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THE FUTURE OF THE TRUST TERRITORY OF THE CAMEROONS
UNDER UNITED KINGDOM ADMINISTRATION

Statement made by the Representative of the United Kingdom of Great Britain and Northern Ireland at the 892nd meeting of the Fourth Committee concerning the legal basis for continuation of trusteeship after Nigerian independence

Note by the Secretariat: The following statement is circulated to members of the Fourth Committee in accordance with the decision taken by the Committee at its 892nd meeting.

The legal basis for continuation of Trusteeship after Nigerian Independence

There are two distinct questions involved here, first the question of the possible separation of the Southern Cameroons from Nigeria and secondly the question of the separation of the Southern Cameroons from the Northern Cameroons if this becomes necessary. The legal points raised by these two questions are entirely distinct and in our view they should be considered separately.

Separation of the Southern Cameroons from Nigeria

Article 5 (a) of the Cameroons Trusteeship Agreement reads "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." In the circumstances we have had to deal with hitherto we have always interpreted this as meaning that it is right for the Territory to be administered as part of Nigeria. Indeed this was the understanding on which the United Kingdom Government accepted the trusteeship for the Cameroons.

It was clearly intended from the start of trusteeship, that (as under the mandate) the Territory should be administered with Nigeria, and its boundaries were drawn with this intention. This is well known to members of the Committee. To administer the Territory as part of Nigeria has been not only the best way to promote the advancement of the people of the Territory; it has also been based, in our view, on the best legal interpretation of Article 5 (a) in the circumstances as they have hitherto existed.

The question now raised, however, is a technical one. In the new circumstances of Nigerian independence the Assembly may decide that Trusteeship should continue temporarily in the Southern Cameroons, and the question which this raises in relation to the Trusteeship Agreement is a purely legal one: whether the actual terms of the Agreement now make this possible or whether any amendment or other action by the Assembly is required.

This matter has been carefully considered by our legal experts and I should like to inform the Committee of their opinion. Our legal advice is that in the new circumstances it would be possible for Trusteeship administration to continue without any amendment to the wording of Article 5 (a) because:

1. The phrase is "as an integral part of its territory". There is no mention of Nigeria and once Nigeria had become independent it no longer would be a territory under the responsibility of H.M.G. in the United Kingdom. While Nigeria was under authority of H.M.G. in the United Kingdom, the obvious interpretation legally and practically was that the Territory should be administered with Nigeria. But after Nigerian independence we shall be dealing with entirely new circumstances.

2. A very similar phrase exists in other Trusteeship Agreements, for example, those for Togoland and the Cameroons under French administration, which were to be administered "as an integral part of French Territory". These territories were not administered as an integral part of any adjacent territory.

3. Article 5 (a) also contains the phrase "with such modifications as may be required by local conditions". The attainment of Nigerian independence will be a substantial change in local conditions, which must modify the interpretation to be placed on the phrase "an integral part of its territory".

I emphasize that this is a question of the legal meaning of the words of Article 5 (a). We are not of course saying that because, in our view, no action to amend the Trusteeship Agreement would be necessary for this purpose, the Assembly need not concern itself with so important a change in the status of the territory as its separation from Nigeria would entail. The Assembly of course has every reason to be closely interested in this change of status, because of its general responsibilities for the Cameroons as a Trust Territory. If the Southern Cameroons is to remain temporarily under trusteeship separately from Nigeria, the Assembly may wish to give expression to its concern in this matter in some way, and we would see no objection to this being done by means of a paragraph in any resolution on this matter recognizing and approving the intention of the Administering Authority to take steps to separate the administration of the Southern Cameroons from that of Nigeria.

Separation of the Southern Cameroons from the Northern Cameroons

In this, I would first of all draw attention to the General Assembly's decision that separate plebiscites should be held in the Northern and Southern parts of the British Cameroons (resolution 1350). This decision was in accordance with the views of the Administering Authority and of the 1958 Visiting Mission.

The General Assembly's decision, which was based on the fact of the differences between the two parts of the territory and the different administrative arrangements which have existed in them for many years, clearly implied the possibility of different solutions being adopted for each part, and that they might achieve the objectives of trusteeship by different means and at different times.

As regards the legal position, the present situation is that we have made no suggestion for the amendment of the Trusteeship Agreement arising from the possibility of the Northern Cameroons becoming part of an independent Nigeria. Nor can we decide whether such a suggestion will be necessary until the result of the Northern plebiscite is known. In certain circumstances such a suggestion may become necessary, but at the present time our view is that it cannot be considered in a concrete form.

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However, since we have been asked for our view on this as a possibility in the future by the distinguished representative of Iraq and, I think, others, I will give the United Kingdom view on the procedure which will be necessary if, but only if, it has been decided that the Southern Cameroons should remain temporarily under trusteeship, and the Northern Cameroons plebiscite should come out in favour of the Northern Cameroons being a part of the Northern region of Nigeria when Nigeria becomes independent.

Our legal advice is that this change could be effected by an amendment to Article 1 of the Agreement to be made in accordance with the procedure laid down in the United Nations Charter. Article 1 defines the area covered by the Trusteeship Agreement. The amendment would redefine the area to exclude the Northern part of the Territory, and could be implemented by a resolution, to be adopted by the General Assembly with the agreement of the Administering Authority. Such a resolution would, together with other necessary provisions replace Article 1 of the Trusteeship Agreement by a new Article which would define the boundaries of the Trust Territories as those of the Southern Cameroons only.

Our legal advice is that the reduction in the area covered by the Agreement, which is laid down in one of its Articles, would not require any other revision of the Agreement or the drawing up of a new Agreement.
