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## ADMINISTRATIVE UNIONS AFFECTING TRUST TERRITORIES

Report of the Committee on Administrative Unions

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REPORT OF THE COMMITTEE ON ADMINISTRATIVE UNIONS

CHAPTER I

GENERAL

1. In accordance with its terms of reference, the Committee was to "transmit to the Council by 1 March 1949 the documentation available at that date, and report to the Council not later than three weeks before the opening of the fifth session" (T/236).
2. The Committee transmitted to the Trusteeship Council an Interim Report on 1 March 1949 (T/263) and refers to the documents and working papers on the subject of administrative unions enumerated in paragraph 11 of document T/263.
3. On 24 May 1949 Mr. Hsi-Kuen Yang (China) was elected Rapporteur in the place of Mr. Lin Mousheng (China).
4. The Committee held 17 meetings, in the course of which it studied the various aspects of the problem of administrative unions. On 3 June 1949 the Committee, after adopting the present report, requested the Rapporteur to present to the Trusteeship Council a statement embodying the reservations of its members.
5. Answering the separate list of questions addressed by the Committee in respect of the Trust Territory of Tanganyika (Annex I of document T/263) the special representative for Tanganyika elucidated various aspects of the East Africa Inter-Territorial Organization during the 34th, 35th and 36th meetings of the Trusteeship Council on 8, 9 and 10 March 1949 (T/PV.150, T/PV.151 and T/PV.152).
6. In addition to the documents listed in paragraph 11 (c) of the Committee's Interim Report (T/263), the United Kingdom delegation to the United Nations supplied additional documents relating to the East Africa Inter-Territorial Organization (T/AC.14/12/Add.2) which are listed in paragraph 12 (a) of this chapter.
7. The Australian delegation to the United Nations submitted documents in respect to the administrative union between the Trust Territory of New Guinea and the Territory of Papua (T/AC.14/16 and T/AC.14/16/Add.1), which are listed in paragraph 12 (c) of this chapter.
8. The Belgian Government did not answer the list of questions drawn up by the Committee on the administrative union between the Trust Territory of Ruanda-Urundi and the Belgian Congo (Annex IV of the Interim Report, document T/263).

As the Committee could not secure further elucidation, it was not able to submit to the Trusteeship Council an outline of the various aspects of this problem.

/9. With respect

9. With respect to the problems arising from the establishment of the French Union as affecting the Trust Territories under French administration, the Committee requested a ruling by the Trusteeship Council as to whether it was competent to examine the question. At its 36th meeting on 10 March 1949, the Trusteeship Council adopted the following resolution:

"The Committee on Administrative Unions shall, exceptionally and in addition to its regular duties, make a study of the relation 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."

During the Committee's meeting of 31 March 1949, the representative of France presented a statement clarifying some aspects of the situation arising from the establishment of the French Union in respect to Trust Territories under French administration (T/AC.14/22). During the meeting on 25 May 1949, the representative of France presented additional aspects of the situation arising from the establishment of the French Union in relation to the French Trust Territories. An outline of the discussion which took place in the Committee is reproduced in document T/AC.14/25. As a result of this discussion the representative of France agreed to clarify a part of his earlier statement (T/AC.14/22/Rev.1).

10. At its first meeting on 2 February 1949 the Committee on Administrative Unions decided to request from the United Kingdom Government as the Administering Authority of Togoland under British administration and the Cameroons under British administration all pertinent documents concerning customs, fiscal, or administrative unions or federations and common services.

In a letter to the Committee of 7 March 1949, the United Kingdom delegation expressed the view that special administrative arrangements concerning Togoland and the Cameroons under British administration, in their relation to the Gold Coast Colony and Nigeria respectively, are "integral part" arrangements which derive from articles 5 (a) of the Trusteeship Agreements and do not fall within the scope of either the investigation called for in General Assembly resolution 224 (III) of 18 November 1948 or the Committee's terms of reference which relate to customs, fiscal, or administration unions or federations and common services constituted or contemplated under the provisions of articles 5 (b) of the respective Trusteeship Agreements. The United Kingdom

/delegation

delegation therefore did not propose to furnish the Committee with any of the documents requested by it, nor did it propose to answer the separate lists of questions set out in Annexes II and III of the Interim Report (T/AC.14/17 and T/AC.14/17/Corr.1).

At its meeting on 31 March 1949, the Committee requested the Chairman to exchange views with the United Kingdom delegation regarding the matter.

In a letter of 27 April 1949, the United Kingdom delegation, while maintaining its view as to the scope of the investigation called for in General Assembly resolution 224 (III) of 18 November 1948, and without prejudice to this view, agreed to supply the Committee with any information requested and to answer the separate list of questions set out in Annexes II and III of document T/263. The United Kingdom delegation referred to the Trusteeship Council's resolution of 10 March 1949 concerning the French Union as affecting the Trust Territories under French administration (T/279) which established the principle that the Committee could undertake a study outside the scope of the General Assembly's resolution quoted above. The United Kingdom delegation assumed that the special study which the Committee would make of the arrangements deriving from articles 5 (a) of the Trusteeship Agreements for the Cameroons and Togoland under British administration would be a separate and distinct one from the study of customs, fiscal, or administrative unions or federations and common services made or contemplated in other Trust Territories.

On 23 May 1949 the United Kingdom delegation submitted replies to the questions on the administrative union of the Cameroons under British administration with the adjacent British territory of Nigeria (T/AC.14/24).

11. In a note of 23 May 1949 the United Kingdom delegation stated that it would submit its replies to the questions on the administrative union of Togoland under British administration with the adjacent British territory of the Gold Coast as soon as possible. These replies have not yet been received. Under these conditions the Committee was not able to submit to the Trusteeship Council an outline of the various aspects of this problem.

12. In addition to the list included in paragraph 11 of the Interim Report (T/263), the following further documents and working papers on the subject of administrative unions were examined by the Committee:

(a) Working papers and memoranda dealing with specific Trust Territories

- (i) Establishment of the East Africa High Commission, its services and its advisory and consultative bodies (T/AC.14/15);
- (ii) Memorandum on events leading up to and the objects of the East Africa Inter-Territorial Organization submitted by the United Kingdom delegation (T/AC.14/18);
- (iii) Papua and New Guinea (T/AC.14/8/Add.1);
- (iv) Comparative tabulation of changes in the Papua and New Guinea Bill, 1948 and the Papua and New Guinea Bill, 1949 (T/AC.14/19);
- (v) The question of administrative unions during the fourth session of the Trusteeship Council (T/AC.14/26).
- (vi) Expressions of public opinion in the French Trust Territories regarding the French Union (document T/AC.14/27 to be published).

(b) Letters received from the United Kingdom delegation in respect to the arrangements concerning the Cameroons and Togoland under British administration

- (i) Documents requested from the United Kingdom Government as the Administering Authority of Togoland under British administration and Cameroons under British administration (letter of the United Kingdom delegation of 7 March 1949) (T/AC.14/17);
- (ii) Documents requested from the United Kingdom Government as the Administering Authority of Togoland under British administration and Cameroons under British administration (letter of the United Kingdom delegation of 27 April 1949) (T/AC.14/20);
- (iii) Preface to information supplied by the United Kingdom Government in respect of the Cameroons and Togoland under British administration (T/AC.14/23).

(c) Documents supplied by the Administering Authorities in response to the Committee's request

Further documents concerning the East Africa Inter-Territorial Organization supplied by the United Kingdom Government (T/AC.14/12/Add.2):

- (i) Estimates of revenue and expenditure of the East Africa High Commission for the year 1949;
- (ii) East African Customs and Excise Department - Supplementary estimates of revenue and expenditure of the East Africa High Commission for the year 1949;
- (iii) Estimates of the revenue and expenditure of the Kenya and Uganda Railways and Harbours, 1948;
- (iv) East African Railways and Harbours (Kenya-Uganda Section) - First supplementary estimates, 1948;
- (v) East African Railways and Harbours (Tanganyika Section) - First supplementary estimates, 1948;
- (vi) East Africa High Commission Act No. 1 of 1949 - The Interpretation Act, 1949;
- (vii) East Africa High Commission Act No. 2 of 1949 - The Makerere College Act, 1949.

Documents submitted by the Australian Government in respect to the Trust Territory of New Guinea (T/AC.14/16 and T/AC.14/16/Add.1).

- (viii) Amended Papua and New Guinea Bill introduced in the Australian House of Representatives on 15 February 1949;
- (ix) Second reading speech in the Australian House of Representatives by the Acting Minister for External Territories;
- (x) Ordinances and Regulations made since 1 July 1948 - Nos. 5 to 13 of 1948 and No. 1 of 1949;
- (xi) Papua - New Guinea Government Gazette No. 15 of 7 July 1948, containing Regulation No. 8;
- (xii) Papua - New Guinea Government Gazette No. 17 of 4 August 1948, containing Regulation No. 9;
- (xiii) Papua - New Guinea Government Gazette No. 19 of 1 September 1948, containing Regulations Nos. 10 and 11;
- (xiv) Papua - New Guinea Government Gazette No. 24 of 3 November 1948, containing Regulation No. 12;
- (xv) Papua - New Guinea Government Gazette No. 26 of 1 December 1948, containing Regulations Nos. 13 and 14;
- (xvi) Papua and New Guinea Act No. 9 of 25 March 1949.

- (d) Statement of the French representative on relations between France and Trust Territories in the French Union (T/AC.14/22 and T/AC.14/22/Rev.1)
- (e) Replies of the Australian Government to the questions on the Papua-New Guinea administrative union (T/AC.14/21)
- (f) Replies of the United Kingdom Government to the questions on the administrative union of the Cameroons under British administration with the adjacent British territory of Nigeria (T/AC.14/24 and T/AC.14/24/Add.1)
- (g) Discussion of statement by the French representative on relations between France and the Trust Territories in the French Union (T/AC.14/25)



CHAPTER II  
PROVISIONS OF THE TRUSTEESHIP AGREEMENTS  
CONCERNING ADMINISTRATIVE UNIONS

1. Clauses authorizing the Administering Authority to constitute the Trust 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 are included in the Trusteeship Agreements for the Territory of Tanganyika under British administration (article 5 (b)), Togoland under British administration (article 5 (b)), the Cameroons under British administration (article 5 (b)), Togoland under French administration (article 4, A (2)), Ruanda-Urundi under Belgian administration (article 5 (2)), New Guinea under Australian administration (article 5) and the Trust Territory of the Pacific Islands designated as a strategic area under the United States of America's administration (article 9).

2. The enumeration of various forms of unions is almost verbally identical in all the Trusteeship Agreements noted above. Three categories of unions or federations are mentioned: (a) customs, (b) fiscal or (c) administrative. In addition, the establishment of common services is noted.

In all such cases the arrangement is to concern the Trust Territory and the adjacent territory or territories under the sovereignty, control or jurisdiction of the respective Administering Authority.

3. The further conditions under which the Administering Authority is entitled to establish customs, fiscal or administrative unions or federations or common services are not defined by the respective Trusteeship Agreements in the same way. For classification purposes the Trusteeship Agreements accepted by the United Kingdom, Belgium and the United States of America may be placed in one category, the Trusteeship Agreements accepted by France in a second category and the Trusteeship Agreement for New Guinea by Australia in a third category.

(a) The Trusteeship Agreements in the first category, namely, Togoland, the Cameroons, and Tanganyika under British administration, Ruanda-Urundi under Belgian administration and the Pacific Islands designated as a strategic area under the administration of the United States of America, authorize the Administering Authorities to establish customs, fiscal or administrative unions or federations or common services where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with

/the terms

the terms of the respective Trusteeship Agreements.

(b) The Trusteeship Agreements for Togoland and the Cameroons under French administration contain certain conditions under which the Administering Authority would be entitled to apply a customs, fiscal or administrative union or federation, or common services to the Trust Territory. Such measures may be established (i) with the consent of the territorial representative assembly; (ii) to ensure better administration; and (iii) provided that such measures shall promote the objectives of the International Trusteeship System.

(c) The Trusteeship Agreement for New Guinea administered by Australia entitles the Administering Authority to bring the Trust Territory into a customs, fiscal or administrative union or federation, and to establish common services if, in its opinion, (i) it would be in the interests of the Territory and (ii) not inconsistent with the basic objectives of the Trusteeship System to do so.

4. 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.

5. The Committee refers to General Assembly resolution 224 (III) of 18 November 1948 which is also quoted in the Trusteeship Council's resolution of 27 January 1948 (T/236) containing the Committee's terms of reference. Its pertinent 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

"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..."

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 discover 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."

Although only authorized to study the problems of administrative unions, the Committee is of the opinion that it was within its terms of reference to draw up an outline of all the various aspects of the problem which may affect the development of the Trust Territory in the sense of the General Assembly's resolution quoted above, no matter whether an administrative union derives, in the opinion of the Administering Authority, from the provision of the respective Trusteeship Agreements authorizing the Administering Authority to administer the Trust Territory as an integral part of its territory or from the provision entitling the Administering Authority to constitute the Trust 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.

6. During the discussion of the "as an integral part" clause of the Trusteeship Agreements for the Cameroons and Togoland under British administration (article 5 (a)), the Cameroons and Togoland under French administration (article 4), Ruanda-Urundi under Belgian administration (article 5) and New Guinea under Australian administration (article 4) by the Fourth Committee at the second part of the first session of the General Assembly, the representatives for Belgium and France stated "that it was the interpretation of their Governments that the words 'as an integral part' were necessary as a matter of administrative convenience and were not considered as granting to the Governments of Belgium and France the power to diminish the political individuality of the Trust Territories". The representative for 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" (A/258).

According to the statement of the representative of Australia, 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 merely to ensure to the Trust Territory the advantages of unified administration.

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 said that it was essential that both Trust Territories which are not sufficiently large and self-contained, should be administered as integral parts of the neighbouring British territories of Nigeria and the Gold Coast Colony respectively. He was willing to substitute references to Nigeria and the Gold Coast in this phrase in order to read "as an integral part of Nigeria and the Gold Coast" to demonstrate that it was not the intention that these Trust Territories should be administered as an integral part of the United Kingdom (A/C.4/Sub.1/81).

7. These statements made by the representatives of the Administering Authorities during the negotiation of the "as an integral part" clauses of the respective Trusteeship Agreements demonstrate that the use of the phrase has been dictated by the need to administer the respective Trust Territories as parts of adjacent territories under the sovereignty or control of the Administering Authority. The Administering Authorities emphasized that they did not regard the clause as conferring power to diminish the political individuality of Trust Territories, neither did this clause imply sovereignty over these Trust Territories.

### CHAPTER III

#### VARIOUS ASPECTS OF THE PROBLEM OF THE ADMINISTRATIVE UNIONS RAISED DURING THE DISCUSSIONS OF THE TRUSTEESHIP COUNCIL, THE FOURTH COMMITTEE, PLENARY MEETINGS OF THE GENERAL ASSEMBLY AND THE PERMANENT MANDATES COMMISSION OF THE LEAGUE OF NATIONS

1. In accordance with its terms of reference (T/236) the Committee was to draw up an outline of the various aspects of the problem of administrative unions including those aspects raised during the discussions of the Trusteeship Council, the Fourth Committee and plenary meetings of the General Assembly.

##### Permanent Mandates Commission of the League of Nations

2. The problem of administrative unions between the mandated territories and the adjacent territories of the Mandatory Power was raised at several occasions in the Permanent Mandates Commission of the League of Nations.

A brief summary of the discussions and observations of the Permanent Mandates Commission was reproduced in the following working papers:

T/AC.14/1, parts II and III in respect to Tanganyika, T/AC.14/2, parts IV and V in respect to Ruanda-Urundi, T/AC.14/3 in respect to the Cameroons and Togoland under French administration, T/AC.14/4, part III in respect to the Cameroons and Togoland under British administration and T/AC.14/8, part II in respect to New Guinea.

##### Fourth Committee and plenary meetings of the General Assembly in 1946

3. During the negotiation of the eight Trusteeship Agreements in the General Assembly and its Fourth Committee in 1946 various aspects of this problem were raised by different representatives.

The Committee's working paper T/AC.14/5 summarizes those observations.

##### Second and third session of the Trusteeship Council

4. A classification of observations in respect to the problem of administrative unions made during the second and third sessions of the Trusteeship Council and during the second session of the General Assembly was reproduced in working paper T/AC.14/11.

##### Fourth session of the Trusteeship Council

5. Observations made during the fourth session of the Trusteeship Council are summarized in document T/AC.14/26.

CHAPTER IV  
TANGANYIKA\*

A. ORGANIC LAWS APPLIED TO THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION

1. The East Africa (High Commission) Order in Council, 1947, which forms the legal basis of the East Africa Inter-Territorial Organization has been reproduced as an attachment of document T/AC.14/1. Other documents supplied by the United Kingdom Government, which include the legislation issued by the East Africa High Commission are enumerated in documents T/AC.14/12, T/AC/14/12/Add.1 (see also document T/263, pages 3 and 4) and T/AC.14/12/Add.2.

The administrative union established by the East Africa (High Commission) Order in Council, 1947 between the Protectorate and the Colony of Kenya, the Trust Territory of Tanganyika, and the Protectorate of Uganda may be characterized as follows:

- (a) The East Africa High Commission consisting of the Governors of Kenya, Tanganyika and Uganda, and administering the common services set out in the First and Second Schedule to the Order in Council, 1947, is established as a permanent body which is not subject to re-examination after a certain period;
- (b) The East Africa Central Legislative Assembly with a majority of appointed and nominated members has specific powers of proposing legislation concerning the common services subject to the assent of the High Commission. All provisions of the Order in Council, 1947, concerning the East Africa Central Legislative Assembly shall continue in operation for a period of four years and shall cease to have effect on 1 January 1952;
- (c) The East Africa High Commission may appoint such advisory and consultative bodies as it may think fit in respect of any matter which is subject to the control of the High Commission or is of common interest to the three territories;
- (d) Common services administered by the High Commission and matters with respect to which the East Africa Central Legislative Assembly may pass laws in accordance with the three Schedules of the Order in Council, 1947, may be classified as follows:

- (i) Defence: Services connected with the maintenance of contact between the territories and the Defence Services;

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\* See also Chapter I paragraphs 5, 6, 12 (a) and (c).

/(ii) Economy:

- (ii) Economy: The East African Industrial Council,  
The East African Production and Supply  
Council and all matters within the sphere  
of such Council,  
Services of inter-territorial import arising  
from the operations in the territories of  
the East African Currency Board;
- (iii) Transport policy: The East African Transport Policy Board;  
Transport: The East African Railways and Harbours  
Administration,  
The East African Air Transport Authority  
and services arising thereof,  
The East African Directorate of Civil  
Aviation;
- (iv) Customs and taxes: The East African Income Tax Department  
(administrative and general provisions).  
The East African Customs and Excise  
Department (administrative and general  
provisions);
- (v) Posts, telegraphs, radio-communications:  
The East African Posts and Telegraphs  
Department,  
The East African Radio-Communications  
Service;
- (vi) Research, meteorology and statistics:  
The East African Anti-Locust Directorate,  
The East African Research Services,  
The East African Statistical Department,  
The East African Tsetse Reclamation  
Department,  
The Lake Victoria Fisheries Board,  
The East African Meteorological Department,  
The East African Regional Geological Survey,  
The East African Regional Topographical  
Survey,  
Such further research services as may be  
set up on an East African basis;

/(vii) Education:

- (vii) Education:                   Makerere College\*  
                                  The East African Literature Bureau;
- (viii) Publicity and information:  
                                  The East African Office in London,  
                                  The East African Publicity Committee,  
                                  The East African Information Office;
- (ix) Social and welfare:  
                                  The East African Refugee Administration,  
                                  Inter-Territorial services financed, in  
                                  the whole or in part, by means of grants  
                                  made to the High Commission from the East  
                                  African Regional Allocation under the  
                                  Colonial Development and Welfare Acts;
- (x) General administration:  
                                  The Secretariat of the High Commission,  
                                  The East African Directorate of Training,  
                                  Appropriation, providing for the expenditure  
                                  of the High Commission, of the Assembly  
                                  and of the services the administration of  
                                  which has been taken over by the High  
                                  Commission under the provisions of  
                                  section 9 of this Order,  
                                  Loan Ordinances in respect of self-contained  
                                  services,  
                                  Pensions, widows' and orphans' pensions,  
                                  provident fund and other matter affecting  
                                  the staff of the services the administration  
                                  of which has been taken over by the High  
                                  Commission under the provisions of  
                                  section 9 of this Order;

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\* "The Act to make provision for the government, control and administration of Makerere College" was assented to by the High Commission on 24 February, 1949. The College is to provide facilities for higher education, professional training and research, either directly or through the medium of connected schools and institutes (section 3). The government, control and administration is vested in the Makerere College Council whose Chairman and Vice-Chairman are appointed by the High Commission. The Principal of the College is appointed by the Secretary of State. According to section 23 (5) there shall be paid into the revenue account of the College all grants made by the Governments of the Territories. The total amount of such grants and the proportion to be paid by the respective territories is not defined.



(e) 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**.

2. With reference to Part II. sections 4-6 of the East Africa (High Commission) Order in Council, 1947, the Committee considered the question of the status of the Governors of Kenya, Tanganyika and Uganda forming the High Commission. It noted that the Governor of Kenya is the Chairman of the High Commission, that the headquarters of the High Commission is to be situated at Nairobi in Kenya and that the Chairmanship is not in rotation among the three Governors. In view of the statement of the special representative of the Administering Authority before the Trusteeship Council to the effect that it was not expected that a system of rotation for the chairmanship would be adopted or would be suitable for the East Africa Inter-Territorial Organization, it may be advisable to provide for measures to safeguard those interests of Tanganyika Territory which may be affected in consequence of the fact that the High Commission is presided over permanently by the Governor of Kenya and that its seat as well as that of most of the common services is centred outside the Trust Territory in Nairobi, Kenya.

3. The special representative of the Administrative Authority explained that decisions of the High Commission were normally reached by mutual consent and internal deliberation. When one member of the High Commission disagreed with the other two, the decision would normally be taken by vote of the majority. If the interests of the territory of the dissenting Governor were being seriously interfered with by such a majority decision, it would be open to the dissenting Governor to approach the Secretary of State.

In view of the difference in status between Tanganyika on one side and Kenya and Uganda on the other side, and in view of the specific obligations resulting from the basic objectives of the International Trusteeship System, the Governor of Tanganyika should be given the right,  
/expressly

expressly defined by the organic law of the East Africa Inter-Territorial Organization, to oppose any measures which are in his opinion inconsistent with the terms of the Trusteeship Agreement, with the provisions of the Charter, or with the interests of the Trust Territory.

4. The special representative of the Administering Authority explained that the number of occasions when the High Commission would have to exercise its power of acquiring land as stated in paragraph 2 of section 4 of the East Africa (High Commission) Order in Council, 1947, would, in fact, be negligible.

5. The special representative of the Administering Authority stated that at present none of the higher or senior offices of the staff of the High Commission appointed in accordance with section 11 of the East Africa (High Commission) Order in Council, 1947, was held by an African. It appears that Africans should be placed in positions of greater responsibility in all services of the East Africa High Commission. On 31 March 1949 the East Africa High Commission issued for its officers Service Regulations which came into operation on 1 May 1949. These Regulations do not apply to the East African Railways and Harbours Administration, which possesses its own Regulations. The High Commission Regulations introduce a uniform service system regulating general conditions of appointment, discipline, incompatibility, (such as prohibition from engaging in trade, etc., disclosure of investments, etc.), publication by officers, their political activities, their right to address the Secretary of State and to petition the King, etc. As from 15 November 1948 officers in the service of the High Commission are subject to the provisions of the East Africa High Commission Circular No. 14 governing the terms and conditions of service, new salary scales and conversion procedure, promotion and efficiency bars, salaries for women (normally four-fifths of those for men performing similar duties), pensions, retiring benefits, retirement, widows and orphans schemes, housing, different allowances and deductions, local leave, etc. The Appendix to this Circular contains revised scales of salaries for European, Asian and African employees.

6. Out of twenty-four members of the East Africa Central Legislative Assembly constituted in accordance with Part III of the East Africa (High Commission) Order in Council, 1947, only one person "being an unofficial member of the Legislative Council of Tanganyika" is elected by resolution of the unofficial members of this body, whereas three unofficial members, being respectively a European, an Indian and an African, are appointed by the Governor of Tanganyika.

7. The provision of Part I, section 3 of the East Africa (High Commission)  
/Order

Order in Council, 1947, limits the duration of Parts III and IV dealing with the East Africa Central Legislative Assembly, its composition and functions, and the High Commission's powers of legislation to a period of four years, whereas the High Commission established under Part II is not subject to a time limit and appears to be established as a de jure permanent institution.

8. With reference to Part IV, section 45, of the East Africa (High Commission) Order in Council, 1947, the special representative of the Administering Authority stated that additions to lists of scheduled services would not be enlarged in the event that opposition in the Legislative Council of any of the territories were substantial.

The expression "substantial opposition" would appear to need further clarification. The present wording of section 45 leaves it exclusively to the High Commission's free consideration to determine the existence of a substantial opposition ("if the High Commission shall be satisfied that there has been substantial opposition ...").

Furthermore the existence of a substantial opposition does not prevent the addition of new services to the present list. 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". Thus the procedure introduces an obligatory second reading, providing however, for no safeguards in case of the continuance of a substantial opposition, with the exception of the consent of the Secretary of State which is required in each case.

9. The High Commission's power to appoint advisory and consultative bodies in respect of any matter "which is of common interest to the territories" (section 9 (d) of the East Africa (High Commission) Order in Council, 1947) is practically unlimited and depends on the majority vote of the High Commission.

B. GENERAL CHARACTERISTICS OF THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION

1. In accordance with article 5 (b) of the Trusteeship Agreement, the Administering Authority is 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".

In connexion with this provision of the Trusteeship Agreement, which is also included in the Trusteeship Agreements for other Trust Territories, the United Kingdom Government as the Administering Authority for Tanganyika, Cameroons and Togoland under British administration as well as Australia, Belgium, and France with respect to the Trust Territories administered by them, "gave assurance that they did not consider the terms of the article quoted above 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 effect of extinguishing their status as Trust Territories" (A/C.4/69, page 8, A/258, page 7).

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 inter-territorial 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.

2. In the opinion of the Visiting Mission to Tanganyika the East Africa Inter-Territorial Organization established by the East Africa (High Commission) Order in Council, 1947, would be a purely customs, fiscal and administrative union if it possessed only powers of administration over customs, fiscal and other common services specified in the three Schedules to this Order (Report of the Visiting Mission document T/218, page 63).

Section 28, sub-section (1), paragraph (a) of the East Africa (High Commission) Order in Council, 1947, authorizes the High Commission to make laws, with the advice and consent of the East Africa Central Legislative Assembly, for the peace, order and good government of the three territories, in respect of the matters specified in the Third Schedule to this Order. Such laws may, in addition to their administrative implications, have strictly political implications.

The special representative of the Administering Authority informed the Trusteeship Council that it would be within the power of the High Commission to include such provisions involving political implication in the law, "with the advice and consent of the East Africa Central Legislative Assembly and subject to the Royal Instructions and to the King's power of disallowance".

Furthermore, the High Commission possesses powers of legislation not only in respect of the matters specified in the Third Schedule such as defence, civil aviation, posts, telegraphs, telephones, and radiocommunications, railways and ports, administrative and general provisions of the customs and excise and income tax, Makerere College, inter-territorial research, meteorological services, and so forth, but also "with the advice and consent of the Legislative Councils of the territories ... for the peace, order and good government of the territories", i.e. Kenya, Uganda and the Trust Territory of Tanganyika (Part IV, section 28, sub-section (1), paragraph (b) of the East Africa (High Commission) Order in Council, 1947). Any law made in accordance with the provisions of paragraph (b) of sub-section (1) of this section may repeal, amend or suspend any law of any of the territories. (Part IV, section 28, sub-section (4)).

Under these conditions it seemed to the Visiting Mission to the Trust Territory of Tanganyika that the East Africa Inter-Territorial Organization "is short of a complete political union. It would indeed be a political union, if it possessed full powers of legislation and administration over any or all common services. At present the Organization does not possess such full powers ... In the first place, the fund established by the High Commission for the non-self-contained

services shall consist of such sums as may be granted by resolution of the Legislative Councils of the three territories and such other sums as may be received by the High Commission. In the second place, while the High Commission and the Central Assembly possess powers of administration over the customs and excise administration and the income tax administration, they do not possess the powers to determine the tariff rates and tax rates". (Report of the Visiting Mission, page 64). Furthermore, the list of the scheduled services shall not be augmented without the approval, signified by resolution, of the Legislative Councils of the three territories and without the consent of the Secretary of State, and in case of a "substantial opposition" in the Legislative Council of any one or more of the territories under the conditions defined in section 45 of Part VI of the Order in Council.

It might be considered not only whether the measures introduced by the East Africa Inter-Territorial Organization were compatible with the terms of the Trusteeship Agreement and with the basic objectives of the International Trusteeship System, but also whether they were likely to lead to a de facto political union since the East Africa High Commission's duties and functions include legislative, administrative and executive powers covering a very large number of common services.

It was with these considerations in mind that in 1933 the Permanent Mandates Commission took note that the Government of the United Kingdom had no intention of placing into operation "any scheme of 'closer union' between the Mandated Territory of Tanganyika and the neighbouring British territories, which would involve the creation of a political or constitutional union, with the effect of destroying or endangering for the future the existence of the Mandated Territory as a distinct entity in international law" and considered "that any measures tending ... towards de facto establishment of such a 'closer union' should be avoided". For these reasons the Permanent Mandates Commission considered that the Conference of the Governors of Tanganyika, Kenya and Uganda, which was by that time a permanent advisory organ for co-operation and co-ordination of the common interests of those territories, "should not assume executive responsibilities which would unduly restrict the necessary autonomy of the Mandated Territory" (Permanent Mandates Commission, Minutes of Twenty-Third Session, June 19 - July 1, 1933, including the Report of the Commission to the Council, page 189).

/It has been

It has been noted in the Visiting Mission's Report that, to the extent that the common services were transferred to the East Africa Inter-Territorial Organization, to that extent the East Africa Inter-Territorial Organization may be considered as the Government of the Trust Territory of Tanganyika (Visiting Mission's Report, page 67) reducing its functions in a considerable extent, which might tend towards the de facto establishment of a political union. For this reason the legal frame of the East Africa Inter-Territorial Organization as well as its probable and potential effect on the distinct status and the independent development of the Trust Territory of Tanganyika have to be considered.

C. DATA PERTAINING TO THE COMPATIBILITY OF THE EAST AFRICA  
INTER-TERRITORIAL ORGANIZATION WITH THE PROVISIONS OF THE CHARTER  
AND OF THE TRUSTEESHIP AGREEMENT

1. In accordance with article 3 of the Trusteeship Agreement for the Trust Territory of 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 may deem necessary, at times to be agreed upon with the Administering Authority."
2. During the consideration of the draft Trusteeship Agreement for Tanganyika by Sub-Committee 1 of the Fourth Committee, at the second part of the first session of the General Assembly, the following declarations were included in the Sub-Committee's report in order to implement or clarify the terms under which the Trust Territory of Tanganyika was to be administered:

"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 (article 5 (b) of the Trusteeship Agreements for Tanganyika, Cameroons and Togoland under British administration; article 4 A 2 of the Agreements for Cameroons and Togoland under French administration; article 5 (2) of the Agreement for Ruanda-Urundi; and article 5 of the Agreement for New Guinea) 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 effect of extinguishing their status as Trust Territories. The Sub-Committee took notice of this assurance." (Document A/C.4/69, pages 7-8).

/"With regard



"With regard to the question of including in the Trusteeship Agreements some provision for alteration or amendment in the light of changing circumstances, the Sub-Committee agreed to recommend that the General Assembly 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; and
- (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 alteration or amendment to the Administering Authority so that, if agreed on, pursuant to Article 79, such alteration or amendment may then be submitted to the General Assembly for approval." (Document A/C.4/69, page 8).

3. The special representative of the Administering Authority stated that the Administering Authority recognizes the duty imposed upon it. He referred to section 3, paragraph 6 of the Instructions to the East Africa High Commission obliging the High Commission not to assent to any Bill affecting Tanganyika which may appear to be inconsistent with the Trusteeship Agreement and stated that any legislation in relation to defence would necessarily take article 5 (c) of the Trusteeship Agreement into account.

4. The special representative of the Administering Authority considered that in view of the subjects under the control of the High Commission the chances of any effect of the East Africa Inter-Territorial Organization upon the development of free political institutions suited to Tanganyika (article 6 of the Trusteeship Agreement) were very remote; its effect upon the progressively increasing participation of the inhabitants in advisory and legislative bodies and in the government of the Trust Territory both central and local was equally remote.

The possible impact on the political development of Tanganyika which might result from the different status of Kenya which is a Colony and Protectorate and of Uganda which is a Protectorate, should, however, be considered.

D. EFFECT OF THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION ON THE  
EXERCISE OF FUNCTIONS OF SUPERVISION BY THE UNITED NATIONS

1. The special representative of the Administering Authority stated that the High Commission and its organs function in accordance with the principals and objectives contained in Chapter XII of the Charter and with the terms of the Trusteeship Agreement in so far as matters relating to the Trust Territory of Tanganyika are concerned.
2. The operative clause of the Preamble of the East Africa (High Commission) Order in Council, 1947, does not specifically mention the Trusteeship Agreement for the Trust Territory of Tanganyika.
3. In accordance with the provisions of the Trusteeship Agreement for Tanganyika, the High Commission and its organs are, 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. This would appear to include the right of the Visiting Mission to have free access to any establishments, institutions, common organs and services and, amalgamated branches of administration in matters relating to Tanganyika.

E. EFFECT OF THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION ON THE  
POLITICAL AND ADMINISTRATIVE ORGANIZATION OF TANGANYIKA

1. The basic objectives of the International Trusteeship System as stated in Article 76 of the Charter aim among other towards the "progressive development [of Trust Territories] 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," thus reflecting the temporary and transitional character of the Trusteeship System.

The provision of Part I, section 3 of the East Africa (High Commission) Order in Council, 1947, limits the duration of the East Africa Central Legislative Council (Part III) and the High Commission's powers of legislation (Part IV) to a period of four years, but evidently establishes the High Commission as a permanent institution of the East Africa Inter-Territorial Organization, although the Administering Authority stated to the Visiting Mission to Tanganyika, as reported in its Report, page 70, that "the Organization is temporary or experimental in nature in the sense that at the end of four years the existence of the whole scheme will be reviewed de novo by the Administering Authority as well as by the Legislative Councils of the three territories." In its observations on the Report of the Visiting Mission (T/333) pages 30-31) the Administering Authority stated the following: "This statement as reported goes beyond the intention as expressed in Colonial 210 and incorporated in the Order in Council. The

/limitation

limitation to a period of four years applies solely to Parts III and IV of the Order in Council, the Assembly and legislation and legislative procedure."

Thus the Administering Authority clarified its point of view and confirmed expressly that the limitation of Part I, section 3 does not apply to other Parts of the Order in Council, i.e. Parts I, II (the High Commission), V (Finance) and VI (Miscellaneous).\*

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 a merely provincial government and the Tanganyika Legislative Council a merely provincial council.

Among the basic problems connected with the employment of Tanganyika's inhabitants in the High Commission and its different organs, the following would seem to need consideration: 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.

3. 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.

#### F. INFLUENCE OF THE COMMON SERVICES OF THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION UPON THE DEVELOPMENT OF TANGANYIKA

1. The members of the East Africa Central Legislative Assembly as well as the members of the Tanganyika Legislation Council hold appointive rather than elective posts. Similarly members of different advisory and consultative bodies are appointed by the High Commission. The representative of the United Kingdom stated before the Trusteeship Council that the policy

\* See also Section B, paragraph 2 of this chapter

of the United Kingdom Government in all the colonies under its administration was gradually to increase the representation of the people by election to the different legislatures. He said that at first, the representatives were nominated; later some were elected and some nominated, and later all were elected. He emphasized that this had been the general policy followed.

2. An adequate representation of elected unofficial members in the East Africa Central Legislative Assembly and its different advisory and consultative bodies may also promote the political, economic, social and educational advancement of the inhabitants of the Trust Territory of Tanganyika. The Administering Authority informed the Visiting Mission to Tanganyika that its aim was to increase progressively the political responsibility of the Africans and to afford them greater participation in the central organs of government.

It would appear advisable that members of all bodies established under the East Africa Inter-Territorial Organization should be elected rather than nominated.

#### G. CONSULTATION OF THE INDIGENOUS POPULATION

1. The Secretary of State for Colonies stated to the members of the Visiting Mission that there has been strong opposition among the African inhabitants of Tanganyika to any form of closer union, especially with Kenya, which might lead to political union (Report of the Visiting Mission,

page 57).\*

Regarding consultation of the indigenous inhabitants of Tanganyika in connexion with the re-examination, before the end of 1951, of the East African Inter-Territorial Organization in so far as the East Africa Central Legislative Assembly, its powers, functions and constitution are concerned, the special representative of the Administering Authority stated that such proposals 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.

2. 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.

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\* The Observations of the United Kingdom Government on the Report of the Visiting Mission (T/333) include the following statements (page 21):

Referring to a meeting with the Secretary of State (fourth paragraph on page 57) the report states that "It was recalled that, at one time, the African inhabitants of Tanganyika had expressed strong opposition to the placing of the Territory under trusteeship and wished Tanganyika to become a Crown Colony. Great moral pressure had to be exerted to change this attitude".

The Secretary of State has already stated that the members of the Mission must have misheard or misunderstood him. There were at one time expressions of opinion, mainly by Africans who had served or were serving with the forces, opposing trusteeship status for Tanganyika, but the Administering Authority has always been aware that, apart from this, the more politically-minded among the African inhabitants, while declaring their wish to remain under British administration, have expressed opposition to any suggestion that Tanganyika should become a Colony.

At page 58 the Report states that "The Mission was assured that His Majesty's Government would make no more changes in the present system of Inter-Territorial Organization without full consultation with, and the consent of, the African inhabitants of the Territory". Here again the members of the Mission must have misheard or misunderstood the Secretary of State.

In so far as additions to the services to be administered by the High Commission are concerned, or additions to the matters with respect to which the Assembly may pass laws, the Secretary of State is correctly reported as having said that "substantial opposition on the part of the unofficial members of any of the three Legislative Councils to a motion for the extension of the list ... will be a bar to proceeding further in the matter until it has received further consideration and there has been further opportunity for debate". He is also correctly reported as having said "We have given our pledge that no more subjects will be introduced without the consent of the Secretary of State and we have guaranteed that this will not be political union".

3. No re-examination of the ~~whole~~ scheme of the East Africa Inter-Territorial Organization is provided for by the East Africa (High Commission) Order in Council, 1947, especially in so far as the institution of the High Commission and the operation of amalgamated services (Parts II, V and VI of the Order in Council) are concerned. Thus the population of Tanganyika may be prevented by the provisions of the Order in Council from expressing their wishes as to whether the whole scheme of the East Africa Inter-Territorial Organization should or should not be continued.

## H. ECONOMIC IMPLICATIONS

### Effect of the economic policy under the East African Inter-Territorial Organization on the development of Tanganyika

1. In the Visiting Mission's Report reference has been made to the opposition of certain sections of the population of Tanganyika to the East Africa Inter-Territorial 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.
2. The East African Industrial Council serves as an advisory body to the High Commission and has the power to decide in certain cases what industries are to be established in each area. At the present time its licensing power is limited to certain categories of manufactured articles, but the number of categories may, at a later date, be increased or decreased. A person who desires to manufacture materials falling in certain categories must obtain a manufacturing licence not from the Government of Tanganyika but from the East African Industrial Council. The Committee inquired of the special representative of the Administering Authority in what way the Administering Authority intends to ensure that the operation of the East African Industrial Council does not adversely affect the development of industries in Tanganyika.

The special representative stated that the establishment of the East African Industrial Council was designed to break down some of the impediments which had been found to exist preventing entrepreneurs from coming in and developing industries in East Africa. Categories of articles are scheduled by resolution in each of the territorial Legislative Councils and at present there are seven such categories. The aim is not at any general control over the manufacture of articles in East Africa. Generally speaking the reasons for licensing are that in relation to the potential demand in East Africa the capital investment would be too high for an entrepreneur to be willing to invest unless he received a certain measure of protection.

A licence can be refused only for one or more of the following reasons:

- (a) When the capital, technical skill or raw materials available to the applicant are, in the opinion of the Council, inadequate to secure the successful establishment and operation of the factory;
- (b) When factories already established in Tanganyika, Kenya or Uganda for the manufacture of the particular article have an actual or potential output which is sufficient to meet the actual or potential demand of consumers in East Africa;

/((c) When the

(c) When the site of the proposed factory is not a suitable location, either from the point of view of availability of raw material, electric power, water or fuel or proximity to the main consuming centres.

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.

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, and where Europeans are more numerous and where their influence is greater and the industrial development has been stronger and more rapid.

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. The protection of established industries in East Africa should not be permitted to hinder the normal development of industry in Tanganyika Territory without which the economic development and welfare of the Territory cannot be achieved.

3. The special representative of the Administering Authority informed the Trusteeship Council that there had been a tendency for commercial enterprises which operate in the three territories to establish their main headquarters in Kenya rather than in Tanganyika and Uganda, because, in his opinion, British enterprise had been established in Kenya before the First World War. It had also been found convenient to operate branches from Kenya when Tanganyika came under British mandate. The same applies also to the main banks: the National Bank of India, the Standard Bank of South Africa, the Barclay's Bank, Dominion, Colonial and Overseas Bank.

4. The special representative pointed out that, generally speaking, mining companies, operating in Tanganyika are Tanganyika companies operating from London or with head offices in Tanganyika. The largest African co-operative society in East Africa engaged in dealing with coffee on Kilimanjaro is entirely a Tanganyika concern. The sisal companies have no head offices in Kenya. The companies growing sisal are either located and registered in Tanganyika or are administered from head offices in London. In

/his opinion,



his opinion, the people of Tanganyika stand on their own legs just as much as those of Uganda and of Kenya.

5. In answer to the statement of the Visiting Mission to Tanganyika that the amalgamation of the railways and port services may divert the trade of Northern Tanganyika to Mombasa at the expense of Dar-es-Salaam, the special representative of the Administering Authority said that there is nothing to prevent the Tanganyika Government from taking steps to ensure the movement of Tanganyika produce to Tanganyika ports. The question of whether such steps should be taken and whether it would be in the interests of Tanganyika users to take them, would be a matter for the Tanganyika Government to decide. The places where the Tanganyika section and the Kenya and Uganda sections of the East African Railway system impinge, are in the Lake Victoria basin, to the west of Lake Victoria, and in the foothills of Kilimanjaro near Moshi. There are at present equalizations of rates by both systems from those areas, whether to a Tanganyika port or to the port of Kilindini.

The examination of the effects of the railway amalgamation might deserve a further study.

6. The special representative was asked whether the Government of Tanganyika would have the right either to build, on its own, a railway which could not be linked up with the amalgamated system or to grant a railway concession to a company which, if necessary, might consent to accept the risk, whereas the amalgamated railways would refuse to accept such a programme.

In reply the special representative stated that the position in East Africa was that all railways would necessarily have to be constructed by or on behalf of and administered by the East African Railways and Harbours Administration, which, by law, he thought, has the monopoly which in practice it certainly has. If any Government wished to construct a railway in its territory which was not reported as a transport undertaking by the transport authorities, it would be free to do so, through the agency of the East African Railways and Harbours, on condition that the question of guarantee against loss had been satisfactorily settled with the transport authorities. The transport authorities would certainly agree to administer that railway.

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

7. The special representative of the Administering Authority stated that the establishment and operation of the East Africa Inter-Territorial

/Organization

Organization will not effect 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 these territories give no favoured nation treatment in relation to customs duties.

Effect of the East Africa Inter-Territorial Organization on the public revenue of Tanganyika

8. Reference is made to possible effects of the conversion of the Railways and Harbours Administration and the Posts and Telegraphs Department, as well as other services, into amalgamated "self-contained services" which might deprive the Tanganyika Government of considerable revenue and the power to expend such revenue, thereby directly affecting the fiscal policies of the Trust Territory and indirectly affecting social and educational policies.

9. The special representative of the Administering Authority referred to the fact that for many years past the annual and supplementary estimates of the Tanganyika Railways and Harbours Administration have been submitted separately to the Tanganyika Legislative Council, and that since 1940 any excessive revenue or expenditure on the Tanganyika railways has been used exclusively for railways and ports purposes.

10. The special representative of the Administering Authority stated that direct postal expenditure, which had been voted in the Legislative Council of Tanganyika, may fall short of the revenue from postal services, but, that all factors affecting postal revenue and expenditure should be taken into account. The assets, which at present belong to the Tanganyika Government, which are being constructed or bought for postal and telegraph purposes are being valued and the Postal and Telegraph Department would repay that capital fund to the Government and would in the meanwhile pay interest on the money.

The special representative stated that there would be an item of revenue in the estimates of each of the territories representing an interest payment and a repayment of capital in respect of buildings and equipment which had been constructed and bought for Posts and Telegraphs services in past years.

He furthermore stated that the Posts and Telegraphs Department would carry its own pensions liabilities and would take into its own budget many items which, in Tanganyika and possibly elsewhere, had been carried under budgetary estimates other than those of Posts and Telegraphs.

/For instance,

For instance, provision for passages of people going overseas was provided under one head for all the Government departments of Tanganyika. In so far as passage of postal officials was concerned, it would be taken from the Miscellaneous Services Vote in Tanganyika and transferred to the Posts and Telegraphs Department accounts.

On the other side items such as services rendered by the Department to the Government itself which, in some cases, had not been paid for before would be paid for in the future.

The special representative emphasized that the Governments concerned would be receiving new items of revenue in relation to the assets they had already constructed or purchased for Posts and Telegraphs and that there would be a fairly complicated adjustment which must be worked out in time before it could be ascertained whether, on balance, the budgets were better or worse off than they were before.

If after a number of years of actual experience it were found that the Posts and Telegraphs services were operating at a profit, it would still be open to the Government - and this has been specifically reserved - to decide whether any part of that profit should be paid to the Government as revenue or whether it should be used for other purposes such as Posts and Telegraphs extensions or reductions in rates.

Furthermore, the special representative explained that Posts and Telegraphs revenues had been determined in the three East African territories with regard to the office of origin where revenue accrued and he assumed that such a system of apportioning would be regarded as reasonable.

#### Effects of the common customs policy on Tanganyika

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

12. 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 the Government of Tanganyika itself may take for the protection of secondary industries in Tanganyika.

/The special

of the United Nations by the United Kingdom Government during 1947, recurrent expenditures by the Education Department in Kenya amounted to £450,348, extraordinary expenditure amounted to £24,347. Corresponding figures for European education were £158,054 and £12,151, for African education £151,416 and £5,704. Expenditure on education in Uganda was estimated at £299,617 for the Education Department, at £29,328 for Native administrations and at £3,890 for other Government Departments. The amount spent by missions and other voluntary agencies was not known. Estimated expenditure for education in Tanganyika for 1947 was £487,060 out of which £382,209 was to be spent on African education, £57,013 on Asian and £47,838 on European education. European pupils enrolled in primary and post-primary schools in Kenya numbered 1,760 boys and 1,555 girls. The estimated figure of African pupils was 170,000 boys and 80,000 girls, representing 35 per cent of the male and 15 per cent of the female population of school age at school. Total primary school enrolment of African pupils in Uganda, amounting to 132,645, was 15.07 per cent of the estimated African population between the ages of 6 and 14. (Non-Self-Governing Territories, Summaries and analysis of information transmitted to the Secretary-General during 1947, pages 215, 216, 277). In Tanganyika, 115,025 African pupils attended primary schools, 2,031 the secondary schools, not including the enrolment of 148,800 pupils (1946 figures) of the mission "bush schools" (Report for Tanganyika for 1947, Annex XIII, pages 267, 269-270).

5. The Committee notes that education does not come directly within the purview of the East Africa Inter-Territorial Organization.

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

6. The special representative of the Administering Authority referred to the fact that social advancement of the inhabitants is not among the subjects of the amalgamated services. Nevertheless a very large number of the inhabitants of Tanganyika will come directly or indirectly within the purview of the High Commission in respect to social matters. 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 to its public servants.

## CHAPTER V.

### THE CAMEROONS UNDER BRITISH ADMINISTRATION\*

#### A. HISTORICAL BACKGROUND AND GENERAL CHARACTERISTICS OF THE ADMINISTRATIVE UNION WITH NIGERIA

1. In order to evaluate the present situation emanating from the administration of the Trust Territory of the Cameroons under British administration as an administrative part of the British Protectorate of Nigeria, the Committee deems it appropriate to refer to some factors clarifying the problem in its historical development since the establishment of the Mandate in 1922.
2. Confirming the British Mandate for the Cameroons on 20 July 1922, the Council of the League of Nations authorized the Mandatory to administer this area "in accordance with the laws of the Mandatory as an integral part of his territory" and "to constitute the territory into a customs, fiscal, or administrative union or federation with the adjacent territories under his sovereignty or control, provided always that the measures adopted to that end do not infringe the provisions of this Mandate" (article 9).

Since the beginning of the Mandate period the Mandated Territory of the Cameroons was in actual fact integrated for administrative purposes in the neighbouring Protectorate of Nigeria. The integration was given a constitutional basis by the Cameroons under British administration Order in Council of 26 June 1923 which was of such a nature that various portions of the Mandated Territory were integrated for administrative purposes ("...shall be administered as if they formed part of...") in the two administrative sub-divisions of the adjacent Protectorate of Nigeria, i.e. the Northern Provinces and the Southern Provinces.

3. While recognizing that the administrative incorporation of the Mandated Territory in the neighbouring Protectorate of Nigeria was in no way an infringement of the Mandate and admitting that, in view of the geographical configuration of the two territories and the ethnical composition of their population, such measures might be the best calculated to ensure good administration and consequently the well-being of the population, the Permanent Mandates Commission observed since 1923 that this administrative integration made it very difficult for the Commission to give an opinion of the administration of the Mandated Territory, and requested more detailed information in the annual reports. As regards public finance the Commission noted that the figures shown in the budget of the Mandated Territory were, to some extent, approximate

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\* See also Chapter I, paragraph 10, and paragraphs 12 (b) and (f).  
/and of relative

and of relative value not giving a definite picture of the actual budgetary situation (Report of the Permanent Mandates Commission for 1930). One consequence of the existence of a customs union affecting the Cameroons under British administration was the inability of the Mandatory Power to supply details of the imports and exports of the Mandated Territory, if only approximate or estimated (Report of the Permanent Mandates Commission for 1927 and 1935).

4. The process of administrative incorporation of the Cameroons under British administration in the two sub-divisions of the Protectorate of Nigeria culminated in the Nigeria (Protectorate and Cameroons) Order in Council of 2 August 1946 which provided for the administration of the Protectorate of Nigeria including the Cameroons under British administration (T/AC.14/4). In accordance with the said Order in Council the Governor and Commander-in-Chief of the Colony of Nigeria is the Governor and Commander-in-Chief of the Protectorate and the Cameroons (section 7). The Executive Council for the Colony of Nigeria is the Executive Council of the Protectorate and the Cameroons (section 9). The Public Seal of the Colony is the Public Seal of the Protectorate and the Cameroons (section 14). The Administering Authority noted that the principle of administrative integration and of common legislative and judicial system with the adjoining areas of the Protectorate of Nigeria has been thereby fully established (Report on the administration of the Cameroons under United Kingdom trusteeship for 1947, page 14; document A/C.4/Sub.1/81, page 9).

5. Considering these aspects of the problem, the following facts seem to appear:

(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 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 incorporation with a

/common

common administrative, legislative and judicial system and services.

(d) The full incorporation 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.

B. REPLIES OF THE UNITED KINGDOM GOVERNMENT TO THE QUESTIONS ON THE ADMINISTRATIVE UNION WITH NIGERIA

1. Answering with the reservation contained in the letter of 27 April 1949 (T/AC.14/20) the separate list of questions addressed by the Committee in respect of the Cameroons under British trusteeship (Annex II of document T/263) the United Kingdom Government submitted, on 23 May 1949, the replies contained in document T/AC.14/24.

2. The Committee was not able to examine in detail the contents of these replies and draw up an outline of the various aspects of the problem.

CHAPTER VI  
NEW GUINEA\*

A. HISTORICAL BACKGROUND AND GENERAL CHARACTERISTICS OF THE  
ADMINISTRATIVE UNION ESTABLISHED BY THE PAPUA - NEW GUINEA ACT

1. The problem of co-ordination of the administrations of Papua and New Guinea was raised in the Permanent Mandates Commission in 1932. The Mandatory Power explained at that time that it had no intention to merge the administrations of the two territories.
2. During its twenty-seventh session the Permanent Mandates Commission noted that a conference between the administrators of New Guinea, Papua, Nauru and Norfolk Island had been convened at Canberra in February 1934. The object of this conference was to discuss the possibility of introducing a uniform system of government and establishing closer co-operation between the above-mentioned administrations. The view generally expressed at that conference was that the territories had not yet reached a sufficient stage of development to warrant any action in this direction at present.
3. In 1939 a committee was appointed to survey the possibility of establishing a combined administration of the territories of Papua and New Guinea, and to make a recommendation for a capital site: namely (1) for the combined administration if that would be favoured; or (2) for the Territory of New Guinea if the retention of a separate administration would be recommended.

The conclusions of the report of the committee for the combined administration of the Territories of Papua and New Guinea (Eggleston Report) were:

- (a) At the present time, a fully combined administration for the two territories is not desirable in the interests of the territories or their people and even if it were desirable there are financial and legal reasons which make it impracticable.
- (b) There is no popular demand for a combined administration.
- (c) There is no urgent need for closer union.
- (d) The improvement in administration and reduction in expense which might result from a combined administration are at least

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\* See also chapter I, paragraph 1 and paragraph 12 (a), (c) and (e).

/problematical;



problematical; no great economy is likely to occur from a combined administration.

(e) The Committee concluded that there was a difference of opinion as to whether any executive union between the Territory of Papua and the Mandated Territory would conflict with the letter and spirit of the Mandate. It further stated that, whether closer union was valid or not, there could be no pooling of resources by the two territories or any subsidy from the Mandated Territory to the other, and accounts would have to be kept in which the revenues and expenses of the Mandated Territory would be held separate; thus, there could be very little advantage in a combined administration.

The Committee was of the opinion that it would be undesirable for Australia to take any action of a unilateral character which was likely to be misunderstood or which could be represented as a repudiation of the Mandate or could be construed as implying annexation. The Committee did not think that a combined administration would result in any alteration in the problem of the defence of the Mandated Territory.

On the other side the Eggleston Report noted that:

"The two territories of Papua and New Guinea are so similar in natural resources, population and physical characteristics, geographical conditions and Native races, that if they had been acquired at the same time and under similar titles it is highly improbable that they would have been divided into separate political units. The size of the combined area would have made a certain amount of decentralization desirable but it is not large as compared with other colonial territories. Generally speaking, it seems desirable that contiguous territories in the same geographical area and with the same problems should be governed as one political unit.

"The two territories, however, were acquired at different times and under different titles and their history as separate units makes a combined administration difficult for a variety of reasons.

(T/AC.14/8, page 6, paragraphs 12 and 13).

"So far then, the position is that while the arguments for closer union are theoretically sound, there are disadvantages and difficulties arising out of the differences in laws and methods."

(T/AC.14/8, page 8, paragraph 17).

4. During the consideration of the annual report for 1947 on the Trust Territory of New Guinea, the Administering Authority submitted to the Trusteeship Council a copy of, "A Bill for an Act to approve the placing of the Territory of New Guinea under the International Trusteeship System, to

/provide

provide for the Government of the Territory of Papua and the Territory of New Guinea, and for other purposes" (T/138/Add.1).

5. During its third session the Trusteeship Council considered the draft Papua and New Guinea Bill, 1948, and made the following observations and recommendations (A/603, pages 16, 17):

(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

(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.

6. An amended Papua and New Guinea Bill was introduced in the Australian House of Representatives on 15 February 1949. On 25 March 1949 the Bill was passed by the Australian Parliament as the Papua-New Guinea Act 1949 (T/AC.14/16/Add.1).

The chief characteristics of the act are:

(a) Basic provisions concerning the status of the Trust Territory

- (i) "Approval is given to the placing of the Territory of New Guinea under the International Trusteeship System by means of, and upon the terms of trusteeship embodied in, the Trusteeship Agreement" (section 6).
- (ii) "The Minister shall make to the General Assembly of the United Nations the annual report required by the Charter of the United Nations on the political, economic, social and educational advancement of the inhabitants of the Territory of New Guinea" (section 7).
- (iii) "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" (section 8).
- (iv) "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" (section 11).

/(b) The Administrator

(b) The Administrator of the Territory shall be appointed by the Governor-General and shall exercise his powers in accordance with the tenor of his Commission and with such instructions as are given to him by the Governor-General (sections 14-15).

(c) An Executive Council consisting of not less than nine officers of the Territory appointed by the Governor-General shall advise and assist the Administrator (section 19).

(d) Advisory Councils for Native Matters and Native Village Councils may be established by Ordinance. An Advisory Council may consider and tender advice to the Administrator concerning matters affecting the welfare of Natives in the area in which it is established. A Native Village Council shall have such functions as are provided by Ordinance concerning the peace, order and welfare of the Natives in the area in which it is established (sections 25-29).

(e) A Legislative Council shall consist of twenty-nine members, namely:

- (i) The Administrator;
- (ii) Sixteen official members (officers of the Territory);
- (iii) Three elected non-official members;
- (iv) Three non-official members representing religious missions;
- (v) Three non-official Native members;
- (vi) Three other non-official members.

The election of three unofficial members by electors of the Territory will be provided by Ordinance. The other members of the Legislative Council (other than the Administrator) shall be appointed by the Governor-General from nominations made by the Administrator. 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 (section 36, paragraph 4).

Subject to the provisions of the Act, the Legislative Council may make Ordinances for the peace, order and good government of the Territory. Such Ordinances shall not have any force until assented to by the Administrator. He may withhold assent or reserve an Ordinance for the Governor-General's pleasure. The Governor-General may disallow any Ordinance assented to by the Administrator (sections 48-50).

(f) A Supreme Court in the Territory consisting of a Chief Judge and such other judges as the Governor-General appoints shall be known as the Supreme Court of the Territory of Papua and New Guinea.

/The jurisdiction

The jurisdiction, practices and procedure of the Supreme Court and the establishment of other courts and tribunals, including village courts and other tribunals in which Natives may sit as adjudicating officers or assessors, shall be as provided by or under Ordinance.

The High Court of Australia may hear appeals from the Supreme Court and its decision shall be final and conclusive (sections 58, 62, 63, 64).

7. The following amendments designed to meet with the wishes expressed by the Trusteeship Council and the General Assembly appear in the Papua - New Guinea Act 1949 (T/AC.14/21, page 6):

(a) Sections 8 and 10 emphasize that the identity and status of the Territory of Papua as an Australian possession and the Territory of New Guinea as a Trust Territory shall continue to be maintained.

(b) Section 11 of the original bill, permitting the Governor-General to define provinces within the Territory of Papua and New Guinea with such boundaries as may be specified by proclamation, has been omitted.

(c) Section 36 (4) provides for a definite assignment to the inhabitants of the Trust Territory of representatives in the Legislative Council.

(d) Section 73 in the original bill concerning tariff has been omitted.

B. REPLIES OF THE AUSTRALIAN GOVERNMENT TO THE QUESTIONS ON THE PAPUA-NEW GUINEA ADMINISTRATIVE UNION

1. The Committee drew up a list of questions on the Papua-New Guinea administrative union and appended them as Annex 5 of its Interim Report (T/263).

2. By a note dated 17 May 1949 from the Permanent Australian Mission to the United Nations, the Australian government transmitted the replies to these questions which were reproduced in the Committee's document T/AC.14/21.

CHAPTER VII  
TRUST TERRITORIES IN THE FRENCH UNION\*

A. THE CONSTITUTION OF THE FRENCH REPUBLIC AND THE TRUST TERRITORIES  
IN THE FRENCH UNION

1. The Constitution of the French Republic promulgated on 27 October 1946, established the French Union which is, according to article 60, composed, on the one hand, of the French Republic, that is, 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 with the French Union as Associated Territories.
2. The Preamble to the Constitution contains 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 her traditional mission, France proposes to guide the peoples for whom she 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: she guarantees to all equal access to public office and the individual or collective exercise of the rights and liberties proclaimed or confirmed above."

3. The following articles of the Constitution are relevant to the status of the Associated Territories within the French Union:

(a) Article 26 of the Constitution lays down the principle of superior authority of diplomatic treaties 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."

\* See also Chapter I, paragraph 9 and paragraph 12 (a), (d) and (g)

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 of the Constitution.

(c) Article 62 of the Constitution states that 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.

4. 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.

5. Executive power in 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 these orders and decisions for the consideration of the Assemblies or to consult them (T/AC.14/6).

6. The Associated Territories are represented on the organs of the French Union as follows:

	Assembly of the French Union	Council of the Republic <u>Number of members</u>	National Assembly
Cameroons	5	3	3 2 Natives 1 French citizen
Togoland	1	2	1

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, (T/AC.14/6).

7. 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. These 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 these assemblies are called Representative 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 citizens having local status. The total number of voters in the Cameroons is 42,205 of whom 2,590 vote in the first section, and about 39,615 in the second section. The total number of voters in Togoland is 7,963, of whom about 400 vote in the first section, and about 7,600 in the second section.\* 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 powers of the Assemblies are of two types, viz, 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, the tourist traffic, town-planning, taxes, duties and contributions of all kinds; and the 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

\* 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.



status and internal organization of territories or groups of territories, and in changing the status of a territory transferred from one category to another.

The composition of the Representative Assemblies in French Cameroons and French Togoland is as follows:

	<u>Number of Members</u>		<u>Total</u>
	<u>First section</u>	<u>Second section</u>	
Cameroons	16	24	40
Togoland	6	24	30

8. 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.14/6.

B. RELATIONS BETWEEN FRANCE AND THE TRUST TERRITORIES IN THE  
FRENCH UNION

1. The Committee discussed the statement by the representative of France concerning the relations between France and the two Trust Territories in the French Union (T/AC.14/22), and sought elucidation on a number of points contained in the above statement. The outline of the discussion is contained in document T/AC.14/25.
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 Trusteeship Agreements that were still to be approved by the United Nations and upon the International Trusteeship System; thus these 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 populations concerned were "under trusteeship", the association could not be established under any other form. However, the association established under the above-mentioned conditions is 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 now 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 derives from the Constitution of the State entrusted with their administration. In fact, articles 4, A, paragraph 2 of the two Trusteeship Agreements specifically refer to the above-mentioned Territorial Representative Assemblies which function in the Cameroons and in Togoland in accordance with article 77 of the French Constitution. It follows therefore that the General Assembly of the United Nations, when approving the two Trusteeship 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 this 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. He stated that as regards the complaints which had been received in a few exceptional cases from this Territory and 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

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.

5. There were divergent views within the Committee as to 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 (see document T/AC.14/25).

6. 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 this paragraph, and his rectification (T/AC.14/22/Rev.1) reads as 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 of 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."

7. A working paper dealing with public opinion in the French Trust Territories with regard to the French Union is contained in document T/AC.14/27.\*

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\* This paper will be published at a later date.