



Fifth session
Agenda item 21 (c)

DRAFT TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF SOMALILAND
UNDER ITALIAN ADMINISTRATION: SPECIAL REPORT
OF THE TRUSTEESHIP COUNCIL

Report of the Fourth Committee

Rapporteur: Mr. Peter ANKER (Norway)

1. The special report of the Trusteeship Council concerning the draft Trusteeship Agreement for the Territory of Somaliland under Italian Administration (A/1294)* was referred to the Fourth Committee by the General Assembly at its 285th plenary meeting on 26 September 1950.
2. At the 174th meeting of the Committee, the Chairman invited the representative of Italy and the Chairman of the United Nations Advisory Council for the Trust Territory of Somaliland to participate in the Committee's deliberations without the right to vote.
3. In a communication dated 19 September 1950 addressed to the Chairman of the Fourth Committee, the Somali Youth League asked to be given an opportunity to make oral statements before the Committee. At the 174th meeting, in the course of the discussion concerning this request, the delegation of Iraq submitted a proposal reading as follows:

"The Fourth Committee decides to grant the request of the Somali Youth League to participate without vote in the work of this Committee during the debate on the question of the Trusteeship Agreement for Somaliland."

The delegation of France proposed that the Fourth Committee should permit representatives of local opinion, such as the representatives of political parties or other organizations in Somaliland, to state their views before the Committee should they desire to do so.

* See Official Records of the General Assembly, Fifth Session, Supplement No. 10.

The delegation of Cuba proposed that the Fourth Committee should decide to invite the Somali Youth League to be present at its meetings and to authorize its representatives to make a statement expressing their views on the draft Trusteeship Agreement.

In accordance with rule 130 of the rules of procedure of the General Assembly, the proposal by the delegation of Iraq was put to the vote first.

The proposal was voted upon by roll-call as follows:

In favour: Afghanistan, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Egypt, Ethiopia, India, Indonesia, Iran, Iraq, Lebanon, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen.

Against: Australia, Belgium, Canada, Denmark, France, Netherlands, Norway, Sweden, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, China, Colombia, Cuba, El Salvador, Greece, Haiti, Israel, New Zealand, Thailand, Venezuela, Yugoslavia.

The proposal was adopted by 20 votes to 11, with 13 abstentions.

4. The Chairman accordingly invited the representative of the Somali Youth League to participate, without the right to vote, in the work of the Committee.

5. In a communication dated 15 November 1950 to the Secretary-General, the Conferenza della Somalia asked to participate in the discussions of the Committee. The Committee, at its 179th meeting, decided to accord the request and the representative of the Conferenza della Somalia was invited to participate, without the right to vote, in the Committee's deliberations.

6. At the 175th meeting, the President of the Trusteeship Council, Dr. Max Henriquez Urena, made an introductory statement in which he outlined the work done by the Trusteeship Council in accordance with General Assembly resolution 289 (IV) of 21 November 1949, and reviewed the main provisions of the draft Trusteeship Agreement for Somaliland and the Declaration of Constitutional Principles which is attached thereto and which forms an integral part of the Agreement.

7. Statements were also made by the Chairman of the Advisory Council for Somaliland and the representative of Italy. The Chairman of the Advisory Council informed the Committee of the activities of the Council since its inception and

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gave a general outline of the situation in the Territory. The representative of Italy summarized the events in the Territory since the assumption on 1 April 1950 of the provisional Italian administration and gave assurances of the determination of the Administering Authority to prepare Somaliland for independence in a spirit of justice, peace, liberty and progress and to implement the terms of the Trusteeship Agreement in the spirit and the letter of the Charter of the United Nations.

8. The discussion on the item was then begun and continued until the 180th meeting of the Committee. Statements were made by the representatives of the Somali Youth League and the Conferenza della Somalia and the latter representative answered questions put to him by members of the Committee.

9. Two draft resolutions and a joint proposal were submitted for the Committee's consideration as referred to below.

10. The delegation of Ethiopia submitted two draft resolutions the first of which (A/C.4/L.102) read as follows:

"Whereas the provisions of Articles 79, 83 and 85 of the Charter of the United Nations require that the terms of trusteeship for each territory to be placed under the Trusteeship System shall be agreed upon by the States directly concerned, before approval of such agreement by the United Nations, and

"Whereas the same provisions of the Charter require that any alteration or amendment of the terms of trusteeship shall likewise be agreed upon by the States directly concerned prior to submission of the same to the United Nations for its approval, and

"Whereas the Trusteeship Council in examining the question at no time sought any such agreement within the meaning of Article 79 of the Charter, and

"Whereas the Trusteeship Council has not prepared any agreement submitted to or agreed to or containing any agreement or approval by the States directly concerned, and

"Whereas in respect of the Territory of former Italian Somaliland there is no agreement containing the terms of trusteeship for such Territory and/or for alteration or amendment of said terms, for the placing of said Territory under the Trusteeship System, and agreed to by the States directly concerned, which is submitted to the United Nations for approval in accordance with Articles 79 and 85 of the Charter, nor does document Supplement 10 (A/1294) constitute any such agreement within the requirements of the aforementioned Articles,

"The General Assembly declares:

"1. That the Trusteeship Committee of the General Assembly has not been seized of an agreement by the States directly concerned, containing the terms of trusteeship, including all alterations or amendments of the same, for the placing of the Territory of former Italian Somaliland under the Trusteeship System, and

"2. That no agreement having been submitted to the United Nations for its approval in accordance with the provisions of Articles 79, 83 and 85 of the Charter, the United Nations are unable to proceed further with the question raised by the provisions of recommendations of 21 November 1949, part B, with respect to Italian Somaliland (document A/1124, 22 November 1949)".

The draft resolution was voted upon by roll call at the 176th meeting as follows:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Ethiopia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, India, Indonesia, Iran, Iraq, Israel, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Saudi Arabia, Sweden, Thailand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen.

Abstaining: Afghanistan, Burma, Egypt, France, Guatemala, Haiti, Yugoslavia.

The draft resolution was rejected by 34 votes to 6, with 7 abstentions.

11. The second draft resolution (A/C.4/L.105) submitted by the delegation of Ethiopia read as follows:

"Whereas the terms of Article 79 of the Charter of the United Nations require the agreement by the States directly concerned to the terms of trusteeship for each territory to be placed under the Trusteeship System, including any alterations or amendments thereof, and

"Whereas in respect of former Italian Somaliland, a Member of the United Nations has claimed to be a State directly concerned within the meaning of Article 79 of the Charter, and

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"Whereas the aforesaid Member of the United Nations claims that its agreement to the terms of trusteeship for the placing of former Italian Somaliland under the Trusteeship System has not been obtained as required by the provisions of Article 79 of the Charter, and

"Whereas the aforesaid Member of the United Nations has claimed that without its agreement, as a State directly concerned by virtue of the provisions of Article 79 of the Charter, approval by the United Nations of any trusteeship agreement concerning former Italian Somaliland would be contrary to the provisions of Article 2, paragraph 7, of the Charter, in respect of certain territories and inhabitants, in view of the absence of any frontier with former Italian Somaliland,

"The General Assembly,

"By virtue of the provisions of Article 96 of the Charter of the United Nations, requests of the International Court of Justice advisory opinions on the following questions:

"1. By what criteria are States determined to be "States directly concerned" within the meaning of Article 79 of the Charter?

"2. What authority or authorities are competent to determine what States are entitled to be considered "States directly concerned" within the meaning of Article 79 of the Charter?

"3. What procedure or procedures shall the competent authority or authorities apply in determining what States are "States directly concerned" within the meaning of Article 79 of the Charter?

"4. What procedure or procedures shall the organs of the United Nations, in accordance with the provisions of Articles 79, 83 and 85, apply, following determination by the competent authority or authorities of the "States directly concerned" within the meaning of Article 79 of the Charter?

"5. What procedure or procedures shall the organs of the United Nations, in accordance with the provisions of Articles 79, 83 and 85, apply, in the absence of a determination by the competent authority or authorities of the "States directly concerned" within the meaning of Article 79 of the Charter?"

12. At the 179th meeting, the Chairman requested the delegation of Ethiopia to withdraw this draft resolution. The delegation of Ethiopia complied with this request, while reserving the right to submit this or another draft resolution on that question when the draft agreement relating to Trusteeship over former Italian Somaliland comes before the General Assembly. No objection was raised to this reservation.

13. The delegations of Argentina, Colombia, Denmark, Iraq, Norway, Pakistan, the Philippines and the United States of America submitted a joint draft proposal (A/C.4/L.104) which recommended that the General Assembly should approve the draft Trusteeship Agreement and called its attention to the declarations

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regarding the Trusteeship Agreement made by the representative of the Administering Authority during the discussion in the Fourth Committee. Subsequently, the delegation of India joined the sponsors of the proposal, which was revised (A/C.4/L.104/Rev.1) to read as follows:

"The Fourth Committee

"Recommends that the General Assembly approve the draft Trusteeship Agreement for the Territory of Somaliland under Italian Administration, as contained in document A/1294, negotiated by the Trusteeship Council with the Administering Authority pursuant to General Assembly resolution 289 (IV); and

"Calls the attention of the Assembly to the declarations regarding the Trusteeship Agreement made by the representative of the Administering Authority during the discussion in the Fourth Committee and, in particular, to his undertaking to prepare Somaliland for independence in a spirit of justice, peace, liberty and progress, and to implement the terms of the Agreement in the spirit and the letter of the provisions of the Charter of the United Nations."

The joint draft proposal was voted upon by roll-call at the 180th meeting as follows:

In favour: Afghanistan, Argentina, Australia, Belgium, Brazil, Burma, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, France, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Israel, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Saudi Arabia, Sweden, Syria, Thailand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstentions: Liberia.

The draft proposal was adopted by 44 votes to 5, with 1 abstention. The delegation of Ethiopia did not participate in the vote.

14. In accordance with the above decision, the Fourth Committee recommends that the General Assembly approve the draft Trusteeship Agreement and Declaration of Constitutional Principles contained in document A/1294, pages 5-11.