

**GENERAL
ASSEMBLY**

**ASSEMBLEE
GENERALE**

A/154
22 October 1946
ENGLISH
ORIGINAL: FRENCH

TRUSTEESHIP

PROPOSED TRUSTEESHIP AGREEMENT FOR THE
TERRITORY OF TOGOLAND UNDER FRENCH MANDATE
SUBMITTED BY THE FRENCH GOVERNMENT

(Item 12 of the Provisional Agenda of
the Second Part of the First Session)

1. Letter of Transmittal to the Secretary-General of 20 September 1946.
2. Text of Proposed Agreement.

MINISTRY FOR FOREIGN AFFAIRS
Secretariat of Conferences
No. 138SC

FRENCH REPUBLIC

Paris, 20th September 1946

Sir,

In your letter TR/Dir/ASG/da of June 29th 1946 you questioned me on the intentions of the French Government in regard to the carrying into effect of Article 79 of the Charter of the United Nations.

2 annexes

I have the honour to inform you that, in accordance with the statements made during the first part of the First Session of the General Assembly and at the last Assembly of the League of Nations, the French Government has decided to place the Mandated Territories of Togoland and the Cameroons under the Trusteeship system as defined by the provisions of the Charter.

The terms of trusteeship for these territories, of which the texts are annexed hereto, have been submitted for agreement to the British Government, which is regarded by the French Government as a "State directly concerned" within the meaning of the provisions of Article 79 of the Charter. They have also been communicated for information to the other permanent members of the Security Council and to the Powers holding mandates for territories on the African continent.

The British Government, for its part, has submitted for agreement to the French Government the terms of trusteeship for British Togoland and Cameroons.

I beg you, Sir, to accept the assurances of my highest consideration.

(signed) P. CHAUVIEL

The Secretary-General of the
United Nations Organization,
Lake Success, New York.

DRAFT RESOLUTION SUBMITTED TO THE
GENERAL ASSEMBLY OF THE UNITED NATIONS FOR
APPROVAL OF THE TRUSTEESHIP AGREEMENT CONCERNING
TOGOLAND UNDER FRENCH MANDATE

The General Assembly of the United Nations,

Whereas the territory known as Togoland lying to the east of the line agreed upon in the Declaration signed on 10 July 1919 has been under French administration in accordance with the mandate defined under the terms of the instrument of 20 July 1922; and

Whereas, in accordance with Article 9 of that document, this part of Togoland has since then been "administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the... provisions of the mandate, and it is of importance, in the interests of the population of Togoland, to pursue the administrative and political development of the territories in question in such a way as to promote the political, economic and social advancement of the inhabitants in accordance with Article 76 of the Charter of the United Nations, and

Whereas France has indicated her desire to place under trusteeship in accordance with Articles 75 and 77 that part of Togoland which is at present administered by her, and

Whereas the terms of the trusteeship agreement for this territory have been approved by the States directly concerned in accordance with Article 79 of the Charter, and

Whereas Article 85 of the said Charter provides that the terms of the trusteeship system are to be submitted for approval by the General Assembly, approves the terms of trusteeship as follows:

TRUSTEESHIP AGREEMENT APPLYING TO TOGOLAND
UNDER FRENCH MANDATE

(After the publication of this draft of the terms of Trusteeship, any amendments may be made which might appear desirable and to which agreement might be reached in accordance with the provisions of the Charter.)

ARTICLE 1

The territory to which the present trusteeship agreement applies comprises that part of Togoland lying to the east of the boundary defined by the

Franco-British Declaration of 10 July 1919.

ARTICLE 2

The French Government, in its capacity of Administering Authority for this territory under the terms of Article 81 of the Charter of the United Nations, undertakes to exercise the duties of trusteeship as defined in the said Charter, to promote the basic 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.

Accordingly the French Government undertakes:

1. to make to the General Assembly of the United Nations an annual report on the basis of the questionnaire drawn up by the Trusteeship Council, in accordance with Article 88 of the Charter of the United Nations, and to attach to that report such memoranda as may be required by the General Assembly or the Trusteeship Council;

to include in that report information relating to the measures taken to give effect to the suggestions and recommendations of the General Assembly or of the Trusteeship Council;

to appoint a representative and, where necessary, qualified experts to attend the meetings of the Trusteeship Council or of the General Assembly at which the said reports and memoranda will be examined;

2. to appoint a representative and, where necessary, qualified experts to participate, in consultation with the General Assembly or the Trusteeship Council, in the examination of petitions received by those bodies;

3. to facilitate such periodic visits to the territory as the General Assembly or the Trusteeship Council may decide to arrange, to decide jointly with these bodies the dates on which such visits shall take place, and also to agree with them on all questions concerned

with organization and accomplishment of these visits;

4. to render general assistance to the General Assembly or Trusteeship Council in the application of these arrangements, and of such other arrangements as those bodies may make in accordance with the terms of the present agreement.

ARTICLE 3

The Administering Authority shall be responsible for the peace, order and good government of the territory.

It shall also be responsible for the defence of the said territory and for ensuring that it shall play its part in the maintenance of international peace and security.

ARTICLE 4

For the above mentioned purposes and for all other purposes of the present agreement as may be necessary, the Administering Authority,

A. shall:

1. 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;

2. 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 should promote the objectives of the International Trusteeship System;

B. may:

1. establish on the territory military, naval or air bases, station national forces and raise volunteer contingents therein;

2. within the limits laid down in the Charter take all measures of organization and defence appropriate for ensuring:

- the participation of the territory in the maintenance of international peace and security,
- the respect for obligations concerning the assistance and facilities to be given by the Administering Authority to the Security Council,
- the respect for internal law and order,
- the defence of the territory within the framework of special agreements for the maintenance of international peace and security.

ARTICLE 5

The Administering Authority shall take measures to ensure to the local inhabitants a share in the administration of the territory by the development of representative democratic bodies, and in due course to arrange appropriate consultations to enable the inhabitants to express an opinion on their political régime and ensure the attainment of the objective prescribed in Article 76 (b) of the Charter of the United Nations.

ARTICLE 6

The Administering Authority undertakes to maintain the application to the territory, of the international agreements and conventions which are at present in force there, and to apply therein the provisions of any conventions and recommendations made by the United Nations or the specialized agencies defined in Article 57 of the Charter, the application of which would conduce to the achievement of the basic objectives of the International Trusteeship System and of the present agreement.

ARTICLE 7

In the framing of laws relating to the holding or transfer of land, the Administering Authority shall, in order to promote the social and economic progress of the natives, take into consideration local laws and customs.

No land belonging to a native or to a group of natives may be transferred, except between natives, without the previous consent of the competent public authority, who shall respect the rights and safeguard the interests, both present and future, of the native population. No real rights over native land in favour of non-natives may be created except with the same consent.

ARTICLE 8

Subject to the provisions of the following article, the Administering Authority shall take all necessary steps to ensure equal treatment in social, economic, industrial and commercial matters for all Members of the United Nations and their nationals, and to this end:

1. shall grant to all nationals of Members of the United Nations freedom of transit and navigation, including freedom of transit and navigation by air, and the protection of person and property, subject only to the requirements of public order, and on condition of compliance with the local law;
2. shall ensure the same rights to all nationals of Members of the United Nations as to its own nationals in respect of entry into and residence in the territory, acquisition of property, both movable and immovable, and the exercise of professions and trades;
3. shall not discriminate on grounds of nationality against nationals of any Member of the United Nations in matters relating to the grant of concessions for the development of the natural resources of the territory, and shall not grant concessions having the character of a general monopoly;
4. shall ensure equal treatment in the administration of justice to the nationals of all Members of the United Nations.

The rights conferred by this Article on nationals of Members of the United Nations apply equally to companies and associations controlled by such nationals and formed in accordance with the law of any Member of the United Nations.

Nevertheless, pursuant to Article 76 of the Charter, such equal treatment shall be without prejudice to the attainment of the trusteeship objectives as prescribed in paragraph (b) of the said Article 76.

Should special advantages of any kind be granted by a Power enjoying the equality of treatment referred to above to another Power, or to a territory whether self-governing or not, the same advantages shall automatically apply reciprocally to the trustee territory and to its inhabitants, especially in the economic and commercial field.

ARTICLE 9

Measures taken to give effect to the preceding article of this agreement shall be subject always to the over-riding duty of the Administering Authority, in accordance with Article 76 of the Charter, to promote the political, economic, social and educational advancement of the inhabitants of the territory, to carry out the other basic objectives of the International Trusteeship System and to maintain peace, order and good government. The Administering Authority shall in particular be free, with the consent of the territorial representative Assembly:

1. to organize essential public services and works on such terms and such conditions as it thinks just;
2. to create monopolies of a purely fiscal character in the interest of the territory and in order to provide the territory with the fiscal resources which seem best suited to local requirements;
3. to establish or to authorize under conditions of proper public control, such other monopolies or undertakings having in them an element of monopoly, as appear to the Administering Authority to be in the interest of the economic advancement of the inhabitants of the territory.

ARTICLE 10

The Administering Authority shall ensure in the territory complete freedom of thought and the free exercise of all forms of worship which are consistent with public order and morality. Missionaries who are nationals of Members of

the United Nations shall be free to enter the territory and to reside therein, to acquire and possess property, to erect religious buildings and to open schools and hospitals throughout the territory.

The provisions of this article shall not, however, affect the right and duty of the Administering Authority to exercise such control as may be necessary for the maintenance of public order and morality and for the educational advancement of the inhabitants of the territory.

The Administering Authority shall continue to develop elementary, secondary and technical education for the benefit of both children and adults. To the full extent compatible with the interests of the population, it shall afford to qualified students the opportunity of receiving higher general or professional education.

The Administering Authority shall guarantee to the inhabitants of the territory freedom of speech, press, assembly and petition, subject only to the requirements of public order.

ARTICLE 11

Nothing in this agreement shall affect the right of the Administering Authority to propose at any future date the designation of the whole or part of the territory thus placed under its trusteeship as a strategic area in accordance with Articles 82 and 83 of the Charter of the United Nations.

ARTICLE 12

The terms of the present trusteeship agreement shall not be altered or amended except as provided in Articles 79, 82 and 83, as the case may be, of the Charter of the United Nations.

ARTICLE 13

If any dispute whatever should arise between the Administering Authority and another Member of the United Nations, relating to the interpretation or the application of the provisions of the present trusteeship agreement, such dispute, if it cannot be settled by negotiation or other means, shall be submitted to the International Court of Justice provided for in Chapter XIV

of the Charter of the United Nations.

ARTICLE 14

The Administering Authority may enter, on behalf of the territory, any consultative regional commission, technical organ or voluntary association of States which may be constituted. It may also collaborate, on behalf of the territory, with international public or private institutions or participate in any form of international co-operation in accordance with the spirit of the Charter.

ARTICLE 15

The present agreement shall enter into force as soon as it has received the approval of the General Assembly of the United Nations.
