

TRUSTEESHIP  
COUNCILCONSEIL  
DE TUTELLE

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SECOND SESSIONCONSIDERATION OF THE DESIRABILITY OF REVISING OR CLARIFYING  
CERTAIN OF THE RULES OF PROCEDURE

(Item 12 of the Agenda)

(Memorandum prepared by the Secretariat)

1. Suggestions for changes in the Rules of Procedure resulting from the recommendations of the Joint Committee of the Economic and Social Council and the Trusteeship Council regarding arrangements for co-operation between the two Councils.

In its report to the Trusteeship Council and the Economic and Social Council on arrangements for co-operation in matters of common concern, the Joint Committee made certain recommendations, the approval of which by the Trusteeship Council may require changes in the Council's Rules of Procedure.\*

The Economic and Social Council considered the Report of the Joint Committee at its one hundred and nineteenth meeting on 16 August 1947\*\* and decided to "refer the report for consideration to the Trusteeship Council, together with the views expressed in the Council in the debate of 16 August 1947." The Report was approved by the Trusteeship Council during its thirty-first meeting on 26 November 1947.

In order to facilitate the consideration of the question of changes in the Rules of Procedure arising out of the approval of this Report the following suggestions are made with a view to including in the Rules the substance of the recommendations made by the Joint Committee:

Calling of Special Sessions(a) Rules 2 and 3

The Joint Committee of the Economic and Social Council and the Trusteeship Council refers to Rule 4 of the Rules of Procedure of the Economic and Social Council which accords to the Trusteeship Council the privilege of calling a special session of the former Council, with the agreement of its President, and recommends that the Trusteeship Council extend a similar right to the

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\* E/C.T/C.1/2/Rev.1

\*\* E/PV.119 and T/53

Economic and Social Council.\*

Comments

The provision for convening special sessions of the Trusteeship Council is at present different from that which has been adopted by the Economic and Social Council for its own sessions. (See Rules 2 and 3 of the Trusteeship Council and Rules 3 and 4 of the Economic and Social Council.)\*\*

The President of the Trusteeship Council has no power corresponding to that given to the President of the Economic and Social Council in Rule 4 of the Economic and Social Council Rules of Procedure.\*\* Therefore, if the recommendation of the Joint Committee were to be approved in its present form by the Trusteeship Council, a new rule 3 bis, based on Rule 4 of the Economic and Social Council (slightly altered in order to make it conform with Rule 4 of the Trusteeship Council's Rules), would be necessary. Such a rule might read as follows:

Rule 3 bis:

"A special session of the Trusteeship Council shall also be held at the request of the Economic and Social Council if the President

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\* Report of the Joint Committee, E&T/C.1/2/Rev.1, page 7.

\*\* Rules 3 and 4 of the Economic and Social Council:

Rule 3: A session of the Council shall also be held within thirty days of the request therefor:

- (a) by a majority of its members;
- (b) by the General Assembly; or
- (c) by the Security Council, acting in pursuance of Article 41 of the Charter.

Rule 4: A session of the Council shall also be held if the Security Council, the Trusteeship Council, or any Member of the United Nations, or a specialized agency requests a session and the President of the Council agrees to the request. If the President does not agree, he shall within four days of the receipt of the request, inform the other members of the Council of the request and of his refusal and shall at the same time enquire whether or not they support the request for a session. If, within eight days of this enquiry, a majority of the members of the Council explicitly concurs in the request, the President shall summon the Council to meet within the next fifteen days.

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of the Trusteeship Council agrees to the request. If the President does not agree, he shall, within four days of the receipt of the request, inform the other members of the Trusteeship Council of the request and of his refusal and shall at the same time enquire whether or not they support the request for a session. If within eight days of this enquiry a majority of the members of the Council have explicitly concurred, the President shall request the Secretary-General to call a special session".

Notification of Meetings

(b) Rule 4

The Joint Committee of the Economic and Social Council and the Trusteeship Council recommends that the President of either Council be specially informed of the date and place of the first meeting of each session held by the other Council.\*

Comments

It would appear that the recommendation of the Joint Committee, as approved by the Trusteeship Council, may be considered as a directive to the Secretariat which would take the necessary practical steps to bring it into effect. No amendment to Rule 4 appears to be necessary. .

Communication of the Provisional Agenda

(c) Rule 8

The Joint Committee of the Economic and Social Council and the Trusteeship Council recommends "that the provisional agenda for every session of either Council be similarly communicated to the President and members of the other Council."\*

Comments

Rule 8 in its present form limits the communication of the provisional Agenda to members of the Trusteeship Council and to the specialized agencies referred to in Rule 4. It does not provide for the communication of the provisional Agenda to the Security Council, to the Economic and Social Council, and to such Members of the United Nations as have proposed an item on the Agenda of the Trusteeship Council.

It may seem advisable to amend existing Rule 8 so that the provisional Agenda is communicated to all the organs, specialized agencies and Members of the United Nations referred to in Rule 4, namely to the members of the Trusteeship Council, to the Security Council, to the Economic and Social Council, to such Members of the United Nations as have proposed an item on

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\* Report of the Joint Committee, E&T/C.1/2/Rev.1, page 7.

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the agenda, and to such of the specialized agencies as may attend and participate in the meetings of the Trusteeship Council under the terms of the agreements with the United Nations.

It is suggested, therefore, to delete the words "to the members and to the specialized agencies referred to in Rule 4" and to insert at the end of the sentence the words "to the organs, Members, and specialized agencies referred to in Rule 4".

Rule 8 would then read:

"The provisional Agenda for each session of the Trusteeship Council shall be drawn up by the Secretary-General in consultation with the President and shall be communicated together with the notice summoning the Council to the organs, Members and specialized agencies referred to in Rule 4."

#### Reciprocal Representation

##### (d) Rule 12

The Report of the Joint Committee of the Economic and Social Council and the Trusteeship Council contains the following recommendations with respect to reciprocal representation in meetings of Councils, their Committees and Commissions:

"It has been the practice hitherto that representation of the one Council at meetings of the other has been on the Secretariat level. It is recommended that this practice be generally continued; but that, on those occasions when it may be desirable, the President of the one Council - or his representative - should be given the privilege of participating in the discussion by the other of matters of special concern to his Council. This could include cases when one Council has proposed items for inclusion in the provisional agenda of the other."

Adoption of this recommendation would necessitate some extension of Rule 12 of the Rules of Procedure of the Trusteeship Council, and would require a new rule in the Rules of Procedure of the Economic and Social Council\*.

#### Comments

The Rules of Procedure of the Trusteeship Council do not prevent the Council from inviting the President of the Economic and Social Council or his representative to participate in the meetings of the Trusteeship Council. Should the Trusteeship Council consider it desirable to have the provision recommended by the Joint Committee explicitly inserted in the Rules, the following draft is suggested:

##### Rule 12 bis:

"The Trusteeship Council may invite the President of the Economic

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\* E&T/C.1/2/Rev.1, pages 7 and 8.

and Social Council to participate without vote in the discussion of matters of special concern to the Economic and Social Council, and in particular when the Economic and Social Council has proposed an item or items for inclusion on the Agenda of the Trusteeship Council."

The question of extending a similar privilege to the President of the Security Council might also invite attention.

#### Miscellaneous Recommendations

##### (e) Rule 105

The Report of the Joint Committee of the Economic and Social Council and the Trusteeship Council contains a series of recommendations under the heading (e) "Special Assistance by the Councils and their Subsidiary Bodies" dealing with (i) Petitions to the Commission on Human Rights (and other similar Commissions) and (ii) activities of Economic and Social Council and its Commissions, under the headings (f) "Exchange of Documents", (g) "Joint Committee on (i) Procedural questions and/or (ii) Matters of Substance", and (h) "Cooperation with Specialised Agencies" dealing with (i) Negotiations with Specialised Agencies, (iii) Requests by Trusteeship Council for assistance of Specialised Agencies and (iv) Implementation of Agreements with Specialised Agencies.\*

#### Comments

These recommendations do not appear to require any amendment of existing Rules or the adoption of new Rules.

#### 2. Suggestions for changes in Rules of Procedure advanced by the Secretariat.

##### Circulation of Petitions to the Members of the Trusteeship Council.

##### (a) Rule 85

Under Rule 85 the Secretary-General shall circulate promptly to the members of the Trusteeship Council all written petitions received by him. In implementing the provision of this rule, the Secretariat has processed all petitions received without exercising any discretion. Section XV of the Rules of Procedure dealing with petitions does not provide for any exception to the principle embodied in Rule 85 whereby the Secretary-General could avoid transmitting to the members of the Trusteeship Council the full text of a petition, however irrelevant and inconsequential it might be.

On the other hand, it may be noted that under the second sentence of Rule 24, the Secretary-General need not call to the attention of the Council communications "which are manifestly inconsequential".

It may be advisable to insert in Rule 85 a clause similar to that relating to communications in Rule 24, and to authorize the Secretary-General not to circulate petitions which are manifestly inconsequential. This would

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\* E&T/C.1/2/Rev.1, pages 8-11.

simplify the procedure and would dispense with mimeographing and circulating as documents petitions which are irrelevant.

The Secretary-General would communicate to the members of the Trusteeship Council a list of all such petitions which were not transmitted under Rule 85. The Council, having full knowledge of all petitions presented to the Secretary-General, might direct the Secretariat to circulate the full text of a petition if it deemed it necessary. Such a procedure would safeguard the right of petition and would provide for full exercise of the Council's powers of examination of petitions.

Proposed new text of Rule 85:

"The Secretary-General shall circulate promptly to the members of the Trusteeship Council all written petitions received by him, except those which are manifestly inconsequential, a list of which shall be communicated to the members of the Trusteeship Council.

"With respect to petitions relating to a strategic area, the functions of the Trusteeship Council shall be governed by Article 83 of the Charter and the terms of the relevant Trusteeship agreement."

#### Communication and Publication of Reports of Visiting Missions

##### (b) Rule 99

The provisions of Rule 99 may require clarification in two respects:

1. With regard to the transmission of the report of a visiting mission to the Administering Authority, the text as it now stands may leave some doubt as to whether the report shall be transmitted to the Administering Authority before or at the same time as it is submitted to the other members of the Trusteeship Council. The fact that the Rule provides for "prompt" transmission to the Administering Authority, while no such word is used regarding the submission to the Trusteeship Council as a whole, may perhaps be interpreted as implying a recognition of the special and direct interest of the Administering Authority in receiving the report of the visiting mission at the earliest possible moment. It may be considered desirable that the Government of the Administering Authority should be in possession of the report at the time it is communicated to the delegations of the other members of the Council at the Headquarters of the United Nations, especially if the report should be published at that time. However, when the question was raised informally in connection with the report of the Mission to Western Samoa it was felt that a strict construction of the Rule would not allow for any difference to be made in this respect as between the Administering Authority and the other members of the Trusteeship Council. If that is the intention this should be made clear beyond doubt.

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2. With regard to the publication of the report of the visiting mission, the second part of the Rule seems to imply that it is for the Trusteeship Council itself to decide about the publication and that, therefore, the report shall not be published before the Trusteeship Council has had an opportunity to examine it, i.e. before the opening of the session following the submission of the report.

Such a conclusion, however, may lead to undesirable consequences. In the first place, once the report has been submitted and distributed to the members of the Trusteeship Council, it would be difficult to keep its contents secret for any extended period. The inevitable leakage which would occur in the absence of publication of the complete text of the report would result in distorted versions getting before the public, which would be to the disadvantage of all parties concerned. Furthermore, prompt publication might often prove to be in the interest of the inhabitants of the Territory, of the Administering Authority and of the United Nations itself, as, for instance, in cases where, for some reason or another there may be some urgency in introducing new measures recommended in the report (this was, in fact, the situation in the case of the report of the Mission to Western Samoa). These difficulties may be avoided if it is left to the Mission itself to authorize the release of its Report.

In case the Trusteeship Council should wish to modify or clarify Rule 99 in these respects, the following text is suggested:

"Each visiting Mission shall submit to the Trusteeship Council a report on its visit, a copy of which shall be promptly transmitted to the Administering Authority and to each member of the Trusteeship Council by the Secretary-General. The mission may authorize the Secretary-General to release its report in such form and at such date as it may deem appropriate. The decisions or observations of the Council with respect to each such report as well as the comments by the Administering Authority concerned may be published in such form and at such date as the Council may determine."

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