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

Statements made by the Legal Counsel at the 892nd meeting of
the Fourth Committee

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

First statement

At the 890th meeting of the Fourth Committee, the advice of the Legal Office of the Secretariat was sought by the representative of India and certain other representatives on the question whether, should Northern Cameroons become a part of Nigeria following the plebiscite of November 1959 and the termination of United Nations trusteeship in its respect, it would be legally possible for Southern Cameroons to continue to be administered under the International Trusteeship System, by an amendment of the present Trusteeship Agreement.

Article 79 of the Charter as well as article 18 of the Trusteeship Agreement refer to the "alteration" or "amendment" of its terms. They contain no exceptions or restrictions as to the scope of such alterations or amendments; they do not indicate in particular that changes cannot be effected in the territorial scope of the Agreement. These provisions would make it possible, therefore, to amend article 1 of the Agreement which describes the Territory to which the Agreement at present applies.

Article 18 of the Trusteeship Agreement states that "The terms of this Agreement shall not be altered or amended except as provided in Article 79 and

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Article 83 or 85, as the case may be, of the United Nations Charter". The applicable Articles of the Charter require the approval of the proposed amendment by the General Assembly by a decision taken by a two-thirds majority of the Members.

It may be noted that under the Charter the same conditions, i.e. a proposal approved by the General Assembly by a two-thirds majority, apply to amendments to existing agreements as well as to the approval of a new trusteeship agreement.

It may be added that as evidenced by the case of the Trust Territory of Togoland under British administration, an integration of a Trust Territory into an independent State in accordance with the freely-expressed wishes of the peoples concerned, would be consistent with the objectives of the Trusteeship System. The continuation of United Nations trusteeship for the remainder of the Territory would obviously also be consistent with the eventual attainment of the objectives listed in Article 76 of the Charter.

No other provisions or precedents have been found which would conflict with the views expressed above.

It is therefore the opinion of the Legal Counsel that there would be no legal obstacles to the continuation of the administration of Southern Cameroons under United Nations trusteeship by way of an amendment of the existing Agreement.

This opinion does not deal of course with any of the political considerations by which Members of the Organization may wish to be guided in exercising their responsibilities in connexion with any proposals which may be made to them in the Fourth Committee with respect to the question under consideration.

Second statement

(in reply to the observations made by the representative
of India, see A/C.4/417)

I should like, on the one hand, to take this opportunity to express my regret that Mr. Krishna Menon could not agree with our opinion. On the other hand, I note that he did, himself, make the point that sometimes it is difficult to disassociate the legal from the political issues.

This is very true indeed, and the Legal Office is sometimes in trouble in that connexion. It is duty bound to present an accurate and unbiased opinion on any legal issue before it. Its interpretation of the texts, however, cannot

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be affected by the political aspects of the issue. It is obviously for you to define the policies and advise the General Assembly. However, there is one point which I wish to make to reply to Mr. Krishna Menon's question.

Mr. Krishna Menon read article 17 of the Trusteeship Agreement up to the following point:

"Nothing in this Agreement shall affect the right of the Administering Authority to propose, at any future date, the amendment of this Agreement for the purpose of designating the whole or part of the Territory as a strategic area ...".

The article goes further and says: "... or for any other purpose not inconsistent with the basic objectives of the International Trusteeship System". This is another purpose, and I believe the article is extremely clear when it says not only for a strategic area, but also "for any other purpose". That is the point.

Mr. Krishna Menon asked what should be the procedure. I believe that the procedure is much the same as when a new trusteeship agreement is brought into force. There must be a proposal by the Administering Authority and possible negotiations, if needed, with the General Assembly. At any rate, the adoption of an amendment would by itself change the Agreement and, in that sense, it would be a new agreement.
