3 (b) of General Assembly resolution 563 (VI)

113. The Trusteeship Council,

(a) Recalling that by article 5, paragraph 1, of the Trusteeship Agreement, the Administering Authority shall have full powers of legislation, administration and jurisdiction in the Territory of Ruanda-Urundi and shall administer it in accordance with Belgian law as an integral part of Belgian territory, subject to the provisions of the Charter and of the Agreement;

(b) Recalling that by article 5, paragraph 2, of the Trusteeship Agreement the Administering Authority shall be entitled to constitute Ruanda-Urundi into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty and to establish common services between such territories and Ruanda-Urundi, provided that such measures are not inconsistent with the objectives of the International Trusteeship System and with the provisions of the Agreement;

(c) Recalling that under Article 76 b of the Charter one of the basic objectives of the Trusteeship System shall be "to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards 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".

(d) Considering that the law of 21 August 1925 establishing the administrative union between Ruanda-Urundi and the Belgian Congo is not fully consistent with present administrative practices and is not suffi-

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

ciently precise with regard to the provisions of the Trusteeship Agreement;

(1) Is of the opinion that there is no evidence to indicate that the practical operation of the administrative union of Ruanda-Urundi and the Belgian Congo is incompatible with the provisions of the Charter of

the United Nations and of the Trusteeship Agreement for Ruanda-Urundi;

(2) Is however of the opinion that the Government of Belgium should give further consideration to bringing the law of 21 August 1925 into accord with present-day practices.

CHAPTER V

The administrative union affecting Togoland under British administration

A. SUMMARY OF HISTORICAL EVENTS PRECEDING THE ESTABLISHMENT OF THE PRESENT ADMINISTRATIVE UNION

114. Following the occupation of Togoland by British and French forces in 1914, a provisional agreement was made partitioning the German Colony into a British Sphere and a French Sphere.

115. An Anglo-French Agreement was signed in Paris on 10 July 1919 by Viscount Milner and M. Simon providing for the delineation of the provisional boundary dividing the former German Colony into two parts.

116. In accordance with article 9 of the British Mandate for Togoland, the Territory was administered as an integral part of the Gold Coast.

117. The Togoland Proclamation No. 4 of 1923, cited as "The British Administration and Courts (Togoland) Proclamation, 1923" and issued by the governor of the Gold Coast Colony, divided the Mandated Territory into seven districts.

118. For further details, see T/AC.14/4, page 3.

B. LAWS ESTABLISHING THE ADMINISTRATIVE UNION

119. The basis of the administration of the Mandated Territory of Togoland under British administration is the British Mandate Order-in-Council of 1923 and Ordinance No. 1 of 1924 enacting the British Sphere of Togoland Order-in-Council of 11 October 1923. They provided for the administration of the districts of the Northern Section as if they formed part of the Protectorate of the Northern Territories of the Gold Coast, and for the administration of the Southern Section as if it formed part of the Eastern Province of the Gold Coast Colony. Subject to the provisions of sections 4 and 6, the legislation in force in the Northern Territories of the Gold Coast was applied to the Northern Section, and the legislation in force in the Gold Coast Colony was applied to the Southern Territory.

120. By the Order of the Governor No. 9 of 1925 (British Sphere of Togoland, Northern Section) the Northern Section of British Togoland was divided into four districts (Kusasi, Southern Mamprusi, Eastern Dagomba, Kratchi), each to be administered by a District Commissioner of the Gold Coast Political Service directly responsible to the Commissioner of

the Northern Province (districts of Kusasi and Southern Mamprusi) and of the Southern Province (districts of Eastern Dagomba and Kratchi) of the Northern Territories of the Gold Coast.

121. The Customs Tariff Ordinance, 1924, provided for the imposition of customs duties upon all specified articles imported to or exported from the Gold Coast Colony, Ashanti, the Northern Territories of the Gold Coast and "of the British Sphere of Togoland". A customs union was thus established therewith between the aforesaid territories. The Ordinance contained no provisions in regard to maintaining separate accounts for export and import duties concerning the Mandated Territory.

122. The four districts of the Northern Section of Togoland under British Mandate were reorganized by the Order of 1 September 1932 in such a way that their boundaries coincide with those of the three Native states which had been divided by the arbitrary Anglo-German boundary.⁷⁰

123. The Togoland under United Kingdom Trusteeship Order-in-Council, 1949, provided for the administration of the Trust Territory in accordance with the terms of the Trusteeship Agreement which had been approved by the General Assembly on 13 December 1946.

124. A report of the All-African Committee established to study constitutional reforms (also known as the Coussey Committee) was published in 1949. In his dispatch on the report, the Secretary of State for the Colonies accepted it as a workable plan within the framework of which constitutional development in the Gold Coast and Togoland under United Kingdom trusteeship could proceed. Both the Coussey report and the dispatch were published in 1949.

125. The report and the dispatch were given detailed examination in the Select Committees of the Gold Coast Legislative Council where the interests of the Trust Territory, according to the annual report on the administration of Togoland for 1949, were fully represented.

126. A new Constitution for the Gold Coast and the Trust Territory of Togoland under British administration came into force at the beginning of 1951. The instruments establishing the new Constitution are the

⁷⁰ Annual report on the administration of Togoland under British Mandate for the year 1932.

Gold Coast (Constitution) Order-in-Council, 1950; the Letters Patent and Royal Instructions passed to the Governor by the Administering Authority; the Northern Territories of the Gold Coast Order-in-Council, 1950; and the Togoland under United Kingdom Trusteeship (Amendment) Order-in-Council, 1950. The instruments are outlined below:

Gold Coast (Constitution) Order-in-Council, 1950⁷¹

127. The object of the Order-in-Council is "to establish and make provision for the constitution of an *Executive Council* and a *Legislative Assembly* for the Gold Coast Colony, Ashanti, the Northern Territories of the Gold Coast and Togoland under United Kingdom Trusteeship".

128. The Executive Council, which is the principal instrument of policy consists of (1) the Governor as President; (2) the Prime Minister and not less than seven other representative members; and (3) three *ex-officio* members.

129. The Governor must consult the Executive Council in the exercise of all his powers and he must act in accordance with its advice in any matter on which he is obliged to consult with it. Those two rules are subject to certain exceptions, which are set out in the Instructions by Her Majesty the Queen; in addition, there are certain powers which the Governor, by this Order-in-Council, is directed or empowered to exercise in his discretion.

130. The Prime Minister and other representative members are appointed from among the elected members of the Assembly in the following manner. First, the Governor submits to the Assembly for its approval the name of a member of the Assembly whom he proposes for appointment as Prime Minister. The Assembly at the same meeting has to consider and resolve whether the appointment of the member should be approved. If the Assembly's approval is given, the Governor makes the appointment. The same procedure is thereafter followed in appointing the other representative members of the Executive Council but the Governor is required, before submitting any other name to the Assembly for appointment, to consult the Prime Minister.

131. If, thereafter, the Assembly, by a resolution supported by over two-thirds of all its members, requests the Governor to revoke the appointment of any representative member of the Executive Council, the Governor will revoke the appointment. The Governor, after consultation with the Prime Minister, may propose to the Executive Council that the appointment of a representative member shall be revoked, and if the Executive Council so resolves the Governor shall revoke the appointment.

132. The *ex-officio* members of the Executive Council are the Chief Secretary (styled Minister of Defence and External Affairs), the Attorney-General (styled the Minister of Justice) and the Financial Secretary (styled Minister of Finance).

133. Each Ministry has a Permanent Secretary who is appointed by the Governor, acting in his discretion. Each Permanent Secretary exercises, subject to the

general direction and control of the Minister, supervision over the department or departments in the charge of his Minister.

134. The Legislative Assembly legislates for the whole of the Gold Coast, i.e., the Gold Coast Colony, Ashanti, the Northern Territories and Togoland under United Kingdom trusteeship and consists of a Speaker, three *ex-officio* members, six special members and seventy-five elected members.⁷²

135. Of the six special members, three are elected by the Chambers of Commerce, and three are elected by the Gold Coast Chamber of Mines. Only two of the six special members may vote on any question proposed for decision in the Assembly itself.

136. For the Colony there are thirty-seven members, consisting of: eleven territorial members elected by the Joint Provincial Council; one territorial member elected by the Southern Togoland Council; twenty-one rural members; and four municipal members.

137. For Ashanti there are nineteen members, consisting of: six territorial members elected by the Asanteman Council; twelve rural members, and one municipal member.

138. For the Northern Territories, including the Northern Section of Togoland, there are nineteen members, who are elected by the electoral college of the Northern Territories of the Gold Coast.

139. The Legislative Assembly may pass laws for the peace, order and good government of the Gold Coast provided that, should any such law be repugnant to any provision of the Trusteeship Agreement, that law would, to the extent of such repugnancy but not otherwise, be void in the Territory.

140. Government policy is decided by the Executive Council and, as a result of a collective decision by the latter, government Bills are introduced for consideration by the Assembly. The Legislative Assembly debates the Bills and may approve, modify or reject them.

141. Any member may introduce any Bill or propose any motion for debate or present any petition to the Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Assembly. However, unless the consent of the Governor has first been obtained, the Assembly may not proceed upon any Bill, amendment, motion or petition which: (a) would amount to a money measure; (b) would affect the salaries or conditions of service of public officers; or (c) provides for the final determination of questions relating to constitutional matters affecting traditional authorities.

142. If the Governor considers that it is expedient in the interests of public order, public faith or good government that any Bill introduced or motion proposed in the Assembly should have effect, and if the Assembly fails to pass such Bill or motion within such time and in such form as the Governor may think reasonable and expedient, the Governor may declare that the Bill or motion shall have effect.

⁷² A 1952 amendment to the Constitution provides that the three territorial members for the new Trans-Volta/Togoland Region shall be elected by a special electoral college for the Region. No such election has yet been held or will be held unless the need arises in the normal course of events.

⁷¹ Statutory Instruments, 1950, No. 2094 Gold Coast.

143. The Governor will not make any such declaration except: (a) in accordance with a resolution of the Executive Council; or (b) if the Executive Council, having been consulted, fails to resolve that the declaration be made, then the Governor may, if the Secretary of State consents, make the declaration; or the Governor may make the declaration without submitting the question to the Secretary of State if, in the Governor's opinion, urgent necessity demands that the declaration be made without obtaining the authority of the Secretary of State, but he must immediately report his action to the Secretary of State.

144. The Secretary of State may revoke any such declaration other than a declaration relating to a Bill. No Bill may become law until the Governor has assented to it in Her Majesty's name or Her Majesty has given her assent. The Governor must, unless he has been authorized by a Secretary of State to assent, reserve for Her Majesty's pleasure (a) any Bill which is in any way inconsistent with the provisions of this Order-in-Council; (b) any Bill which determines or regulates the privileges, immunities or powers of the Assembly or its members.

Letters Patent

145. The Letters Patent establish the office of Governor and Commander-in-Chief and lay down who shall administer the Government when the Governor is absent from the Gold Coast or is, for some other reason, prevented from exercising the functions of his office. Provision is made for the appointment of a Governor's Deputy when the Governor is absent from the seat of government but in the Gold Coast, or during short absences outside the Gold Coast or during short illnesses.

Royal Instructions

146. The Royal Instructions contain instructions to the Governor and Commander-in-Chief of the Gold Coast. They apply also to any officer who may, from time to time, be administering the government.

147. The Governor is instructed to consult with the Executive Council in the formulation of policy and in the exercise of all other powers conferred upon him except those specified in the certain parts of the Letters Patent and the Royal Instructions, which he is allowed by law to exercise without consulting the Executive Council. The Governor is instructed to act in accordance with the advice of the Executive Council in any matter on which he is obliged to consult with it.

148. The Governor may, with the prior approval of the Secretary of State or without such prior approval if urgent necessity so requires, act against the advice of the Executive Council if he considers it "expedient in the interests of public faith, public order or good government".

149. The Governor is prohibited from assenting to Bills which fall within certain classes without first having obtained Her Majesty's instructions. The Governor may, if urgent necessity so requires, assent to any of such Bills (except one inconsistent with treaty obligations) but must immediately send the Bill

and a Statement of his reasons for so assenting to Her Majesty.

150. Provision is made for the preservation of customary laws, rights and interests. The Governor is instructed, to the utmost of his power, to promote religion and education among the inhabitants of the Gold Coast. He is especially instructed to take care to protect them in their persons and in the free enjoyment of their possessions, and by all lawful means to prevent and restrain all violence and injustice which may in any manner be practised or attempted against them.

151. Regulations are made for the exercise of the power of pardon in capital cases, and provision is made for the setting up of a Committee to exercise the functions of the Executive Council in relation to capital cases.

The Togoland under United Kingdom Trusteeship (Amendment) Order-in-Council⁷³

152. The Togoland under United Kingdom Trusteeship Order-in-Council, 1949, was amended by the Togoland under Trusteeship (Amendment) Order-in-Council, 1950. The Order as amended stipulates that:

"(a) So far as the same may be applicable, and subject to the provisions of the Gold Coast (Constitution) Order-in-Council, 1950, the laws for the time being in force in the Protectorate shall, as from the date of the commencement of this Order, apply to and be the laws in force in the Northern Section: Provided always that, should any such law so applied as aforesaid be repugnant to any provision of the terms of the Trusteeship Agreement, such law shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative: Provided further that no law in force in the Protectorate at the date of the commencement of this Order, the application of which is expressly or by necessary implication restricted to the Protectorate, shall apply to the Northern Section by reason only of the provisions of this section.

"(b) So far as the same may be applicable, and subject to the provisions of the Gold Coast (Constitution) Order-in-Council, 1950, the laws for the time being in force in the Colony shall, as from the date of the commencement of this Order, apply to and be the laws in force in the Southern Section: Provided always that, should any such law so applied as aforesaid be repugnant to any provision of the terms of the Trusteeship Agreement, such law shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative: Provided further that no law in force in the Colony at the date of the commencement of this Order, the application of which is expressly or by necessary implication restricted to the Colony, shall apply to the Southern Section by reason only of the provisions of this section."

153. The actual operation of the administrative union may be characterized as follows:

⁷³ Statutory Instruments, 1950, No. 2096.

(a) The Governor and Commander-in-Chief of the Gold Coast is the Governor and Commander-in-Chief of the Trust Territory. In the exercise of all of his powers, the Governor must consult the Executive Council and he must act in accordance with the advice of the Executive Council on any matter on which he is obliged by the Constitution to consult with the Council. Those two rules are subject to certain exceptions, which are set out in the Royal Instructions. In addition there are certain powers which the Governor is directed or empowered to exercise in his discretion.

(b) Within the larger administrative framework of the northern and southern parts of the Gold Coast, the Northern and Southern Section of Togoland are divided into administrative districts, some of which extend across the border between the Gold Coast and the Trust Territory.

(c) Togoland shares with the Gold Coast a common budget and common administrative and technical services. Those services are under the supervision and general control of members of the Executive Council, which at the present time does not include any inhabitants of the Trust Territory.

(d) The Trust Territory and the Gold Coast have a common Legislative Assembly composed of eighty-four members. Five of them, in the first Legislative Assembly established under the new Constitution, are inhabitants of the Trust Territory, and a sixth normally lives there.⁷⁴ The Legislative Assembly legislates for both the Gold Coast and the Trust Territory. It should be noted that the Togoland under United Kingdom Trusteeship (Amendment) Order-in-Council, 1950, provides that laws repugnant to any terms of the Trusteeship Agreement shall to the extent of such repugnancy be and remain absolutely void and inoperative in the Trust Territory.

(e) Revenues accruing in the Trust Territory are included without distinction in the budget of the Gold Coast. Funds are allocated to the Trust Territory not on the basis of its over-all needs but on the basis of the needs of those parts of the Gold Coast with which it is administratively integrated.

C. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE GENERAL ASSEMBLY, BY THE TRUSTEESHIP COUNCIL AND ITS SUBSIDIARY ORGANS, AND OBSERVATIONS MADE BY THE ADMINISTERING AUTHORITY CONCERNING THE ADMINISTRATIVE UNION OF TOGOLAND UNDER BRITISH ADMINISTRATION

154. At its third session the General Assembly, in resolution 224 (III), recommended, *inter alia*, that the Trusteeship Council should

“(b) ... recommend such safeguards as the Council may deem necessary to preserve the distinct political status of the Trust Territories and to enable the Council effectively to exercise supervisory functions over such Territories;

⁷⁴ According to the statement of the special representative in the Trusteeship Council (T/PV.430) he “is a Dagomba and he spends his life just on the border. In fact he has lived mostly in the Territory; technically he was born just outside of it.”

“(c) Request, whenever appropriate, an advisory opinion of the International Court of Justice as to whether such unions are within the scope of and compatible with, the stipulations of the Charter and the terms of the Trusteeship Agreements as approved by the General Assembly.”

155. At its fourth session, the Trusteeship Council adopted the following recommendation:

“The Council, concerned over the difficulty in performing its supervisory functions with respect to the Trust Territory, arising from the fact that the Territory has been integrated for administrative purposes into different administrative divisions and sub-divisions of the British Colony of the Gold Coast and from the fact that the integration is so carried out that even on the lowest levels of administration certain portions of the Trust Territory are being administered by Native Authorities with seats outside the Territory, with the result that there is no legislative, judicial or budgetary autonomy in the Territory, and consequently, no adequate figures and data which would enable the Council to appraise the exact status or situation of the Trust Territory, recommends that, pending a final solution of the question of these administrative arrangements, the Administering Authority review the situation and take steps to institute measures, such as budgetary autonomy for the Territory, which will enable the Trusteeship Council better to perform the duties and functions vested in it by the Charter, and requested that the Administering Authority include in its future annual reports precise and separate data on all common services.”⁷⁵

156. The United Nations Visiting Mission to Trust Territories in West Africa, 1949, in its report to the Trusteeship Council made the following observations:

“26. The Visiting Mission considers that any appraisal of the political development of Togoland under British administration, particularly in regard to the course which it may take in future, must depend to a considerable degree on the solution of the problems raised by the demands for unification of the two Togolands. The Territory under British administration is small in size and population, enclosed by largely artificial boundaries, and it is difficult to contemplate its future political and economic development except in association either with Togoland under French administration or with the neighbouring Gold Coast Colony and Protectorate or possibly both.

“27. It seems clear to the Mission that the choice between these alternatives must largely depend on whether or not unification of some or all of the Territory's peoples with their neighbours under French administration is going to take place. The Mission feels obliged, however, to examine the situation as it exists at present, and on that basis it has sought to bring to the attention of the Trusteeship Council certain recent developments of interest.

⁷⁵ Official Records of the Trusteeship Council, Fourth Session, Supplement No. 4, p. 35.

"28. At present, and in fact ever since the partition of German Togo, it may be said that the Trust Territory's political development is completely linked with that of the neighbouring territory on its other borders, namely the British Colony and Protectorate of the Gold Coast.

"29. In justifying the principles underlying the system of administration outlined above, the Administering Authority has informed the Trusteeship Council on a number of occasions of its view that Togoland is not a viable unit, and has stated that 'the only practical means to self-government for the peoples of British Togoland is to remain closely associated with the Gold Coast, which is generally acknowledged to be politically one of the most advanced territories in tropical Africa' (T/AC.14/30).

"30. With this latter appraisal of the political development of the Gold Coast as a whole, the Mission is inclined to agree. After having studied the most recent trends in the development of the Gold Coast Constitution — which, of course, is equally the Constitution of Togoland — it seems clear that rapid strides are being taken by its people, with the agreement of the Administering Authority, towards some form of autonomy.

"31. The form of that autonomy is naturally of importance to the future of Togoland, since the Trust Territory is not, under the present system of administration, evolving separately. From the Administering Authority's point of view, according to the most recent statement of policy available to the Mission, the objective of the United Kingdom Government is to assist the people of the Gold Coast by all means in their power in their progress towards responsible government within the British Commonwealth.⁷⁶ The objective for Togoland, as defined in Article 76 b of the United Nations Charter, is progressive development towards 'self-government or independence' as 'may be appropriate to the particular circumstances of the Territory and its peoples and the freely-expressed wishes of the people concerned. To suggestions in the Trusteeship Council at its fourth session that the objective for the Gold Coast might appear more restrictive than that for the Trust Territory, the representative of the Administering Authority, it will be recalled, emphasized that when the people of the Trust Territory had reached a sufficient stage of development to enable them to take their full place in world affairs, it would be for them to decide whether they proposed to do so as an independent unit or in association with people similarly placed.'⁷⁷

"32. Nevertheless, the Administering Authority maintains its view, as already stated, that the Trust Territory is not a viable unit. It appears to the Visiting Mission that the Trust Territory is at present being constitutionally directed as an indistinguishable part of the Gold Coast.

"33. The Mission feels that whatever considerations of principle may be involved should be left

to the Trusteeship Council, and that its own proper function is to bring to the Council's attention such trends of public opinion as appear to exist within the Trust Territory as to its political and administrative status. In summary, these trends of opinion follow two distinct lines, differing sharply between the northern and southern parts of the Trust Territory. In the north, as has been shown, the principal chiefs are asking for the complete absorption of the Trust Territory areas into the Northern Territories of the Gold Coast. In the south, as will be shown below, a majority of the principal chiefs, supported by educated and partially educated elements of the community, are asking for administrative unification of the northern and southern parts of Togoland and the establishment for the whole Trust Territory of a separate organ of government. This appears to be regarded by them, however, as an essential step towards the unification of the two Togolands.

"34. From the foregoing it seems clear that four points ought to be borne in mind in connexion with the over-all question of integration. First, the difference between the north and the south. Secondly, that if the Territory is not economically viable its total separation would be a blessing of doubtful value. Thirdly, that the political movement of unification is now so advanced that for the Territory to stand alone appears to be neither desirable nor practical. And fourthly, that the Territory which is being directed for the purpose of constitutional development along the same lines as the Gold Coast, that is to say, with another Territory more advanced than itself, should be able to derive from this association the same benefits that accrue to the Gold Coast."⁷⁸

157. At its seventh session, the Trusteeship Council adopted resolution 293 (VII), which, *inter alia*, states that it:

"*Is of the opinion* that, in view of the fact that various proposals concerning the administrative arrangements affecting the Trust Territory of Togoland under British administration are under consideration, further examination of the administrative union of Togoland under British administration and the Gold Coast could not usefully be undertaken at this time;

"7. *Considers* that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and draws them to the attention of the Administering Authorities concerned:

"(a) That the Administering Authorities furnish clear and precise separate financial, statistical and other data relating to Trust Territories participating in administrative unions;

"(b) That the Administering Authority facilitate the access of visiting missions to such information on an administrative union as may be necessary to

⁷⁶ Gold Coast: Statement by H.M. Government on the Report of the Committee on Constitutional Reform (Colonial No. 250).

⁷⁷ *Official Records of the Trusteeship Council, Fourth Session*, 21st meeting, p. 290.

⁷⁸ *Official Records of the Trusteeship Council, Seventh Session, Supplement No. 2*, pp. 102-103.

enable the mission to report fully on the Trust Territory concerned;

"(c) That the Administering Authorities continue to maintain the boundaries, separate status and identity of Trust Territories participating in administrative unions;

"(d) That the Administering Authorities ensure, with regard to Trust Territories participating in administrative unions, that expenditures on the administration, welfare and development of any such Trust Territory for a given year be not less than the total amount of public revenue derived from the Territory in that year."

Constitution for the Gold Coast and Togoland

158. At its ninth session the Council, on the recommendation of the Standing Committee, noted regarding the Constitution for the Gold Coast and Togoland:

"(a) That on 29 December 1950 a new Constitution for the Gold Coast and the Trust Territory of Togoland under British administration was promulgated;

"(b) That this new Constitution which is now fully operative established an Executive Council and a Legislative Assembly which give to the people of the Gold Coast and of the Trust Territory a large measure of self-government;

"(c) That the Southern Section of Togoland under British Administration has three representatives in the Legislative Assembly, namely, two representatives elected as rural members and one territorial member elected by the Southern Togoland Council;

"(d) That two members of the Legislative Assembly have been elected by a single electoral college for both the Northern Territories of the Gold Coast and the northern part of Togoland who are Natives of and resident in the Northern Section of Togoland.

"The Council, taking into consideration that the Gold Coast (Constitution) Order-in-Council, 1950, and Togoland under United Kingdom Trusteeship Order-in-Council, 1949, provides that no laws shall be applied to the Trust Territory which are repugnant to any provision of the terms of the Trusteeship Agreement, is of the opinion that, as far as the constitutional framework is concerned the interests of the inhabitants of the Trust Territory are adequately protected. The Council feels, however, that in view of the special status of the Trust Territory in international law, the practical implementation of the new arrangements should be kept under constant review by the Trusteeship Council."⁷⁹

159. At its ninth session, the Council also adopted the following conclusions:

"The Council commends the Administering Authority on the promulgation of the new Gold Coast Constitution which it considers to be an important step toward full responsible government in the Trust Territory to which the Constitution has been applied; notes with satisfaction that this Constitution will

give the inhabitants of the Territory the opportunity of acquiring higher political experience; notes with approval the safeguards retained in the new Constitution (a) that any Gold Coast law repugnant to any provision of the Trusteeship Agreement would be to the extent of that repugnancy void in the Territory, (b) that the Governor may use his reserve powers to make certain that there is no infringement of the Trusteeship obligations, and (c) that there will be representation of the Trust Territory in the Gold Coast Legislative Assembly; notes the assurance of the Administering Authority that it is not only preserving the status of the Trust Territory but also taking particular measures to ensure that full consideration will continue to be given to the interests of the inhabitants; expresses the hope that the Administering Authority will take all possible steps to ensure full recognition of Togoland's interests in policies and programmes developed by the Gold Coast Government and full participation of Togoland in all phases of Gold Coast progress."⁸⁰

160. At its eleventh session, the Council, on the recommendation of its Standing Committee, adopted the following conclusions:

The Council, having further examined the question of the present administrative, legislative and political arrangements between the Gold Coast and Togoland under British administration, has no comments to make at this time additional to those made in 1951, but will continue to keep these matters under review. The Council realizes that it must reserve its final opinion concerning the effect of the new constitutional arrangements on Togoland under British administration until the Trusteeship Council has considered the Ewe and Togoland unification problem.

Separate financial, statistical and other data

161. At its ninth and eleventh sessions, the Council adopted conclusions concerning separate financial, statistical and other data which are set out in paragraph 170 below.

Visiting missions

162. At its ninth session, the Council adopted the following conclusion:

"With regard to the safeguards enumerated in sub-paragraph 7 (b) of the Trusteeship Council's resolution 293 (VII), the Council notes that the Visiting Mission to the Trust Territory of Togoland under British administration in December 1949 spent one day in Tamale, the capital of the Northern Territories of the Gold Coast, and three days in Accra, the capital of the Gold Coast."⁸¹

163. At its eleventh session, the Council noted that no visiting mission had entered Togoland under British administration during the year under review.

Maintenance of boundaries, separate status and identity

164. At its eleventh session, the Council adopted a conclusion identical with the following conclusion adopted at the ninth session:

⁷⁹ Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 154.

⁸⁰ *Ibid.*, p. 155.

⁸¹ *Ibid.*, p. 154.

"With regard to sub-paragraph 7 (c) of the Trusteeship Council's resolution 293 (VII), the Council notes that there exists no information which would suggest that the boundaries of the Territory have not been maintained."⁸²

Expenditure in the Trust Territory

165. At the ninth session, the Council adopted the following conclusions:

"With regard to sub-paragraph 7 (d) of the Trusteeship Council's resolution 293 (VII), the Council notes that, according to the information contained in the annual reports for 1949 and 1950, the total revenue derived from the Trust Territory [without grants under the Colonial Development and Welfare Act] amounted to:

1948-49	1949-50
£473,800	£779,621

"and the total expenditure on the administration, welfare, and development of the Trust Territory amounted to:

1948-49	1949-50
£614,443	£799,735

"Therefore, expenditure on the administration, welfare and development of the Trust Territory for the last two financial years has been not less than the total amount of public revenue derived from the Territory."⁸³

166. At its eleventh session the Council, on the recommendation of its Standing Committee, adopted the following conclusions:

(i) According to information contained in the annual report for 1951, the estimates of total revenue derived from the Trust Territory, exclusive of £12,632 received from the Colonial Development and Welfare Fund, amounted to:

1948-49	1949-50	1950-51
£473,800	£779,621	£1,027,254

and the estimated total expenditure on the administration, welfare and development of the Trust Territory amounted to:

1948-49	1949-50	1950-51
£614,443	£799,735	£1,036,804

(ii) Therefore, estimates of expenditures on the administration, welfare, and development of Togoland under British administration for the last three fiscal years were not less than the estimates of total public revenue derived from the Trust Territory.⁸⁴

D. OBSERVATIONS PURSUANT TO PARAGRAPHS 3 (a) AND 3 (b) OF GENERAL ASSEMBLY RESOLUTION 563 (VI)

167. By resolution 563 (VI), the General Assembly on 18 January 1952 requested the Trusteeship Council in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting

Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, ... with special reference to:

"(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

"(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement."

Observations regarding the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV)

168. The considerations set out in paragraph 1 of General Assembly resolution 326 (IV) were, as already noted, the subject of observations by the Council transmitted to the Assembly under Trusteeship Council resolution 293 (VII). Moreover, the Council in its annual review of conditions in the Trust Territory of Togoland under British administration has, assisted by the work of its Standing Committee on Administrative Unions, adopted conclusions on a current basis relating to various of the considerations enumerated in General Assembly resolution 326 (IV). In the light of paragraph 3 (a) of General Assembly resolution 563 (VI), the Council undertook a further examination of the considerations set out in paragraph 1 of resolution 326 (IV) as they apply to Togoland under British administration.

169. Paragraph 1 (a) of General Assembly resolution 326 (IV) refers to "the desirability of having the Administering Authorities inform the Trusteeship Council beforehand when they propose to create new administrative unions of Trust Territories with adjacent territories or extend the scope of any existing union or federation".

(a) With respect to the above, the Trusteeship Council in its resolution 293 (VII) made no observation or recommendation.

(b) The Council, at its eleventh session, noted the statement of the representative of the Administering Authority that his Government would ensure that any important departure from the current arrangements would be brought to the Council's attention at a formative stage.

170. Paragraph 1 (b) of General Assembly resolution 326 (IV) refers to "the desirability should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial, statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibilities under the Charter".

(a) With respect to the above, the Trusteeship Council in its resolution 293 (VII) made no observations or recommendations, but the Council drew the

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ For further explanation of these estimates, see paras. 227 to 241 of the annual Report on Togoland under United Kingdom trusteeship for the year 1951.

attention of the Administering Authority, *inter alia*, to the following safeguard:

"That the Administering Authorities furnish clear and precise separate financial, statistical and other data relating to Trust Territories participating in administrative unions."

(b) At its ninth session, the Council, on the recommendation of the Standing Committee on Administrative Unions, adopted the following conclusions:

"With regard to the safeguards enumerated in sub-paragraph 7 (a) of the Trusteeship Council's resolution 293 (VII), the Council notes that estimates of the Territory's expenditure have been provided in greater detail in the annual report for 1950 than for previous years; notes also that according to the annual report for 1950 plans have been made to obtain for 1951 and subsequent years certain trade figures from which it will be possible to provide the Trusteeship Council with fairly approximate estimates of the total external trade of the Territory both by value and commodities. Moreover, the Council notes that the Cocoa Marketing Board and Agricultural Produce Marketing Board have agreed to keep separate statistics of purchases of produce for export made in the Territory. The Council notes, nevertheless, that separate and detailed import and export statistics for the Territory have not yet been provided, and further notes the assurance of the special representative that such information will be contained in the next and subsequent annual reports."⁸⁵

(c) At its eleventh session, the Council adopted the following conclusions:

- (i) The annual report on the administration of Togoland under British administration for 1951 provides estimates of the Territory's revenue and expenditure.
- (ii) The annual report for 1951 contains a statement with respect to commerce and trade, according to which "it would be impossible without placing a cordon around the Territory to provide exact figures of the Territory's trade" and "such a cordon is of course unthinkable and would in any event be too high a price in interference in the movement of goods and people as well as in cost to pay for the production of trade figures". The Administering Authority states that "in response to a request from the Trusteeship Council, an attempt has been made to estimate the Territory's trade" but explains that "the figures provide no more than a very rough guide to the Territory's trade".
- (iii) The Administering Authority has described in the annual report for 1951 the methods employed in the preparation of separate statistics of trade and commerce.
- (iv) The special representative of the Administering Authority stated that, with experience, ways would be found of removing some of the vague-

ness which now existed and of improving the accuracy of the data given.

- (v) In accordance with the undertaking of the Administering Authority given in 1951, separate statistics for purchases of cocoa from the Territory have been reported by the Cocoa Marketing Board, and separate statistics have been provided for purchases made in the Territory by the Agricultural Produce Marketing Board.

171. Paragraph 1 (c) of General Assembly resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory".

(a) With respect to the above, the Trusteeship Council in its resolution 293 (VII) made no observations or recommendations.

(b) The Council is of the opinion that paragraph 1 (c) of General Assembly resolution 326 (IV) is inapplicable and that the existing arrangements are not disadvantageous to the Territory but, nevertheless, deserve the constant attention of the Council.

172. Paragraph 1 (d) of General Assembly resolution 326 (IV) refers to "the desirability of establishing in each Trust Territory a separate legislative body with increasing powers and with headquarters within the Trust Territory, and of eliminating any type of legislative action originating in any other legislative body with headquarters in a Non-Self-Governing Territory".

(a) With respect to the above, the Trusteeship Council in its resolution 293 (VII) made no observations or recommendations.

(b) The Council is of the opinion that paragraph 1 (d) of General Assembly resolution 326 (IV) is inapplicable and that the existing arrangements are not disadvantageous to the Territory but, nevertheless, deserve the constant attention of the Council.

173. Paragraph 1 (e) of General Assembly resolution 326 (IV) refers to "the desirability of taking into account, before any administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territories concerned".

(a) With respect to the above, the Trusteeship Council in its resolution 293 (VII) made no observations or recommendations.

(b) The Council notes the statement of the representative of the Administering Authority in the Standing Committee that it is the Administering Authority's intention to have regard for the freely expressed wishes of the inhabitants in all matters.

Observations regarding paragraph 3 (b) of General Assembly resolution 563 (VI)

174. The Trusteeship Council,

(a) Recognizing the fact that Togoland under British administration forms a narrow strip of land inhabited by people who, for the most part, have close ethnic and cultural relations with the inhabitants of the adjacent districts of the Gold Coast;

⁸⁵ Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 154.

(b) Recognizing further that the present arrangements associating the administration of Togoland with that of the Gold Coast have been in effect for a period of some thirty years;

(c) Recalling that, by article 5 (a) of the Trusteeship Agreement, the Administering Authority shall administer the Territory in accordance with its own laws as an integral part of its territory with such modification as may be required by local conditions and subject to the provisions of the United Nations Charter and of the Agreement;

(d) Recalling further that, by article 5 (b) of the Trusteeship Agreement, the Administering Authority shall be entitled to constitute the Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control, and to establish common services between such territories and the Territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of the Agreement;

(e) Recalling that, under Article 76 b of the Charter, one of the basic objectives of the Trusteeship System shall be "to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards 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";

(f) Noting that the General Assembly at its seventh session will have before it a special report on the Ewe and Togoland unification problem, which may bear on the question under consideration;

(g) Recognizing particularly that the introduction of the Gold Coast Constitution gives to the inhabitants of Togoland in association with the inhabitants of the Gold Coast a considerable degree of participation in self-governing institutions;

(1) Is of the opinion that the present administrative arrangements for Togoland, although prejudicing perhaps the progressive development of the Territory towards a separate independent status, are nevertheless conducive to the attainment of the objectives set forth in Article 76 of the Charter, and are capable of accelerating the progressive development of the Territory towards self-government within the wider framework of the political future of the Gold Coast;

(2) Is further of the opinion that the Administering Authority should continue to carry out its obligations under the Trusteeship Agreement and that, until the freely expressed wishes of the peoples of the Territory concerning its future status have been ascertained in accordance with Article 76 of the Charter, the operation of the present administrative union must be kept under constant review.

CHAPTER VI

The administrative union affecting the Trust Territory of the Cameroons under British administration

A. SUMMARY OF HISTORICAL EVENTS PRECEDING THE ESTABLISHMENT OF THE PRESENT ADMINISTRATIVE UNION

175. Following the occupation of the German Protectorate of Kamerun by British and French forces during the First World War, the colony was divided into British and French spheres by an arrangement which came into effect on 18 April 1916.

176. An Anglo-French Agreement was signed in Paris on 10 July 1919 by Viscount Milner and M. Simon providing for the delineation of the border dividing the former German Protectorate into two parts.

177. In accordance with article 9 of the British Mandate for the Cameroons, the Territory was administered as an integral part of Nigeria.

178. The administration of the Mandated Territory was integrated with the administration of the adjoining areas of the Protectorate of Nigeria by the British Cameroons Order-in-Council of 26 June 1923.

179. For further details, see T/AC.14/4, page 2.

B. LAWS ESTABLISHING THE ADMINISTRATIVE UNION

180. The British Cameroons Order-in-Council of 26 June 1923 provides that "the portions of the British

Cameroons which lie to the northward, of the line described in the Schedule of this Order shall, subject to the provisions of the aforesaid mandate, be administered as if they formed part of the Northern Provinces of the Protectorate". The portion of the British Cameroons southward of the line mentioned above was to be administered as if it formed part of the Southern Provinces of the Protectorate. The Governor was authorized to vary the line of administrative delimitation defined by the Schedule "by proclamation issued with His Majesty's approval, signified through a Secretary of State".

181. The Cameroons under British Mandate Order-in-Council, 1923 was amended by the Cameroons under British Mandate Order, 1932, and revoked by the Nigeria (Protectorate and Cameroons) Order-in-Council No. 1352 of 21 August 1946.

182. In accordance with section 6 of the 1946 Order-in-Council, "the portions of the Cameroons which lie to the northward, and the portions of the Cameroons which lie to the southward, of the line described in the schedule of this order shall, subject to the provisions of the... Mandate or to the provisions of any terms of Trusteeship which may hereafter be approved by the United Nations, be administered as if they formed part of the Northern Provinces of the Protectorate

and of the Southern Provinces of the Protectorate respectively”.

183. On 13 December 1946 the United Nations General Assembly approved a Trusteeship Agreement for the Cameroons under British administration. Subsequently the Nigeria (Protectorate and Cameroons) Order-in-Council, 1946, was amended by the Nigeria (Protectorate and Cameroons) Order-in-Council, 1949, to provide for the administration of the Territory in accordance with the Trusteeship Agreement.

184. After two years of consultations, a new Constitution for Nigeria and the Trust Territory of the Cameroons under British administration was introduced in 1951; it was based largely on recommendations of a general conference held at Ibadan at the beginning of 1950. The conference was composed of three Europeans and fifty African members, three of whom were inhabitants of the Trust Territory. The new Constitution was promulgated by the Nigeria (Constitution) Order-in-Council, 1951.

185. In its report on the administration of the Cameroons for 1951, the Administering Authority stated that in accordance with article 5 (a) of the Trusteeship Agreement and the Nigeria (Constitution) Order-in-Council, 1951, the administration of the Trust Territory was integrated with the administration of the adjoining areas of the Protectorate of Nigeria, and the Territory shared with Nigeria a common legislative and judicial system.

186. The new Constitution⁸⁶ may be outlined as follows:

The Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria is the Governor and Commander-in-Chief of the Cameroons. In Nigeria, including the Cameroons, there are a Central Executive House and a Central Legislative House with powers over the whole of the Colony, Protectorate and Trust Territory, and a Regional Legislature and Executive in each of the three regions.⁸⁷ The Northern Regional Executive and Legislature have powers over the whole of the Northern Region, including the Northern Cameroons; the Eastern Regional Executive and Legislature have powers over the whole of the Eastern Region, including the Southern Cameroons.

187. A Council of Ministers is the principal instrument of policy in Nigeria, and is composed of the Governor, six *ex-officio* members and twelve Ministers. The *ex-officio* members are the Chief Secretary, the Lieutenant-Governors of the Northern, Western and Eastern Regions, the Attorney-General, and the Financial Secretary. Four of the Ministers are appointed from among the members of each of the three Regional Legislatures. The Ministers appointed from the Eastern House of Assembly must include one who represents a division of the Cameroons in that House.

188. The House of Representatives, which is the Central Legislature for Nigeria, consists of a President, six *ex-officio* members, one hundred and thirty-six representative members, and not more than six special members.

The *ex-officio* members are the Chief Secretary, the Lieutenant-Governors of the Northern, Western and Eastern Regions, the Attorney-General and the Financial Secretary. The special members are appointed by the Governor to represent interests or communities which, in his opinion, are not otherwise adequately represented in the House.

189. Sixty-eight of the representative members are elected by the joint Council of the Northern Region from among the members of the Northern House of Chiefs and the Northern House of Assembly. They must include, in respect of each province in the Northern Region, at least one member of the Northern House of Chiefs and one elected member of the Northern House of Assembly representing that province therein. Thirty-four of the representative members are elected from the Western Region, and the remaining thirty-four from the Eastern Region. The Eastern representative members are elected by the Eastern House of Assembly. They must include, in respect of each province in the Eastern Region, at least two elected members representing divisions of that province in the Eastern House of Assembly.

190. The executive authority of a region extends to all matters with respect to which its legislature may make laws. The Executive Council of a region is the principal instrument of policy in and for it on matters to which the region's executive authority extends. There are three Regional Executive Councils—Northern, Western⁸⁸ and Eastern.

191. The Executive Council of the Northern Region consists of the Lieutenant-Governor, as President; three *ex-officio* members, namely, the Civil Secretary, the Legal Secretary and the Financial Secretary of the Region; such other official members, not exceeding two, as may be appointed by the Lieutenant-Governor; and such regional Ministers as may be appointed. Of the Regional Ministers, not less than two or more than three may be appointed from the Northern House of Chiefs, and not less than four nor more than six may be appointed from among the elected and special members of the Northern House of Assembly.

192. The Executive Council of the Eastern Region consists of the Lieutenant-Governor, as President; three *ex-officio* members, namely, the Civil Secretary, the Legal Secretary, and the Financial Secretary of the Region; such other official members, not exceeding two, as may be appointed by the Lieutenant-Governor; not less than seven or more than nine Regional Ministers appointed from among the elected and special members of the Eastern House of Assembly. The persons appointed must include at least one elected member who represents in that House a division in the Cameroons.

193. There is a Regional Legislature in each of the regions. The Lieutenant-Governor of a region, with the advice and consent of the Legislative House thereof, may make laws for the region with respect to a wide number of subjects and on additional matters provided the power to legislate on such matters has first been delegated by the Central Legislature.

⁸⁶ For further details, see T/C.1/L.28.

⁸⁷ The Protectorate of Nigeria was originally divided into the Northern and Southern Provinces. Later the Protectorate was divided into the Northern, Western and Eastern Provinces, which are now called “regions”.

⁸⁸ Since no part of the Trust Territory is included in the Western Region, no description of its Executive Council and Legislature is given.

194. The Northern Region has two legislative houses, namely, the Northern House of Chiefs and the Northern House of Assembly. The former consists of the Lieutenant-Governor, as President; three official members; all first-class Chiefs; thirty-seven other Chiefs; and an Adviser on Moslem law. The Northern House of Assembly consists of a President appointed by the Lieutenant-Governor; four official members; ninety elected members; and not more than ten special members appointed by the Lieutenant-Governor to represent interests of communities which, in his opinion, are not otherwise adequately represented.

195. The Eastern House of Assembly consists of the Lieutenant-Governor, as President; five official members, including at least one public officer serving in the Southern Cameroons; eighty elected members; and not more than three special members appointed by the Lieutenant-Governor to represent interests or communities which, in his opinion, are not otherwise adequately represented.

196. The electoral law governing the election of members to the Regional Legislative Houses is contained in regulations made by the Governor under the authority of the Nigeria (Constitution) Order-in-Council, 1951. The Governor is bound to provide that each province of the Northern Region is represented in the Northern House of Assembly by at least two elected members and that each division of the Eastern Region is similarly represented in the Eastern House of Assembly. In fact, under the regulations, of the eighty seats for elected members in the Eastern House of Assembly the divisions of the Southern Cameroons have been allotted thirteen, and of the ninety seats in the Northern House of Assembly the provinces of the Northern Region containing the Northern Cameroons have been allotted a total of twenty-one.

197. The franchise in both those regions is extended to all adult Nigerians⁸⁹ who are taxpayers and who have either a residency qualification in the constituency or are Natives of the constituency. In the Eastern Region, the constituency is the division; the representatives who are elected by the electorate in primary elections to form an electoral college for the division elect the members of the Eastern House of Assembly from amongst their own number. For the purpose of the primary elections, a division is divided into primary electoral units consisting of village areas or Native communities; an elector's register is prepared; candidates must be nominated by registered electors and must be registered electors themselves; a contested election is conducted by a process of secret oral voting under which the Returning Officer-in-Charge of the election records in a register the vote orally signified to him by each elector. For elections held by the electoral college of the division, a similar process of nomination and voting has to be observed. For elections held by the electoral college of the Victoria Division of the Southern Cameroons, special provision has been made to ensure that one of the two members returned by it shall be a Native of the division. The purpose of that provision is to prevent

a large non-Cameroonian element in the population of that division from excluding locally born persons from representation.

198. In the Northern Region the constituency is a province; the constituencies are similarly divided into primary electoral areas in which the primary elections are held. Between the primary electorate and the electoral college of the province which returns members to the House of Assembly, there are not less than two intermediate stages of electoral colleges. Each of the intermediate colleges elects from amongst its own members persons to go forward to the next college. The stages additional to those mentioned in respect of the Eastern Region are rendered necessary by the greater size of the constituency and the more extended distribution of the population. In the Northern Region, there is no register of electors, the tax rolls being used as the basis for testing voters' qualifications. Voting in the electoral college of the constituency is conducted by secret ballot.

199. Provision has been made in the electoral law whereby each stage of the elections may be questioned by legal proceedings.

200. The electoral law governing elections by Regional Legislative Houses to the Central Legislature is likewise governed by regulations made by the Governor under the Nigeria (Constitution) Order-in-Council, 1951.

201. Under the new Constitution and following the elections held in 1951, representation from the Cameroons under British administration in the political organs of Nigeria is as follows:

Council of Ministers

The Hon. Dr. E. M. L. Endeley, Minister without Portfolio, Member of the House of Representatives.

Regional Executive Councils

Eastern Region

The Hon. S. T. Muna, Minister for Works (one of the three Bamenda members of the Eastern House of Assembly).

The Hon. E. J. Gibbons, C.B.E., the Commissioner of the Cameroons (one of the official members).

Northern Region

No representative from the Trust Territory itself, but the Walin Bornu is a member.

Central House of Representatives

Members elected from the Eastern House of Assembly (six):

Rev. J. C. Kangsen (Wum); S. T. Muna (Bamenda); J. T. Ndze (Nkambo); Dr. E. N. L. Endeley (Victoria); S. A. George (Mamfe); N. N. Mbile (Kumba).

Members elected from the Northern House of Chiefs

There is no member from the Territory itself but Ahmadu, Lamido of Adamawa, is a member and is the Native Authority for large portions of the Northern Cameroons.

⁸⁹ The representative of the Administering Authority informed the Trusteeship Council at its eleventh session that, for this purpose, "Nigerians" included inhabitants of the Trust Territory.

Members elected from the Northern House of Assembly

Ahmadu, District Head of Mubi (Member of Adamawa Finance Committee and Regional Leprosy Board).

Abba Habib, District Head of Bama.

Regional legislatures

Northern House of Assembly

Ahmadu, District Head of Mubi.

Ibrahim Demsa, Adamawa Native Authority Agriculture Supervisor.

Abba Habib, District Head of Bama.

Northern House of Chiefs

Bukar, Emir of Dikwa.

Eastern House of Assembly

Bamenda

V. T. Lainjo (Secretary of Bamenda S. E. Federation N. A.).

Hon. S. T. Muna (Tutor at Basel Mission E.T.C., Batibo).

J. N. Foncha (Headmaster of R.C. Primary School, Bamenda).

Nkambe

J. Y. Ndze (Headmaster R.C. Mission School, Tabenken).

A. T. Ngala (Cattle Control Assistant).

Wum

Rev. J. C. Kangsen.

S. C. Ndi (a son of Fon of Bikom).

Mamfe

S. A. George (Member of Mamfe Town Subordinate N.A.).

M. N. Foju (Headmaster of Fontem R.C. School).

Kumbo

N. N. Mbile (President, C.D.C. Workers Union, Secretary, Kamerun United National Congress).

Chief R. N. Charley (Chairman, N. Bakossi Council, 1947).

Victoria

The Hon. Dr. E. M. L. Endeley (President, Cameroons National Federation, Member of C.D.C.).

P. N. Motomby-Woletae (Medical Store Clerk, C.D.C.).

202. The actual operation of the administrative union may be characterized as follows: (a) The Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria is the Governor and Commander-in-Chief of the Cameroons under British trusteeship. For further details, see paragraph 186 above.

(b) No separate budget is prepared, nor are separate public accounts normally kept for the Trust Territory. Calculations, however, are made of the revenue attributable to the Trust Territory and the expenditure on it, and any surplus of revenue is paid into a Cameroons Development Fund, payments from which are made on the Governor's authority for projects in the Trust Territory.

(c) Within that framework, the Trust Territory does not form a single administrative sub-unit of Nigeria. It is divided into several parts. In the south, Cameroons and Bamenda Provinces form part of the Eastern Region of Nigeria, in the charge of a Commissioner of the Cameroons who is responsible for their administration to the Lieutenant-Governor of the Eastern Region. The small Tigon-Ndoro-Kentu area is administered as though it formed part of a division of the Benue Province, which is part of the Northern Region. Farther north there are, first the two areas, physically divided by Nigerian territory, administered as part of the Adamawa Division of the Adamawa Province of Nigeria, which also belongs to the Northern Region; and, secondly, the Dikwa Emirate, which forms a division of the Bornu Province, which also belongs to the Northern Region. In some cases, integration exists also on the level of Native administration; the example may be cited of some 300,000 people living in the two Adamawa areas of the Trust Territory, under the jurisdiction of a *Lamido* or paramount chief, whose seat of government and various technical departments are at Yola in Nigeria.

(d) Except for the ultimate responsibility vested in the Governor of Nigeria, there is no one administrator on the spot who has responsibility for the administration of the Trust Territory as a whole, the responsibility being divided between two Lieutenant-Governors stationed outside the Cameroons, whose various parts form a small portion of their areas of jurisdiction.

(e) In respect of legislative processes and representation, no organ of government exists in the Cameroons above the level of the Native Authorities. By virtue of the integration of the Trust Territory with Nigeria, however, the respective administrative parts of the Cameroons are represented in the Central, and in the Northern and Eastern Regional Legislatures of Nigeria in the way described above.

(f) The Governor may not assent to any Bill whose provisions appear to him to be inconsistent with obligations imposed upon Her Britannic Majesty by treaty or international agreement, including the Trusteeship Agreement.

C. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE GENERAL ASSEMBLY, BY THE TRUSTEESHIP COUNCIL AND ITS SUBSIDIARY ORGANS, AND OBSERVATIONS OF THE ADMINISTERING AUTHORITY CONCERNING THE ADMINISTRATIVE UNION OF THE CAMEROONS UNDER BRITISH ADMINISTRATION

203. At its third session the General Assembly in resolution 224 (III) recommended, *inter alia*, that the Trusteeship Council

"(b) ... recommend such safeguards as the Council may deem necessary to preserve the distinct

political status of the Trust Territories and to enable the Council effectively to exercise supervisory functions over such Territories;

"(c) *Request*, whenever appropriate, an advisory opinion of the International Court of Justice as to whether such unions are within the scope of and compatible with, the stipulations of the Charter and the terms of the Trusteeship Agreements as approved by the General Assembly."

204. At its fourth session, the Trusteeship Council adopted the following recommendation:

"The Council, concerned over the difficulty in performing its supervisory functions with respect to the Trust Territory, arising from the fact that the Territory has been integrated for administrative purposes into different administrative divisions and sub-divisions of the British Protectorate of Nigeria and from the fact that the integration is so carried out that even on the lowest levels of administration certain portions of the Trust Territory are being administered by Native Authorities with seats outside the Territory, with the result that there is no legislative, judicial or budgetary autonomy in the Territory, and consequently, no adequate figures and data which would enable the Council to appraise the exact status or situation of the Trust Territory, recommends that, pending a final solution of the question of these administrative arrangements, the Administering Authority review the situation and take steps or institute measures, such as budgetary autonomy for the Territory, which will enable the Trusteeship Council better to perform the duties and functions vested in it by the Charter, and requests that the Administering Authority include in future annual reports precise and separate data on all common services."⁹⁰

205. The Visiting Mission to the Trust Territories in West Africa, 1949, in its report made the following comments:

"91. On the general question of the administrative integration of the Cameroons with Nigeria, the Mission appreciates the force of the arguments on both sides. Without attempting to comment on or evaluate the principle of this administrative association, which it feels ought to be left to the Trusteeship Council, it found that the sharp difference between the north and south, with its contrasting culture, religion, race, language and general way of life, does not fortify the argument of a total separation, from the administrative point of view, from the district with which they are now integrated.

"92. The Mission does not view its duty as including the evaluation of merely theoretical considerations, but considers that it is expected to report objectively on the basis of facts. Everything the Mission has seen went to confirm the fact that, with the contrast between the north, apart from the very numerous pagan population, and the south of the Trust Territory, the north is nearer and more allied to the Northern Province of Nigeria in its religion, race, culture and language. In the case of

Adamawa it is impossible to draw the line or to differentiate between the two since the same people live in both regions, headed by the same chief. Therefore, the north of the Trust Territory might be more smoothly administered in conjunction with the Northern Province of Nigeria than perhaps with the south of the Trust Territory.

"93. So much for the administrative side. The economic and financial side is of a somewhat different character. The fact that the economy of the Trust Territory and its finances are integrated with those of Nigeria should have no disadvantageous effect on the Territory.

"94. On the question of finances, as mainly evidenced by the non-existence of a separate budget for the Trust Territory, this has been an argument contested on both sides. There could be a great deal of controversy whether this financial integration is in itself a hindrance to the economic development of the Trust Territory. Does the Trust Territory suffer economically for being integrated with Nigeria? If the question of geographical remoteness from the centre could be a justification for the Administration to neglect certain faraway provinces, then the Mission could not consider that as a valid argument. For in the Trust Territory, more than in other countries, equality of development within the allowances of economy and adaptability should be a matter not only of propriety but of justice. The Mission found no reason to think that such a neglect on the part of the Administering Authority has occurred in the Trust Territory purely because it does not possess a separate budget.

"95. But there was one difficulty in the evaluation of the present case, namely, that figures and statistics in the Nigerian budget could not be adequately separated to give full knowledge of the extent of expenditure on the development within the Trust Territory.

"96. The Mission believes that the present administrative integration with Nigeria has reached its maximum and is to some extent being modified in the opposite direction through the proposed constitutional reforms and by recent administrative changes, such as the appointment of a Commissioner for the Cameroons. It is also the opinion of the Mission that the way should clearly be left open, irrespective of the new constitutional proposals now being formulated in Nigeria, for a careful and separate examination between the people of the Cameroons on the one hand and the Administering Authority on the other of the desirability and practicability of some administrative, legislative and budgetary autonomy being established for the Trust Territory."⁹¹

206. The Committee on Administrative Unions noted in its report that:

"(a) In view of the geographical configuration and the ethnical composition of the population, it was the intention of the United Kingdom Government since the establishment of the Mandate in

⁹⁰ *Official Records of the General Assembly, Fourth Session, Supplement No. 4, A/933, p. 8.*

⁹¹ *Official Records of the Trusteeship Council, Seventh Session, Supplement No. 2, pp. 17, 18.*

1922 to administer, and *de facto* and *de jure* it administered, the Cameroons as part of the adjacent areas of the Protectorate of Nigeria.

"(b) The Permanent Mandates Commission stated 'that measure of administrative incorporation adopted by the Mandatory Power in accordance with the provisions of article 9 of the Mandate might be the best calculated to ensure good administration and consequently the well-being of the population'.

"(c) The administrative integration thus established and constitutionally deriving from the Nigeria (Protectorate and Cameroons) Order-in-Council, 1946, represents a complete amalgamation with a common administrative, legislative and judicial system and services.

"(d) The full amalgamation of the Trust Territory in the adjacent areas of the Protectorate of Nigeria with a common administrative, executive, customs, fiscal, legislative and judicial system and services has the character of a political union."⁹²

207. At its sixth session, the Council adopted the following conclusion concerning projected constitutional reforms in Nigeria and the Cameroons under United Kingdom Trusteeship:

"The Council recommends that, in the adoption of the projected proposals for reform, due attention should be given to representation from the Trust Territory on the various Legislative and Executive Councils concerned with the government of the Trust Territory."⁹³

208. At its seventh session the Council adopted resolution 293 (VII) addressing itself to the considerations enumerated in General Assembly resolution 326 (IV). For the Council's conclusions see paragraphs 220 to 225 below.

209. At its ninth session, the Council on the recommendation of the Standing Committee adopted the following conclusions:

"The Council, considering that the establishment of the new Constitution for Nigeria and the Cameroons is a development of fundamental significance, and noting that it makes specific provision for representation of the Trust Territory in the Nigerian Eastern House of Assembly, Eastern Council of Ministers, Northern House of Chiefs, Central House of Representatives and Central Council of Ministers, and also for the opportunity of representation in the Northern House of Assembly, expresses the hope that the Administering Authority will make every effort to explain to the inhabitants the procedures and significance of the elections in which they will be entitled to participate and will take special precaution to ensure that the interests of the Trust Territory are not prejudiced nor submerged by those of Nigeria.

"The Council, noting that under the electoral system applying to the Cameroons, the Territory's representatives in the Nigerian Central House of Representatives are to be elected not by the repre-

sentatives of the Southern Cameroons in the Nigerian Eastern House of Assembly alone but by the elected members as a whole, requests the Administering Authority to give careful consideration to the need for ensuring that the members of the Nigerian Central House of Representatives who represent the Territory truly reflect the wishes of the inhabitants."⁹⁴

Constitution for Nigeria and the Cameroons

210. At its ninth session the Council, with regard to the Constitution for Nigeria and the Cameroons, made the following observations:

"(a) Notes that a new Constitution for Nigeria and the Trust Territory has been promulgated.

"(b) Further notes that the basis for the new Constitution was established after a Select Committee of the Nigeria Legislative Council had consulted the indigenous inhabitants including those of the various sections of the Trust Territory."⁹⁵

211. At its eleventh session the Council, on the recommendation of the Standing Committee, adopted the following conclusion:

Taking into consideration that the Royal Instructions of 27 November 1951 to the Governor of Nigeria provide, *inter alia*, that the Governor shall not assent to any Bill the provisions of which appear to him to be inconsistent with obligations imposed upon Her Britannic Majesty by treaty or other international agreement including the Trusteeship Agreement, the Council is of the opinion that the existence of that instruction adequately protects the interests of the inhabitants of the Trust Territory in regard to the new Constitution. The Council feels, however, that in view of the special status of the Trust Territory in international law, the practical implementation of the new arrangements should be kept under constant review by the Trusteeship Council.

Separate financial, statistical and other data

212. For conclusion concerning separate financial, statistical and other data, see paragraphs 216 and 217 below.

Visiting missions

213. At its ninth session the Council adopted the following conclusions:

"With regard to the safeguards enumerated in sub-paragraph 7 (b) of the Trusteeship Council resolution 293 (VII), the Council notes that the Visiting Mission to the Trust Territory of Cameroons under British administration visited Yola, Nigeria, on 7 November 1949 and Lagos, Nigeria, the seat of government of the Cameroons under British administration, from 27 November to 29 November 1949."⁹⁶

214. At its eleventh session, the Council noted that no visiting mission went to the Territory in 1950 or 1951.

⁹² T/L.96, Chapter IV, B, para. 8.

⁹³ Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 36.

⁹⁴ Ibid., Sixth Session, Supplement No. 4, p. 104.

⁹⁵ Ibid., p. 103.

⁹⁶ Ibid., p. 104.

Maintenance of boundaries

215. At its eleventh session, the Council adopted a conclusion identical with the following conclusion adopted at the ninth session:

"With regard to the safeguards enumerated in sub-paragraph 7 (c) of the Trusteeship Council resolution 293 (VII), the Council notes that there exists no information which would suggest that the boundaries of the Territory have not been maintained."⁹⁷

Expenditures in the Trust Territory

216. At its ninth session, the Council adopted the following conclusions:

"With regard to the safeguards enumerated in sub-paragraph 7 (d) of the Trusteeship Council resolution 293 (VII), the Council:

"(a) Notes that according to the information contained in the annual report for 1950 the estimated revenue from the Trust Territory of Cameroons under British administration amounted to:

1946-47	1947-48	1948-49
£240,870	£300,690	£518,510

and the total expenditure on the administration, welfare and development of the Trust Territory amounted to:

1946-47	1947-48	1948-49
£471,450	£541,080	£646,910

"Therefore expenditures on the administration, welfare and development of Cameroons under British administration for the three fiscal years 1946-49 were not less than the total amount of public revenue derived from the Trust Territory.

"(b) Further notes that the estimated revenue from the Trust Territory in the year 1949-50 amounted to £1,053,240, of which £614,550 came from taxes collected from the Cameroons Development Corporation and other companies. The annual report for 1950 states that in 1949-50 substantial sums in respect of earlier years were collected from these companies.

"(c) Notes in this connexion that the annual report for 1950 states:

"The most striking economic development of the year was the great improvement in the financial situation of the Territory which for the first time showed a surplus of revenue over expenditure. This surplus amounted to £310,000. In assessing future prospects it is necessary to remember that the 1949/50 surplus was exceptional since it included a non-recurrent item of no less than £165,000 in the shape of arrears of tax collected. Such high returns of revenue as those for 1949/50 can therefore scarcely be expected to be repeated in 1950/51. Revenue for the next few years, however, seems certain to be maintained at figures far above those of 1948/49."

⁹⁷ *Ibid.*

"The total estimated expenditure on the administration, welfare and development for the year 1949-50 amounted to £742,960."⁹⁸

217. At its eleventh session the Council, with regard to sub-paragraph 7 (d) of Trusteeship Council resolution 293 (VII) concerning revenue and expenditure, noted that:

(i) According to information contained in the annual reports for 1950 and 1951, the total revenue attributable to the Trust Territory amounted to:

1946-47	1947-48	1948-49	1949-50	1950-51 (estimate)
£240,870	£305,690	£518,510	£1,106,200	£1,202,600

and the total expenditure on the administration, welfare and development of the Trust Territory amounted to:

1946-47	1947-48	1948-49	1949-50	1950-51 (estimate)
£471,450	£541,080	£646,910	£880,100	£997,900

(ii) It would thus appear that, for the three years 1946-47, 1947-48 and 1948-49, the total expenditure in the Territory was not less than the total revenue attributable to the Territory. It would also appear that a surplus of revenue, including grants under the Colonial Development and Welfare Act, over expenditure in the Trust Territory amounted to £226,100 in 1949-50 and £204,700 in 1950-51.

D. OBSERVATIONS PURSUANT TO PARAGRAPHS 3 (a) AND 3 (b) OF GENERAL ASSEMBLY RESOLUTION 563 (VI)

218. By resolution 563 (VI), the General Assembly on 18 January 1952 requested the Trusteeship Council "in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, ... with special reference to:

(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement."

Observations regarding the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV)

219. The considerations set out in paragraph 1 of General Assembly resolution 326 (IV) of 15 November 1949 were the subject of observations by the Council transmitted to the General Assembly under Trusteeship Council resolution 293 (VII) of 17 July 1950. Moreover, the Council in its annual review of conditions in the Trust Territory of the Cameroons under British administration has, assisted by the work of its Standing Committee on Administrative Unions, adopted conclusions on a current basis relating to various of the considerations enumerated in General

⁹⁸ *Ibid.*

Assembly resolution 326 (IV). In the light of paragraph 3 (a) of General Assembly resolution 563 (VI), the Council undertook a further examination of the considerations set out in paragraph 1 of General Assembly resolution 326 (IV) as they apply to the Cameroons under British administration.

220. Paragraph 1 (a) of General Assembly resolution 326 (IV) refers to the "desirability of having the Administering Authorities inform the Trusteeship Council beforehand when they propose to create new administrative unions of Trust Territories with adjacent territories or extend the scope of any existing union or federations".

With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"Expresses the hope that the Administering Authority concerned will inform the Council of any change which may be contemplated with regard to the existing administrative arrangements".

221. Paragraph 1 (b) of General Assembly resolution 326 (IV) refers to the "desirability, should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibilities under the Charter".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"Expresses the hope that the Administering Authority concerned will continue to co-operate fully with the Trusteeship Council in the discharge of its responsibilities and, in particular, will furnish clear and precise separate financial, statistical and other data relating to the Trust Territory".

(b) The Council at its ninth session, on the recommendation of the Standing Committee, adopted the following conclusions:

"With regard to the safeguards enumerated in sub-paragraph 7 (a) of the Trusteeship Council's resolution 293 (VII), the Council:

"(a) Notes that the annual reports on the administration of Cameroons under British administration for 1949 and 1950 contain separate data on the population of the Trust Territory, details of government officials employed solely within the Trust Territory, their basic salary, details of Native Authorities staff wholly or partly employed in the Trust Territory, separate data on justice and penal administration, estimated revenue and expenditure from or incurred in respect of the Trust Territory, its estimated capital position, revenue and expenditure of Native Authorities in the Trust Territory, several data on taxation rates in different provinces of the Trust Territory, imports and exports through Cameroons ports, some data on production in the Trust Territory, some data on labour in Cameroons and Bamenda provinces and northern areas, retail market prices of local foodstuffs in Victoria, Buea

and Tiko and separate data on public health and education.

"(b) Further notes the statement of the Administering Authority made in the annual report for 1950 that the Administering Authority has improved and will endeavour to improve further the statistical and other data on the Trust Territory in order to give the Council a full and accurate picture of local conditions and that a number of revisions have been made to this end in the statistical tables annexed to the report.""

222. At its eleventh session, the Council, on the recommendation of its Standing Committee, adopted for 1951 a conclusion corresponding with that adopted at the ninth session.

223. Paragraph 1 (c) of General Assembly resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory".

(a) With respect to the above, Trusteeship Council resolution 293 (VII) reads:

"Is of the opinion that sub-paragraph (c) of paragraph 1 of the operative part of General Assembly resolution 326 (IV) is inapplicable and feels that the existing arrangements are not disadvantageous to the Territory but that they deserve, nevertheless, the constant attention of the Council".

(b) The Council, taking into consideration the new Constitution, reiterates the view expressed above.

224. Paragraph 1 (d) of General Assembly resolution 326 (IV) refers to "the desirability of establishing in each Trust Territory a separate legislative body with increasing powers and with headquarters within the Trust Territory, and of eliminating any type of legislative action originating in any other legislative body with headquarters in a Non-Self-Governing Territory".

(a) With respect to the above, Trusteeship Council resolution 293 (VII) reads:

"Is of the opinion that sub-paragraph (d) of paragraph 1 of the operative part of General Assembly resolution 326 (IV) is inapplicable, and feels that the existing arrangements are not disadvantageous to the Territory, but that they deserve nevertheless the constant attention of the Council".

(b) The Council taking into consideration the new Constitution, reiterates the view expressed above.

225. Paragraph 1 (e) of General Assembly resolution 326 (IV) refers to "the desirability of taking into account, before any administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territory concerned".

(a) With respect to the above, Trusteeship Council resolution 293 (VII) reads:

"Expresses the hope that the Administering Authority will, with regard to matters pertaining to

⁹⁹ Official Records of the General Assembly, Sixth Session, Supplement No. 4, pp. 103, 104.

the administrative arrangements affecting the Trust Territory, continue to take into account the freely expressed wishes of its inhabitants."

(b) The Council notes that, in the process of formulating the new Constitution, the inhabitants of the Trust Territory took part in the various local and provincial meetings and regional conferences at which proposals for that instrument were considered.

Observations regarding paragraph 3 (b) of General Assembly resolution 563 (VI)

226. The Trusteeship Council,

(a) Recognizing the fact that the Cameroons under British administration forms a narrow strip of land inhabited by people who, for the most part, have close ethnic and cultural relations with the inhabitants of the adjacent districts of Nigeria;

(b) Recognizing further that the present arrangements associating the administration of the Cameroons with that of Nigeria have been in effect for a period of some thirty years;

(c) Recalling that by article 5 (a) of the Trusteeship Agreement, the Administering Authority shall administer the Territory in accordance with its own laws as an integral part of its territory with such modification as may be required by local conditions and subject to the provisions of the United Nations Charter and of the Trusteeship Agreement;

(d) Recalling further that, by article 5 (b) of the Trusteeship Agreement, the Administering Authority shall be entitled to constitute the Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control, and to establish common services between such

territories and the Territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of the Agreement;

(e) Recalling that under Article 76 b of the Charter one of the basic objectives of the Trusteeship System shall be "to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards 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";

(f) Recognizing particularly that the introduction of the new Nigerian Constitution gives to the inhabitants of the Cameroons in association with the inhabitants of Nigeria a considerable degree of participation in self-governing institutions;

1. Is of the opinion that the present administrative arrangements for the Cameroons, although prejudicing perhaps the progressive development of the Territory towards a separate independent status, are nevertheless conducive to the attainment of the objectives as set forth in Article 76 of the Charter and are capable of accelerating the progressive development of the Territory towards self-government within the wider framework of the political future of Nigeria;

2. Is further of the opinion that the Administering Authority should continue to carry out its obligations under the Trusteeship Agreement, and that, until the freely expressed wishes of the peoples of the Territory concerning its future status have been ascertained in accordance with Article 76 of the Charter, the operation of the present administrative union must be kept under constant review.

CHAPTER VII

The administrative union affecting the Trust Territory of New Guinea

A. SUMMARY OF THE HISTORICAL EVENTS PRECEDING THE ESTABLISHMENT OF THE ADMINISTRATIVE UNION

227. See A/1306 (*Official Records of the General Assembly, Fifth Session, Supplement No. 4*), Annex, chapter V, B, paragraphs 1 to 5 inclusive.

B. LEGISLATION ESTABLISHING THE ADMINISTRATIVE UNION

228. See A/1306, Annex, chapter V, B, paragraphs 6 to 9 inclusive.

229. See A/1306, Annex, chapter V, A.

C. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE GENERAL ASSEMBLY, AND THE COUNCIL AND ITS SUBSIDIARY ORGANS, AND OBSERVATIONS BY THE ADMINISTERING AUTHORITY CONCERNED IN THE ADMINISTRATIVE UNION OF NEW GUINEA

Legislation establishing the administrative union

230. During its third session, the Trusteeship Council considered the draft Papua and New Guinea Bill, 1948, and made the following observations and recommendations:

"(a) The Council, having devoted a prolonged and significant debate to the question of the proposed administrative union between the Trust Territory

of New Guinea and the Australian Territory of Papua takes the position that the establishment of the union is a highly important problem of serious consequence.

"(b) The Council considers that, in so far as the problem—as to whether or not the proposed union is within the terms of the Trusteeship Agreement approved by the General Assembly—is partly juridical in nature, it might to that extent be resolved by recourse to the appropriate juridical body, the International Court of Justice.

"(c) It is the Council's conviction that an administrative union must remain strictly administrative in its nature and its scope, and that its operation must not have the effect of creating any conditions which will obstruct the separate development of the Trust Territory, in the fields of political, economic, social and educational advancement, as a distinct entity.

"(d) The Council is not, however, entirely convinced that the proposed union between New Guinea and Papua may not go so far as to compromise the preservation of the separate identity of the Trust Territory.

"(e) The Council considers also that the establishment of a union of the kind proposed imposes an embarrassing burden on the judgment of the Council, and that it may constitute a difficulty in the way of the discharge by the Council of its responsibilities under the Charter.

"(f) The Council is firmly determined that the proposed union must not lead to a union of a closer permanent nature with still greater implications.

"(g) The Council expresses concern lest the powers conferred on the Governor-General by section 11 of the legislation, of defining provinces in the combined territories, may allow provinces to be so defined as to include portions of both territories, which might result eventually in obliterating the territorial boundaries and rendering difficult the supervision by the Council of the Trust Territory.

"(h) The Council considers that a single tariff system for the two territories under section 73 of the legislation should not affect the obligation of the Administering Authority to apply to the Trust Territory the provisions of Article 76 d of the Charter respecting equal treatment in social, economic and commercial matters for all Members of the United Nations and their nationals.

"(i) The Council accordingly recommends that the Administering Authority review the matter of administrative union in the light of the foregoing conclusions, and also in the light of the views expressed in the Council, and that it inform the Council of the results of its review."¹⁰⁰

231. At the third session of the Council, during the examination of the report on the administration of New Guinea for the period from 1 July 1946 to 30 June 1947, the representative of Australia stated that it was not the intention of the Australian Government to amalgamate the two territories politically

and further stated that the Administering Authority would always bear in mind the difference in status between the two territories and, should an ordinance not appear to be fully in accordance with the obligations under the Trusteeship Agreement, it would be submitted to the Governor-General. It was proposed to apply the same laws to both countries, and those laws would be in accordance with the Trusteeship Agreement.¹⁰¹

232. At its third session, the General Assembly, by resolution 24 (III), endorsing the observation of the Trusteeship Council given in paragraph 230 (c) above, recommended, *inter alia*, that the Trusteeship Council should

"(b) ... recommend such safeguards as the Council may deem necessary to preserve the distinct political status of the Trust Territories and to enable the Council effectively to exercise supervisory functions over such Territories;

"(c) Request, whenever appropriate, an advisory opinion of the International Court of Justice as to whether such unions are within the scope of and compatible with, the stipulations of the Charter and the terms of the Trusteeship Agreements as approved by the General Assembly."

233. Following the passage of the amended Papua-New Guinea Act 1949 by the Australian Parliament, the Committee on Administrative Unions made the following report to the seventh session of the Trusteeship Council:

"The Committee on Administrative Unions, noting the discussion of the Trusteeship Council at its third session concerning the Papua and New Guinea Bill, 1948, and noting the recommendations and conclusions of the Council at that session, takes note of certain differences between this Bill and the Act as finally adopted and in particular takes note of the relevant section of the 'Memorandum on events leading up to and objects of the Papua-New Guinea administrative union' submitted by the representative of Australia (T/AC.14/32), which reads as follows:

"Amendments were made to the following sections of the Bill to meet points raised in the debate in the Trusteeship Council:

"(a) Sections 8 and 10: These were recast to include a provision that the status and identity of the Territory of Papua and the Trust Territory of New Guinea shall continue to be maintained. A declaration to this effect was originally included in the final paragraph of the preamble, but the Trusteeship Council wished the wording therein to be repeated as a substantive section of the Act.

"Section 11: The Trusteeship Council feared that this section might in some way endanger the boundary of the Trust Territory. It was, therefore, omitted.

"Section 36 (4): As the Trust Territory has a greater population than the Territory of Papua, the Council expressed the view that more definite provi-

¹⁰⁰ Official Records of the General Assembly, Third Session, Supplement No. 4, p. 16.

¹⁰¹ Official Records of the Trusteeship Council, Third Session, pp. 305, 316 (25th meeting).

sion should be made for the adequate representation of the inhabitants of the Trust Territory in the Legislative Council. Provision was made for nine nominated non-official members of the Legislative Council, and an amendment to the Bill provided that not less than five should be selected from the residents of the Trust Territory.

"Section 73: The Trusteeship Council pointed out that this section would permit the imposition of lower duties upon Australian goods than upon goods from other countries entering the Trust Territory. The Administering Authority decided to omit section 73 but does not agree that its inclusion would have been contrary to the Charter or to the terms of the Trusteeship Agreement."¹⁰²

234. In addition, in consultation with the representative of Australia and the special representative of the Administering Authority for the Trust Territory, the Committee on Administrative Unions took note of the following explanations and statements:

"(a) In regard to section 2 of the Act, it was noted that while it did not provide for a fixed period for the duration of the Administrative Union, the representative of Australia emphasized that it was possible to amend the text, and that the necessary administrative machinery for the implementation of such amendments already existed. He also stated that the Australian Government had repeatedly pointed out that, when the inhabitants of the two territories had attained a certain degree of development, they would be free to choose the form of government which suited them and, in particular, would be free to decide whether they wished the Administrative Union to continue or whether they wanted to become independent (T/AC.14/SR.21).

"(b) With regard to sections 8 and 11 of the Act, the Committee noted that the Administering Authority would prepare separate statistics for the Trust Territory of New Guinea and for Papua (T/AC.14/SR.21, T/AC.14/SR.23).

"(c) The Committee took cognizance of the fact that in regard to section 36 of the Act, the Administering Authority had carefully studied the recommendation made by the General Assembly regarding the desirability of establishing in each Trust Territory a separate legislative body (326 (IV), 11 November 1949), and that it had not yet reached any decision with regard to this matter (T/AC.14/SR.21).

"(d) Regarding the unified judicial system referred to in sections 58-64 of the Act, the Committee noted the statement of the special representative of the Administering Authority for the Trust Territory that all four judges of the Supreme Court can establish tribunals in one or the other territory or in different parts of both territories and that it was proposed that one judge of the Supreme Court at least should reside in the Trust Territory, probably at Lae (T/AC.14/SR.23). It also noted the statement that judicial cases affecting inhabitants of the Trust Territory would not be tried outside the geographical limits of the Territory (T/AC.14/SR.23).

"(e) In regard to arrangements for welfare and development (section 65), the Committee noted the statement of the special representative that these provisions of the Act intended to permit the Administering Authority to enter into arrangements or agreements with such private enterprises as may be organized for the development of the resources of the Territory to co-operate in the promotion of the welfare of the indigenous inhabitants (T/AC.14/SR.23).

"(f) In regard to the expenditure of public funds (section 75), the Committee noted the statements of the representative of Australia that accounts of such funds would be kept separate for each territory and that the annual budget of the Territory of Papua and New Guinea included two distinct sections for each territory; and that the necessary guarantees were set forth in this section of the Act."¹⁰³

235. In regard to an inquiry by the Committee on Administrative Unions, 1950, as to whether New Guinea was governed by legislation separate from that in force in Papua, the special representative stated that two types of legislation existed in the Territory of Papua and New Guinea: one was common to both territories; the other was different in the two territories. The different conditions existing in the two territories and the particular characteristics of their inhabitants made necessary the maintenance of separate legislation, particularly the partial maintenance of legislation in existence in New Guinea before the introduction of the New Act (T/AC.14/SR.21).

236. The Committee on Administrative Unions noted that Port Moresby has been selected as the site for the administrative headquarters of the Territory of Papua and New Guinea (Papua-New Guinea *Gazette*, No. 9, 4 May 1949). The Committee took note of the statement of the representative of Australia before the Fourth Committee at the fourth session of the General Assembly (107th meeting on 25 October 1949) which reads as follows:

"... the question of the headquarters has been one which has given great concern to the Administering Power. A great deal of thought has been given to it and a decision has now been taken after honest and full thought to all the interests concerned and especially the interests of the Trust Territory. I would not like it to be thought in the Committee that this matter which has, as I say, great practical importance on the spot, has been the subject of any half-hearted decision.

"When the two territories were administered separately before the war, there was a separate headquarters for the New Guinea administration in the town of Rabaul in New Britain. But Rabaul was subject to a series of volcanic eruptions in 1937, and it became necessary to consider moving the territory's capital to another location. It was decided at that time that the most suitable site in the Territory of New Guinea was the town or township of Lae on the north coast although that centre was far from satisfactory because of its climatic conditions and high rate of sickness then prevailing. How-

¹⁰² *Official Records of the General Assembly, Fifth Session, Supplement No. 4*, p. 198.

¹⁰³ *Ibid.*, p. 195.

ever, the transfer to Lae was decided upon and was actually in progress when the Japanese arrived in early 1942.

"Again, when in 1948, the Government decided on administrative union in the territories, it was faced with the problem of selecting a site for the capital all over again because nothing had really been established at Lae. Full consideration was given to the locations of Rabaul, Finschaven and Lae, all of them in the Trust Territory. Two centres in Papua—Milne Bay and Port Moresby—were also considered at the same time. The decision taken earlier this year to have the headquarters of the administration at Port Moresby in Papua was taken only after months of examination of conditions in all the locations I have mentioned. No preference was given to Port Moresby because of its location in Papua. Port Moresby was chosen as the seat of administration as being the centre from which the two territories could be administered most efficiently and which, in the view of the Administering Authority, would best meet the interests of the inhabitants of the Territory as a whole. One factor influencing the decision was the comparatively low rainfall in the Port Moresby area which is of assistance in health and other related matters. Port Moresby also has a good harbour and easily accessible communications."

Legislative Council

237. The composition of the Legislative Council as provided in the Papua and New Guinea Act, 1949 is set out in chapter V, A, paragraph 2 (f) of the report of the Committee on Administrative Unions (A/1306, annex).¹⁰⁴

238. The recommendations and observations of the Trusteeship Council on the matter are set out in paragraph 269 below.

Judicial system

239. The judicial system provided for in the Papua and New Guinea Act, 1949, is described in summary form in chapter V, A, paragraph 2 (g) of the report of the Committee on Administrative Unions.¹⁰⁵

240. A statement by the representative of Australia to the Committee on Administrative Unions¹⁰⁶ regarding the judicial system is given in chapter V, A, paragraph 3 (d) of the same report.

241. The recommendations and observations of the Trusteeship Council on this matter are set out in paragraph 268 below.

Welfare and Development

242. Section 65 of the Papua and New Guinea Act, 1949, provided as follows:

"Without prejudice to the operation of any other provision of this Act or of any law of the Territory:

"(a) the Minister may, with the concurrence of the Treasurer of the Commonwealth, make arrange-

ments or agreements for any purpose likely to promote the development of the resources of the Territory or the welfare of its inhabitants, and any sums required by the Minister for the purpose of any such arrangement or agreement shall be paid out of moneys appropriated by the Parliament for that purpose; and

"(b) the regulations may provide for the establishment of boards, committees or authorities for the purpose of promoting and controlling the production of primary products of the Territory, and for the marketing thereof, and may define the powers and functions of any such board, committee or authority."

243. A statement by the representative of Australia to the Committee on Administrative Unions¹⁰⁷ on the matter is given in chapter V, A, paragraph 3 (e) of the report of the Committee on Administrative Unions.¹⁰⁸

244. At the ninth session, the Council adopted the following statement:

"6. The Council, having no further information on the implementation of the economic, social and educational programmes for the Territory of Papua and New Guinea, is of the opinion that since these programmes are still in large part in the formulative stage, there is at this time nothing to report regarding the preservation of the separate interests of the Trust Territory and its inhabitants."¹⁰⁹

245. At its eleventh session, the Council, on the recommendations of the Standing Committee, made the following observation:

The Council, recalling the statement it adopted at the ninth session, decided to keep these aspects under consideration, and hopes that full information will be forthcoming in the next annual report."

Native labour

246. At its ninth session, the Council made the following observation:

"4. The Council further notes that the Native Labour Ordinance, 1950, of the Territory of Papua and New Guinea provides that Native employees and casual workers shall not, in general, be removed out of the Territory of Papua and New Guinea, whereas the Native Labour Ordinance, 1935-39 (part X) of the Territory of New Guinea provided that, in general, Native labourers were not to be removed out of the Territory of New Guinea. The Council considers that the operation of this Ordinance should be kept under review."¹¹⁰

247. At its eleventh session, the Council, on the recommendation of the Standing Committee made the following observation:

The Council, having decided at its ninth session to keep the operation of the Native Labour Ordinance, 1950, under review, notes that, according to the annual report on the administration of the Territory of New

¹⁰⁴ *Ibid.*, p. 194.

¹⁰⁵ *Ibid.*, p. 195.

¹⁰⁶ T/AC.14/SR.23.

¹⁰⁷ T/AC.14/SR.23.

¹⁰⁸ *Official Records of the General Assembly, Fifth Session, Supplement No. 4*, p. 195.

¹⁰⁹ *Ibid.*, Sixth Session, Supplement No. 4, p. 240.

¹¹⁰ *Ibid.*

Guinea for 1950-51, an increasing number of indigenous inhabitants from the Central Highlands District are seeking employment and that 5,363 workers from the District are employed in the Territory of New Guinea and 1,784 in the Territory of Papua. The Council further notes that, according to the same annual report, the supply of labour in New Guinea is still not equal to the demand and that a labour shortage of 2,100 is estimated for the year 1950-51.

In reply to an inquiry by the Standing Committee concerning the removal of labour from the Trust Territory to Papua, the special representative stated that this removal of labour was not in any way detrimental to the economic development of the Trust Territory. He explained that the labour shortage of New Guinea had progressively decreased and that it was expected that there would be soon no significant shortage. The special representative also stated that the workers from the Central Highlands, employed in Papua, were mainly engaged either on rubber plantations near Port Moresby or in areas where drilling for oil was in progress. The Council is of the opinion that the operation of this ordinance should be kept under review.

Separate financial, statistical and other data

248. A statement by the representative of Australia to the Committee on Administrative Unions¹¹¹ in regard to separate statistics is reviewed in chapter V, A, paragraph 3 (b) of the report of the Committee on Administrative Unions.¹¹²

249. The recommendations and observations of the Trusteeship Council on this matter are set out in paragraph 267 below.

Visiting missions

250. At its seventh session, the Trusteeship Council adopted resolution 293 (VII) which, in part, stated that the Council:

"7. *Considers* that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and brings them to the attention of the Administering Authorities concerned:

"...

"(b) That the Administering Authority facilitate the access of visiting missions to such information on an administrative union as may be necessary to enable the mission to report fully on the Trust Territory concerned."

251. At its ninth session, the Council made the following observation:

"(b) With regard to the safeguards enumerated in sub-paragraph 7 (b) of its resolution 293 (VII), the Council notes that the Visiting Mission [to Trust

Territories in the Pacific, 1950] upon the invitation of the Government of Australia, visited the headquarters of the central administrations of Papua and New Guinea situated outside the Trust Territory."¹¹³

252. At its eleventh session, the Council, on the recommendation of the Standing Committee, made the following observation:

With regard to the safeguards enumerated in sub-paragraph 7 (b) of the Trusteeship Council resolution 293 (VII), the Council notes that no visiting mission has visited the Trust Territory during the year under review.

Maintenance of boundaries, separate status and identity

253. An observation, made by the Trusteeship Council at its third session, on section 11 of the draft Papua and New Guinea Bill, 1948, concerning provinces which might include portions of both territories in the union, is given in chapter V, B, paragraph 7 (g) of the report of the Committee on Administrative Unions.¹¹⁴

254. A memorandum submitted by the representative of Australia containing a reference to the omission of the above-mentioned section from the Act of 1949, is reproduced in paragraph 233 above.

255. At its seventh session, the Trusteeship Council adopted resolution 293 (VII) which, in part, stated that the Council:

"7. *Considers* that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and brings them to the attention of the Administering Authorities concerned:

"...

"(c) That the Administering Authorities continue to maintain the boundaries, separate status, and identity of Trust Territories participating in administrative unions."

256. At its ninth session, the Council made the following observation:

"7 (c) With regard to sub-paragraph 7 (c) of its resolution 293 (VII), the Council notes that there exists no information which would suggest that the boundaries of the Territory have not been maintained."¹¹⁵

257. At its eleventh session, the Council, on the recommendation of the Standing Committee, made the following observation:

With regard to the safeguards enumerated in sub-paragraph 7 (c) of Trusteeship Council resolution 293 (VII), the Council notes that there exists no information which would suggest that the boundaries of the Territory have not been maintained. The Council notes,

¹¹¹ T/AC.14/SR.21 and 23.

¹¹² Official Records of the General Assembly, Fifth Session, Supplement No. 4, p. 195.

¹¹³ Ibid., Sixth Session, Supplement No. 4, p. 240.

¹¹⁴ Ibid., Fifth Session, Supplement No. 4, p. 197.

¹¹⁵ Ibid., Sixth Session, Supplement No. 4, p. 240.

however, that in an ordinance to provide for the division of the Territory into administrative districts (No. 59 of 1951 of the Territory of Papua and New Guinea), section 3 states, "The Administrative Districts Ordinance 1922 of the Territory of New Guinea is repealed". Section 4 states: "(1) The Territory shall be divided into Districts (2) The Administrator, by notice in the Gazette, may divide the Territory into Districts, declare their names and define their boundaries, and may from time to time alter the names and boundaries of the Districts."

In that connexion, the Council draws attention to the fact that section 11 of the Papua and New Guinea Bill, 1948, included the following provision:

"For the purposes of this Act or for any administrative purpose, the Governor-General may, by proclamation, define provinces within the Territory by such names and with such boundaries as are specified in the proclamation."

The Trusteeship Council further draws attention to the following statement in its report covering its second and third sessions:

"The Council expresses concern lest the powers conferred on the Governor-General by section 11 of the legislation, of defining provinces in the combined territories, may allow provinces to be so defined as to include portions of both territories, which might result eventually in obliterating the territorial boundaries and rendering difficult the supervision by the Council of the Trust Territory."¹¹⁶

The Council notes that section 11 of the 1948 Bill regarding the Governor-General's power to define provinces by proclamation was omitted in the 1949 Act.

With regard to the Administrative District Ordinance No. 9 of 1951, the special representative of Australia stated that:

(a) The Administering Authority continued to administer the Trust Territory in accordance with section 8 of the Papua-New Guinea Act, 1949-50, the text of which follows:

"It is hereby declared to be the intention of the Parliament that the Territory of Papua and the Territory of New Guinea shall continue to be Territories under the authority of the Commonwealth and the identity and status of the Territory of Papua as a Possession of the Crown and the identity and status of the Territory of New Guinea as a Trust Territory shall continue to be maintained."

(b) Ordinance No. 59 of 1951 had been promulgated in order to obtain uniformity in the system of designation of administrative divisions in the joint Territory;

(c) The Administration had not established, and was not at present contemplating establishing any districts which would involve territorial sections of the Trust Territory of New Guinea and Papua;

(d) Without prejudice to the legal implications, the ordinance, being applicable to the Territory of Papua and New Guinea (as defined in section 3 of the Act of 1949-50), did not preclude the establishment of dis-

tricts involving both territories, if such establishment was considered to be administratively desirable.

The Council took note of those statements of the special representative, including the reasons for the promulgation of the ordinance, and took note of the statement that the Administering Authority is not now contemplating the establishment of districts which would stretch across the international boundary between Papua and the Trust Territory of New Guinea. The Council notes further that the Papua and New Guinea Act states that the identity and status of the Territory of New Guinea as a Trust Territory shall continue to be maintained. The Council is of the opinion that the implementation of Administrative District Ordinance, 1951, might create a situation which would make difficult the preservation of the separate identity and status of the Territory of New Guinea as a Trust Territory. The Council expresses the hope that the Administering Authority will promptly inform the Trusteeship Council of the establishment of any districts which might involve the boundaries established by article 1 of the Trusteeship Agreement.

Expenditure in the Trust Territory

258. Section 11 of the Papua and New Guinea Act, 1949, provided as follows:

"There shall be expended in each year, upon the administration, welfare and development of the Territory of New Guinea, an amount which is not less than the total amount of public revenue raised in that year in respect of the Territory of New Guinea."

259. A statement by the representative of Australia in relation to the expenditure of public funds is given in chapter V, A, paragraph 3 (f) of the report of the Committee on Administrative Unions.¹¹⁷

260. At its seventh session, the Trusteeship Council adopted resolution 293 (VII) which, in part, stated that the Council:

"7. Considers that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and brings them to the attention of the Administering Authorities concerned:

"....

"(d) That the Administering Authorities ensure, with regard to Trust Territories participating in administrative unions, that expenditures on the administration, welfare, and development of any such Trust Territory for a given year be not less than the total amount of public revenue derived from the Territory in that year."

261. At its ninth session, the Council made the following observation:

"7 (d) With regard to sub-paragraph 7 (d) of its resolution 293 (VII), the Council notes that,

¹¹⁶ *Ibid.*, Third Session, Supplement No. 4, p. 17.

¹¹⁷ *Ibid.*, Fifth Session, Supplement No. 4, p. 195.

according to the information contained in the annual report for 1949-50, the total revenue derived from the Trust Territory amounted to £942,077 and the total expenditure amounted to £3,223,217. Therefore, expenditure in the Territory for 1949-50 was not less than the total amount of revenue derived from the Territory."¹¹⁸

262. At its eleventh session, the Council, on the recommendation of the Standing Committee, made the following observation:

With regard to sub-paragraph 7 (d) of the Trusteeship Council resolution 293 (VII), the Council notes that, according to information contained in the annual report for 1950-51, internal revenue totalled £1,219,411, that a grant of £2,356,311 was made by the Administering Authority, and that the expenditure amounted to £3,575,721. Therefore, expenditure in the Territory for 1950-51 has not been less than the total amount of revenue derived from the Territory.

D. OBSERVATIONS PURSUANT TO PARAGRAPHS 3 (a) AND 3 (b) OF GENERAL ASSEMBLY RESOLUTION 563 (VI)

263. By resolution 563 (VI), the General Assembly on 18 January 1952 requested the Trusteeship Council "in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, ... with special reference to:

"(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

"(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement."

Observations regarding the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV)

264. The considerations set out in paragraph 1 of Assembly resolution 326 (IV) were the subject of observations by the Council transmitted to the Assembly under Trusteeship Council resolution 293 (VII). Moreover, the Council in its annual review of conditions in the Trust Territory of New Guinea has, assisted by the work of its Standing Committee on Administrative Unions, adopted conclusions on a current basis relating to various of the considerations enumerated in General Assembly resolution 326 (IV). In the light of paragraph 3 (a) of General Assembly resolution 563 (VI) the Council undertook a further examination of the considerations set out in paragraph 1 of Assembly resolution 326 (IV) as they apply to New Guinea.

265. Paragraph 1 (a) of resolution 326 (IV) refers to "the desirability of having the Administering Authorities inform the Trusteeship Council beforehand when they propose to create new administrative unions

of Trust Territories with adjacent Territories, or extend the scope of any existing union or federation".

266. With respect to the above, resolution 293 (VII) of the Trusteeship Council:

"Notes that the Government of Australia, although not recognizing any obligation by the Administering Authority to consult the Trusteeship Council before establishing administrative unions, had in fact informed the Council of its intention to establish the administrative union and had in fact made certain changes in the Papua-New Guinea Act, 1949, in response to the Council's request and

"Notes further the statement of the representative of Australia that no extension of the existing administrative union was contemplated."

267. Paragraph 1 (b) of General Assembly resolution 326 (IV) refers to "the desirability, should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial, statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibilities under the Charter".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"Takes note of the statement of the representative of Australia that the Government of Australia will continue to furnish separate financial, statistical and other data for the Trust Territory as well as for the unified administration as far as it pertains to the Trust Territory,

"Takes note of the fact that the Government of Australia had invited the Visiting Mission to visit the headquarters of the central administration of Papua and New Guinea situated outside the Trust Territory, and

"Takes note of the assurance of the representative of Australia that the Government of Australia will continue to co-operate fully with the Council in the discharge of its responsibilities."

(b) Furthermore, in resolution 293 (VII) the Council drew the attention of the Administering Authority, *inter alia*, to the following safeguard:

"(a) That the Administering Authorities furnish clear and precise separate financial, statistical and other data relating to Trust Territories participating in administrative unions."

(c) At its ninth session, the Council, on the recommendation of the Standing Committee on Administrative Unions, adopted the following conclusion:

"7 (a) With regard to the safeguards enumerated in sub-paragraph 7 (a) of its resolution 293 (VII), the Council notes that the annual report on the administration of New Guinea for 1949-50 contained, for the most part, separate financial, statistical and other data relating to the Territory of New Guinea. The Council expresses the wish that future reports indicate which of the classified posts in the public service of the Territory of Papua and New

¹¹⁸ *Ibid.*, Sixth Session, Supplement No. 4, p. 240.

Guinea apply to the administration of the Trust Territory."¹¹⁹

(d) At its eleventh session, the Council, on the recommendation of the Standing Committee, made the following observations:

With regard to the safeguards enumerated in subparagraph 7 (a) of Trusteeship Council resolution 293 (VII), the Council notes that the annual report on the administration of New Guinea for 1949-50 contains separate financial, statistical and other data relating to the Territory of New Guinea. The Council further notes that, with regard to its wish expressed at the ninth session, that future reports should indicate which of the classified posts in the public service of the Territory of Papua and New Guinea applied to the administration of the Trust Territory, the annual report for 1950-51 shows the posts in the public service of Papua and New Guinea at 30 June 1951, partly as common to the Trust Territory of New Guinea, partly separately for the Trust Territory of New Guinea and for the Territory of Papua. The table showing the positions separately for the Trust Territory of New Guinea indicates which classified positions are held by staff members in the Trust Territory; their respective salaries are to be found in table 3 of the annual report, showing the classified positions and salaries in the public service of Papua and New Guinea.

The Council took note of a memorandum communicated to the Secretariat on 6 June 1951 by the alternate Australian representative on the Trusteeship Council stating that the practice to submit the data required will continue.

268. Paragraph 1 (a) of General Assembly resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"*Considers* that in view of the present circumstances in the Territory, the present judicial system therein sufficiently safeguards the interests of its inhabitants but is of the opinion that the matter should be kept under review."

(b) At its ninth session, the Council, on the recommendations of the Standing Committee, recalling the above observation, adopted the following conclusions:

"...notes that, so far as it has been informed, there appears no substantial change in the situation since the previous report and that such change is not likely until social conditions in the Territory have themselves changed considerably. It therefore has no further observations at this time except to note that, although the principal seat of the Supreme Court under the administrative union is at Port Moresby, in the Territory of Papua, the Court held twenty-eight sittings in the Territory of New Guinea during the period of July 1949 to July 1950."¹²⁰

269. Paragraph 1 (d) of General Assembly resolution 326 (IV) refers to "the desirability of establishing

in each Trust Territory a separate legislative body with increasing powers and with headquarters within the Trust Territory, and of eliminating any type of legislative action originating in any other legislative body with headquarters in a Non-Self-Governing Territory".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"*Notes* that the Papua-New Guinea Act, 1949, envisages the establishment of a Legislative Council for the Territory of Papua and New Guinea;

"*Notes* that this Council has as yet not been constituted;

"*Notes* the statement of the representative of Australia that the Government of Australia has carefully studied the question raised in General Assembly resolution 326 (IV) concerning the desirability of establishing in each Trust Territory a separate legislative body, but has thus far come to no decision on this matter;

"*Recalls* the recommendation of the Trusteeship Council at its fifth session which reads:

"The Council, noting the allocation of only three seats to unofficial indigenous members in the joint legislature for the Trust Territory and Papua, recommends that the Administering Authority should (a) study the possibility of increasing the number of indigenous members of the joint legislature; (b) study the possibility of establishing a separate legislature for the Trust Territory; and (c) give increasingly greater participation in the Legislative Council to the indigenous inhabitants, leading to the eventual establishment of an indigenous majority."

"*Draws attention* to the recommendation of the Trusteeship Council at its seventh session which reads:

"The Council, noting the statement of the Administering Authority that the composition of the joint legislature for the Trust Territory and Papua will be further examined, expresses the hope that the Administering Authority will take into account the relevant recommendations of the Trusteeship Council at its fifth session on this question, and requests it to inform the Council of the results of this examination."

(b) At its eighth session, the Council adopted the following recommendations:

"The Council, noting that the establishment of the legislative council is now under consideration, urges the Administering Authority to proceed with the establishment of such council without further delay, and to take early steps to give greater participation in the legislative council to the indigenous inhabitants, in accordance with the recommendation made by the Trusteeship Council at its fifth session."¹²¹

(c) At its ninth session, the Trusteeship Council, on the recommendation of the Standing Committee, noted that sections 35 to 53 inclusive of the Papua and New Guinea Act, relating to the establishment of a legislative council, had not been implemented;

¹¹⁹ *Ibid.*

¹²⁰ *Official Records of the General Assembly, Sixth Session, Supplement No. 4, p. 240.*

¹²¹ *Ibid.*, p. 242.

recalled its earlier recommendations; and noted "that in the absence of the legislative council for Papua-New Guinea, legislation has been provided through sixty-five ordinances proclaimed by the Governor-General of Australia since the establishment of the administrative union on 1 July 1949".¹²²

(d) At its tenth session, the Trusteeship Council adopted the following recommendation:

"The Council notes the establishment of the Legislative Council, which includes two indigenous members from the Trust Territory, notes that this represents the first time that indigenous inhabitants have been members of an organ legislating for the Trust Territory, and expresses the hope that the Administering Authority will endeavour to ensure further participation of indigenous representatives in the legislative system of the Territory."

(e) At its eleventh session, the Council, on the recommendation of the Standing Committee, made the following observations:

1. The Council notes that, pursuant to the powers conferred upon the Administrator by sections 39 and 40 of the Papua and New Guinea Act, 1949,

(a) The Legislative Council Ordinance (No. 28 of 1951) of the Territory of Papua and New Guinea was notified in the *Commonwealth Gazette* on 13 September 1951, and

(b) The Legislative Council Regulations (Regulations No. 19 of 1951) were notified in the *Gazette* on 18 October 1951. The ordinance and the regulations provide for the conduct of the election of the three non-official elected members.

2. The special representative of Australia stated that, in the establishment of the Legislative Council, sections 35 and 53 of the Papua-New Guinea Act, 1949, had been fully implemented in accordance with section 36 (1).

3. The Council noted that, of the twelve non-official members of the Legislative Council, eight represented the Territory of New Guinea and four the Territory of Papua; in particular, the Council noted that:

(a) Of the three non-official members elected in accordance with the Legislative Council Ordinance (No. 28 of 1951), two represent the electorates in the Trust Territory and one the electorate in the Territory of Papua;

(b) Of the three non-official members representing the interest of the Christian missions, two reside in the Trust Territory and one in the Territory of Papua;

(c) Of the three non-official Native members, two reside in the Trust Territory and one in the Territory of Papua;

(d) Of the three other non-official members, two reside in the Trust Territory and one in the Territory of Papua.

With regard to section 36 (4) of the Act, providing that the Administrator shall exercise his powers of nomination to ensure that not less than five non-official

members are residents of the Territory of New Guinea, the Council notes that eight residents of New Guinea are members of the Legislative Council.

4. The Trusteeship Council welcomes the formal establishment of the Legislative Council and observes that, in view of the short time which has elapsed since the inauguration of the Legislative Council, the Trusteeship Council can as yet not form an opinion concerning the operation of the Legislative Council and can not as yet evaluate to what extent a joint Legislative Council for the two territories of Papua and New Guinea operates in the best interest of the Trust Territory. In this connexion, the Trusteeship Council observes that it has not received any specific governmental comments from the Administering Authority concerning the recommendation, made during the fifth session of the Council, that the Administering Authority should (a) study the possibility of increasing the number of indigenous members of the joint legislature; (b) study the possibility of establishing a separate legislature for the Trust Territory; and (c) give increasingly greater participation in the Legislative Council to the indigenous inhabitants, leading to the eventual establishment of an indigenous majority in the Legislative Council. The Trusteeship Council further notes that it has not received any comments regarding the recommendation made during its ninth session urging the Administering Authority to take early steps to give greater participation in the Legislative Council to the indigenous inhabitants in accordance with the recommendation made by the Trusteeship Council at its fifth session.

5. The Trusteeship Council expresses the hope that the Administering Authority will make available to the Committee any minutes which, in accordance with section 45 of the Papua-New Guinea Act, 1949, the Legislative Council is required to keep of its meetings, as well as any ordinances which, in accordance with section 48 of the Act, the Legislative Council may make.

270. Paragraph 1 (e) of General Assembly resolution 326 (IV) refers to "the desirability of taking into account, before any administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territories concerned".

(a) With respect to the above, resolution 293 (VII) of the Trusteeship Council reads:

"Takes note of the statement of the representative of Australia that there was no substantial opposition to the existing administrative union and

"Notes that no changes with regard to the administrative arrangements affecting the Trust Territory of New Guinea are contemplated at this time."

Observations regarding paragraph 3 (b) of General Assembly resolution 563 (VI)

271. The Trusteeship Council,

(a) Recalling that by article 4 of the Trusteeship Agreement for the Territory of New Guinea, the Administering Authority "shall be responsible for the

¹²² *Ibid.*, p. 240.

peace, order, good government and defence of the Territory and for this purpose shall have the same powers of legislation, administration and jurisdiction in and over the Territory as if it were an integral part of Australia, and will be entitled to apply to the Territory, subject to such modifications as it deems desirable, such laws of the Commonwealth of Australia as it deems appropriate to the needs and conditions of the Territory”;

(b) Recalling further that, by article 5 of the Trusteeship Agreement, the Administering Authority “shall be at liberty to bring the Territory into a customs, fiscal or administrative union or federation with other dependent territories under its jurisdiction or control, and to establish common services between the Territory and any or all of these territories, if, in its opinion, it would be in the interests of the Territory and not inconsistent with the basic objectives of the Trusteeship System to do so”;

(c) Recalling further General Assembly resolution 224 (III) of 18 November 1948 in which the General Assembly endorsed the observation of the Trusteeship Council that an administrative union “must remain strictly administrative in its nature and its scope and that its operation must not have the effect of creating any conditions which will obstruct the separate development of the Trust Territory, in the fields of political, economic, social and educational advancement, as a distinct entity”;

(d) Recalling that, under Article 76 b of the Charter, one of the basic objectives of the Trusteeship System shall be “to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive

development towards 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”;

(e) Recalling that section 8 of the Papua and New Guinea Act of 1949 declares it to be the intention of the Parliament that the Territory of Papua and the Territory of New Guinea shall continue to be territories under the authority of the Commonwealth and that the identity and status of the Territory of New Guinea as a Trust Territory shall continue to be maintained;

1. Recognizes that common customs, fiscal and administrative services organized on an interterritorial basis may have advantages for the individual territories participating in such arrangements, particularly under the economic and social conditions prevailing in territories like Papua and New Guinea;

2. Considers that complete integration of the political institutions of a Trust Territory and a Non-Self-Governing Territory not subject to trusteeship provisions may hinder the separate development of the Trust Territory as a separate entity;

3. Is of the opinion that, with regard to the operation of the administrative union, the Administering Authority should continue to provide adequate formal protection of the interests of the Trust Territory, in particular with relation to the possibility of the promulgation of legislation which may not be in conformity with the Trusteeship Agreement and the principles of the Charter.

CHAPTER VIII

The status of the Cameroons and Togoland under French administration arising out of their membership in the French Union

A. THE CONSTITUTION OF THE FRENCH REPUBLIC AND THE TRUST TERRITORIES IN THE FRENCH UNION

272. The Constitution of the French Republic, promulgated on 27 October 1946, established the French Union. According to article 60, it is composed, on the one hand, of the French Republic,—Metropolitan France and the Overseas Departments and Territories—and, on the other hand, of the Associated Territories and the Associated States. The two Trust Territories of Togoland and the Cameroons under French administration are Associated Territories of the French Union.

273. The preamble to the Constitution sets forth the principles on which the French Union is based:

“... France forms with the peoples of its overseas territories a Union based upon equality of rights and duties without distinction of race or religion.

“The French Union is composed of nations and peoples who wish to place in common or co-ordinate their resources and their efforts in order to develop their civilization, increase their well-being and ensure their security.

“Faithful to its traditional mission, France proposes to guide the peoples for whom it has assumed responsibility toward freedom to govern themselves and democratically to manage their own affairs; putting aside any system of colonization based upon arbitrary power, it guarantees to all equal access to public office and the individual or collective exercise of the rights and liberties proclaimed or confirmed above.”

274. The following articles of the Constitution appear to be relevant to the status of the Associated Territories within the French Union:

(a) Article 26 of the Constitution lays down the principle that the authority of diplomatic treaties is

superior to that of French domestic legislation. Article 26 reads: "Diplomatic treaties duly ratified and published shall have the force of law even when they are contrary to internal French legislation; they shall require for their application no legislative acts other than those necessary to ensure their ratification". Article 27 provides that "no cession, no exchange and no addition of territory shall be valid without the consent of the populations concerned". According to article 28, the provisions of duly ratified diplomatic treaties "shall not be abrogated, modified or suspended without previous formal denunciation through diplomatic channels".

(b) According to article 81 of the Constitution, all citizens and nationals of territories within the French Union shall have the status of citizens of the French Union, which ensures them the enjoyment of rights and liberties guaranteed by the preamble to the Constitution.

(c) Article 62 of the Constitution states: "The members of the French Union shall place in common all their resources to guarantee the defence of the whole Union. The Government of the French Republic shall co-ordinate these resources and direct such policies as will prepare and ensure this defence".

(d) Article 75 of the Constitution states that the respective status of the members of the French Republic and of the French Union shall be subject to modifications. Modifications of status and passage from one category to another within the framework established in article 60 may take place only as the result of a law passed by the Parliament after consultation with the territorial Assemblies and the Assembly of the Union.

275. The organs of the French Union are the following: the Presidency, exercised by the President of the French Republic, who represents the permanent interests of the Union; the High Council, whose functions are to assist the Government in the general conduct of the affairs of the Union; and the Assembly of the French Union, which is its central organ.

276. Executive power in each of the Associated Territories rests with the Governor. He is the chief administrator of the Territory and is responsible to the French Government for his actions. He promulgates the laws and decrees applicable in each Territory, and renders them legally binding by decrees published in the local official journal. He is assisted by a Governing Council consisting of notables and heads of administrative services, and by the services required for the administration of the Territory. Independently of the legislative power of the French Parliament over the Associated Territories, and of the statutory powers of the Head of the State, the Governor of each Territory has certain statutory powers which he exercises by issuing orders and decisions; but in some cases, defined in the decree constituting the local Assemblies, he is required to submit those orders and decisions for the consideration of the Assemblies or to consult them.¹²³

277. The Administering Authority stated, in the course of the ninth session of the Trusteeship Council, that the Territory of the Cameroons now elects four

deputies, three of them Africans, to the French National Assembly, and three representatives, two of them Africans, to the Council of the Republic. The Territory of the Cameroons also elects five representatives, three of them Africans, to the Assembly of the French Union, and two representatives, both Africans, to the Economic Council. Togoland elects one deputy to the French National Assembly, two representatives to the Council of the Republic and one representative to the Assembly of the French Union. The Associated Territories elect their deputies to the National Assembly by direct ballot, but deputies to the Council of the Republic and to the Assembly of the Union are appointed by local assemblies.¹²⁴

278. According to article 77 of the Constitution, each territory forming part of the French Union will have its own elective assembly. Articles 85, 86, and 87 of the Constitution recognize the existence of local administrative units both in the metropolitan and overseas territories. Those units are governed by councils elected by universal suffrage. The local assemblies of Associated Territories are organized in accordance with a series of decrees dated 25 October 1946. In Togoland and in the Cameroons those assemblies are called Representative or Territorial Assemblies. The Assemblies consist of two sections, the members of which are elected by separate colleges. The first section comprises citizens having French status and the second those retaining their local status.

279. The number of registered electors in the Cameroons was 39,576 in February 1947; 41,487 in February 1948; 50,355 in February 1949; 70,000 in February 1950; 116,000 in February 1951; and 510,844 before the elections in June 1951. The total number of voters in Togoland in 1947 was 7,963, of whom about 400 voted in the first section, and about 7,600 in the second section; 12,793 in 1948; 16,830 in 1949; and about 28,000 in 1950.¹²⁵ There were 28,580 voters at the beginning of 1951; 32,491 in June 1951; and more than 50,000 on 10 January 1952 in the second section only.¹²⁶ Elections to the local Assemblies are conducted by direct universal ballot, in accordance with the electoral lists, and follow the methods in force in each territory. The two sections deliberate jointly, and representatives are elected for five years. The electoral system in Togoland underwent a revision at the beginning of 1952, when the French Parliament adopted the law of 6 February, whose principal provisions are the establishment of a single electoral college, the extension of the electoral body to include all heads of households, and the determination of electoral districts. The powers of the Assemblies are of two types, viz., (a) the right to make decisions, which become final and binding after a certain lapse of time, on such matters as the administration of the movable and immovable property of the Territory, certain social questions, loans, tourist traffic, town planning, taxes, duties and contributions of all kinds; and (b) the

¹²⁵ Ample explanations concerning the electoral system, and in particular concerning the two sections in which the electorate is divided, have been furnished to the Trusteeship Council by the representative of France. The Trusteeship Council took into consideration the above-mentioned explanations, as can be seen from the recommendations made by the Trusteeship Council to the Administering Authority on the subject.

¹²⁶ Report on the administration of Togoland under French administration for 1951, p. 25.

¹²³ T/AC.14/6.

¹²⁴ *Ibid.*

right of compulsory consultation on certain problems, such as the organization of administrative services. The Assemblies debate the budget submitted by the Head of the Territory, and may initiate expenditure concurrently with him. They may also transmit their comments and opinions on certain subjects to the Minister for Overseas France. The National Assembly is obliged to consult the local Assemblies and the Assembly of the French Union in the following two cases: in establishing the status and internal organization of territories or groups of territories, and in changing the status of a territory transferred from one category to another.

280. The composition of the Representative Assemblies in the French Cameroons and French Togoland is as follows:

	<i>Number of members</i>		<i>Total</i>
	<i>First section</i>	<i>Second section</i>	
Cameroons	16	24	40
Togoland	6	24	30

281. Additional data on the Representative Assemblies of the Associated Territories of the Cameroons and Togoland will be found in section III of document T/AC.14/16, and in the report of the Trusteeship Council covering its third special session and its eighth and ninth sessions (A/1856).¹²⁷

282. At the meeting of the Committee on Administrative Unions on 31 March 1949, the French representative explained the position of the Trust Territories under French administration in the French Union. His statement follows:

"The Territories of Togoland and the Cameroons which were placed under trusteeship and the administration of which was entrusted to France, were by that very fact associated with the new organization of the French Union; and the Constitution of 27 October 1946 assigned them a special place within that Union.

"Moreover, subsequent laws have given the inhabitants of the Trust Territories the right to elect representatives to the central political Assemblies.

"Both these categories of measures are in harmony with the principles embodied in the United Nations Charter and with the terms of the Trusteeship Agreements.

"I. When the 1946 Constitution was voted and promulgated, the Trusteeship Agreements for Togoland and the Cameroons did not yet exist, and the Constituent Authority could not therefore anticipate the terms of those Agreements. The latter, however, had inevitably to involve an association between each of the Territories concerned and the Administering Power by establishing a system of rights and duties binding them to one another during the trusteeship period. Hence the Constituent Authority was careful to make allowance in the Union for the special position of the territories whose administration would be entrusted to France.

"The French Union is defined in article 60 of the Constitution. Listing the elements composing the Union, the article mentions, on the one hand, the

French Republic (which itself comprises Metropolitan France, the Overseas Departments and the Overseas Territories) and, on the other hand, the Associated Territories and States. Each of these elements is given a specific status in the articles that follow. An exception, however, is made in the case of the Associated Territories. They are mentioned but no rules are given determining their status. The only indication given in their regard is that deriving from the list contained in article 60. The essence of this is that those Territories, unlike the Overseas Departments and Territories, are not part of the French Republic and have a special place in the Union.

"It is clear, however, from the preliminary work on the Constitution that the reason for the existence of this category lacking all definition and all legal status is the desire to provide a place for the Trust Territories without infringing any international rules which might be issued for their administration. The status of the Associated Territories in regard to which the Constitution remains silent, depends exclusively on the International Trusteeship System. It is clear that the Constituent Authority could not respect that international system more completely.

"Moreover, the place assigned to the Associated Territories in the Union in no way hinders their subsequent political evolution, in whatever direction it may be. The aims of the French Union, which are set out in the preamble to the Constitution, are wholly in accordance with the aims of trusteeship as defined in the Charter. The priority given to the population's interests, their economic and social advancement and their political emancipation are principles upon which the institution of the French Union is directly based.

"With regard to political emancipation in particular, membership in the French Union makes it possible for the inhabitants concerned to develop either in accordance with the desire to be united with France in a single community, with equal rights and duties, or with the wish to achieve national autonomy or independence in the form of a State freely associated with the French Republic by treaty. Even if, when the time came, the inhabitants of the Trust Territories wished to achieve their aspirations outside the French Union, there would be no obstacle from the fact that they now belong to the Union. That membership in no way prejudices whatever decision may be adopted when the Trusteeship System comes to an end.

"II. The legislative measures adopted in regard to Togoland and the Cameroons are based on the terms of the Trusteeship Agreements, which recognize the Administering Power as having 'full powers of legislation, administration and jurisdiction'.

"A feature of the system set up is the organization of elective local Assemblies responsible for looking after the particular interests of each country. This conforms to the clauses in the Agreements providing for participation by the inhabitants in the administration of the Territories and the development of representative organs.

"The French legislators, however, wished to go even further, considering that obedience to the laws

¹²⁷ *Official Records of the General Assembly, Sixth Session, Supplement No. 4*, pp. 130 to 133; pp. 182, 183.

and government of the French Republic must necessarily be accompanied in a democratic system, by participation in elections to the central Assemblies responsible for legislation and the control of government. For that reason, they made it possible for the inhabitants of Togoland and the Cameroons to make their voice heard and to defend their interests in the Parliament and Assembly of the French Union, in conditions similar to those laid down for the French African territories.

"This measure has the advantage of avoiding any discrimination or inequality of treatment prejudicial to the inhabitants of the Trust Territories as compared with the inhabitants of neighbouring overseas territories who find themselves in very similar economic and social conditions.

"The political rights which have thus been granted to nationals of Togoland and the Cameroons do not imply that the latter possess French nationality. Each State determines who shall enjoy political rights within the framework of its institutions, without being bound by any rule of international law to reserve those rights for its nationals alone. By virtue of the political rights granted to them, the nationals of Togoland and the Cameroons have received a faculty implying a number of benefits but involving no national allegiance.

"Moreover, the aims of trusteeship can only be furthered by such representation. The French legislators considered that the system of liberties and electoral rights which they had instituted opened the surest and most speedy path to political progress for these peoples. No educational measure could, in their view, be more effective. The methods they employed in accordance with their own traditions and conceptions appear already to have had good results; the part played by the representatives of these peoples in the Assemblies provides proof of this.

"As regards the choice to be made when the Trusteeship System comes to an end, it will be more deliberate and enlightened as a result of the experience gained, not only within each Territory but also at the centre of a great democratic organization. It may justly be considered that the men who have thus been trained in public responsibility will, when the time comes, have the necessary maturity to decide their future."¹²⁸

283. The Committee on Administrative Unions discussed the above statement by the representative of France concerning the relations between France and the two Trust Territories in the French Union, and sought elucidation on a number of points.¹²⁹ The summary of the discussion which may be found in the Committee's report dated 6 June 1949 appears below:

"2. The representative of France, asked to define the nature of the association which had been established between the two Trust Territories and the French Union and to give a precise interpretation of this term 'association' contained in his statement, observed that the association in question existed only by virtue of the Trusteeship Agreements between the French Government and the United Nations, and

that therefore such an association would cease to exist if and when the Trusteeship Agreements would be terminated. It was the clear intention of the French Constituent Assembly, when drafting the Constitution which established the French Union, to make the status of the Trust Territories as Associated Territories dependent upon the International Trusteeship System and the Trusteeship Agreements that were at that time still to be approved by the United Nations; thus the Territories were placed on a footing different from that of the other territories within the French Union. In reply to another observation, the representative of France stated that the juridical basis of the association was to be found in the Agreement between the United Nations and France and was not the result of a direct agreement between the respective inhabitants of the two Trust Territories and France. In accordance with Chapter XII of the Charter and because the population concerned were under trusteeship, the association could not be established in any other form. However, the association established under the above-mentioned conditions was a guarantee of the personality of the two Trust Territories as distinct entities.

"3. The point was raised that, since neither the Charter nor the Trusteeship Agreements for Togoland and the Cameroons under French administration had any reference to such a concept as the French Union, the inclusion of the two Trust Territories in the French Union could not be justified by reference to the Charter and the Trusteeship Agreements. The representative of France pointed out that the Charter did not preclude the inclusion of the Trust Territories in the French Union and that, since France had been specifically permitted to administer the Trust Territories as an integral part of French territory, it had not gone beyond the provisions of the Charter. It seemed to the French Government that the best of the several ways in which the clause of the Trusteeship Agreements concerning the administration of the two Trust Territories as an integral part of French territory could be implemented would be to include the Trust Territories in the system of the French Union, thereby giving to the Territories both internal and external electoral representation as well as gradual political emancipation. The representative of France further observed that, of all the Trusteeship Agreements currently in force, those for Togoland and the Cameroons under French administration were the only agreements which contain a reference to an organ, namely, the Territorial Representative Assemblies of the two Trust Territories, whose origin derived from the Constitution of the State entrusted with their administration. In fact, articles 4 A, paragraph 2 of the two Trusteeship Agreements specifically referred to the above-mentioned territorial Representative Assemblies which functioned in the Cameroons and in Togoland in accordance with article 77 of the French Constitution. It followed therefore that the General Assembly of the United Nations, when approving the two Trustee-

¹²⁸ T/AC.14/22.

¹²⁹ The discussion is outlined in document T/AC.14/25, dated 13 May 1949.

ship Agreements, and in particular articles 4 A, paragraph 2 thereof, took into consideration the French Constitution in so far as it was to be applied to the French Trust Territories. Article 77 is to be found in section VIII of the French Constitution, which deals with the French Union.

"4. The view was expressed in the Committee that the inclusion in the French Union of the two Trust Territories under French administration had been carried out without taking into consideration the free expression of the views of the inhabitants of the Territories, thus violating the provisions of the Charter and the Trusteeship Agreements. In that connexion the representative of France observed that, as regards the Cameroons, no objection had been raised on the part of the indigenous population to the association of the Territory with the French Union.

"In regard to Togoland, he stated that the petitions from that Territory heard in the Trusteeship Council were concerned with local geographical difficulties and made no reference to the principle of the French Union. As regards the complaints which had been received in a few exceptional cases from that Territory and which raised the question of the system of the French Union, it should be noted that in reality they were directed against the legislation which had established the principles of freedom and political equality. As far as the complaints against the system of the French Union itself were concerned, he stated that they were merely requests for explanations, which were easily supplied.

"The system of the French Union, in the opinion of the representative of France, could therefore be regarded as having the whole-hearted support of the inhabitants of the two Trust Territories."¹³⁰

284. There were divergent views within the Committee on the interpretation of the phrase "the freely expressed wishes of the peoples concerned" in Article 76 b of the Charter and its practical application to the Trust Territories in question as regards their inclusion in the French Union.¹³¹

285. The representative of France was asked to clarify the last paragraph of section I of document T/AC.14/22 dealing with the future status of the two Trust Territories at the expiration of the Trusteeship Agreements. He agreed to redraft the text of that paragraph, and his rectification¹³² follows:

"With regard to political emancipation in particular, it is self-evident that when the Trusteeship System comes to an end, the populations under trusteeship will have the option, if they so desire, to achieve their aspirations outside the French Union. It must also be noted, however, that membership in the French Union itself offers the populations concerned opportunities whereby they can develop either in accordance with their desire to be united with France in a single community, with equal rights and duties, or with their wish to achieve

national autonomy or independence in the form of a State freely associated with the French Republic by treaty."

286. According to the reply dated 8 March 1952¹³³ from the French representative on the Trusteeship Council to the request of the Standing Committee, the situation of the Trust Territories in the French Union as described in the statement of the representative of France addressed to the Trusteeship Council in May 1949¹³⁴ has not subsequently been modified by constitutional or legislative action, and the views put forward are still fully valid.

287. According to the same reply of the representative of France,¹³⁵ a commentary on the relations between France and the Trust Territories in the French Union may be found in the opinion expressed on the matter by the Juridical Committee of the French Union (*Comité juridique de l'Union française*),¹³⁶ as well as in an article published by Professor Lampué in 1951 on the same matter.¹³⁷ The Standing Committee took note of the above-mentioned documentation.¹³⁸

288. At the 29th meeting of the Standing Committee on Administrative Unions, on 2 July 1952, the representative of France, in replying to questions raised by members of the Committee, explained the position of the Trust Territories under French administration as follows:

(a) Not all articles of the French Constitution which refer to the French Union could *ipso facto* be applied to the Associated Territories. In case of any conflict between the Constitution and the Trusteeship Agreements, the terms of the latter would prevail by virtue of article 26 of the Constitution. The Trusteeship Agreements were diplomatic treaties concluded between the United Nations and France.

(b) The general principles contained in the preamble to the Constitution are evidently applicable to Togoland and the Cameroons. Moreover, the Constitution, defining the relations between the legislative and executive powers, cannot fail to have an indirect influence on the manner in which the Associated Territories are administered and in which the laws are applied therein. The Constitution, however, does not define their status, which is established exclusively by the International Trusteeship System.

(c) The representative of France stated that articles 26, 62, 75, and 81 of the Constitution apply to the Associated Territories. Articles 26, 27 and 28 elaborated on the principles set forth in the preamble. Article 75 would appear to raise a more difficult problem, because no precedent has thus far been established.

(d) In that connexion, he stated that it was certain that the Parliament of France, which ratified the Trusteeship Agreements, had never questioned the legitimacy of the right of the inhabitants to achieve their aspirations. There could be no doubt concerning the right of the Associated Territories to decide

¹³⁰ Official Records of the Trusteeship Council, Fifth Session, Annex, T/338 and Add.1, p. 294.

¹³¹ See document T/AC.14/25.

¹³² T/AC.14/22/Rev.1.

¹³³ T/C.1/L.21.

¹³⁴ T/AC.14/22.

¹³⁵ T/C.1/L.21.

¹³⁶ See *Revue Juridique et Politique de l'Union Française*, No. 2, April-June 1948, p. 242.

¹³⁷ See *Recueil Dalloz*, 1951, *Chroniques*, pp. 107 et seq.

¹³⁸ T/C.1/L.24.

whether or not they wished to remain in the French Union after they had achieved maturity. But the representative of France was unable to state categorically what form that decision would take, and on the interpretation to be given to article 75 of the Constitution. He cited the example of Cochinchina, where a vote of the Parliament had been sufficient to abolish its former status and permit union with Annam and Tonkin to form Vietnam. That precedent was not exactly comparable, however, since Cochinchina was not severing its relations with the French Union.

(e) According to the statement of the representative of France, there is no contradiction between the statement that the juridical basis of the association of France and the Trust Territories may be found in the agreement between the United Nations and France and the sentence of the preamble to the Constitution which states that "the French Union is composed of nations and peoples who wish to place in common or co-ordinate their resources and their efforts". When the Constitution had been drafted, no trusteeship agreement existed; the territories were under mandate. France acted in the interest of the territories which had been entrusted to its administration; when they come of age they would have the right to reconsider their status.

(f) The representative of France stated that the term "administered under French trusteeship" derived from the former designation "administered under mandate". No contradiction existed between that term and the title "citizen of the French Union". Citizenship in the French Union cannot be regarded as identical with French citizenship. The former confers all of the civil rights of French citizenship but not all of the political rights.

(g) The representative of France stated that his Government's interpretation of article 4, paragraph 1, of the Trusteeship Agreement fully conformed with the assurances, given by France during the examination of the Trusteeship Agreements, that the administrative union would limit itself strictly to administrative matters. France respected fully the provision of article 4A, paragraph 2, because there was no administrative union between the Trust Territories under French administration and neighbouring Non-Self-Governing Territories. Regarding Togoland, the only link between them was a judicial one, since the competent court of appeal was that at Dakar. There was no customs border with French West Africa; no other tie linked the political structure of the Territory with those adjacent territories.

(h) The representative of France stated that citizenship in the French Union placed no obstacle to the existence of another citizenship, but simply constituted a set of privileges. He also stated that the French Constitution could permit the formation of a Cameroons or Togoland nationality. He stated that the establishment of such nationality would be completely compatible with the French Constitution, and would become feasible when Togoland and the Cameroons possessed a degree of individuality as States, and a feeling of nationality which would make it possible to regard them as nations. However, that time had

not yet come. The French representative explained that, in order to create Togoland and Cameroons nationality, it might not be necessary first to raise the Trust Territories from the category of Associated Territories to that of Associated States. It might suffice if each of them possessed a representative body capable of determining the content of such nationality. If, on the contrary, the Trust Territories became Associated States, each Territory would necessarily acquire a nationality.¹³⁹

B. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE COUNCIL AND ITS SUBSIDIARY ORGANS CONCERNING THE ADMINISTRATIVE ARRANGEMENTS BETWEEN THE TRUST TERRITORIES UNDER FRENCH ADMINISTRATION AND THE FRENCH UNION

289. At its fourth session, the Trusteeship Council adopted resolution 81 (IV) establishing the Committee on Administrative Unions. In its interim report¹⁴⁰ the Committee stated that it was evenly divided on whether it had competence to study the question of the relations between France and the Trust Territories it administered within the framework of the French Union, and requested a ruling by the Trusteeship Council on whether the Committee was competent to examine the question.

290. At the same session, the Trusteeship Council adopted resolution 82 (IV) stating that:

"The Committee on Administrative Unions shall, exceptionally and in addition to its regular duties, make a study of the relations between France and the Territories under French trusteeship, as defined by French laws within the French Union, and shall report to the Council on this study not later than three weeks before the opening of the fifth session."

291. At its fourth session, the Council also adopted the following identical conclusions concerning the relationship between the two Trust Territories and the French Union:

"The Council welcomes the important assurance given by the special representative that the inhabitants will have the right at the appropriate time to determine for themselves whether they should remain in the French Union or assume a status of independence outside the Union. The Council notes the statement of the representative of France that at the appropriate time there will be full freedom and the population will vote the laws applying to the Territory."¹⁴¹

292. In addition, the Trusteeship Council at the same session made the following recommendation on development of national consciousness with regard to the Cameroons under French administration:

"The Council, noting with interest the statement of the Administering Authority that, in spite of the artificiality of the boundaries and the heterogeneity of the inhabitants, a sense of territorial unity is being developed, and, being of the opinion that full development of such a sense of unity and common

¹³⁹ T/C.1/SR.29.

¹⁴⁰ T/263.

¹⁴¹ *Official Records of the General Assembly, Fourth Session, Supplement No. 4, p. 21.*

identity is essential in the evolution of the Trust Territory as a distinct political entity, recommends that the Administering Authority foster this development by all possible means, such as the intensification of education, the improvement of communications and the encouragement of common political activities in the Territory.”¹⁴²

293. In its report to the Trusteeship Council,¹⁴³ the Committee on Administrative Unions dealt with Trust Territories in the French Union without making any conclusions or recommendations to the Trusteeship Council. The Council, by its resolution 109 (V) of 18 July 1949, (a) transmitted to the General Assembly the report of the Committee on Administrative Unions; (b) took note of the assurances by the Administering Authorities that the administrative arrangements under consideration by the Council were not inconsistent with the objectives of the International Trusteeship System or with the terms of the Trusteeship Agreements; (c) decided to continue the study of the question and (d) requested the Administering Authorities to furnish separate records, statistics and other information on each Trust Territory.

294. The report of the first Visiting Mission to the Trust Territory of the Cameroons under French administration contains a section on “Representation of the Trust Territory in the French Union”.¹⁴⁴

295. The report by the first Visiting Mission to the Trust Territory of Togoland under French administration reiterates the recommendation adopted at the fourth session of the Trusteeship Council that the Administering Authority, irrespective of the present or future relationship of the Territory to the French Union, progressively extend the powers of the Representative Assembly, particularly in the field of legislation.¹⁴⁵

296. The report of the Committee on Administrative Unions stated¹⁴⁶ that the Committee did not re-examine the question of the administrative relationship of the Cameroons and Togoland under French administration with the French Union which had been referred to the Committee by the Council’s resolution 82 (IV) of 10 March 1949. In that connexion, the Committee referred to chapter VII of its report to the Trusteeship Council.¹⁴⁷

297. At its ninth session, the Council, with regard to the Cameroons and Togoland, noting that the association of each Territory with the French Union was not without its benefits, nevertheless considered that the Administering Authority should continue to preserve the separate status of each Territory with a view to its final self-government or independence.¹⁴⁸

298. The Council also noted at its ninth session that the indigenous inhabitants of the Cameroons and Togoland have received the status of citizens of the French Union, while retaining the freedom to choose between their personal status as “persons administered under French trusteeship” and the status of French citizens, which they may acquire by naturalization. As citizens

of the Union, they enjoy the rights and fundamental freedoms referred to in the 1946 Constitution, and they participate in political life in the Territory and, at the level of the French Union, in the metropolitan territory. As persons administered under trusteeship, they are not required to perform certain duties, including military service.¹⁴⁹

C. OBSERVATIONS PURSUANT TO PARAGRAPHS 3 (a) AND 3 (b) OF GENERAL ASSEMBLY RESOLUTION 563 (VI)

299. By resolution 563 (VI), the General Assembly on 18 January 1952 requested the Trusteeship Council “in order to enable the General Assembly to arrive at conclusions concerning existing administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis... of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union, with special reference to:

“(a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

“(b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement.”

Observations regarding the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV)

300. The Trusteeship Council, in taking up the considerations enumerated in paragraph 1 of General Assembly resolution 326 (IV), experienced certain difficulties in fully applying that resolution to the arrangements affecting Togoland and the Cameroons under French administration within the framework of the French Union. The Council realized that, since General Assembly resolution 326 (IV) is concerned with administrative arrangements between a Trust Territory and an adjacent territory under the same administration, some of its provisions do not apply to the separate question of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union.

301. Paragraph 1 (a) of General Assembly resolution 326 (IV) refers to “the desirability of having the Administering Authorities inform the Trusteeship Council beforehand when they propose to create new administrative unions of Trust Territories with adjacent territories, or extend the scope of any existing union or federation”.

302. The Council notes, in that connexion, the statement of the representative of France, made on 2 July 1952 at the 29th meeting of the Standing Committee on Administrative Unions, that his Government had no intention of modifying the existing status of the

¹⁴⁶ *Official Records of the General Assembly, Fifth Session, Supplement No. 4, A/1306, p. 186.*

¹⁴⁷ *Official Records of the Trusteeship Council, Fifth Session, Annex, p. 291.*

¹⁴⁸ *Official Records of the General Assembly, Sixth Session, Supplement No. 4, pp. 130, 181.*

¹⁴⁹ *Ibid.*, pp. 129, 181.

¹⁴² *Ibid.*

¹⁴³ *Official Records of the Trusteeship Council, Fifth Session, Annex, T/338 and Add.1.*

¹⁴⁴ *Ibid.*, *Seventh Session, Supplement No. 2, p. 50.*

¹⁴⁵ *Ibid.*, p. 91.

Territories in question, in the sense indicated in the General Assembly resolution. If his Government contemplated any such modification, it would not fail to comply with the wishes of the General Assembly.

303. Paragraph 1 (b) of General Assembly resolution 326 (IV) refers to "the desirability, should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial, statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibilities under the Charter".

304. In that connexion, the Council notes the statement of the representative of France, made on 2 July 1952 at the 29th meeting of the Standing Committee on Administrative Unions, that there was nothing to prevent the Administering Authority from furnishing separate financial and statistical data for the Territories with which it was concerned. Despite the absence of a tariff barrier between Togoland and French West Africa, the French Government was able to furnish separate customs statistics for Togoland because the Togoland customs receipts were entered in the budget of that Territory.

305. Paragraph 1 (c) of General Assembly resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory".

306. In that connexion, the Council notes the statement of the representative of France, made on 2 July 1952 at the 29th meeting of the Standing Committee on Administrative Unions, that the Cameroons possessed an entirely separate judicial organization. The only court outside the Territory whose jurisdiction extended to it was the Court of Cassation at Paris, a higher court which gave rulings on matters of law and not of fact.

307. Regarding Togoland, the French Government had not thought it desirable, in the interest of the inhabitants themselves, to set up a Court of Appeals at Lomé. Such courts were important judicial bodies with great prestige, and their judges ought to be of high rank and possess long experience. Practice had shown that it was hard to fulfil those conditions in very small Territories.

308. Paragraph 1 (d) of General Assembly resolution 326 (IV) refers to "the desirability of establishing in each Trust Territory a separate legislative body with increasing powers and with headquarters within the Trust Territory, and of eliminating any type of legislative action originating in other legislative bodies with headquarters in a Non-Self-Governing Territory".

309. In that connexion, the Council notes that

(i) There are Representative Assemblies in the Cameroons and Togoland with headquarters in the respective Territories.

(ii) Both Trust Territories are represented in the various legislative bodies of the French Union.

(iii) According to the statement of the representative of France, made on 2 July 1952 at the 29th meeting of the Standing Committee on Administrative Unions,

neither Togoland nor the Cameroons had a legislative body properly so called, inasmuch as their legislative assemblies had no legislative powers within the usual meaning of the term; their powers were nevertheless quite broad, much like those formerly vested in parliaments. In short, the function of those assemblies was to vote taxes. The French Government intended to broaden the powers of the assemblies, and reform was under consideration. The representative of France added that the Committee could rest assured that legislative organs in Non-Self-Governing Territories did not exert any influence on the Trust Territories.

310. Paragraph 1 (e) of General Assembly resolution 326 (IV) refers to "the desirability of taking into account, before an administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territories concerned".

311. In that connexion, the Council takes note of the reference made in the report of the Committee on Administrative Unions dated 6 June 1949,¹⁵⁰ and of the statement of the representative of France, made on 2 July 1952 at the 29th meeting of the Standing Committee on Administrative Unions that, so far as the Cameroons were concerned, the Territory's incorporation into the French Union had not given rise to any persistent opposition. In the case of Togoland, however, difficulties relating to the Ewe problem had arisen in the form of objections by the *Comité de l'Union Togolaise*, which took the view that its policy was being hampered by the very existence of the French Union. Hence, that was a special problem with which the Council was, of course, familiar.

Observations regarding paragraph 3 (b) of General Assembly resolution 563 (VI)

312. The Trusteeship Council,

(a) Recalling that by article 4A of the Trusteeship Agreements for the Cameroons and Togoland under French administration, the Administering Authority

"1. Shall have full powers of legislation, administration and jurisdiction in the Territory and shall administer it in accordance with French law as an integral part of French territory, subject to the provisions of the Charter and of this Agreement;

"2. Shall be entitled, in order to ensure better administration, with the consent of the territorial representative assembly, to constitute this Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control and to establish common services between such territories and the Trust Territory, provided that such measures shall promote the objectives of the International Trusteeship System";

(b) Noting that, according to the Constitution of the French Republic promulgated on 27 October 1946, establishing the French Union, the latter is composed, on the one hand, of the French Republic (metropolitan France and the Overseas Departments and Territories), and, on the other hand, of the Associated Territories and States; and

¹⁵⁰ *Official Records of the Trusteeship Council, Fifth Session, Annex, T/338 and Add.1.*

(c) Noting in that connexion that the Trust Territories of the Cameroons and Togoland under French administration are "Associated Territories" in the meaning of article 60 of the Constitution of the French Republic;

(d) Noting that according to article 26 of that Constitution,

"Diplomatic treaties duly ratified and published shall have the force of law even when they are contrary to internal French legislation; they shall require for their application no legislative acts other than those necessary to ensure their ratification"¹⁵¹

and having been informed by the representative of France that, irrespective of any other provisions of the French Constitution, article 26 safeguards the full application of the Trusteeship Agreement; and

(e) Having noted in particular the statements of the representative of France that, with regard to political emancipation, it was self-evident that when the Trusteeship System came to an end, the population

under trusteeship would have the option, if they so desired, to achieve their aspirations outside the French Union;

1. Is of the opinion that there is no evidence to indicate that the practical operation of the administrative arrangements affecting the Trust Territories under French administration and the French Union are incompatible with the Charter of the United Nations and the Trusteeship Agreements concerned;

2. Is further of the opinion that the interpretations which the French representative has given of the relationship of the two Trust Territories to the French Union, and which are contained in paragraph 288 above, would appear to be consistent with the provisions of the Charter and the Trusteeship Agreement;

3. States, however, that the Council does not feel itself competent to appraise the theories of constitutional law which may underlie the arrangements between the two Trust Territories under French administration and the French Union.

ANNEX

List of documents relating to the subject of administrative unions

A. TANGANYIKA

East Africa Inter-Territorial Organization (T/AC.14/1, T/AC.14/1/Add.1 and T/AC.14/1/Add.2). (Attachment: Supplement to the *Tanganyika Territory Gazette*, vol. XXIX no. 1, dated 1 January 1948).

The Question of Administrative Unions during the Negotiation of the Trusteeship Agreements in the General Assembly and the Fourth Committee in 1946 (T/AC.14/5).

The East Africa Order-in-Council, 1947. A brief analysis (T/AC.14/9/Rev.1).

The East Africa (High Commission) (Amendment) Order-in-Council, 1951.

Judicial organization of Trust Territories with special-reference to "Judicial Unions" (T/AC.14/10; T/AC.14/10/Corr.1 and T/AC.14/10/Corr.2).

Committee on Administrative Unions. Draft Questionnaire concerning the Inter-Territorial Organization in East Africa to be addressed to the Government of the United Kingdom (T/AC.14/13).

Establishment of the East Africa High Commission, its services and its advisory and consultative bodies (T/AC.14/15 and T/AC.14/15/Add.1).

United Kingdom. Memorandum on events leading up to and the objects of the East Africa Inter-Territorial Organization (T/AC.14/18).

United Kingdom. Observations on the report of the Committee on Administrative Unions (T/355).

Documents concerning the East Africa Inter-Territorial Organization supplied by the United Kingdom Government (T/AC.14/12, T/AC.14/12/Add.1, T/AC.14/12/Add.2).

First Report of the Standing Committee on Administrative Unions: Tanganyika, T/915.

Standing Committee on Administrative Unions, The East African Industrial Council, a working paper of the Secretariat, T/C.1/L.5 and T/C.1/L.20.

Standing Committee on Administrative Unions, a Summary of the Report of the Commissioner for Transport, East Africa High Commissioner, and of the General Manager of the Administration of the East African Railways and Harbours for the year ended 31 December 1950. A Secretariat working paper, T/C.1/L.18.

B. RUANDA-URUNDI

Administrative Union affecting Ruanda-Urundi (T/AC.14/12).

The Question of Administrative Unions during the Negotiation of the Trusteeship Agreements in the General Assembly and the Fourth Committee in 1946 (T/AC.14/5).

Belgian replies to the Questionnaire on the administrative union of Ruanda-Urundi and the Belgian Congo (T/AC.14/28).

Law on the Government of the Belgian Congo, Law on the Government of Ruanda-Urundi and Annex

¹⁵¹ The French text reads as follows:

"Les traités diplomatiques régulièrement ratifiés et publiés ont force de loi dans le cas même où ils seraient contraires à des lois internes françaises, sans qu'il soit besoin, pour en assurer l'application, d'autres dispositions législatives que celles qui auraient été nécessaires pour assurer leur ratification."

(Royal Order dated 11 January 1926, Decree of the Sovereign King dated 16 January 1886, Decree of the Sovereign King dated 5 January 1899, Ordinance no. 9 dated 2 July 1926).

Regent's Order dated 1 July 1947: Administrative Organization of the Colony.

Observations by the Administering Authority with regard to administrative arrangements affecting the Trust Territory of Ruanda-Urundi (T/C.1/L.22).

Observations by the Administering Authority with regard to administrative arrangements affecting the Trust Territory administrated by Belgium (T/C.1/L.22).

C. TOGOLAND UNDER BRITISH ADMINISTRATION

Administrative unions affecting the Cameroons under British administration and Togoland under British administration (T/AC.14/4).

Administrative unions as treated during the negotiations of the Trusteeship Agreements in the General Assembly, 1946 (T/AC.14/5).

Judicial organization of Trust Territories with special reference to "Judicial Unions" (T/AC.14/10; T/AC.14/10/Corr.1 and T/AC.14/10/Corr.2).

United Kingdom. Letter concerning documents requested from the United Kingdom (T/AC.14/17 and T/AC.14/17/Corr.1, T/AC.14/20, T/AC.14/31).

United Kingdom. Preface to information concerning the Cameroons and Togoland under British administration (T/AC.14/23).

Administrative unions as discussed during the fourth session of the Trusteeship Council (T/AC.14/26).

United Kingdom. Replies to the Questionnaire on the administrative union of Togoland under British administration with the adjacent British Territory of the Gold Coast (T/AC.14/30).

Interim report of the Committee on Administrative Unions (T/263).

Report of the Committee on Administrative Unions (T/338 and Add.1).

United Kingdom. Observations on the report of the Committee on Administrative Unions (T/355).

The Gold Coast (Constitution) Order-in-Council, 1950 (T/C.1/L.30).

Letters Patent, passed under the Great Seal of the Realm constituting the Office of Governor and Commander-in-Chief.

The Northern Territories of the Gold Coast Order-in-Council, 1950.

The Togoland under United Kingdom Trusteeship (Amendment) Order-in-Council, 1950.

Instructions passed under the Royal Sign Manual and Signed to the Governor and Commander-in-Chief.

D. THE CAMEROONS UNDER BRITISH ADMINISTRATION

Administrative unions affecting the Cameroons under British administration and Togoland under British administration (T/AC.14/4).

Administrative unions as treated during the negotiations of the Trusteeship Agreements in the General Assembly, 1946 (T/AC.14/5).

Judicial organization of the Trust Territories with special reference to "Judicial Unions" (T/AC.14/10, T/AC.14/10/Corr.1 and T/AC.14/10/Corr.2).

United Kingdom. Letter concerning documents requested from the United Kingdom (T/AC.14/17 and T/AC.14/17/Corr.1, T/AC.14/20, T/AC.14/31).

United Kingdom. Preface to information concerning the Cameroons and Togoland under British administration (T/AC.14/23).

United Kingdom. Replies to the Questionnaire on the administrative union of the Cameroons under British administration and the adjacent British Territory of Nigeria (T/AC.14/24 and T/AC.14/24/Add.1).

Administrative unions as discussed during the fourth session of the Trusteeship Council (T/AC.14/26).

Interim report of the Committee on Administrative Unions (T/263).

Report of the Committee on Administrative Unions (T/338 and T/338/Add.1).

United Kingdom observations on the report of the Committee on Administrative Unions (T/355).

Nigeria (Protectorate and Cameroons) Order-in-Council, 1946.

Nigeria (Protectorate and Cameroons) Order-in-Council, 1949.

Nigeria (Constitution) Order-in-Council, 1951 (T/C.1/L.31).

E. NEW GUINEA

The Question of Administrative Unions during the negotiation of the Trusteeship Agreements in the General Assembly and the Fourth Committee in 1946 (T/AC.14/5).

Legislative background of the problem of the administrative union of Papua and New Guinea (T/AC.14/8 and T/AC.14/8/Add.1).

Judicial organization of Trust Territories with special reference to "Judicial Unions" (T/AC.14/10; T/AC.14/10/Corr.1 and T/AC.14/10/Corr.2).

Australia. List of documents submitted to the Committee on Administrative Unions (T/AC.14/16 and T/AC.14/16/Add.1 and T/AC.14/15/Add.1).

Comparative tabulation of changes in the Papua and New Guinea Bill, 1948, and the Papua and New Guinea Bill, 1949 (T/AC.14/19).

Australia. Replies to the Questionnaire on the Papua-New Guinea Administrative Union (T/AC.14/21).

Memorandum on events leading up to and the objects of the Papua-New Guinea Administrative Union submitted by the representative of Australia (T/AC.14/32).

Report of the Committee on Administrative Unions (T/338 and Add.1).

Ordinances and Regulations made since 1 July 1948. *Papua-New Guinea Government Gazette*.

Papua and New Guinea Act No. 9 of 25 March 1949.

F. TRUST TERRITORIES UNDER FRENCH
ADMINISTRATION

Constitution de la République française — 27 octobre 1946 (*Journal Officiel* du 28 octobre 1946).

Summary of discussion of the Permanent Mandates Commission in regard to the question of the Administrative Union of Togoland under French Mandate (T/AC.14/3).

Trust Territories in the French Union (Cameroons and Togoland under French administration) (T/AC.14/6 and T/AC.14/6/Corr.1).

Judicial organization of Trust Territories with spe-

cial reference to "Judicial Union" (T/AC.14/10 pages 6-7).

France. Statement on relations between France and the Trust Territories in the French Union (T/AC.14/22 and T/AC.14/22/Rev.1).

Committee on Administrative Unions. Discussion on the statement by the French representative on relations between France and the Trust Territories in the French Union (T/AC.14/25).

Observations by the Administering Authority with regard to administrative arrangements affecting the Trust Territories administered by France (T/C.1/L.21).