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REPORT OF THE STANDING COMMITTEE ON ADMINISTRATIVE UNIONS
TO THE TRUSTEESHIP COUNCIL CONCERNING COUNCIL'S
RESOLUTION 420 (X) ON ADMINISTRATIVE UNIONS

Chairman: Mr. V. McKAY (United States of America)

1. In accordance with resolution 420 (X) of the Trusteeship Council requesting the Standing Committee on Administrative Unions to

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

the Standing Committee submits herewith its Draft Report on Administrative Unions affecting Trust Territories and on the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union.

DRAFT REPORT ON ADMINISTRATIVE UNIONS AFFECTING TRUST TERRITORIES
AND ON THE STATUS OF THE CAMEROONS AND TOGOLAND UNDER FRENCH
ADMINISTRATION ARISING OUT OF THEIR MEMBERSHIP IN
THE FRENCH UNION

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INTRODUCTION

1. The Council, in accordance with General Assembly resolution 563 (VI) requesting it, in order to enable the General Assembly to arrive at conclusions concerning existing administrative unions affecting Trust Territories, "to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, and of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union with special reference to: (a) the considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly; (b) the compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement,"

requested its Standing Committee

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

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

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

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

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

6. The Council authorized the Standing Committee on Administrative Unions to consult with the Administering Authorities concerned and to secure from them such additional information as might be necessary. In accordance with this authorization, the Standing Committee at its ninth meeting, on 5 March 1952 decided to request the Administering Authorities concerned to submit to the Standing Committee any observations which they might wish to make with regard to administrative arrangements affecting the Trust Territories under their administration, taking into account resolution 563 (VI) on administrative unions adopted by the General Assembly on 18 January 1952.

7. In reply to this request, the governments of Belgium, France and the United Kingdom submitted certain written observations to the Standing Committee and upon the request of the Standing Committee the representatives of Belgium, France and the United Kingdom made oral statements at the 14th, 16th, 24th, 25th and 30th meetings on 6, 11, 26 June and 2 and 10 July 1952, respectively.

CHAPTER I

REVIEW OF THE RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY AND THE
TRUSTEESHIP COUNCIL PRIOR TO THE SIXTH SESSION OF THE GENERAL
ASSEMBLY WITH RESPECT TO ADMINISTRATIVE UNIONS AFFECTING
TRUST TERRITORIES

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

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

10. The Committee on Administrative Unions, composed of China, France, Mexico, New Zealand, the Union of Soviet Socialist Republics and the United States of America, after having studied the documentation available to it, came to the conclusion that it would require further elucidation on some aspects of existing and proposed administrative unions and subsequently decided to draw up separate lists of questions to be addressed to the Administering Authorities concerned. These questions concerning the Trust Territories of Tanganyika, Ruanda-Urundi, Cameroons and Togoland under British administration, and New Guinea appeared as annexes I to V of the interim report (T/263) of the Committee to the Council. The Committee was divided on the question as to

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whether it was competent to examine, within its terms of reference, the problems arising from the establishment of the French Union as affecting the Trust Territories under French administration.

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

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

13. On 3 June 1949, the Committee completed consideration of the subject and adopted its report (T/338 and T/338/Add.1) for submission to the Council.

14. At its fifth session, the Trusteeship Council considered and adopted a draft resolution presented by the delegations of Mexico and the United States of America with certain amendments. By this resolution, resolution 109 (V), the Council transmitted to the General Assembly the report of the Committee, the replies of the Administering Authorities to the questions prepared by the Committee and other documentation collected by it during its study. The Council informed the General Assembly that it would continue to study and examine the

/operation

operation of existing or future administrative unions. It also recalled that the General Assembly had approved the Trusteeship Agreements upon the assurance of the Administering Powers that those agreements did not give them power to establish any form of political association which would involve annexation of the Territories or extinguish their status as Trust Territories. In this connexion the Council noted the assurance by the Administering Authorities that the administrative arrangements under consideration did not extinguish the political identity of the Trust Territories and were not inconsistent with the objectives of the International Trusteeship System or with the terms of the Trusteeship Agreements. The Council decided that, in order to safeguard the identity and status of the Trust Territories, it should continue to study, during its regular examinations of conditions in Trust Territories, the effects of existing or proposed administrative unions on the political, economic, social and educational advancement of the inhabitants, on the status of the Trust Territories as such and on their separate development as distinct entities, and finally requested the Administering Authorities concerned to furnish in their annual reports separate records, statistics and other information in order to safeguard the effective exercise of the Council's supervisory powers.

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

/separate

separate legislative body in each Trust Territory, with headquarters in the Trust Territory; and of taking into account, before any administrative union is established, the freely expressed wishes of the inhabitants concerned.

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

17. The Committee on Administrative Unions submitted its report (T/L.96) to the Trusteeship Council on 11 July 1950. The Council considered and adopted the draft resolution recommended by the Committee on 17 July 1950, and decided to transmit the report of the Committee to the General Assembly. Resolution 293 (VII) provided inter alia that, in order to assist the Council in the discharge of its functions and to avoid the possibility of any administrative union operating in such a manner as to prejudice the attainment of the objectives of the Trusteeship System, the following safeguards are necessary, and draws them to the attention of the Administering Authorities concerned:

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

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

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

/"(d) That the

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

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

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

20. The Standing Committee submitted to the Council at its ninth session, separate reports on the Trust Territories of Tanganyika (T/915), New Guinea (T/916), Togoland under British administration (T/917), Cameroons under British administration (T/918), and Ruanda-Urundi (T/919). The Council considered and adopted these reports in connexion with the examination of the annual reports on the administration of the Trust Territories concerned and decided that these recommendations be placed in the appropriate sections of the Council's report dealing with conditions in the Territories.

CHAPTER II

PROVISIONS OF THE TRUSTEESHIP AGREEMENTS FOR THE TRUST TERRITORIES GOVERNING THE ESTABLISHMENT OF ADMINISTRATIVE UNIONS

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

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

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

24. In accordance with article 2 of the Trusteeship Agreements for Cameroons and Togoland under French Administration, the French Government, in its capacity of Administering Authority for these territories under the terms of article 81 of the Charter of the United Nations, "undertakes to exercise therein the duties of trusteeship as defined in the said Charter, to promote the basic

/objectives

objectives of the Trusteeship System laid down in article 76 and to collaborate fully with the General Assembly and the Trusteeship Council in the discharge of their functions as defined in articles 87 and 88."

25. In accordance with article 5 (a) of the Trusteeship Agreements for the Cameroons and Togoland under British Administration, the Administering Authority "shall have full powers of legislation, administration and jurisdiction in the Territory and shall administer it in accordance with the Authority's own laws as an integral part of its Territory with such modifications as may be required by local conditions and subject to the provisions of the United Nations Charter and of this Agreement."

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

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

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

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

/30. According

30. 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.

31. In connexion with the discussion of the "as an integral part of the French territory" clause in article 4A (1) of the Trusteeship Agreements for the Cameroons and Togoland under French Administration, the Sub-Committee 1 of the Fourth Committee at the second part of the first session of the General Assembly took note of the declaration of the representative of France that it was the interpretation of his government that the words "as an integral part" were necessary as a matter of administrative convenience and were not considered as granting to the government of France the power to diminish the political individuality of the Trust Territories (A/258).

32. In connexion with the discussion of the "as an integral part" clause of the Trusteeship Agreements for the Cameroons and Togoland under British Administration (article 5(a)) by Sub-Committee 1 of the Fourth Committee at the second part of the first session of the General Assembly, the representative of the United Kingdom stated that "the intention 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).

33. In connexion with the discussion of the "as an integral part of Belgian territory" clause in line 1 of article 5 of the Trusteeship Agreement for the Territory of Ruanda-Urundi, the Sub-Committee 1 of the Fourth Committee at the second part of the first session of the General Assembly took note of the declaration of the representative of Belgium that it was the interpretation of his Government that the words "as an integral part" were necessary as a matter of administrative convenience and were not considered as granting to the Government of Belgium the power to diminish the political individuality of the Trust Territory (A/258).

34. 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 stated that it was essential that both Trust Territories,

/which were not

which were not sufficiently large and self-contained, should be administered as integral parts of the neighbouring British territories of Nigeria and of the Gold Coast Colony respectively. He was willing to substitute references to Nigeria and the Gold Coast in 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).

35. 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 demonstrates that the use of the phrase has been dictated by the need to administer the Trust Territories as parts of adjacent territories under the sovereignty or control of the Administering Authority. The Administering Authorities emphasized that it did not regard the clause as conferring power to diminish the political individuality of the Trust Territory, neither did this clause imply sovereignty over this Trust Territory.

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

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

38. In accordance with article 5 of the Trusteeship Agreement for New Guinea, the Administering Authority "shall be at liberty to bring the Territory into a customs, fiscal or administrative union or federation with other dependent territories under its jurisdiction or control, and to establish common services

/between the

between the Territory and any or all of these territories, if, in its opinion, it would be in the interests of the Territory and not inconsistent with the basic objectives of Trusteeship System to do so."

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

40. The Trusteeship Agreements for Togoland and the Cameroons under French Administration contain in article 4A (2) of both Agreements 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 with the consent of the territorial representative assembly; to ensure better administration; and provided that such measures shall promote the objectives of the International Trusteeship System.

41. During the consideration of the draft Trusteeship Agreements, Sub-Committee 1 of the Fourth Committee took note of the following assurance:

"In connexion with the provisions of the Trusteeship Agreements concerning the right of the Administering Authorities to constitute the Trust Territories administered by them into customs, fiscal or administrative unions or federations with adjacent territories under their sovereignty or control (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" (A/258).

42. 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.^{2/}

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

"The General Assembly,

....

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

"Recommends accordingly that the Trusteeship Council should:

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

44. The emphasis of the General Assembly's resolution lies on the examination of "an administrative union", therefore of any administrative union and on the investigation of "these questions in all their aspects" with the view to discovering whether such unions remain strictly administrative in their nature and their scope and will not obstruct the separate development of the Trust Territory. It may be that different names are used for such unions or that they derive from

^{2/} Observations of the Committee on Administrative Unions, First Report, T/338, p. 8.

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."^{3/}

45. Reference is also made to the recommendation of Sub-Committee 1 of the Fourth Committee to the General Assembly stating that it 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" (A/258).

^{3/} Observations of the Committee on Administrative Unions, A/1306, p. 189.

CHAPTER III

THE ADMINISTRATIVE UNION AFFECTING THE TRUST TERRITORY OF TANGANYIKA

A. SUMMARY OF HISTORICAL EVENTS PRECEDING THE PRESENT ADMINISTRATIVE UNION

46. For summary of historical events preceding the present Administrative Union see Annex 1, Trusteeship Council Official Records, Fourth Session, Supplement No. 3.

B. LAWS ESTABLISHING THE EAST AFRICA INTER-TERRITORIAL ORGANIZATION

47. For laws establishing the East Africa Inter-territorial Organization see Report of the Trusteeship Council, General Assembly Official Records: Fifth Session, Supplement No. 4 (A/1306), pages 203-204.

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

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

General

49. At its third session the Council:

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

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

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

/"welcomed

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

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

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

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

50. At its third session the General Assembly (Resolution 224 (III)), endorsing the observation of the Trusteeship Council, recommended, inter alia, that

"the Trusteeship Council . . .

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

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

51. At its seventh session, the Council noted the Report of the Committee on Administrative Unions, and with regard to this question stated as follows:

"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

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."

52. From the data examined, the Visiting Mission, 1949, among other observations, concluded that the organization was more than a mere administrative organization but fell short of a complete political union. It would be a purely administrative union if it possessed only powers of administration over certain common services, and would be a political union if it possessed full powers of legislation over any or all of the common services.

53. At its seventh session the Trusteeship Council, on the recommendation of the Committee on Administrative Unions, passed a resolution in this connexion. For relevant parts see paragraph 89 below.

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

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

"(a) The Council, noting the provisions of the East Africa (High Commission) (Amendment) Order in Council, 1951, continuing the operation of the East

African Central Legislative Assembly until 31 December 1955, is of the opinion that this extension for a further period of four years may not be disadvantageous to the development of the Trust Territory.

"(b) The Council,

(1) noting that the African representatives on the Legislative Council of Tanganyika supported the motion proposing the continuation of the East African Central Legislative Assembly for a further period of four years,

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

(3) noting that a number of petitions have raised objections concerning the East Africa Inter-Territorial Organization, is of the opinion that it is as yet not fully informed concerning the means taken by the Administering Authority to ascertain the freely expressed wishes of the people.

"(c) In this connexion, the Council expresses the hope that the Administering Authority will take all possible steps to inform the people concerning the operations and implications of the administrative union and consult with them before any review of the present arrangements is undertaken, and requests the Administering Authority to furnish to the Council regularly detailed information on the actions taken in this respect." 7 *

East Africa Central Legislative Assembly

56. At its seventh session the Council noted that the provision concerning the East Africa Legislative Assembly shall cease to have effect on 1 January 1952. It further suggested that the "Administering Authority consider in that connexion and from time to time thereafter whether the allocation of legislative powers between the East Africa Legislative Assembly and the

* Subject to approval by the Trusteeship Council at the eleventh session.

Legislative Council of Tanganyika is conducive to the advancement of the inhabitants of the Trust Territory and to the attainment of the objectives of the Trusteeship System."

57. At its ninth session the Council, on the recommendation of the Standing Committee, adopted certain conclusions pertaining to the future of the East African Central Legislative Assembly. In this connexion see paragraph 93 (b) below.

The exercise of functions of supervision by the United Nations

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

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

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

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

/respect

respect to Tanganyika as provided for in the Charter and the Trusteeship Agreement.

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

Maintenance of boundaries, separate status and identity

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

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

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

61. At its ninth and eleventh sessions the Trusteeship Council noted that there existed no information which would suggest that the boundaries of the Territory have not been maintained.

Effects of the Inter-Territorial Organization on the Administrative Organization of Tanganyika

62. On the question how the Inter-Territorial Organization was going to affect the administrative organization in Tanganyika, the Committee on Administrative Unions, 1950, made inter alia the following observations:

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

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

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

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

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

/"(b) recalling

"(b) recalling that the three territories forming the East Africa Inter-Territorial Organization have not only a different legal and constitutional status, but have also distinct Native institutions and customs, and diverse degrees of cultural development, and
"(c) noting the statement of the Administering Authority (T/953/Add.4, page 11) that the normal prospects of the African members of the High Commission services appear more limited than the prospects of those in the territorial departmental services,

"is of the opinion that the Administering Authority should urgently take all possible steps to remove those employment conditions prevailing for the inhabitants of Tanganyika in the services of the High Commission which differ from those in the government of Tanganyika" 7*

General economic effects

64. The Committee on Administrative Unions, 1950, during its discussion on the economic implications of the East Africa Inter-Territorial Organization, drew attention to the report of the Visiting Mission, 1949, referring to the opposition of certain sections of the population of Tanganyika to the Organization, due to fear of too great economic influence on the part of Kenya Colony, where the seat of the organization and its services are located.

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

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

* Subject to approval by the Trusteeship Council at the eleventh session.

/Separate

Separate financial, statistical and other data.

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

67. With regard to this safeguard, the Council on the recommendation of the Standing Committee noted at its ninth and eleventh sessions that the annual reports on the administration of Tanganyika for 1948, 1949, 1950 and 1951 contain separate financial, statistical and other data relating to the Territory of Tanganyika. It noted, however, that some services under the East African High Commission, namely, the East African Posts and Telegraphs Department and the East African Railways and Harbour Administration, were so closely integrated that it is impracticable to give separate financial figures for the Territory of Tanganyika alone.

Expenditure in the Trust Territory

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

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

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

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

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

/Therefore

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

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

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

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

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

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

East African Industrial Council

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

"4. The Committee on Administrative Unions notes that licensing on an inter-territorial basis could create certain problems, such as the domination of the scheme by a particular group or territory, which might hinder the economic advancement of Tanganyika Territory.

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

"6. The Committee is of the opinion that the protection of industries from competition by licensing is an aspect deserving careful and detailed examination. The reasons stated by the special representative, which are

* Subject to the approval of the Trusteeship Council at its eleventh session.

the criteria by which applications for licences are judged, confer broad powers on the Industrial Council. In those instances where competition is ruled out, the maintenance of fair pricing, from the standpoint of the consumer, seems to require the formulation of explicit policies and measures for the prevention of abuses.

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

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

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

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

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

"(d) Intends to examine with particular care the future operations of the East African Industrial Council under this legislation with a view to safeguarding the interests of the Trust Territory."

73. The Second Visiting Mission to East Africa made inter alia following observations in its report (T/946, pages 39-40) on the operations of the East African Industrial Council:

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

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

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

74. In this connexion the Administering Authority made following observations (T/977, pages 9-10):

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

75. At its eleventh session the Trusteeship Council on the recommendation of the Standing Committee made the following observations in this connexion:

"(a) The Council, noting the statements of the Administering Authority regarding the operation of the East Africa Industrial Council and in particular the statement that existing territorial legislation on the subject was not considered to be entirely satisfactory and that the draft

/of a new

of a new ordinance was under consideration, is of the opinion that as long as sufficient information concerning the operation of the East Africa Industrial Council is not available the Council is unable to assess properly the activities of the Industrial Council. Therefore, the Standing Committee hopes that the minutes of the East Africa Industrial Council will be made available to the Council.

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

"(c) The Council notes that one new licence for the manufacture of blankets of waste cotton and rami has been granted to Hill Brown Ltd., but it has not information whether the application from the Moshi Trading Co. has or has not been granted.

"(d) The Council expresses the hope that the Administering Authority in preparing the draft of a new ordinance for the East Africa Industrial Council will take all possible steps to ensure that the future economic interests of the Trust Territory are fully safeguarded and that consideration will be given to adequate participation in the activities of the East Africa Industrial Council of suitably qualified representatives of the indigenous population of the Trust Territory."^{7*}

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

76. The Committee on Administrative Unions, 1950, made reference to the possible effects of the conversion of the Railways and Harbour Administration and the Post and Telegraph Departments, as well as other services, into amalgamated "self-contained services" which might deprive the Tanganyika Government of considerable revenue and power to expend such revenue, thereby affecting the fiscal policies of the Trust Territory and indirectly affecting social and educational policies. For the detailed statement made by the special representative of the Administering Authority, see the Report of the Trusteeship Council, General Assembly Official Records: Fifth Session, Supplement No. 4 (A/1306), p. 211.

*/ Subject to approval by the Trusteeship Council at the eleventh session.

77. With regard to the functioning of these two organizations, the Second Visiting Mission to East Africa expressed the opinion that the "amalgamation of the Tanganyika railways with the Kenya and Uganda railways has resulted in substantial advantages for Tanganyika", and that "it should be recalled that the East African Posts and Telegraph Department has existed as a combined service since 1934 and that the main effect of the 1947 proposals was to convert it into a department with its own self-contained financial accounts" (T/946, pages 36-37).

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

Effect of the common customs policy on Tanganyika

79. The Committee on Administrative Unions, 1950, stated in its report (A/1306, p. 212):

"17. 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.

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

"19. The special representative stated that it cannot be said that secondary industries are as yet well developed in any part of East Africa.

*/ Subject to approval by the Trusteeship Council at the eleventh session.

He regretted that he was unable to give figures concerning secondary industries in Kenya and Tanganyika as requested, since these were not available.

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

80. The Second Visiting Mission to East Africa observed that the three Territories have virtually the same customs and excise tariffs and pursue parallel policies in their systems of price control and of import and export controls (T/946, page 38). But it emphasized that this arrangement does not fall within the scope of the East Africa High Commission. It continued: "Undoubtedly, a number of practical difficulties arise from the existence of this incomplete customs union. It is important, however, that the Tanganyika Government should retain in full its right to control the economy of the Territory and to direct its future economic development, while pursuing the aim of uniformity whenever this is consistent with Tanganyika's interests."

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

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

"The Council, although realizing that customs arrangements are not within the competence of the East Africa Inter-territorial Organization, is nevertheless of the opinion that customs arrangements are closely connected with the operations of the administrative union, and hopes that the Administering Authority will take all necessary precautions to ensure that the financial interests of the Trust Territory are in no way subordinated to the other territories participating in the administrative

union and to ensure that the appropriate organs of Tanganyika are given full opportunity to express their views on all matters relating to customs arrangements".^{J*/}

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

83. The Committee on Administrative Unions, 1950, in its report (A/1306, p. 212) noted that "The special representative of the Administering Authority stated that an international convention would be applied to Tanganyika even in cases when circumstances in Kenya or Uganda would not allow such application."

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

85. Regarding the effects of the Organization on the social advancement of the inhabitants the special representative referred the Committee on Administrative Unions, 1950, to the fact that social advancement of the inhabitants is not among the subjects of the amalgamated services. The Committee, however, noted in its report (A/1306, page 212) "that a very large number of the inhabitants of Tanganyika will come directly or indirectly within the purview of the High Commission in respect of social matters and working conditions of the employees of the common services, provisions concerning the hygiene and security of their employment, social insurance, invalidity and old age pension scheme, unemployment insurance; all these and other questions will be influenced by the social policy of the High Commission in respect of its public servants in Tanganyika."

*/ Subject to approval by the Trusteeship Council at the eleventh session.

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

86. At its ninth session the Council adopted the following conclusions:
- "(a) Takes note of certain discussions in the East African Central Legislative Assembly;
 - "(b) Notes also that a resolution for closer co-operation in the field of communications and defence was adopted;
 - "(c) Notes, furthermore, that the African representatives in the East African Central Legislative Assembly had opposed this resolution;
 - "(d) Takes note in this connexion of the statement of the representative of the Administering Authority that the Central African Council to whom this resolution was addressed had up to the present made no response and that, in these circumstances, the resolution remained inoperative and could have no effect on the question of the administrative union affecting Tanganyika."

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

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

- (a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;
- (b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement."

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

88. The considerations set out in paragraph 1 of Assembly Resolution 326 (IV) were the subject of observations by the Council transmitted to the Assembly under Trusteeship Council Resolution 293 (VIII). Moreover, the Council in its

/annual review

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

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

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

"Notes that part 1, Section 3, of the East Africa (High Commission Order in Council, 1947) limits the duration of the East Africa Central Legislative Assembly, its composition and functions, to a period of four years, and that all provisions concerning the East Africa Central Legislative Assembly shall cease to have effect on 1 January 1952;

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

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

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

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

"Notes with appreciation the statement of the Administering Authority that it will inform the Standing Committee in due course

/when decisions

when decisions concerning the future status of the East African Central Legislative Assembly have been reached;

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

(c) In this connection the Council

(i) notes that the Standing Committee on Administrative Unions was informed by letter dated 6 December 1951 of the United Kingdom Delegation that the East Africa (High Commission) (Amendment) Order in Council 1951 had come into operation, the effect of which was to continue in operation until 31 December 1955 Parts III and IV of the East Africa (High Commission) Order in Council 1947, and

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

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

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

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

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

/"That the

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

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

"With regard to the safeguards enumerated in sub-paragraph 7 (a) of the Trusteeship Council's Resolution 293 (VII), the Standing Committee notes that the annual reports on the administration of Tanganyika for 1949 and 1950 contain separate financial, statistical and other data relating to the Territory of Tanganyika. It notes, however, that some services under the East African High Commission, namely, the East African Posts and Telegraphs Department and the East African Railways and Harbours Administration, are so closely integrated that it is impracticable to give separate financial figures for the Territory of Tanganyika alone."

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

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

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

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

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

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

* Subject to the approval of the Trusteeship Council at its eleventh session.
/"Notes

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

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

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

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

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

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

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

"Noting that the East Africa High Commission may, with the approval, signified by resolution, of the Legislative Councils of the Territories and with the consent of the Secretary of State, by Orders duly published, add to the list of common services or subjects set out in the Order-in-Council, 1947, provided that, if the High Commission shall be satisfied

/that there has

that there has been substantial opposition, in the Legislative Council of any one or more of the Territories, to the passing of any such resolution, the High Commission shall not proceed to make any such "Order, until a motion for such a resolution has again been proposed and debated in the Legislative Council or Councils in question, nor, if the consent of a Secretary of State has previously been obtained, until such consent has again been obtained.

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

"Notes the assurance of the representative of the United Kingdom that the fullest consideration would be given to the wishes of the people in this, as in other matters."

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

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

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

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

/"Expresses

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

(c) The Council is of the opinion that the Administering Authority should continue to ascertain public opinion in the Trust Territory before any further changes are made with regard to the East Africa Inter-Territorial Organization and should inform the Council to that effect.

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

94. The Trusteeship Council

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

(b) Recognizing that such arrangements should not, in any way, interfere with the progressive development of the Trust Territory and that the interests of Trust Territory should not be subordinated to the interests of any of the other Territories participating in the Administrative Union;

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

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

/(2) Is not

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

(3) Remains therefore of the opinion that all the operations of the Administrative Union affecting Tanganyika must be continually examined so as to insure that the inter-territorial arrangements do not interfere with the attainment of the objectives of the trusteeship system.

CHAPTER IV

The Administrative Union affecting the Trust Territory of Ruanda-Urundi

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

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

B. LAWS ESTABLISHING THE ADMINISTRATIVE UNION

96. See report of the Trusteeship Council covering its first special session, its second special session, and its sixth and seventh sessions. General Assembly, Official Records: Fifth Session, Supplement No. 4 (A/1306), (Chapter VI, A, paragraphs 1-3, pages 200-201).

97. In the Standing Committee on Administrative Unions at its fourteenth meeting, the representative of the Administering Authority made the following additional statements and corrections to the statement made before the Committee on Administrative Unions on 27 January 1949, as contained in paragraph 3 of Chapter VI, A, of the Report of the Committee on Administrative Unions (A/1306) regarding the actual operation of the administrative union of Ruanda-Urundi and the Belgian Congo.

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

/(b) the representative

(b) The representative of the Administering Authority further stated that an explanation of the historical events leading to the establishment of the Vice-Government-General of Ruanda-Urundi might help to dispel any anxieties the Council might have in that respect. In the early years of the century, the Katanga Province of the Belgian Congo had been constituted a Vice-Government-General in order to expedite and simplify administration. Communications between Elizabethville, the chief town in Katanga Province, and Brussels were much faster than between Boma, the administrative centre of the Belgian Congo, and Elizabethville. It was, therefore, decided to give the governor of Katanga wider powers than the other provincial governors, and to permit him to communicate directly with Brussels. He was granted, in his province, the same executive and the same emergency legislative powers as the Governor-General himself.

The Governor of Ruandi-Urundi was granted the status of Vice-Governor-General in order to leave no doubt as to his legislative and executive powers, which are the same as the Governor-General's.

In later years, the status of Vice-Governor-General was abolished as far as provincial governors of the Belgian Congo are concerned. It was retained for the Governor of Ruanda-Urundi alone.

(c) The representative of the Administering Authority further stated that the Governor-General of the Congo is the head of the administrative union; nevertheless, his powers with regard to Ruanda-Urundi are exercised only in such union matters as customs. On all other matters, the Vice-Governor-General of Ruanda-Urundi has equal and independent executive and legislative powers. For this reason, the sentence sub (d) paragraph 3, chapter III, giving a summary of the statement made by the representative of Belgium in the Committee on Administrative Unions on 27 January 1949 (T/236) which reads as follows: "The laws of the Belgian Congo are applied to Ruanda-Urundi with the concurrence of the Vice-Governor-General" is incorrect. It would be more correct to say "The laws of the Belgian Congo are applied to Ruanda-Urundi by act of the Vice-Governor-General", since all laws are applied to Ruanda-Urundi by ordinance of the Vice-Governor-General.

(d) The representative of the Administering Authority further stated that the First Visiting Mission's statement that Ruanda-Urundi was placed on
/the same

the same footing as a province of the Belgian Congo and that high native policy in Ruanda-Urundi was decided in Leopoldville appears to be based on a misconception. No provincial governor in the Belgian Congo has comparable status to the Vice-Governor-General of Ruanda-Urundi.

Furthermore, high native policy was not decided in Leopoldville. The Decree of 14 October 1943 on the political organization of Ruanda-Urundi and the law concerning indigenous courts in Ruanda-Urundi were quite unlike anything existing in the Belgian Congo. They had been enacted by the King on the direct proposal of the Vice-Governor-General without the intervention of the Governor-General of the Belgian Congo, except in an advisory capacity

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

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

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

(h) To the Second Visiting Mission's comments on educational policy in the

/Trust Territory

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

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

98. The Council endorses the opinion expressed by the Second Visiting Mission in its Report, (T/948), dated 27 December 1951, under chapter I (C)^{4/} to the effect that, while the existing practical arrangements linking the Belgian Congo and Ruanda-Urundi do not impair the separate status and identity of the Trust Territory, and while it appears that, under existing practices, the Administration of the Trust Territory exercises considerably more independence of action than would be indicated under a strict reading of the instruments establishing the administrative union, nevertheless a higher degree of formal independence on the part of the Administration of Ruanda-Urundi is warranted.

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

99. At its third Session, the Trusteeship Council observed that the Trust Territory of Ruanda-Urundi had been united administratively with the Belgian Congo since 1925, but took note of the assurance of the Administering Authority that its separate juridical personality had been preserved and expressed the

^{4/} See paragraph 114 below.

hope that in view of the fact that Ruanda-Urundi was now a Trust Territory, its separate political entity would continue to be preserved, either by a revision of the law of 21 August 1925 or by some other suitable measure.

100. The first Visiting Mission to the Trust Territory (1948), in its report, (T/217), dated 31 October 1948, made a few comments on the question of the administrative union of Ruanda-Urundi with the Belgian Congo. It appeared to the members of the Mission that Ruanda-Urundi certainly has a distinct personality of its own, which did not seem to be threatened by the administrative union. The Mission gave examples of advantages of this union: the Territory's ability to enjoy the benefit of the skilled technical services of the Government-General and the participation of Ruanda-Urundi in the Native Welfare Fund. On the other hand, the Mission stated that, under the present system, based on the law of 21 August 1925, Ruanda-Urundi is placed on the same footing as a province of the Belgian Congo. Although it is true that Belgian Congo legislation applies to it only under special guarantees, high Native policy in Ruanda-Urundi is nevertheless decided in Leopoldville, where the laws are drafted.

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

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

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

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

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

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

102. The Government of Belgium replied to these suggestions as follows:

(a) It would not be possible to consider a more flexible system of control of Ruanda-Urundi by the Governor-General of the Belgian Congo since, apart from the needs of the custom union, which involved a single
/administration

administration in respect of customs, Ruanda-Urundi had in practice a political, economic and social life entirely independent of the Congo (T/AC.14/28, page 13);

(b) According to its view the status of Ruanda-Urundi was entirely different from that of a province of the Belgian Congo (T/AC.14/18, page 13);

(c) It sees no advantage to the Territory in making the government of Ruanda-Urundi directly responsible to the Minister of Colonies at Brussels. According to its view, all the benefits derived from the close collaboration with the Belgian Congo would be lost (T/AC.14/28, page 13);

(d) In practice, no legislative provision or administrative measure was adopted by the Governor-General for Ruanda-Urundi without previous consultation with the Governor of that Territory (T/AC.14/28, page 6).

103. In this connexion, the Government of Belgium stated (T/AC.14/28, page 19) that it was not accurate to speak of an amalgamation of services and common legislation, because the legislation of Ruanda-Urundi and that of the Belgian Congo were not identical and because all the administrative departments of the Trust Territory, although the administrative services of the two territories were identical in structure, were directly subordinate to the Governor of Ruanda-Urundi. The interdependence of the administrative departments had the advantage of allowing a more suitable choice of personnel for Ruanda-Urundi and in view of the fact that the Trust Territory had many economic characteristics identical with those of certain regions of the Belgian Congo, many legislative provisions of the Colony may be applied successfully to Ruanda-Urundi. The employment of experienced staff and the rational application of legislation, evolved from experience and study carried out in the Belgian Congo, had spared Ruanda-Urundi many costly experiments and it was for that reason that the economic position of Ruanda-Urundi had developed as rapidly as it had done. Furthermore, the Government of Belgium stated (T/AC.14/28, page 16) that, if there were substantial opposition on the part of the indigenous population to the administrative union, the whole scheme would be reviewed.

104. At its third session, the General Assembly, in Resolution 224 (III), endorsing the observation of the Trusteeship Council given in paragraph 99 above, recommended inter alia that

"the Trusteeship Council should...

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

/preserve

preserve the distinct political status of the Trust Territories and to enable the Council effectively to exercise supervisory functions over sub-territories;

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

105. The Committee on Administrative Unions constituted by the Trusteeship Council at its fourth meeting of the fourth session on 27 January 1949 in its final report of 11 July 1950 (T/L.96) dealing with "general characteristics of the administrative union of Ruanda-Urundi and the Belgian Congo" made the following observations:

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

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

"It is worthy of note that in the report of its seventh session (19-30 October 1925, C.649.M.238, 1925, VI) the Permanent Mandates Commission of the League of Nations examined the text of the law on the administration of Ruanda-Urundi dated 21 August 1925. The representative of the Belgian Government stated that the Mandatory Power, conforming strictly to the terms of the Mandate, was, in framing the law, in no way influenced by any desire for annexation. He further declared that no provision of the law was intended to confer upon the inhabitants of the Territory the status of Belgian subjects. He added

/that the

that the Belgian Government in no respect wished to change the policy of indirect administration in the Mandated Territory."

106. In the same report (T/L.96), the Committee on Administrative Unions agreed that there was no evidence to indicate that the administrative union of Ruanda-Urundi and the Belgian Congo is incompatible with the provisions of the Charter of the United Nations and the Trusteeship Agreement for Ruanda-Urundi. On the contrary, the operation of the administrative union was at present well within the framework of the existing instruments.

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

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

109. In this connexion the Committee took note of a statement made by the representative of the Government of Belgium that preparation of a code of laws (recueil des lois) was undertaken for the Territory of Ruanda-Urundi, and of his

/statement that

statement that this was another proof that the Trust Territory was not to be compared with a province of the Belgian Congo.

110. The Committee felt that the Administering Authority should consider the desirability of reviewing the legal form of the administrative arrangements between Ruanda-Urundi and the Belgian Congo with a view to bringing it more fully into accord with the existing practices.

111. At its seventh session, the Council adopted resolution 293 (VII) addressing itself to the considerations enumerated in General Assembly Resolution 326 (IV). For the Council's conclusion see paragraphs 125, 126, 127, 128 and 129 below.

112. In the same resolution the Trusteeship Council

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

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

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

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

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

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

/"noting the

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

114. The Second Visiting Mission to East Africa, in its report (T/948), dated 27 December 1951, under Chapter I(C) made the following comments on the question of the administrative union of Ruanda-Urundi with the Belgian Congo:

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

"75. The Mission made particular inquiries on the question of the degree to which the educational policy of the Trust Territory is determined by the authorities of the Belgian Congo and is made to accord with educational policies of that Non-Self-Governing Territory. The Mission was informed that the basis for the organization of

/education in

education in Ruanda-Urundi is the system set forth in the pamphlet 'Organisation de l'enseignement privé pour indigènes avec le concours des sociétés de missions chrétiennes' as planned by the Government-General of the Congo in 1948. In particular the Mission was informed as follows: 'The types of schools, subsidies and curricula are also determined by the general principles set forth in that pamphlet. It has also served as a basis for the educational programme contained in the Ruanda-Urundi Ten-Year Plan, the requirements and means of implementation of which have been determined by the authorities of Ruanda-Urundi.'

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

"77. The Mission is of the opinion that the existing practical arrangements linking the Belgian Congo and Ruanda-Urundi do not impair the separate status and identity of the Trust Territory. This observation applies not only to its legal status but in a much wider sense as well; from the standpoints of population, language, culture, social organization and resources - to mention only the more noteworthy factors - Ruanda-Urundi is in fact a distinct entity. The Mission feels that, in view of its separate characteristics, the Territory requires the formulation and execution of programmes designed especially for it. The Mission was glad to note that the Ten-Year Plan for Ruanda-Urundi was drawn up specially for it and that a separate plan has been prepared for the Territory to which it is linked in an administrative union. The need for independence of action on the part of the officials responsible for the administration of the Trust Territory is already recognized to a

/considerable extent

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

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

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

"The Trusteeship Council, noting the conclusions reached by the Standing Committee on Administrative Unions (T/1011), is of the opinion that the law of 21 August 1925 was not sufficiently precise with regard to provisions of the Trusteeship Agreement, and recommends that the Government of Belgium should give further consideration to bringing the law of 1925 into accord with present-day practices.

(b) "The Trusteeship Council, noting that the Second Visiting Mission,

/in its report

in its report dated 27 December 1951 (T/948) under chapter 1 (c), had drawn attention to the situation arising from the existence of a common education system for the Trust Territory of Ruanda-Urundi and the Belgian Congo as set forth in the pamphlet Organisation de l'enseignement privé pour indigènes avec le concours des sociétés de missions chrétiennes, issued by the Governor-General of the Congo in 1948 and noting that the representative of the Belgian Government explained to the Standing Committee that the pamphlet was devoted to a consideration of certain general technical issues and that the Ruanda-Urundi Ten-Year Plan had taken into consideration the particular educational needs of the Territory, expresses the hope that the Belgian Government would continue to apply to the Trust Territory educational measures specially and distinctively designed for the particular requirements of the Trust Territory."*/*

Separate Financial, Statistical and Other Data

116. For recommendations and conclusions on this subject see paragraph 126 below.

Visiting Mission

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

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

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

*Subject to the approval of the Trusteeship Council at its eleventh session.

"With regard to the safeguards enumerated in sub-paragraph 7 (b) of Trusteeship Council resolution 293 (VII), the Council notes that neither the Committee on Administrative Unions nor the Council had expressed any doubts concerning the willingness of the Belgian Government to facilitate the access of visiting missions to such information on the administrative union of Ruanda-Urundi with the Belgian Congo as might be necessary to enable them to report fully on the Trust Territory of Ruanda-Urundi. The Council notes in that connexion that the report on Ruanda-Urundi dated 27 December 1951 (T/948) of the United Nations Visiting Mission to Trust Territories in East Africa, 1951, stated that a meeting with the Governor-General of the Belgian Congo had taken place on 23 July 1951 in Leopoldville, in the Belgian Congo, and that on 16 October 1951 the Mission had had an interview with the Minister for Colonies and officials of the Ministry in Brussels."/*

Maintenance of Boundaries, Separate Status and Identity

119. At its ninth and eleventh sessions, the Council adopted, on the recommendation of the Standing Committee, the following conclusions and recommendations:

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

Expenditure in the Trust Territory

120. At its ninth session the Council adopted on the recommendation of the Standing Committee the following conclusions and recommendations:

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

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

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

[121. At its eleventh session the Council adopted on the recommendation of the Standing Committee the following conclusions and recommendations:

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

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

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

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

Therefore estimated expenditure on the administration, welfare and development of Ruanda-Urundi for the last three years was not less than the total amount of estimated public revenue derived from the Trust Territory."7*

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

- (a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;
- (b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the trusteeship agreement."

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

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

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

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

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

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

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

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

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

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

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

"With respect to the safeguards enumerated in sub-paragraph 7 (a) of Trusteeship Council resolution 293 (VII), the Council notes that the annual reports on the administration of Ruanda-Urundi

for 1949 and 1950 contained separate financial, statistical and other data relating to the Trust Territory."

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

127. Paragraph 1 (c) of Resolution 326 (IV) refers to "the desirability of establishing a separate judicial organization in each Trust Territory."

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

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

(b) In this connexion the Council takes note of the statement of the representative of Belgium made on 6 June 1952 at the fourteenth meeting of the Standing Committee on Administrative Unions that no judicial union exists between Ruanda-Urundi and the Belgian Congo and that the Trust Territory has its own subordinate tribunals and appeal court.

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

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

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

"The Council, recalling that, in 1949, the Administering Authority had appointed the Bami as ex officio members of the Council of Vice-Government-General with African alternates, noting with satisfaction that, in 1951, one more indigenous member and alternate have been appointed to this Council, recommends that the number of African members on this Council be further increased."

(c) In this connexion reference is made to the statement of the representative of Belgium as contained in paragraph 97 (b) above. 129. Paragraph 1 (e) of 326 (IV) refers to "the desirability of taking into account, before any administrative, customs or fiscal union is established or extended in its nature or scope, the freely expressed wishes of the inhabitants of the Trust Territories concerned."

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

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

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

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

130. The Trusteeship Council

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

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

(c) Recalling that under Article 76 (b) of the Charter one of the basic objectives of the trusteeship system shall be "to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples concerned, and as may be provided by the terms of each trusteeship agreement;"

(d) Considering that the law of 21 August 1925 establishing the administrative union between Ruanda-Urundi and the Belgian Congo is not fully consistent with present administrative practices and is not sufficiently precise with regard to the provisions of the Trusteeship Agreement;

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

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

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

CHAPTER V

THE ADMINISTRATIVE UNION AFFECTING TOGOLAND
UNDER BRITISH ADMINISTRATION

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

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

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

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

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

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

B. LAWS ESTABLISHING THE ADMINISTRATIVE UNION

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

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

/directly

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

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

139. The four districts of the Northern Section of Togoland under British Mandate were reorganized by the Order of 1 September 1932 in such a way that their boundaries coincide with those of the three native states which had been divided by the arbitrary Anglo-German boundary (Annual Report for 1932, page 6).

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

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

142. The Report and the Despatch were given detailed examination in the Select Committees of the Gold Coast Legislative Council where the interests of the Trust Territory, according to a statement of the Annual Report on the Administration of Togoland for 1949, were fully represented.

143. A new constitution for the Gold Coast and the Trust Territory of Togoland under British Administration came into force at the beginning of 1951. The instruments establishing the new constitution are the Gold Coast (Constitution) Order-in-Council, 1950; the Letters Patent and Royal Instructions passed to the Governor by the Administering Authority; the Northern Territories of the Gold Coast Order-in-Council, 1950; and the Togoland under United Kingdom Trusteeship (Amendment) Order-in-Council, 1950, which may be outlined as follows:

The Gold Coast (Constitution) Order-in-Council, 1950^{5/}

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

145. The Executive Council, which is the principal instrument of policy consists of: (1) the Governor as President, (2) the Prime Minister and not less than seven other Representative Members, and (3) three ex-officio Members.

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

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

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

^{5/} Statutory Instruments, 1950, No. 2094 Gold Coast.

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

150. Each Ministry has a Permanent Secretary who is appointed by the Governor, acting in his discretion. Each Permanent Secretary exercises, subject to the general direction and control of the Minister, supervision over the department or departments in the charge of his Minister.

151. The Legislative Assembly legislates for the whole of the Gold Coast, i.e. the Gold Coast Colony, Ashanti, the Northern Territories and Togoland under United Kingdom Trusteeship and consists of (1) a Speaker, (2) three ex-officio Members, (3) six Special Members and (4) seventy-five Elected Members.^{6/}

152. Of the six Special Members, three are elected by the Chambers of Commerce, and three are elected by the Gold Coast Chamber of Mines, only two of the six Special Members have votes on any question proposed for decision in the Assembly itself.

153. For the Colony there are thirty-seven Members consisting of:

- (1) Eleven Territorial Members elected by the Joint Provincial Council;
- (2) One Territorial Member elected by the Southern Togoland Council;
- (3) Twenty-one Rural Members;
- (4) Four Municipal Members.'

154. For Ashanti there are nineteen Members, consisting of:

- (1) Six Territorial Members elected by the Asanteman Council;
- (2) Twelve Rural Members;
- (3) One Municipal Member.

155. For the Northern Territories, including the Northern Section of Togoland, there are nineteen Members who shall be elected by the Electoral College of the Northern Territories of the Gold Coast.

156. The Legislative Assembly may pass laws for the peace, order and good government of the Gold Coast, provided that should any such law be repugnant

6/ "A 1952 amendment to the constitution provides that the three Territorial Members for the new Trans Volta/Togoland Region shall be elected by a special Electoral College for the Region. No such election has yet been held or will be held unless the need arises in the normal course of events."

to any provision of the Trusteeship Agreement approved by the General Assembly of the United Nations on the thirteenth day of December 1946, in respect of Togoland under United Kingdom Trusteeship, such law shall to the extent of such repugnancy, but not otherwise, be void in the Territory.

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

158. Any Member may introduce any Bill or propose any Motion for debate or present any petition to the Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Assembly. However, unless the consent of the Governor has first been obtained, the Assembly may not proceed upon any Bill, amendment, motion or petition which:

- (1) would amount to a money measure;
- (2) would affect the salaries or conditions of service of public officers;
- (3) which provides for the final determination of questions relating to constitutional matter affecting traditional authorities.

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

160. The Governor will not make any such declaration except in accordance with the following conditions:

- (1) in accordance with a resolution of the Executive Council; or
- (2) if the Executive Council, having been consulted, fails to resolve that the declaration be made, then:

the Governor may, if the Secretary of State consents, make the declaration; or

the Governor may make the declaration without submitting the question to the Secretary of State, if, in the Governor's opinion, urgent necessity demands that the declaration be made without obtaining the authority of the Secretary of State, but he must immediately report his action to the Secretary of State.

161. The Secretary of State may revoke any such declaration other than a declaration relating to a Bill. No Bill shall become law until the Governor shall have assented to it in Her Majesty's name or Her Majesty shall have given her assent. The Governor must, unless he has been authorized by a Secretary of State to assent, reserve for Her Majesty's pleasure:

any Bill which is in any way inconsistent with the provisions of this Order-in-Council; any Bill which determines or regulates the privileges, immunities or powers of the Assembly or its Members.

Letters Patent

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

Royal Instructions

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

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

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

166. The Governor is prohibited from assenting to Bills which fall within certain classes without first having obtained Her Majesty's instructions. The

/Governor may,

Governor may, if urgent necessity so requires, assent to any of such Bills (except one inconsistent with treaty obligations) but must immediately send to Her Majesty the Bill and his reasons for so assenting.

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

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

The Togoland under United Kingdom Trusteeship
(Amendment) Order-in-Council 7/

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

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

(b) So far as the same may be applicable, and subject to the provisions of the Gold Coast (Constitution) Order-in-Council, 1950, the laws for the time being in force in the Colony shall, as from the date of the

commencement of this Order, apply to and be the laws in force in the Southern Section: Provided always that, should any such law so applied as aforesaid be repugnant to any provision of the terms of the Trusteeship Agreement, such law shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative: Provided further that no law in force in the Colony at the date of the commencement of this Order, the application of which is expressly or by necessary implication restricted to the Colony, shall apply to the Southern Section by reason only of the provisions of this section.

170. The actual operation of this administrative union may be characterized as follows:

- (a) The Governor and Commander-in-Chief of the Gold Coast is the Governor and Commander-in-Chief of the Trust Territory. In the exercise of all of his powers the Governor must consult the Executive Council and he must act in accordance with the advice of the Executive Council on any matter he is obliged by the Constitution to consult with it. These two rules are subject to certain exceptions which are set out in the Instructions of His Majesty the King. In addition there are certain powers which the Governor is directed or empowered to exercise in his discretion.
- (b) Within the larger administrative framework of the northern and southern parts of the Gold Coast, the Northern and Southern Section of Togoland are divided into administrative districts, some of which extend across the border between the Gold Coast and the Trust Territory.
- (c) Togoland shares with the Gold Coast a common budget and common administrative and technical services. These services are under the supervision and general control of members of the Executive Council which at the present time does not include any inhabitants of the Trust Territory.
- (d) The Trust Territory and the Gold Coast have a common Legislative Assembly composed of 84 members. Five of these, in the first Legislative Assembly established under the new Constitution, are inhabitants of the Trust Territory, and a sixth normally lives there.^{8/} The Legislative Assembly legislates for both the Gold Coast and the Trust Territory. It should be noted in this connexion that the Togoland under United Kingdom Trusteeship (Amendment Order-in-Council) 1950 provides that laws, repugnant

^{8/} According to the statement of the special representative in the Trusteeship Council (T/FV.430) he "is a Dagomba and he spends his life just on the border. In fact he has lived mostly in the Territory; technically he was born just outside of it."

to any terms of the Trusteeship Agreement shall to the extent of such repugnancy be and remain absolutely void and inoperative in the Trust Territory.

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

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

171. At its third session the General Assembly in Resolution 224 (III) recommended, inter alia, that

"the Trusteeship Council should....

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

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

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

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

173. The United Nations Visiting Mission to Trust Territories in West Africa, 1949, in its report to the Trusteeship Council (T/465) made the following observations:

/"The Visiting

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

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

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

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

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

"The form of that autonomy is naturally of importance to the future of

Togoland, since the Trust Territory is not, under the present system of administration, evolving separately. From the Administering Authority's point of view, according to the most recent statement of policy available to the Mission, the objective of the United Kingdom Government is to assist the people of the Gold Coast by all means in their power in their progress towards responsible government within the British Commonwealth.^{9/} The objective for Togoland, as defined in Article 76 b of the United Nations Charter, is progressive development towards 'self-government or independence' as may be appropriate to the particular circumstances of the Territory and its peoples and the freely-expressed wishes of the people concerned. To suggestions in the Trusteeship Council at its fourth session that the objective for the Gold Coast might appear more restrictive than that for the Trust Territory, the representative of the Administering Authority, it will be recalled, emphasized that when the people of the Trust Territory had reached a sufficient stage of development to enable them to take their full place in world affairs, it would be for them to decide whether they proposed to do so as an independent unit or in association with people similarly placed.^{10/}

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

"The Mission feels that whatever considerations of principle may be involved should be left to the Trusteeship Council, and that its own proper function is to bring to the Council's attention such trends of public opinion as appear to exist within the Trust Territory as to its political and administrative status. In summary, these trends of opinion follow two distinct lines, differing sharply between the northern and southern parts of the Trust Territory. In the north, as has been shown, the principal chiefs are asking for the complete absorption of the Trust Territory areas

^{9/} Gold Coast: Statement by H.M. Government on the Report of the Committee on Constitutional Reform (Colonial No. 250).

^{10/} See Official Records of the Trusteeship Council, Fourth Session, 21st meeting, page 290.

into the Northern Territories of the Gold Coast. In the south, as will be shown below, a majority of the principal chiefs, supported by educated and partially-educated elements of the community, are asking for administrative unification of the northern and southern parts of Togoland and the establishment for the whole Trust Territory of a separate organ of government. This appears to be regarded by them, however, as an essential step towards the unification of the two Togolands.

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

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

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

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

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

/"(b) That the

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

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

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

Constitution for the Gold Coast and Togoland

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

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

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

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

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

"The Council, taking into consideration that the Gold Coast (Constitution) Order-in-Council, 1950, and Togoland under United Kingdom Trusteeship Order-in-Council, 1949, provides that no laws shall be applied to the Trust Territory which are repugnant to any provision of the terms of the Trusteeship Agreement, is of the opinion that, as far as the /constitutional

constitutional framework is concerned the interests of the inhabitants of the Trust Territory are adequately protected. The Council feels, however, that in view of the special status of the Trust Territory in international law, the practical implementation of the new arrangements should be kept under constant review by the Trusteeship Council."

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

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

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

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

/Council

Council has considered the Ewe and Togoland Unification problem".]*

Separate Financial, Statistical and other Data

178. At its ninth and eleventh sessions the Council adopted conclusions concerning separate financial, statistical and other data which are set out in paragraph 187 below.

Visiting Mission

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

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

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

Maintenance of Boundaries, Separate Status and Identity

181. At its ninth and eleventh sessions the Council adopted the following conclusions:

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

Expenditure in the Trust Territory

182. At the ninth session the Council adopted the following conclusions:

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

1948-49	1949-50
£473,800	£779,621

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

1948-49	1949-50
£614,443	£799,735

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

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

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

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

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

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

(ii) Therefore, estimates of expenditures on the administration, welfare, and development of Togoland under British administration for the last three fiscal years were not less than the estimates of total public revenue derived from the Trust Territory. 11/7*

11/ For further explanation of these estimates, see paras. 227-241 of the Annual Report on Togoland under United Kingdom trusteeship for the year 1951.

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

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

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

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

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

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

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

(b) The Standing Committee noted the statement of the Representative
/of the Administering

of the Administering Authority that his government would ensure that any important departure from the current arrangements would be brought to the Council's attention at a formative stage.

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

(a) With respect to the above, the Trusteeship Council in its Resolution 293 (VII) made no observations or recommendations, but the Council drew the attention of the Administering Authority, inter alia, to the following safeguard:

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

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

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

//(c) At its

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

- "(i) The annual report on the administration of Togoland under British administration for 1951 provides estimates of the Territory's revenue and expenditure.
- "(ii) The annual report for 1951 contains a statement with respect to commerce and trade, according to which 'it would be impossible without placing a cordon around the Territory to provide exact figures of the Territory's trade' and 'such a cordon is of course unthinkable and would in any event be too high a price in interference in the movement of goods and people as well as in cost to pay for the production of trade figures.' The Administering Authority states that 'in response to a request from the Trusteeship Council, an attempt has been made to estimate the Territory's trade' and in so doing explains that 'the figures provide no more than a very rough guide to the Territory's trade;'
- "(iii) The Administering Authority has described in the Annual Report for 1951 the methods employed in the preparation of separate statistics of trade and commerce;
- "(iv) The special representative of the Administering Authority stated that, with experience, ways would be found of removing some of the vagueness which now existed and of improving the accuracy of the data given;
- "(v) In accordance with the undertaking of the Administering Authority given in 1951, separate statistics for purchases of cocoa from the Territory had been reported by the Cocoa Marketing Board, and separate statistics have been provided for purchases made in the Territory by the Agricultural Procedure Marketing Board."¹⁸⁸*

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

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

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

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

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

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

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

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

191. The Trusteeship Council

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

/(b) Recognizing

- (b) Recognizing further that the present arrangements associating the administration of Togoland with that of the Gold Coast have been in effect for a period of some thirty years;
- (c) Recalling that by Article 5 (a) of the Trusteeship Agreement the Administering Authority shall administer the Territory in accordance with its own laws as an integral part of its territory with such modification as may be required by local conditions and subject to the provisions of the United Nations Charter and of the Trusteeship Agreement;
- (d) Recalling further that by Article 5 (b) of the Trusteeship Agreement the Administering Authority shall be entitled to constitute the Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control, and to establish common services between such territories and the Territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this Agreement;
- (e) Recalling that under Article 76 (b) of the Charter one of the basic objectives of the trusteeship system shall be "to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples concerned, and as may be provided by the terms of each trusteeship agreement";
- (f) Noting that the General Assembly at its 7th session will have before it a special report on the Ewe and Togoland Unification problem, which may bear on the question under consideration;
- (g) Recognizing particularly that the introduction of the Gold Coast Constitution gives to the inhabitants of Togoland in association with the inhabitants of the Gold Coast a considerable degree of participation in self-governing institutions;
- (1) Is of the opinion that the present administrative arrangements for Togoland, although prejudicing perhaps the progressive development of the territory towards a separate independent status, are nevertheless conducive to the attainment of the objectives as set forth in Article 76 of the Charter and are capable of

/accelerating

accelerating the progressive development of the territory towards self-government within the wider framework of the political future of the Gold Coast;

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

CHAPTER VI

THE ADMINISTRATIVE UNION AFFECTING THE TRUST TERRITORY OF CAMEROONS UNDER BRITISH ADMINISTRATION

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

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

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

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

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

196. For further details, see T/AC.14/4, p.2.

B. LAWS ESTABLISHING THE ADMINISTRATIVE UNION

197. The British Cameroons, Order-in-Council of 26 June 1923 provides that "the portions of the British Cameroons which lie to the northward, of the line described in the Schedule of this Order shall, subject to the provisions of the aforesaid mandate, be administered as if they formed part of the Northern Provinces of the Protectorate..." The portion of the British Cameroons southward of the line mentioned above was to be administered as if it formed part of the Southern Provinces of the Protectorate. The Governor was authorized to vary the line of administrative delimitation defined by the Schedule "by proclamation issued with His Majesty's approval, signified through a Secretary of State."

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

199. In accordance with section 6 of this Order-in-Council, "the portions of the Cameroons which lie to the northward, and the portions of the Cameroons

/which lie

which lie to the southward, of the line described in the schedule of this order shall, subject to the provisions of the ... Mandate or to the provisions of any terms of Trusteeship which may hereafter be approved by the United Nations, be administered as if they formed part of the Northern Provinces of the Protectorate and of the Southern Provinces of the Protectorate respectively".

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

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

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

203. The new constitution^{12/} which came into force for Nigeria and the Cameroons in 1951 by means of the Nigeria (Constitution) Order-in-Council, 1951, may be outlined as follows:

The Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria is the Governor and Commander-in-Chief of the Cameroons. In Nigeria, including the Cameroons, there are a Central Executive and a Central Legislative

^{12/} For further details; see T/C.1/L.28.

House with powers over the whole of the Colony, Protectorate and Trust Territory, and Regional Legislatures and Executives in each of the three Regions.^{13/} The Northern Regional Executive and Legislature have powers over the whole of the Northern Region, including the Northern Cameroons, and the Eastern Regional Executive and Legislature have powers over the whole of the Eastern Region, including the Southern Cameroons.

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

205. The House of Representatives which is the Central Legislature for Nigeria consists of:

- (a) a President
- (b) six Ex-officio Members
- (c) one hundred and thirty-six Representative Members
- (d) not more than six Special Members.

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

206. Sixty-eight of the Representative Members are elected by the joint Council of the Northern Region from among the members of the Northern House of Chiefs and

^{13/} Nigeria was originally divided into the Northern and Southern Provinces. Later Nigeria was divided into the Northern, Western and Eastern Provinces which are now called Regions.

the Northern House of Assembly. They must include in respect of each Province in the Northern Region at least one member of the Northern House of Chiefs and one elected member of the Northern House of Assembly representing that Province therein. Thirty-four of the Representative Members are elected from the Western Region, and the remaining thirty-four from the Eastern Region. The Eastern Representative Members are elected by the Eastern House of Assembly. They must include in respect of each Province in the Eastern Region at least two elected members representing Divisions of that Province in the Eastern House of Assembly.

207. The executive authority of a region extends to all matters with respect to which the legislature of the Region may make laws. The Executive Council of a Region is the principal instrument of policy in and for the Region on matters to which the executive authority of the Region extends. There are three Regional Executive Councils -- Northern, Western ^{14/} and Eastern.

208. The Executive Council of the Northern Region consists of:

- (a) The Lieutenant-Governor, as President
- (b) Three Ex-officio Members, namely, the Civil Secretary, the legal Secretary and the Financial Secretary of the Region
- (c) Such other Official Members, not exceeding two, as may be appointed by the Lieutenant-Governor
- (d) Such Regional Ministers as may be appointed.

Of the Regional Ministers not less than two or more than three shall be appointed from the Northern House of Chiefs, and not less than four nor more than six shall be appointed from among the elected and special members of the Northern House of Assembly.

209. The Executive Council of the Eastern Region consists of

- (a) The Lieutenant-Governor, as President
- (b) Three Ex-officio Members, namely, the Civil Secretary, the Legal Secretary, and the Financial Secretary of the Region
- (c) Such other Official Members, not exceeding two, as may be appointed by the Lieutenant-Governor.

^{14/} Since no part of the Trust Territory is included in the Western Region, no description of its Executive Council and Legislature is given.

(d) Not less than seven or more than nine Regional Ministers appointed from among the Elected and Special Members of the Eastern House of Assembly. The persons appointed shall include at least one Elected Member who represents in that House a Division in the Cameroons.

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

211. The Northern Region has two Legislative Houses, namely, the Northern House of Chiefs and the Northern House of Assembly. The Northern House of Chiefs consists of:

- (a) The Lieutenant-Governor, as President
- (b) Three Official Members
- (c) All first-class Chiefs
- (d) Thirty-seven other Chiefs
- (e) An Adviser on Moslam Law

The Northern House of Assembly consists of

- (a) A President appointed by the Lieutenant-Governor
- (b) Four Official Members
- (c) Ninety elected Members
- (d) Not more than ten Special Members appointed by the Lieutenant-Governor to represent interests of communities which, in his opinion, are not otherwise adequately represented.

212. The Eastern House of Assembly consists of

- (a) The Lieutenant-Governor, as President
- (b) Five Official Members, including at least one public officer serving in the Southern Cameroons.
- (c) Eighty elected Members
- (d) Not more than three Special Members appointed by the Lieutenant-Governor to represent interests or communities which, in his opinion, are not otherwise adequately represented.

/213. The Electoral Law

213. The Electoral Law governing the election of members to the Regional Legislative Houses is contained in regulations made by the Governor under the authority of the Nigeria (Constitution) Order-in-Council, 1951. The Governor is bound to provide that each province of the Northern Region is represented in the Northern House of Assembly by at least two elected Members and that each division of the Eastern Region is represented in the Eastern House of Assembly by at least two Elected Members. In fact, under the regulations, of the 80 seats for Elected Members in the Eastern House of Assembly the divisions of the Southern Cameroons have been allotted 13, and of the 90 seats in the Northern House of Assembly the provinces of the Northern Region containing the Northern Cameroons have been allotted a total of 21.

214. The franchise in both Northern and Eastern Regions is extended to all adult Nigerians^{15/} who are tax payers and who have either a residency qualification in the constituency or are natives of the constituency. In the Eastern Region the constituency is the division; representatives are elected by the electorate in primary elections to form an electoral college for the division and these representatives elect the members of the Eastern House of Assembly from amongst their own number. For the purpose of these primary elections a division is divided into primary electoral units consisting of village areas or native communities; an Electors' Register is prepared; candidates must be nominated by registered electors and must be registered electors themselves; a contested election is conducted by a process of secret oral voting under which the Returning Officer-in-Charge of the election records the vote orally signified to him by each elector in a register. At the elections held by the electoral college of the division a similar process of nomination and voting had to be observed. In the case of the election held by the electoral college of the Victoria Division of the Southern Cameroons special provision has been made to ensure that one of the two members returned by it shall be a native of the Division. The purpose of this provision is to prevent a large non-Cameroonian element in the population of that division

^{15/} The representative of the Administering Authority informed the Trusteeship Council at its eleventh session that for this purpose Nigerians included inhabitants of the Trust Territory.

from excluding locally born persons from representation.

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

216. Provision has been made in the Electoral Law so that each stage of the elections may be questioned by legal proceedings.

217. The Electoral Law governing elections by Regional Legislative Houses to the Central Legislature is likewise governed by regulations made by the Governor under the Constitution Order-in-Council.

218. Under the new constitution and following the elections held in 1951 representation from the Cameroons under British Administration in the political organs of Nigeria is as follows:

Council of Ministers

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

Regional Executive Councils

East

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

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

/North

North

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

Central House of Representatives.

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

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

Members elected from Northern House of Chiefs

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

Members elected from Northern House of Assembly

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

Regional Legislatures

Northern House of Assembly

Ahmadu, District Head of Mubi
Ibrahim Demsa, Adamawa Native Authority Agriculture Supervisor
Abba Habib, District Head of Bama.

Northern House Chiefs

Bukar, Emir of Dikwa.

Eastern House of Assembly

Bamenda

V. T. Lainjo (Secretary of Bamenda S.E. Federation N.A.)
Hon. S. T. Muna (Tutor at Dasel Mission E.T.C., Batibo)
J. N. Foncha (Headmaster of R.C. Primary School, Bamenda)

/Nkambe

Nkambe

J. Y. Ndze (Headmaster R.C. Mission School, Tabenken)
A. T. Ngala (Cattle Control Assistant)

Wum

Rev. J. C. Kangsen
S. C. Ndi (a son of Fon of Bikom)

Mamfe

S. A. George (Member of Mamfe Town Subordinate N.A.)
M. N. Foju (Headmaster of Fontem R.C. School)

Kumba

N. N. Mbile (President, C.D.C. Workers Union, Secretary,
Kamerun United National Congress)
Chief R. N. Charley (Chairman, N. Bakossi Council, 1947)

Victoria

Hon. Dr. E.M.L. Endeley (President, Cameroons National Federation,
Member of C.D.C.)
P. N. Motomby-Woletae (Medical Store Clerk, C.D.C.)

219. (a) The actual operation of this administrative union may be characterized as follows: The Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria is the Governor and Commander-in-Chief of the Cameroons under British Trusteeship. There is a Central Executive and Central Legislative House with powers over the whole of the Colony, Protectorate, and Trust Territory. There are Regional Legislatures in each of the three regions with Regional Executives. The Northern Regional Executive and Legislature have powers over the whole of the northern region including the northern Cameroons. The Eastern Regional Executive and Legislature have powers over the whole of the eastern region including the southern Cameroons.
- (b) No separate budget is prepared nor are separate public accounts normally kept for the Trust Territory. Calculations, however, are made of the revenue attributable to the Trust Territory and the expenditure on it, and any surplus of revenue is paid into a Cameroons Development Fund, payments from which are made on the Governor's authority for projects in the
/Trust Territory.

Trust Territory.

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

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

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

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

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

220. At its third session the General Assembly in Resolution 224 (III) recommended, inter alia, that

"the Trusteeship Council should...

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

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

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

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

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

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

"The Mission does not view its duty as including the evaluation of merely theoretical considerations, but considers that it is expected to report objectively on the basis of facts. Everything the Mission has seen went to confirm the fact that, with the contrast between the north, apart from the very numerous pagan population, and the south of the Trust Territory, the north is nearer and more allied to the Northern Province of Nigeria in its religion, race, culture and language. In the case of Adamawa it is impossible to draw the line or to differentiate between the two since the same people live in both regions, headed by the same chief. Therefore, the north of the Trust Territory might be more smoothly administered in conjunction with the Northern Province of Nigeria than perhaps with the south of the Trust Territory.

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

"On the question of finances, as mainly evidenced by the non-existence of a separate budget for the Trust Territory, this has been an argument contested on both sides. There could be a great deal of controversy whether this financial integration is in itself a hindrance to the economic development of the Trust Territory. Does the Trust Territory suffer economically for being integrated with Nigeria?

If the question of geographical remoteness from the centre could be a justification for the Administration to neglect certain faraway provinces, then the Mission could not consider that as a valid argument. For in the Trust Territory, more than in other countries, equality of development within the allowances of economy and adaptability should be a matter not only of propriety but of justice. The Mission found no reason to think that such a neglect on the part of the Administering Authority has occurred in the Trust Territory purely because it does not possess a separate budget.

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

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

223. The Committee on Administrative Unions noted in its report (T/L.96) that:

"(a) In view of the geographical configuration and the ethnical composition of the population, it was the intention of the United Kingdom Government since the establishment of the Mandate in 1922 to administer, and de facto and de jure it administered, the Cameroons as part of the adjacent areas of the Protectorate of Nigeria.

"(b) The Permanent Mandates Commission stated 'that measure of administrative incorporation adopted by the Mandatory Power in accordance with the provisions of article 9 of the Mandate might

be the best calculated to ensure good administration and consequently the well-being of the population'.

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

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

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

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

225. At its seventh session the Council adopted resolution 293 (VII) addressing itself to the considerations enumerated in General Assembly Resolution 326 (IV). For the Council's conclusions see paragraphs 237, 238, 239, 240, 241, and 242 below.

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

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

"The Council, noting under the electoral system applying to the Cameroons, the Territory's representatives in the Nigerian Central

House of Representatives are to be elected not by the representatives of Southern Cameroons in the Nigerian House of Assembly alone but by the elected members as a whole, requests the Administering Authority to give careful consideration to the need for ensuring that the members of the Nigerian Central House of Representatives who represent the Territory truly reflect the wishes of the inhabitants."

Constitution for Nigeria and the Cameroons

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

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

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

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

"Taking into consideration that the Royal Instructions of 27 November 1951 to the Governor of Nigeria provide, inter alia, that the Governor shall not assent to any bill the provisions of which appear to him to be inconsistent with obligations imposed upon her Britannic Majesty by treaty or other international agreement including the Trusteeship Agreement, the Council is of the opinion that the existence of this part of these Instructions adequately protects the interests of the inhabitants of the Trust Territory in regard to the new Constitution. The Council feels however, that in view of the special status of the Trust Territory in international law, the practical implementation of the new arrangements should be kept under constant review by the Trusteeship Council."7*

* Subject to the approval of the Trusteeship Council at its eleventh session.

Separate Financial, Statistical and other Data

229. For conclusion concerning separate financial, statistical and other data, see paragraphs 233 and 234 below.

Visiting Mission

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

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

/231. At its eleventh session the Council noted that no visiting mission went to the Territory in 1950 and 1951./*

Maintenance of Boundaries

232. At its ninth and eleventh sessions the Council adopted the following conclusions:

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

Expenditures in the Trust Territory

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

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

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

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

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

1946-47
£471,450

1947-48
£541,080

1948-49
£646,910

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

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

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

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

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

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

"(i) According to information contained in the annual reports

for 1950 and 1951, the total revenue attributable to the Trust Territory amounted to:

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

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

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

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

235. By Resolution 563 (VI) the General Assembly on 18 January 1952 requested the Trusteeship Council "in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, ... with special reference to: (a) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly; (b) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement ."

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

236. The considerations set out in paragraph 1 of General Assembly Resolution 326 (IV) of 15 November 1949 were the subject of observations by the Council transmitted to the General Assembly under Trusteeship Council Resolution 293 (VII) of 17 July 1950. Moreover, the Council in its annual review of conditions in the Trust Territory of the Cameroons under British Administration has, assisted by the work of its Standing Committee on Administrative Unions, adopted conclusions on a current basis relating to various of the considerations enumerated in General Assembly Resolution 326 (IV). In the light of paragraph 3 (a) of General Assembly Resolution 563 (VI), the Council undertook a further examination of the considerations set out in paragraph 1 of General Assembly Resolution 326 (IV) as they apply to the Cameroons under British Administration.

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

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

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

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

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

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

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

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

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

/"(b)

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

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

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

(a) With respect to the above Trusteeship Council Resolution 293 (VII) reads "is of the opinion that sub-paragraph (c) of paragraph 1 of the operative part of General Assembly resolution 326 (IV) is inapplicable and feels that the existing arrangements are not disadvantageous to the Territory but that they deserve nevertheless the constant attention of the Council."

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

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

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

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

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

"Expresses the hope that the Administering Authority will, with regard to matters pertaining to the administrative arrangements affecting the Trust Territory, continue to take into account the freely expressed wishes of its inhabitants."

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

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

243. The Trusteeship Council

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

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

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

(d) Recalling

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

(e) Recalling that under Article 76 (b) of the Charter one of the basic objectives of the trusteeship system shall be "to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples concerned, and as may be provided by the terms of each trusteeship agreement;"

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

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

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

CHAPTER VII

THE ADMINISTRATIVE UNION AFFECTING THE TRUST TERRITORY OF
NEW GUINEA

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

244. See A.1306, Official Records of the General Assembly, Fifth Session,
Supplement No.4, Chapter V,B, pages 196-197, paragraphs 1-5 inclusive.

B. LEGISLATION ESTABLISHING THE ADMINISTRATIVE UNION

245. See A/1306, Official Records of the General Assembly, Fifth Session,
Supplement No.4, Chapter V,B, paragraphs 6-9 inclusive.

246. See A/1306, Official Records of the General Assembly, Fifth Session,
Supplement No.4, Chapter V,A.

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

Legislation Establishing the Administrative Union

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

"(a) The Council, having devoted a prolonged and significant debate to
the question of the proposed administrative union between the Trust
Territory of New Guinea and the Australian Territory of Papua takes
the position that the establishment of the union is a highly important
problem of serious consequence.

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

to the appropriate juridical body, the International Court of Justice.

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

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

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

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

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

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

/"(i)

"(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 the review."

248. At the third session of the Council during the examination of the report on the administration of New Guinea for the period from 1 July 1946 to 30 June 1947, the representative of Australia stated that it was not the intention of the Australian Government to amalgamate the two territories politically and further stated that the Administering Authority would always bear in mind the difference in status between the two territories and should an ordinance not appear to be fully in accordance with the obligations under the Trusteeship Agreement it would be submitted to the Governor-General. It was proposed to apply the same laws to both countries, and those laws would be in accordance with the Trusteeship Agreement (Trusteeship Council, Official Records, Third Session, pages 305, 310).

249. At its third session the General Assembly, by Resolution 224 (III), endorsing the observation of the Trusteeship Council given in paragraph 247 (c) above, recommended, inter alia, that

"the Trusteeship Council should....

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

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

250. Following the passage of the amended Papua-New Guinea Act 1949 by the Australian Parliament, the Committee on Administrative Unions made the

following report to the seventh session of the Trusteeship Council:

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

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

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

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

"Section 36 (4): As the Trust Territory has a greater population than the Territory of Papua, the Council expressed the view that more definite provision should be made for the adequate representation of the inhabitants of the Trust Territory in the Legislative Council. Provision was made for nine nominated non-official members of the Legislative Council, and an amendment to the Bill provided that not less than five should be selected from the residents of the Trust Territory.

/"Section 73:

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

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

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

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

"(c) The Committee took cognizance of the fact that in regard to section 36 of the Act, the Administering Authority had carefully studied the recommendation made by the General Assembly regarding the desirability of establishing in each Trust Territory a separate

legislative body (326 (IV), 11 November 1949), and that it had not yet reached any decision with regard to this matter (T/AC.14/SR.21).

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

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

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

252. In regard to an inquiry by the Committee on Administrative Unions as to whether New Guinea was governed by legislation separate from that in force in Papua, the special representative stated that two types of legislation existed in the Territory of Papua and New Guinea: one was common to both territories; the other was different in the two territories. The different conditions existing in the two territories and the particular characteristics of their inhabitants made necessary the maintenance of separate legislation,

/particularly

particularly the partial maintenance of legislation in existence in New Guinea before the introduction of the New Act (T/AC.14/SR.21).

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

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

"When the two territories were administered separately before the War, there was a separate headquarters for the New Guinea administration in the town of Rabaul in New Britain. But Rabaul was subject to a series of volcanic eruptions in 1937 and it became necessary to consider moving the territory's capital to another location. It was decided at that time that the most suitable site in the Territory of New Guinea was the town or township of Lae on the north coast although that centre was far from satisfactory because of its climatic conditions and high rate of sickness then prevailing. However, the transfer to Lae was decided upon and was actually in progress when the Japanese arrived in early 1942.

"Again, when in 1948, the Government decided on administrative union in the territories, it was faced with the problem of selecting a site for the capital all over again because nothing had really been established at Lae. Full consideration was given to the locations of Rabaul, Finschaven and Lae, all of them in the Trust Territory. Two

centres in Papua - Milne Bay and Port Moresby - were also considered at the same time. The decision taken earlier this year to have the headquarters of the administration at Port Moresby in Papua was taken only after months of examination of conditions in all the locations I have mentioned. No preference was given to Port Moresby because of its location in Papua. Port Moresby was chosen as the seat of administration as being the centre from which the two territories could be administered most efficiently and which, in the view of the Administering Authority, would best meet the interests of the inhabitants of the Territory as a whole. One factor influencing the decision was the comparatively low rainfall in the Port Moresby area which is of assistance in health and other related matters. Port Moresby also has a good harbour and easily accessible communications."

Legislative Council

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

255. The recommendations and observations of the Trusteeship Council on this matter are set out in paragraph 286 below.

Judicial System

256. The judicial system provided for in the Papua and New Guinea Act, 1949, is given in summary form in Chapter V,A, paragraph 2(g) of the Report of the Committee on Administrative Unions (A/1306).

257. A statement by the representative of Australia to the Committee on Administrative Unions (T/AC.14/SR.23) regarding the judicial system is given in Chapter V,A, paragraph 3(d) of the Report of the Committee on Administrative Unions (A/1306).

258. The recommendations and observations of the Trusteeship Council on this matter are set out in paragraph 285 below.

Welfare and Development

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

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

"(a) the Minister may, with the concurrence of the Treasurer of the Commonwealth, make arrangements or agreements for any purpose likely to promote the development of the resources of the Territory or the welfare of its inhabitants, and any sums required by the Minister for the purpose of any such arrangement or agreement shall be paid out of moneys appropriated by the Parliament for that purpose; and

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

260. A statement by the representative of Australia to the Committee on Administrative Unions (T/AC.14/SR.23) on this matter is given in Chapter V,A, paragraph 3(e) of the Report of the Committee on Administrative Unions (A/1306).

261. At the ninth session the Council adopted the following statement:

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

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

/"The Council

"The Council, having stated in its second report (T/916, paragraph 7) that, having no further information on the implementation of the economic, social and educational programmes for the Territory of Papua and New Guinea, is of the opinion that since these programmes are still in large part in the formulative stage there is at this time no information regarding the preservation of the separate interests of the Trust Territory and its inhabitants, decided to keep these aspects under consideration, and hopes that full information will be forthcoming in the next Annual Report."]*

Native Labour

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

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

[264. At its eleventh session, the Council, on the recommendation of the Standing Committee, stated:

"The Council having previously decided (T/916, paragraph 5) to keep the operation of the Native Labour Ordinance, 1950, under review, notes that, according to the Annual Report on the Administration of the Territory of New Guinea, an increasing number of indigenous inhabitants from the Central Highlands District are seeking employment and that 5,363 workers from the District are

* Subject to the approval of the Trusteeship Council at its eleventh session.

employed in the Territory of New Guinea and 1,784 in the Territory of Papua. The Council further notes that, according to the same Annual Report, the supply of labour in New Guinea is still not equal to the demand and that a labour shortage of 2,100 is estimated for the year 1950-51.

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

Separate financial, statistical and other data

265. A statement by the representative of Australia to the Committee on Administrative Unions (T/AC.14/SR.21, T/AC.14/SR.23) in regard to separate statistics is given in Chapter V, A, paragraph 3 (b) of the Report of the Committee on Administrative Unions (A/1306).

266. The recommendations and observations of the Trusteeship Council on this matter are set out in paragraph 284 below.

Visiting Mission

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

* Subject to approval by the Trusteeship Council at its eleventh session.

/"7. Considers

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

.....

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

268. At its ninth session the Council made the following observation:

"With regard to the safeguards enumerated in sub-paragraph 7 (b) of its resolution 293 (VII), the Council notes that the Visiting Mission upon the invitation of the Government of Australia, visited the headquarters of the central administrations of Papua and New Guinea situated outside the Trust Territory."

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

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

Maintenance of boundaries, separate status and identity

270. An observation by the Trusteeship Council made at its third session, on Section 11 of the draft Papua and New Guinea Bill 1948 concerning provinces which might include portions of both territories in the union, is given in Chapter V, B, paragraph 7 (g) of the Report of the Committee on Administrative Unions (A/1306).

* Subject to the approval of the Trusteeship Council at its eleventh session.

271. A Memorandum submitted by the representative of Australia (T/AC.14/32), containing a reference to the omission of the above-mentioned section from the Act of 1949, is referred to in Chapter V, B, paragraph 8 of the Report of the Committee on Administrative Unions (A/1306).

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

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

.....

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

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

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

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

"With regard to the safeguards enumerated in sub-paragraph 7 (c) of Trusteeship Council resolution 293 (VII), the Council notes that there exists no information which would suggest that the boundaries of the Territory have not been maintained. The Council notes, however, that in an Ordinance to provide for the division of the Territory into Administrative Districts (No. 59 of 1951 of the Territory of Papua and New Guinea), Section 3 states: 'The Administrative Districts Ordinance 1922 of the Territory of New Guinea is repealed.' Section 4 states: "(1) The Territory shall be divided into Districts. (2) The Administrator, by notice in the Gazette, may divide the Territory into Districts, declare their names and define their boundaries, and may from time to time alter the names and boundaries of the Districts."

/"In this connexion,

"In this connexion, the Council draws attention to the fact that Section 11 of the Papua and New Guinea Bill, 1948, included the following provision:

'For the purposes of this Act or for any administrative purpose, the Governor-General may, by proclamation, define provinces within the Territory by such names and with such boundaries as are specified in the proclamation.'

"It further draws attention to the Report of the Trusteeship Council covering its second and third sessions (page 17, section 2 (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.'

"It notes that section 11 of the 1948 Bill regarding the Governor-General's power to define provinces by proclamation was omitted in the 1949 Act.

"With regard to the Administrative District Ordinance 59 of 1951, the Special Representative of Australia stated that:

"(a) the Administering Authority continued to administer the Trust Territory in accordance with Section 8 of the Papua-New Guinea Act, 1949-50 which states:

'It is hereby declared to be the intention of the Parliament that the Territory of Papua and the Territory of New Guinea shall continue to be Territories under the authority of the Commonwealth and the identity and status of the Territory of Papua as a Possession of the Crown and the identity and status of the Territory of New Guinea as a Trust Territory shall continue to be maintained.'

"(b) Ordinance 50 of 1951 had been promulgated in order to obtain uniformity in the system of designation of administrative divisions in the joint territory;

"(c) the Administration had not established and was not at present contemplating establishing any districts which would involve territorial sections of the Trust Territory of New Guinea and Papua;

/"(d) without

"(d) without prejudice to the legal implications, the Ordinance, being applicable to the Territory of Papua and New Guinea (as defined in Section 5 of the Act of 1949-50), did not preclude the establishment of districts, involving both territories, if such establishment is thought administratively desirable.

"The Council took note of these statements of the Special Representative, including the reasons for the promulgation of the Ordinance and took note of the statement that the Administering Authority is not now contemplating the establishment of districts which would stretch across the international boundary between Papua and the Trust Territory of New Guinea. It notes further that the Papua and New Guinea Act states that the identity and status of the Territory of New Guinea as a Trust Territory shall continue to be maintained. The Council is of the opinion that the implementation of Administrative District Ordinance, 1951, might create a situation which would make difficult the preservation of the separate identity and status of the Territory of New Guinea as a Trust Territory. The Council expresses the hope that the Administering Authority will promptly inform the Trusteeship Council should it contemplate the establishment of any districts which might involve the boundaries established in article 1 of the Trusteeship Agreement."]*

Expenditure in the Trust Territory

275. Section 11 of the Papua and New Guinea Act, 1949, provided as follows:

"There shall be expended in each year, upon the administration, welfare and development of the Territory of New Guinea, an amount which is not less than the total amount of public revenue raised in that year in respect of the Territory of New Guinea."

276. A statement by the representative of Australia in relation to the expenditure of public funds is given in Chapter V, A, paragraph 3 (f) of the Report of the Committee on Administrative Unions (A/1306).

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

.....

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

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

"With regard to sub-paragraph 7 (d) of its resolution 293 (VII), the Council notes that, according to the information contained in the annual report for 1949-50, the total revenue derived from the Trust Territory amounted to £942,077 and the total expenditure amounted to £3,223,217. Therefore, expenditure in the Territory for 1949-50 was not less than the total amount of revenue derived from the Territory."

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

"With regard to sub-paragraph 7 (d) of the Trusteeship Council resolution 203 (VII), the Council notes that, according to information contained in the Annual Report for 1950-51, internal revenue totalled £1,219,411, that a grant of £2,356,311 was made by the Administering Authority, and that the expenditure amounted to £3,575,721. Therefore, expenditure in the Territory for 1950-51 has not been less than the total amount of revenue derived from the Territory."*

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

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

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

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

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

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

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

283. With respect to the above, Resolution 293 (VII) of the Trusteeship Council reads:

"Notes that the Government of Australia, although not recognizing any obligation by the Administering Authority to consult the Trusteeship Council before establishing administrative unions, had in fact informed the Council of its intention before establishing the administrative union

/and had

and had in fact made certain changes in the Papua-New Guinea Act, 1949, in response to the Council's request;

"Notes further the statement of the representative of Australia that no extension of the existing administrative union was contemplated." 284. Paragraph 1 (b) of General Assembly Resolution 326 (IV) refers to "the desirability, should it be impossible as a consequence of the establishment of an administrative union to furnish clear and precise separate financial, statistical and other data relating to a Trust Territory, of the Administering Authority concerned accepting such supervision by the Trusteeship Council over the unified administration as the Council may consider necessary for the effective discharge of its high responsibilities under the Charter."

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

"Takes note of the statement of the representative of Australia that the Administering Authority would continue to furnish separate financial, statistical and other data for the Trust Territory, as well as for the unified administration pertaining to the Trust Territory;

"Takes note of the fact that the Government of Australia had invited the Visiting Mission to visit the headquarters of the central administration of Papua and New Guinea situated outside the Trust Territory; and

"Takes note of the assurance of the representative of Australia that the Government of Australia will continue to co-operate fully with the Council in the discharge of its responsibilities."

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

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

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

/"With

"With regard to the safeguards enumerated in subparagraph 7 (a) of its resolution 203 (VII), the Council notes that the annual report on the administration of New Guinea for 1949-50 contained, for the most part, separate financial, statistical and other data relating to the Territory of New Guinea. The Council expresses the wish that future reports indicate which of the classified posts in the public service of the Territory of Papua and New Guinea apply to the administration of the Trust Territory."

[(d) At its eleventh session, the Council on the recommendation of the Standing Committee, made the following observations:

"With regard to the safeguards enumerated in subparagraph 7 (a) of Trusteeship Council resolution 293 (VII), the Council notes that the annual report on the administration of New Guinea for 1949-50 contains separate financial, statistical and other data relating to the Territory of New Guinea. It further notes, that with regard to the Council's wish that future reports should indicate which of the classified posts in the Public Service of the Territory of Papua and New Guinea applied to the administration of the Trust Territory as expressed in T/916, paragraph 8 (a), the Annual Report for 1950-51 shows the positions of the Public Service of Papua and New Guinea at 30 June 1951, partly as common to the Trust Territory of New Guinea, partly separately for the Trust Territory of New Guinea and for the Territory of Papua. The Table showing the positions separately for the Trust Territory of New Guinea indicates which classified positions are held by staff members in the Trust Territory and their respective salaries are to be found in table 3 of the Annual Report, showing the classified positions and salaries of the Public Service of Papua and New Guinea.

"In this connexion the Council took note of a memorandum communicated to the Secretariat on 6 June 1951 by the alternate Australian representative

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on the Trusteeship Council stating that the practice to submit the data required will continue."]*

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

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

"Considers that in view of the present circumstances in the Territory, the present judicial system therein sufficiently safeguards the interests of its inhabitants but is of the opinion that the Trusteeship Council should keep the matter under review."

(b) At its ninth session, the Council, on the recommendations of the Standing Committee, recalling the above observation, adopted the following conclusions:

"Notes that, so far as it has been informed, there appears no substantial change in the situation since the previous report and that such change is not likely until social conditions in the Territory have themselves changed considerably. It therefore has no further observations at this time except to note that, although the principal seat of the Supreme Court under the administrative union is at Port Moresby, in the Territory of Papua, the Court held twenty-eight sittings in the Territory of New Guinea during the period of July 1949 to July 1950."

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

"Notes that the Papua-New Guinea Act, 1949, envisages the establishment of a Legislative Council for the Territory of Papua and New Guinea;

"Notes that this Council has as yet not been constituted;

"Notes the statement of the representative of Australia that the Government of Australia has carefully studied the question raised in General Assembly resolution 326 (IV) concerning the desirability of establishing in each Trust Territory a separate legislative body, but has thus far come to no decision on this matter;

"Recalls the recommendation of the Trusteeship Council at its fifth session which reads:

"The Council, noting the allocation of only three seats to unofficial indigenous members in the joint legislature for the Trust Territory and Papua, recommends that the Administering Authority should (a) study the possibility of increasing the number of indigenous members of the joint legislature; (b) study the possibility of establishing a separate legislature for the Trust Territory; and (c) give increasingly greater participation in the Legislative Council to the indigenous inhabitants, leading to the eventual establishment of an indigenous majority."

"Draws attention to the recommendations of the Trusteeship Council at its seventh session which reads:

"The Council, noting the statement of the Administering Authority that the composition

of the joint legislature for the Trust Territory and Papua will be further examined, expresses the hope that the Administering Authority will take into account the relevant recommendations of the Trusteeship Council at its fifth session on this question, and requests it to inform the Council of the results of this examination."

(b) At its eighth session, the Council adopted the following recommendations:

"The Council, noting that the establishment of the legislative council is now under consideration, urges the Administering Authority to proceed with the establishment of such council without further delay, and to take early steps to give greater participation in the legislative council to the indigenous inhabitants, in accordance with the recommendation made by the Trusteeship Council at its fifth session."

(c) At its ninth session, the Trusteeship Council, on the recommendation of the Standing Committee, noted that sections 35 to 53 inclusive, of the Papua and New Guinea Act, relating to the establishment of a legislative council, had not been implemented; recalled its earlier recommendations, and noted "that in the absence of the legislative council for Papua-New Guinea, legislation has been provided through sixty-five ordinances proclaimed by the Governor-General of Australia since the establishment of the Administrative Union on 1 July 1949."

(d) At its tenth session, the Trusteeship Council adopted the following recommendation:

"The Council notes the establishment of the Legislative Council, which includes two indigenous members from the Trust Territory, notes that this represents the first time that indigenous inhabitants have been members of an organ legislating for the Trust Territory, and expresses the hope that the Administering Authority will endeavour to ensure

/further

further participation of indigenous representatives in the legislative system of the Territory."

[(e) At its eleventh session, the Council, on the recommendation of the Standing Committee, made the following observations:

"1. The Council notes that, pursuant to the powers conferred upon the Administrator by sections 39 and 40 of the Papua and New Guinea Act, 1949,

"(a) the Legislative Council Ordinance (No. 28 of 1951) of the Territory of Papua and New Guinea was notified in the Commonwealth Gazette on 13 September 1951, and

"(b) the Legislative Council Regulations (Regulations No. 19 of 1951) were notified in the Gazette on 18 October 1951. This ordinance and these regulations provide for the conduct of the election of the three non-official elected members.

"2. The Special Representative of Australia stated:

"that in the establishment of the Legislative Council, sections 35 to 53 of the Papua-New Guinea Act, 1949, had been fully implemented in accordance with section 36 (1).

"3. The Council noted that of the twelve non-official members eight represented the Territory of New Guinea and four the Territory of Papua; in particular, it noted that:

"(a) of the three non-official members elected in accordance with the Legislative Council Ordinance 28 of 1951, two represent the electorates in the Trust Territory and one the electorates in the Territory of Papua;

"(b) of the three non-official members representing the interest of the Christian missions two reside in the Trust Territory and one in the Territory of Papua;

/"(c) of the

"(c) of the three non-official native members two reside in the Trust Territory and one in the Territory of Papua;

"(d) of the three other non-official members two reside in the Trust Territory and one in the Territory of Papua.

"With regard to Section 36 (4) of the Act, providing that the Administrator shall exercise his powers of nomination to ensure that not less than five non-official members are residents of the Territory of New Guinea, the Council notes that eight residents of New Guinea are members of the Legislative Council.

"4. The Council welcomes the formal establishment of the Legislative Council and observes that in view of the short time which has elapsed since the inauguration of the Legislative Council it can as yet not form an opinion concerning the operation of the Council and it cannot as yet evaluate to what extent a joint Legislative Council for the two territories of Papua and New Guinea operates in the best interest of the Trust Territory. In this connexion the Council observes that it has not received any comments from the Administering Authority concerning the recommendation made during the fifth session of the Council, namely, that the Administering Authority should (a) study the possibility of increasing the number of indigenous members of the joint legislature; (b) study the possibility of establishing a separate legislature for the Trust Territory; and (c) give increasingly greater participation in the Legislative Council to the indigenous inhabitants, leading to the eventual establishment of an indigenous majority in the Legislative Council. It further notes that it has not received any comments regarding the recommendation made during the ninth session of the Trusteeship Council urging the Administering Authority to

take early steps to give greater participation in the Legislative Council to the indigenous inhabitants in accordance with the recommendation made by the Trusteeship Council at its fifth session.

"5. The Council expresses the hope that the Administering Authority will make available to the Committee any minutes which in accordance with section 45 of the Papua-New Guinea Act, 1949, the Legislative Council is caused to keep of its meetings, as well as any ordinance which in accordance with section 48 of the Act the Legislative Council may make."*

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

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

"Takes note of the statement of the representative of Australia that there was no substantial opposition to the existing administrative union; and

"Notes that no changes with regard to the administrative arrangements affecting the Trust Territory of New Guinea are contemplated at this time."

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

238. The Trusteeship Council

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

* Subject to the approval of the Trusteeship Council at its eleventh session.

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

(c) Recalling further General Assembly resolution 224 (III) of 18 November 1948 in which the General Assembly endorsed the observation of the Trusteeship Council that an administrative union "must remain strictly administrative in its nature and its scope and that its operation must not have the effect of creating any conditions which will obstruct the separate development of the Trust Territory, in the fields of political, economic, social and educational advancement, as a distinct entity";

(d) Recalling that under Article 76 (b) of the Charter one of the basic objectives of the trusteeship system shall be "to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples concerned, and as may be provided by the terms of each trusteeship agreement";

(e) Recalling that section 8 of the Papua and New Guinea Act of 1949 declares it to be the intention of the Parliament that the Territory of Papua and the Territory of New Guinea shall continue to be territories under the authority of the Commonwealth and the identity and status of the Territory of New Guinea as a trust territory shall continue to be maintained;

(1) Recognizes that common customs, fiscal and administrative services organized on an inter-territorial basis may have advantages for the individual territories participating in such arrangements, particularly under the economic and social conditions prevailing in territories like Papua and New Guinea;

/(2) Considers

(2) Considers that complete integration of political institutions of a trust territory and a non-self-governing territory not subject to trusteeship provisions may hinder the separate development of the Trust Territory as a separate entity;

(3) Is of the opinion that with regard to the operation of the administrative union the Administering Authority should continue to provide adequate formal protection of the interests of the trust territory, in particular with relation to the possibility of the promulgation of legislation which may not be in conformity with the Trusteeship Agreement and the principles of the Charter.

CHAPTER VIII

THE STATUS OF THE CAMEROONS AND TOGOLAND UNDER FRENCH
ADMINISTRATION ARISING OUT OF THEIR MEMBERSHIP
IN THE FRENCH UNION

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

289. 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.

290. 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 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."

291. The following articles of the Constitution appear to be relevant to the status of the Associated Territories within the French Union:

(a) Article 26 of the Constitution lays down the principle 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." 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.

(d) Article 75 of the Constitution states that the respective status of the members of the French Republic and of the French Union shall be subject to modifications. Modifications of status and passage from one category to another within the framework established in article 60 may take place only as the result of a law passed by the Parliament after consultation with the Territorial Assemblies and the Assembly of the Union.

292. The organs of the French Union are the following: the Presidency, exercised by the President of the French Republic, who represents the permanent

/interests

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.

293. Executive power in each of the Associated Territories rests with the Governor. He is the Chief Administrator of the Territory and is responsible to the French Government for his actions. He promulgates the laws and decrees applicable in each Territory, and renders them legally binding by decrees published in the local Official Journal. He is assisted by a Governing Council consisting of notables and heads of administrative services, and by the services required for the administration of the Territory. Independently of the legislative power of the French Parliament over the Associated Territories, and of the statutory powers of the Head of the State, the Governor of each Territory has certain statutory powers which he exercises by issuing orders and decisions; but in some cases, defined in the decree constituting the local Assemblies, he is required to submit these orders and decisions for the consideration of the Assemblies or to consult them (T/AC.14/6).

294. The Administering Authority stated in the course of the ninth session of the Council that the Cameroons now elects four deputies, three of them Africans, to the French National Assembly, and three representatives, two of them Africans, to the Council of the Republic. It also elects five representatives, three of them Africans, to the Assembly of the French Union, and two representatives, both Africans, to the Economic Council. Togoland elects one deputy to the French National Assembly, two representatives to the Council of the Republic and one representative to the Assembly of the French Union. The Associated Territories elect their deputies to the National Assembly by direct ballot but deputies to the Council of the Republic and to the Assembly of the Union are appointed by local assemblies (T/AC.14/6).

295. 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 or Territorial Assemblies. The Assemblies consist of two sections, the members of which are elected by separate colleges. The first section comprises citizens having French status and the second those retaining their local status.

296. The number of registered electors in the Cameroons was 39,576 in February 1947, 41,487 in February 1948, 50,355 in February 1949, 70,000 in February 1950, 116,000 in February 1951 and 510,844 before the elections in June 1951.

The total number of voters in Togoland was 7,963 in 1947, of whom about 400 vote in the first section, and about 7,600 in the second section, 12,793 in 1948, 16,830 in 1949 and about 28,000 in 1950.^{16/} There were 28,580 voters

at the beginning of 1951, 32,491 in June 1951 and more than 50,000 on 10 January 1952 in the second section only.^{17/} Elections to the local

Assemblies are conducted by direct universal ballot, in accordance with the electoral lists, and follow the methods in force in each territory. The two sections deliberate jointly and representatives are elected for five years.

The electoral system in Togoland underwent a revision at the beginning of 1952, when the French Parliament adopted the law of 6 February whose principal provisions are the establishment of a single electoral college, the extension of the electoral body to include all heads of households, and the determination of electoral districts. The powers of the Assemblies are of two types, viz., 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

^{16/} 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.

^{17/} Report on the Administration of Togoland under French Administration for 1951, p. 25.

right of compulsory consultation on certain problems, such as the organization of administrative services. The Assemblies debate the budget submitted by the Head of the Territory and may initiate expenditure concurrently with him. They may also transmit their comments and opinions on certain subjects to the Minister for Overseas France. The National Assembly is obliged to consult the local Assemblies and the Assembly of the French Union in the following two cases: in establishing the status and internal organization of territories or groups of territories, and in changing the status of a territory transferred from one category to another.

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

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

298. 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, and on pages 130-133 and 182-183 of the Report of the Trusteeship Council covering its Third Special Session and its Eighth and Ninth Sessions (A/1856).

299. At the meeting of the Committee on Administrative Unions on 31 March 1949, the French representative explained the position of the trust territories under French Administration in the French Union. His statement (see T/AC.14/22) follows:

"The territories of Togoland and the Cameroons which were placed under trusteeship and the administration of which was entrusted to France were by that very fact associated with the new organization of the French Union; and the Constitution of 27 October 1946 assigned them a special place within that Union.

"Moreover, subsequent laws have given the inhabitants of the Trust Territories the right to elect representatives to the central political assemblies.

"Both these categories of measures are in harmony with the principles embodied in the United Nations Charter and with the terms of the trusteeship agreements.

/"When

"When the 1946 Constitution was voted and promulgated, the Trusteeship Agreements for Togoland and the Cameroons did not yet exist, and the Constituent Authority could not therefore anticipate the terms of those Agreements. The latter, however, had inevitably to involve an association between each of the territories concerned and the Administrative Power by establishing a system of rights and duties binding them to one another during the trusteeship period. Hence the Constituent Authority was careful to make allowance in the Union, for the special position of the territories the administration of which would be entrusted to France.

"The French Union is defined in Article 60 of the Constitution. Listing the elements composing the Union, the article mentions, on the one hand, the French Republic (which itself comprises Metropolitan France, the Overseas Departments and the Overseas Territories) and, on the other hand, the Associated Territories and States. Each of these elements is given a specific status in the articles that follow. An exception, however, is made in the case of the Associated Territories. They are mentioned but no rules are given determining their status. The only indication given in their regard is that deriving from the list contained in Article 60. The essence of this is that these Territories, unlike the Overseas Departments and Territories, are not part of the French Republic and have a special place in the Union.

"It is clear, however, from the preliminary work on the constitution that the reason for the existence of this category lacking all definition and all legal status is the desire to provide a place for the Trust Territories without infringing any international rules which might be issued for their administration. The status of the Associated Territories in regard to which the Constitution remains silent, depends exclusively on the international trusteeship system. It is clear that the Constituent Authority could not respect that international system more completely.

"Moreover, the place assigned to the Associated Territories in the Union in no way hinders their subsequent political evolution, in whatever direction it may be. The aims of the French Union, which

/are set

are set out in the Preamble to the Constitution, are wholly in accordance with the aims of trusteeship as defined in the Charter. The priority given to the population's interests, their economic and social advancement and their political emancipation are principles upon which the institution of the French Union is directly based.

"With regard to political emancipation in particular, membership of the French Union makes it possible for the inhabitants concerned to develop either in accordance with the desire to be united with France in a single community, with equal rights and duties, or with the wish to achieve national autonomy or independence in the form of a State freely associated with the French Republic by treaty. Even if, when the time came, the inhabitants of the Trust Territories wished to achieve their aspirations outside the French Union, there would be no obstacle from the fact that they now belong to the Union. That membership in no way prejudices whatever decision may be adopted when the trusteeship system comes to an end.

"The legislative measures adopted in regard to Togoland and the Cameroons are based on the terms of the Trusteeship Agreements which recognize the Administering Power as having 'full powers of legislation, administration and jurisdiction'.

"A feature of the system set up is the organization of elective local assemblies responsible for looking after the particular interests of each country. This conforms to the clauses in the Agreements providing for participation by the inhabitants in the administration of the Territories and the development of representative organs.

"The French legislators, however, wished to go even further, considering that obedience to the laws and government of the French Republic must necessarily be accompanied in a democratic system, by participation in elections to the central assemblies responsible for legislation and the control of government. For this reason they made it possible for the inhabitants of Togoland and the Cameroons to make their voice heard and to defend their interests in the Parliament and Assembly of the French Union, in conditions similar to those laid down for the French African territories.

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"This measure has the advantage of avoiding any discrimination or inequality of treatment prejudicial to the inhabitants of the Trust Territories as compared with the inhabitants of neighbouring overseas territories who find themselves in very similar economic and social conditions.

"The political rights which have thus been granted to nationals of Togoland and the Cameroons do not imply that the latter possess French nationality. Each State determines who shall enjoy political rights within the framework of its institutions without being bound by any rule of international law to reserve those rights for its nationals alone. By virtue of the political rights granted to them, the nationals of Togoland and the Cameroons have received a faculty implying a number of benefits but involving no national allegiance.

"Moreover, the aims of trusteeship can only be furthered by such representation. The French legislators considered that the system of liberties and electoral rights they had instituted opened the surest and most speedy path to political progress for these peoples. No educational measure could, in their view, be more effective. The methods they employed in accordance with their own traditions and conceptions appear already to have had good results; the part played by the representatives of these peoples in the Assemblies provides proof of this.

"As regards the choice to be made when the trusteeship system comes to an end, it will be more deliberate and enlightened as a result of the experience gained not only within each territory but also at the centre of a great democratic organization. It may justly be considered that the men who have thus been trained in public responsibility will, when the time comes, have the necessary maturity to decide their future."

300. The Committee on Administrative Unions discussed this 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. The following summary of this discussion may be found in the Report of the Committee, dated 6 June 1949 (T/338):

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"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 XIII of the Charter and because the population 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.

"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

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that the best of the several ways in which the clause of the Trusteeship Agreements concerning the administration of the two 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 derived 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.

"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 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."

301. There were divergent views within the Committee as to the interpretation of the phrase "the freely expressed wishes of the peoples concerned" in Article 76b 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).

302. 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."

303. According to the reply of the French representative on the Trusteeship Council to the request of the Standing Committee, dated 8 March 1952 (T/C.1/L.21) the situation of the Trust Territories in the French Union as

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described in the statement of the representative of France addressed to the Trusteeship Council in May 1949 (T/AC.14/22) has not subsequently been modified by constitutional or legislative action, and the views put forward are still fully valid.

304. According to the same reply of the representative of France (T/C.1/L.21) a commentary on the relations between France and the Trust Territories in the French Union may be found in the opinion expressed on the matter by the Juridical Committee of the French Union (Comité juridique de l'Union française) (Revue Juridique et Politique de l'Union Française, No. 2, April - June 1948, page 242) as well as in an article published by Professor Lampué on the same matter in the Recueil Dalloz, 1951, Chroniques, pages 107 et seq. The Standing Committee took note of the documentation noted above (T/C.1/L.24).

305. At the twenty-ninth meeting of the Standing Committee on Administrative Unions on 2 July 1952, the representative of France, in replying to questions raised by members of the Committee, explained the position of the Trust Territories under French Administration in the French Union as follows:

(a) Not all articles of the French Constitution which refer to the French Union could inso facto be applied to the associated territories. In case of any conflict between the Constitution and the Trusteeship Agreements, the terms of the latter would prevail by virtue of article 26 of the Constitution. The Trusteeship Agreements were diplomatic treaties concluded between the United Nations and France.

(b) The general principles contained in the Preamble of the Constitution are evidently applicable to Togoland and Cameroons. Moreover the Constitution, defining the relations between the legislative and executive powers cannot fail to have an indirect influence on the manner in which the associated territories are administered and in which the laws are applied therein. The Constitution, however, does not define their status which is established exclusively by the international Trusteeship system.

(c) The representative of France stated that the Articles 26, 62, 75, and 81 of the Constitution apply to the associated territories. The articles 26, 27 and 28 elaborate more explicitly the principles of the preamble. Article 75 would appear to raise a more difficult problem, because no precedent has thus far been established.

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(d) In this connexion he stated that it would be certain that the Parliament of France, which ratified the Trusteeship Agreements, had never questioned the legitimacy of the right of the inhabitants to achieve their aspirations. There would be no doubt concerning the right of the Associated Territories to decide whether or not they wish to remain in the French Union after they had achieved maturity. But the representative of France was unable to state categorically what form this decision would take and on the interpretation to be given to article 75 of the Constitution. He cited the example of Cochin-China where a vote of the Parliament was sufficient to abolish its former status and permit union with Annam and Tonkin to form Viet-Nam. This precedent is not, however, exactly comparable, since Cochin-China was not severing its relations with the French Union.

(e) According to the statement of the representative of France there is no contradiction between the statement that the juridical basis of the association of France and the Trust Territories may be found in the agreement between the United Nations and France and the sentence of the Preamble to the Constitution which states that "the French Union is composed of nations and peoples who wish to place in common or co-ordinate their resources and their efforts." When the Constitution had been drafted no trusteeship agreement existed, the territories were under mandate. France acted in the interest of these territories which were entrusted to her administration. These Territories when they came of age would have the right to reconsider their status.

(f) The representative of France stated that the term "administered under Trusteeship" derived from the former designation "administered under mandate". No contradiction existed between this term and that of the citizens of the French Union. The citizenship of the French Union cannot be assimilated to the French citizenship. The first one includes all the civil rights but not all of the political rights.

(g) The representative of France stated that his government's interpretation of Article 4 A1 of the Trusteeship Agreement conformed

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entirely with the assurances given by France during the examination of the Trusteeship Agreements according to which the administrative union must limit itself strictly to administrative matters. France respected fully the provision of Article 4 A2 because there is no administrative union between the Trust Territories under French Administration and neighboring non-self-governing territories. Regarding Togoland the only link between them is a judiciary one since the competent court of appeal is that at Dakar. There is no customs border with French West Africa; no other tie links the political structure of the Territory with those adjacent territories.

(h) The representative of France stated that the citizenship of the French Union places no obstacle to the existence of another citizenship. The citizenship in the French Union constituted simply a set of privileges. He also stated that the French Constitution could permit the formation of a Cameroons or Togoland nationality. He stated that the establishment of Cameroons and Togoland nationality would be perfectly compatible with the French Constitution and would become feasible when Togoland and the Cameroons possessed a degree of individuality as States and a feeling of nationality which would make it possible to regard them as nations. However, that time had not yet come. He explained that in order to create Togoland and Cameroons nationality, it might not be necessary first to raise the Trust Territories from the category of Associated Territories to that of Associated States. It might suffice if each Territory possessed a representative body capable of determining the content of such nationality. If, on the contrary, the Trust Territories became Associated States, each Territory would necessarily acquire a nationality.

B. REVIEW OF RECOMMENDATIONS AND OBSERVATIONS MADE BY THE COUNCIL AND ITS SUBSIDIARY ORGANS CONCERNING THE ADMINISTRATIVE ARRANGEMENTS BETWEEN THE TRUST TERRITORIES UNDER FRENCH ADMINISTRATION AND THE FRENCH UNION

306. At its fourth session, the Trusteeship Council adopted Resolution 81 (IV) establishing the Committee on Administrative Unions. This Committee in its interim report (T/263) stated that it was evenly divided as to whether it had

/competence

competence to study the question of the relations between France and the Trust Territories administered by France within the framework of the French Union and requested a ruling by the Trusteeship Council as to whether it was competent to examine the question.

307. At the same session, the Trusteeship Council adopted Resolution 82 (IV) stating that:

"The Committee on Administrative Unions shall, exceptionally and in addition to its regular duties, make a study of the relations between France and the territories under French trusteeship, as defined by French laws within the French Union, and shall report to the Council on this study not later than three weeks before the opening of the fifth session."

308. At its fourth session, the Council also adopted the following identical conclusions concerning the relationship between the two Trust Territories and the French Union:

"The Council welcomes the important assurance given by the Administering Authority that the inhabitants will have the right at the appropriate time to determine for themselves whether they should remain in the French Union or assume a status of independence outside the Union. The Council notes the statement of the representative of France that at the appropriate time there will be full freedom and the population will vote the laws applying to the Territory."

309. In addition the Trusteeship Council at the same session made the following recommendation on development of national consciousness with regard to the Cameroons under French administration:

"The Council, noting with interest the statement of the Administering Authority that, in spite of the artificiality of the boundaries and the heterogeneity of the inhabitants, a sense of territorial unity is being developed, and, being of the opinion that full development of such a sense of unity and common identity is essential in the evolution of the Trust Territory as a distinct political entity, recommends that the Administering Authority foster this development by all possible means, such as the

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intensification of education, the improvement of communications and the encouragement of common political activities in the Territory."

310. In its Report to the Trusteeship Council (T/333), the Committee on Administrative Unions dealt with Trust Territories in the French Union without making any conclusions or recommendations to the Trusteeship Council. The Council, in its resolution 109(V), decided to transmit to the General Assembly the report of the Committee on Administrative Unions, taking note of the assurances by the Administering Authorities that the administration arrangements under consideration by the Council are not inconsistent with the objectives of the International Trusteeship system or with the terms of the Trusteeship agreements, and decided to continue the study of the question and requested the Administering Authorities to furnish separate records, statistics and other information on each Trust Territory.

311. The Report of the First Visiting Mission (T/462) to the Trust Territory of the Camercons under French administration contains a chapter on "Representation of the Trust Territory in the French Union".

312. The Report by the First Visiting Mission to the Trust Territory of Togoland under French administration (T/464) reiterates the recommendation adopted at the fourth session of the Trusteeship Council that the Administering Authority, irrespective of the present or future relationship of the Territory to the French Union, progressively extend the powers of the Representative Assembly, particularly in the field of legislation.

313. The Report of the Committee on Administrative Unions (A/1306) stated that the Committee did not re-examine the question of the administrative relationship of the Cameroons and Togoland under French administration with the French Union which had been referred to the Committee by the Council's resolution 82(IV) of March 1949. The committee, in connexion with this question, referred to chapter VII of its report to the Trusteeship Council (T/338).

314. At its ninth session, the Council, with regard to Cameroons and Togoland, noting that the association of each Territory with the French Union was not without its benefits, nevertheless considered that the Administering Authority should continue to preserve the separate status of each Territory with a view to its final self-government or independence.

/315. The Council

315. The Council also noted at its seventh session that the indigenous inhabitants of the Cameroons and Togoland have received the status of citizens of the French Union, while retaining freedom to choose between their personal status as "persons under French trusteeship administration" and the status of French citizens which they may acquire by naturalization. As citizens of the Union, they enjoy the rights and fundamental freedoms referred to in the 1946 Constitution, and they participate in political life in the Territory and, at the level of the French Union, in the metropolitan territory. As persons under trusteeship administration, they are not required to perform certain duties, including military service.

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

316. By Resolution 563 (VI) the General Assembly on 18 January 1952 requested the Trusteeship Council "in order to enable the General Assembly to arrive at conclusions concerning administrative unions affecting Trust Territories, to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis...of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union, with special reference to:

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

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

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

317. The Trusteeship Council in taking up the considerations enumerated in paragraph 1 of General Assembly Resolution 326 (IV) experienced certain difficulties in fully applying this resolution to the arrangements affecting Togoland and Cameroons under French administration within the framework of the French Union. The Council realized that, as General Assembly Resolution 326 (IV) addresses itself to administrative arrangements between a trust territory and an

adjacent territory under the same administration, some of its provisions do not apply to the separate question of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union.

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

319. In this connexion the Council noted the statement of the representative of France, made on 2 July 1952 at the twenty-ninth meeting of the Standing Committee on Administrative Unions that his Government had no intention of modifying the existing status of the Territories in question, in the sense indicated in the General Assembly resolution. If it contemplated any such modification, the French Government would not fail to comply with the wishes of the General Assembly.

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

321. In this connexion the Council noted the statement of the representative of France, made on 2 July 1952 at the twenty-ninth meeting of the Standing Committee on Administrative Unions that there was nothing to prevent the Administering Authority from furnishing separate financial and statistical data for the Territories with which it was concerned. Despite the customs union between Togoland and French West Africa, the French Government was able to furnish separate customs statistics for Togoland because the Togoland customs receipts were entered in the budget of that Territory.

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

323. In this connexion the Council noted the statement of the representative of France, made on 2 July 1952 at the twenty-ninth meeting of the Standing Committee on Administrative Unions that the Cameroons possessed an entirely separate judicial organization. The only court outside the Territory whose jurisdiction extended to the Territory was the Court of Cassation at Paris, a higher court which gave rulings on matters of law and not of fact.

324. Regarding Togoland the French Government had not thought it desirable to set up a Court of Appeals at Lomé in the interests of the inhabitants themselves. Courts of Appeals were important judicial bodies with great prestige and whose judges ought to be of high rank and possess long experience. Practice had shown that it was hard to fulfil those conditions in very small Territories.

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

326. In this connexion the Council notes that

(i) there are Representative Assemblies in the Cameroons and Togoland with headquarters in the respective territories.

(ii) both Trust Territories are represented in the various legislative bodies of the French Union.

(iii) according to the statement of the representative of France, made on 2 July 1952 at the twenty-ninth meeting of the Standing Committee on Administrative Unions that neither Togoland nor the Cameroons had a legislative body properly so called, inasmuch as the legislative assemblies had no legislative powers within the usual meaning of the term; their powers were nevertheless quite broad, much like those formerly vested in parliaments. In short, the function of the assemblies was to vote taxes. The French Government intended to broaden the powers of the assemblies and reform was under consideration. The representative of France added that the Committee could rest assured that legislative organs in Non-Self-Governing Territories did not exert any influence on the Trust Territories.

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

328. In this connexion the Council took note of the reference made in the Report of the Committee on Administrative Unions, dated 6 June 1949 (T/338) and of the statement of the representative of France, made on 2 July 1952 at the twenty-ninth meeting of the Standing Committee on Administrative Unions that, so far as the Cameroons were concerned, the Territory's incorporation into the French Union had not given rise to any persistent opposition. In case of Togoland, however, difficulties relating to the Ewe problem had arisen in the form of objections by the Comité de l'Union Togolaise which took the view that its policy was being hampered by the very existence of the French Union. Hence, that was a special problem with which the Council was, of course, familiar.

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

329. The Trusteeship Council

(a) Recalling that by article 4 (A) of the Trusteeship Agreements for the Cameroons under French administration and Togoland under French administration, the Administering Authority -

"1. Shall have full powers of legislation, administration and jurisdiction in the Territory and shall administer it in accordance with the French law as an integral part of French territory, subject to the provisions of the Charter and of this Agreement;

"2. Shall be entitled, in order to ensure better administration, with the consent of the territorial representative assembly, to constitute this Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control and to establish common services between such territories and the Trust Territory, provided that such measures shall promote the objectives of the International Trusteeship System;"

/(b) Noting

(b) Noting that according to the Constitution of the French Republic promulgated 27 October 1946, establishing the French Union, the French Union is composed, on the one hand, of the French Republic (Metropolitan France and the Overseas Departments and Territories), and, on the other hand, of the Associated Territories and States; and

(c) Noting in this connexion that the Trust Territories of the Cameroons and Togoland under French administration are Associated Territories in the meaning of Article 60 of the Constitution of the French Republic;

(d) Noting, that according to Article 26 of that Constitution "Diplomatic treaties duly ratified and published shall have the force of law even when they are contrary to internal French legislation; they shall require for their application no legislative acts other than those necessary to ensure their ratification."^{18/}

and having been informed by the Representative of France that irrespective of any other provisions of the French Constitution, Article 26 of this Constitution safeguards the full application of the Trusteeship Agreement; and

(e) Having noted in particular the statements of the Representative of France that with regard to political emancipation, it was self-evident that when the Trusteeship System came to an end, the population under Trusteeship would have the option, if they so desired, to achieve their aspirations outside the French Union.

^{18/} French text reads as follows:

"Les traités diplomatiques régulièrement ratifiés et publiés ont force de loi dans le cas même où ils seraient contraires à des lois internes françaises, sans qu'il soit besoin, pour en assurer l'application, d'autres dispositions législatives que celles qui auraient été nécessaires pour assurer leur ratification."

(1) Is of the opinion that there is no evidence to indicate that the practical operation of the administrative arrangements affecting the Trust Territories under French Administration and the French Union are incompatible with the Charter of the United Nations and the Trusteeship Agreements concerned.

(2) Is further of the opinion that the interpretations which the French representative has given concerning the relationship of the two Trust Territories to the French Union and which are contained in paragraph 305 above would appear to be consistent with the provisions of the Charter and the Trusteeship Agreement.

(3) States, however, that the Council does not feel itself competent to appraise the theories of constitutional law which may underlie the arrangements between the two Trust Territories under French administration and the French Union.
