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PRELIMINARY REPORT BY THE COMMITTEE OF EXPERTS TO THE SECURITY COUNCIL  
ON THE RESPECTIVE FUNCTIONS OF THE SECURITY COUNCIL AND THE TRUSTEESHIP  
COUNCIL WITH REGARD TO THE TRUSTEESHIP SYSTEM AS APPLIED TO STRATEGIC  
AREAS

Rapporteur: Mr. Joseph Nisot (Belgium)

At its 220th meeting, held on 15 November 1947, the Security Council decided to refer to its Committee of Experts, for report within four weeks, the whole question presented in the letter from the Secretary-General addressed to the President of the Security Council, dated 7 November 1947 (document S/599).

This letter referred to certain questions which had arisen as a result of the entry into force of the Trusteeship Agreement for the Pacific Islands formerly under Japanese mandate on 18 July 1947.

The Committee of Experts held one meeting under the chairmanship of Mr. Noyes (United States) and six meetings under the chairmanship of Mr. Harry (Australia). It was not possible for it to report within the time specified and, by direction of the Committee at its 107th meeting, the Chairman so informed the Security Council in a letter dated 12 December 1947 (S/521).

The Committee continued its work and, at its 110th meeting, decided to make this interim report to the Security Council.

Discussion of General Principles

The Committee first examined the general principles governing the exercise by the Security Council of its responsibilities under the Charter in connection with strategic areas under trusteeship, and the role, if any, of the Trusteeship Council.

The representative of the Union of Soviet Socialist Republics considered that Articles 83 (1) and 85 (1) of the Charter made it clear that all functions relating to strategic areas should be dealt with exclusively by the Security Council. In his view Article 83 (3) did not carry any obligation. The purpose of the safeguards in Article 83 (3) was to make the assistance of the Trusteeship Council to the Security Council dependent on the condition that express mention of it was made in the Trusteeship agreement and on Security /requirements.

requirements. The Trusteeship Agreement for the Pacific Islands did not mention the Trusteeship Council. The Security Council was free to request or not to request the Trusteeship Council's assistance. The Security Council should draw up its own rules independently and should avail itself of the assistance of the Trusteeship Council in such matters and under such circumstances as shall be determined by the Security Council in each individual case.

The representative of Australia considered that under Article 83 (3) the Security Council was required to avail itself of the assistance of the Trusteeship Council, subject to two exceptions: (a) if such assistance were excluded by the terms of the Trusteeship Agreement and (b) if such assistance was not desirable because of security considerations. This followed from the mandatory terms of Article 83 (3), and was supported by the "travaux préparatoires" of the San Francisco Conference. The fact that administering authorities of strategic areas were given representation on the Trusteeship Council also indicated that the Trusteeship Council had responsibilities in connection with strategic areas. He pointed out that draft rules of procedure for the Trusteeship Council prepared by the Preparatory Commission had envisaged action by the Trusteeship Council although that Council had left its rules vague pending determination of the views of the Security Council.

The representative of Poland considered Article 83 (1) an exception to the general provisions with regard to the trusteeship system and stated that an obligation, if any, of the Security Council to avail itself of the assistance of the Trusteeship Council in performance of certain functions enumerated in Article 83, paragraph 3, exists only if no security considerations are prejudiced. The language used in the French text did not appear to be mandatory and the "travaux préparatoires" were not conclusive. It follows from Article 83, paragraph 3, that security considerations within strategic areas are to be paramount over all other objectives of the Trusteeship system. The Security Council should decide in each case whether recourse to the Trusteeship Council's assistance was compatible with security requirements. The Trusteeship Council has no right to decide whether security implications exist in a certain matter and, therefore, whether it is authorized to act or not. At this stage of its work the Security Council should completely dissociate itself from the Trusteeship Council.

The representative of China considered that the problems linked with the sending of the questionnaire were procedural ones and would be included in the category of questions with regard to which the Security Council should ask the Trusteeship Council's assistance.

/The representative

The representative of Belgium considered that the Security Council's functions, derived from Articles 83 and 84 of the Charter, were based on considerations of security. Article 85 expressed the general principle, while Article 83 made an exception, entrusting the functions of the United Nations in relation to strategic areas to the Security Council without prejudice to the Trusteeship Council's competence. Article 83 (3) was in his view mandatory but in any case the technical nature of the problems required that the Security Council act with the assistance of the Trusteeship Council on all political, economic, social and educational matters in the strategic areas.

The representative of France considered that Article 83 (3) had a mandatory character.

The representative of the United Kingdom agreed that Article 83 (3) made it obligatory for the Security Council to avail itself of the assistance of the Trusteeship Council, although the Security Council had supreme authority with regard to security considerations. It remained to be determined to what extent the Security Council should decide to ask the Trusteeship Council for assistance. He saw no valid reason why the Security Council should embark on formulating questions on subjects common to all territories under the trusteeship system, those relating to political, economic, social and educational matters.

The representative of the United States considered the powers of the Security Council under Article 83 (1) were similar to the powers of the General Assembly under Article 85 and that the assistance by the Trusteeship Council to the Security Council under Article 83 (3) was similar to its assistance to the General Assembly under Article 85 (2). Under Article 83 (3), although the Security Council had full and final responsibility, the Security Council was obliged to ask the assistance of the Trusteeship Council in political, economic, social and educational matters. He considered that it would be preferable for the Security Council to give the Trusteeship Council a general authority subject to the general supervision of the Security Council exercised periodically rather than for the Security Council to ask the assistance of the Trusteeship Council in a "piecemeal" manner in each separate instance. The Trusteeship Council was better qualified to deal with questions relating to the welfare of the inhabitants of trust territories. The Trusteeship Council could take action with respect to questionnaires similar to that which it took on behalf of and under the authority of the General Assembly. He emphasized that under Article 13 of the Trust Agreement and Article 83 of the Charter this questionnaire is limited in scope to the political, economic, social and educational advancement of the inhabitants of the Trust Territory and that therefore the United Nations had no authority to include questions with respect to fortifications and defenses for military purposes, or any other question of

a military nature. The Trusteeship Council should also take appropriate measures as to petitions and visits. The Trusteeship Council should report on any measure it took to the Security Council, which could take any decision it deemed advisable.

The representative of Syria considered that Article 83 (1) required the Security Council to exercise all functions of the United Nations relating to strategic areas. This included everything pertaining to the trusteeship system concerning strategic areas, including the questionnaire.

The representative of Colombia stated that the Security Council was mainly responsible in the matter of strategic areas but Article 83 (1) had to be interpreted in the light of Article 83 (3) providing for the assistance of the Trusteeship Council. There was a certain parallelism between the position of the Security Council concerning strategic areas and the situation of the Security Council concerning non-strategic areas.

The representative of Brazil thought that Article 83 (3) of the Charter made it mandatory for the Security Council to avail itself of the assistance of the Trusteeship Council in the cases and under the conditions therein mentioned. He was in favour of establishing provisions of a general character not restricted in their application to the Japanese mandated Islands.

#### The Task of the Committee

The Committee found it necessary to consider whether its terms of reference required it to make recommendations to the Security Council only in relation to the specific question of the Pacific Islands formerly under Japanese mandate, or whether it was entitled to recommend procedures applicable to strategic areas generally.

The representative of Poland considered the Committee was concerned only with the Pacific Islands agreement.

The representative of Belgium felt that the Committee's mandate was basically to find a solution to the specific problem mentioned in document S/599. It might separately assist the Security Council by proposing how its relations with the Trusteeship Council should be regulated in a general manner.

The representative of China considered that in principle it was better to legislate for a class and not for a particular case.

The representative of the Union of Soviet Socialist Republics suggested that the matter should be clarified by the Security Council. But he insisted upon accepting the point of view that the principal matter for the Committee was to adopt the right basis of work fully consistent with the Charter; namely,

/that all functions

that all functions of the United Nations relating to strategic areas should be exercised by the Security Council. If this right basis of work was adopted, it would not be important whether to make recommendations to the Security Council only in connection with the specific question of the Pacific Islands formerly under Japanese mandate, or whether to recommend procedures applicable to strategic areas generally.

The representative of the United Kingdom suggested that a clause might be added to a general resolution providing that it should apply only to trusteeship of the Pacific Islands formerly under Japanese mandate until such time as the Security Council decided that it should extend to other strategic areas under trusteeship. The Committee itself should decide the scope of its report. The Security Council could express its views when it received the report.

The representative of France considered that, although the terms of reference of the Committee concerned the particular case of the Japanese mandated islands, general rules on general principles should be laid down. It could then be determined whether there was a need for particular rules concerning the Pacific Islands. In any case, it was utterly useless at this stage of the Committee's work to envisage the drafting of a new questionnaire.

The representative of Syria concurred in the views of the French representative.

The Committee eventually decided to recommend to the Security Council the adoption of a resolution applicable to strategic areas generally.

The Committee also discussed whether it should recommend to the Security Council the adoption of a resolution alone or rules of procedure alone, or both.

The representative of the United States considered that rules of procedure were essential but not sufficient and that it would be preferable to request the assistance of the Trusteeship Council by way of a resolution. He was supported by the representatives of Colombia and France.

The representative of Belgium thought it better to work out a draft resolution before establishing rules of procedure, which might take considerable time.

The Australian representative submitted drafts of both a resolution and of rules of procedure. He considered that since under Article 83 (1) all trusteeship functions of the United Nations relating to strategic areas were performed by the Security Council, the Trusteeship Council could not take any steps without a resolution of the Security Council.

The representative of the Union of Soviet Socialist Republics considered

/that the Committee

that the Committee should not present a resolution such as the Australian draft, but the first task of the Committee should be to formulate a questionnaire for the strategic areas under trusteeship and then to proceed to establish rules of procedure of the Security Council, basing them on the provision that all functions of the United Nations relating to strategic areas shall be exercised by the Security Council.

The representative of Syria proposed that the Committee examine first the rules of procedure and then the resolution.

The Committee decided by a majority to discuss first a draft resolution for recommendation to the Security Council.

#### Draft Resolution

The majority of the Committee accepted as basis for discussion a draft submitted by the Australian delegation. Written amendments to this draft were presented by the Belgian, United Kingdom and Polish delegations. The representative of the Union of Soviet Socialist Republics proposed to reject the whole Australian draft resolution as contrary to the provisions of the Charter and as aiming to diminish the role of the Security Council in the matter of its only competence and proposed to begin with formulating the questionnaire.

The text of the draft resolution, as finally agreed by the majority of the Committee is given below.

Paragraph 1 follows the Australian draft resolution with amendments suggested by the United States representative during discussion. It was decided to include in this paragraph the statement that the Trusteeship Council is authorized (under the conditions specified) to act in accordance with its own procedures when performing functions on behalf of the Security Council. This permitted the deletion of paragraph 2 of the Australian draft resolution which had provided that the Trusteeship Council be authorized to act under its own rules.

This paragraph was opposed by the Soviet and Polish representatives.

The representative of the Union of Soviet Socialist Republics stated that there was no valid reason to separate completely security matters from social, economic or political ones. In reality, they were intimately connected with social, economic and political ones. The Security Council had often examined economic and social questions in connection with political matters. The Security Council has the power and right to apply even economic sanctions if it is necessary. These questions taken together constituted security problems falling within the competence of the Security Council. He added also that the real meaning of this paragraph was to limit the functions of the Security Council in the matter of its own jurisdiction and to transfer these functions to another organ of the United Nations.

The Polish representative stated that as it follows from the provisions of Article 83, paragraph 1 ("all functions") Article 83, paragraph 3, ("without prejudice to security considerations"), and Article 85,

1. that the Security Council must exercise itself functions relating to military, strategic and security matters, and that such matters cannot be entrusted to the Trusteeship Council;
2. that the Security Council and only the Security Council is authorized to decide whether security implications exist in a certain function or not;
3. that the Trusteeship Council has no right to decide whether security implications exist in a certain matter. It follows also from the Charter that
4. wholesale transfer of authority in political, economic, social and educational matters in the strategic area to the Trusteeship Council is inadmissible because the last mentioned matters are in practice closely inter-connected with military, strategic and security matters. The Security Council has to examine in each case whether the given matter has some security and military implications or not, and to entrust to the Trusteeship Council such a matter only after having found that no security implications exist in it.

Paragraph 2 follows paragraph 3 of the Australian draft resolution and incorporates a suggestion made by the Chinese delegation that a copy of the questionnaire be sent by the Trusteeship Council to the Security Council one month before forwarding it to the administering authority. The Belgian delegate withdrew his amendment. The representatives of Colombia and Syria suggested that the questionnaire should be formulated by a joint committee from the Security and Trusteeship Councils. A resolution to give effect to that suggestion was withdrawn.

This paragraph was opposed by the Soviet and Polish representatives.

The Soviet representative stated that paragraph 2 would give the Trusteeship Council power to formulate the questionnaire and that the Security Council would have nothing to do in that respect. Article 88 of the Charter entrusted the Trusteeship Council with the formulation of a questionnaire only concerning trust territories within the competence of the General Assembly. It was therefore clear that giving full right to the Trusteeship Council to establish a questionnaire concerning strategic areas was contrary to Article 88. Moreover, the questionnaire established by the Trusteeship Council could not include questions relating to security matters since the Trusteeship Council was not competent in that domain. Consequently, there would be no difference made between strategic and non-strategic areas and the United Nations would not be  
/able to exercise

able to exercise its functions vis-a-vis strategic areas because their specific nature would not be taken into account as the Security Council will be practically ignored in this matter.

The Polish representative stated that the questionnaire established by the Trusteeship Council for its own needs was not suitable for strategic areas. A questionnaire relating to non-strategic areas could not be sent mechanically to the administering authority of a strategic area since the subject matter was entirely different. It was up to the Security Council to adapt the existing questionnaire to the requirements of strategic areas under trusteeship.

Paragraph 3 follows the text of an amendment submitted by the United Kingdom delegate to paragraph 4 of the Australian draft. The amendment provided that copies of the report and petitions should be sent to the Trusteeship Council at the same time as to the Security Council so that the work of the Trusteeship Council could proceed without delay.

The representative of the Union of Soviet Socialist Republics was against the acceptance of this paragraph for the reasons mentioned by him during the discussion of general principles and partly for some of the reasons mentioned in his objections against the acceptance of paragraphs 1 and 2 (see above).

The Polish representative pointed out that paragraph 3 (paragraph 4 of the Australian draft resolution) tried to entrust to the Trusteeship Council even larger powers than the Trusteeship Council itself considered in Rules 76, 85 and 88 as being within its own competence ("except....to petitions relating to a strategic area").

Paragraph 4 follows paragraph 5 of the Australian draft with an addition proposed by its original mover specifying the matters on which the Trusteeship Council might be requested to submit its report and recommendations to the Security Council.

The representative of the Union of Soviet Socialist Republics was against the acceptance of this paragraph for the reasons mentioned by him during the discussion of general principles and partly for some of the reasons mentioned in his objections against the acceptance of paragraphs 1 and 2 (see above).

Amendments were proposed by the representative of Poland to each paragraph of the Australian draft resolution. These amendments were supported by the representative of the Union of Soviet Socialist Republics, but were not acceptable by the majority of the Committee. (Annex 1)

#### Recommendation of the Committee

The majority of the Committee recommends\* to the Security Council the adoption of the following resolution:

\* The representatives of Poland and the Union of Soviet Socialist Republics opposed this recommendation and the representative of Colombia and of Syria abstained.



WHEREAS Article 83 (3) of the Charter provides that

"THE SECURITY COUNCIL shall, subject to the provision of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas"

THE SECURITY COUNCIL

RESOLVES:

1. That the Trusteeship Council be requested, subject to the provisions of trusteeship agreements or parts thereof in respect of strategic areas, and subject to the decisions of the Security Council made having regard to security considerations from time to time, to perform in accordance with its own procedures, on behalf of the Security Council the functions specified in Articles 87 and 88 of the Charter relating to the political, economic, social and educational advancement of the inhabitants of such strategic areas.
2. That the Trusteeship Council be requested to send to the Security Council, one month before forwarding to the administering authority, a copy of the questionnaire formulated in accordance with Article 88 of the Charter and any amendments to such questionnaire which may be made from time to time by the Trusteeship Council.
3. That the Secretary-General be requested to advise the Security Council of all reports and petitions received from or relating to strategic areas under trusteeship, and to send copies thereof, as soon as possible after receipt, to the Trusteeship Council for examination and report to the Security Council.
4. That the Trusteeship Council be requested to submit to the Security Council its reports and recommendations on political, economic and educational matters affecting strategic areas under trusteeship.

ANNEX 1

COMMITTEE OF EXPERTS

RESPECTIVE FUNCTIONS OF THE SECURITY COUNCIL AND OF THE  
TRUSTEESHIP COUNCIL WITH REGARD TO STRATEGIC AREAS

\*Draft Resolution Proposed by the Delegate for Poland for  
Recommendation to the Security Council

Taking into consideration the entry into force of the Trusteeship Agreement for the Pacific Islands on 18 July 1947, the Security Council decides:

1. Pursuant to Article 83 (1) of the Charter, to exercise all functions of the United Nations relating to strategic areas under trusteeship; and
2. to avail itself of the assistance of the Trusteeship Council in the performance of its functions under the Trusteeship System relating to political, economic, social and educational matters in the strategic areas, subject to the provisions of the above-mentioned Trusteeship Agreement and without prejudice to security considerations after having examined in each case separately the circumstances of the task to be performed;
3. to instruct the Committee of Experts to prepare within three weeks for the approval of the Security Council a draft questionnaire provided for by Article 88 of the Charter, adapted to the conditions and needs of strategic areas under trusteeship;
4. to request the Secretary-General to submit to the Security Council all petitions received from or relating to strategic areas under trusteeship for examination by the Security Council itself, or through the Trusteeship Council, as the case may be;
5. to provide for periodic visits to the strategic areas under trusteeship and to perform them either itself or through the Trusteeship Council as the case may be.

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\* This proposal was submitted to and discussed by the Committee in the form of amendments to the Australian draft. As the Australian draft is not included in this report the Polish amendments are annexed as a separate proposal. The representative of the Union of Soviet Socialist Republics supported this proposal with two drafting additions to the fourth and fifth paragraphs, namely, he proposed to add at the end of these two paragraphs the following phrase: ".....in accordance with the provisions of paragraph 2 above."