



Treaty Series No. 21 (1947)

TOGOLAND
UNDER UNITED KINGDOM
TRUSTEESHIP

TEXT OF TRUSTEESHIP AGREEMENT AS
APPROVED BY THE GENERAL ASSEMBLY
OF THE UNITED NATIONS

New York, 13th December, 1946

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON
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Cmd. 7083

PREFACE

DRAFT terms of Trusteeship for Togoland under British Mandate were first published in July 1946 in Cmd. 6863; revised draft terms were published in October 1946 in Cmd. 6935. The revised draft terms were submitted by His Majesty's Government in the United Kingdom to the General Assembly of the United Nations at the Second Part of their First Session, and the terms, with minor modifications, were approved by the General Assembly on 13th December, 1946.

2. The Trusteeship Agreement as approved by the United Nations General Assembly is reproduced below.

3. The approved text follows the revised draft terms published in Cmd. 6935 virtually unchanged, the exceptions being verbal alterations in the Preamble and Article 6, the addition of certain words at the end of Article 10 (c), and a change in the references to the name of the territory wherever it occurs in the text of the Agreement.

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New York, 13th December, 1946

WHEREAS the Territory known as Togoland under British Mandate and hereinafter referred to as the Territory has been administered in accordance with Article 22 of the Covenant of the League of Nations under a Mandate conferred on His Britannic Majesty; and

Whereas Article 75 of the United Nations Charter signed at San Francisco on 26th June, 1945,⁽¹⁾ provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements; and

Whereas under Article 77 of the said Charter the international trusteeship system may be applied to territories now held under Mandate; and

Whereas His Majesty has indicated his desire to place the Territory under the said international trusteeship system; and

Whereas in accordance with Articles 75 and 77 of the said Charter, the placing of a territory under the international trusteeship system is to be effected by means of a Trusteeship Agreement;

Now therefore the General Assembly of the United Nations hereby resolves to approve the following terms of trusteeship for the Territory.

ARTICLE 1

The Territory to which this Agreement applies comprises that part of Togoland lying to the west of the boundary defined by the Franco-British Declaration of 10th July, 1919, as delimited and modified by the Protocol of 21st October, 1929, executed by the Commissioners appointed in the execution of Article 2 (1) of the said Declaration.

ARTICLE 2

His Majesty is hereby designated as Administering Authority for the Territory, the responsibility for the administration of which will be undertaken by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 3

The Administering Authority undertakes to administer the Territory in such a manner as to achieve the basic objectives of the international trusteeship system laid down in Article 76 of the United Nations Charter. The Administering Authority further undertakes to collaborate fully with the General Assembly of the United Nations and the Trusteeship Council in the discharge of all their functions as defined in Article 87 of the United Nations Charter, and to facilitate any periodic visits to the Territory which they may deem necessary, at times to be agreed upon with the Administering Authority.

⁽¹⁾ "Treaty Series No. 67 (1946)" Cmd. 7015.

ARTICLE 4

The Administering Authority shall be responsible (a) for the peace, order, good government and defence of the Territory and (b) for ensuring that it shall play its part in the maintenance of international peace and security.

ARTICLE 5

For the above-mentioned purposes and for all purposes of this Agreement, as may be necessary, the Administering Authority:

- (a) shall have full powers of legislation, administration and jurisdiction in the Territory, and shall administer it in accordance with his own laws as an integral part of his territory with such modification as may be required by local conditions and subject to the provisions of the United Nations Charter and of this Agreement;
- (b) shall be entitled to constitute the Territory into a customs, fiscal or administrative union or federation with adjacent territories under his sovereignty or control, and to establish common services between such territories and the Territory where such measures are not inconsistent with the basic objectives of the international trusteeship system and with the terms of this Agreement;
- (c) and shall be entitled to establish naval, military and air bases, to erect fortifications, to station and employ his own forces in the Territory and to take all such other measures as are in his opinion necessary for the defence of the Territory and for ensuring that it plays its part in the maintenance of international peace and security. To this end the Administering Authority may make use of volunteer forces, facilities and assistance from the Territory in carrying out the obligations towards the Security Council undertaken in this regard by the Administering Authority, as well as for local defence and the maintenance of law and order within the Territory.

ARTICLE 6

The Administering Authority shall promote the development of free political institutions suited to the Territory. To this end, the Administering Authority shall assure to the inhabitants of the Territory a progressively increasing share in the administrative and other services of the Territory; shall develop the participation of the inhabitants of the Territory in advisory and legislative bodies and in the government of the Territory, both central and local, as may be appropriate to the particular circumstances of the Territory and its peoples; and shall take all other appropriate measures with a view to the political advancement of the inhabitants of the Territory in accordance with Article 76 (b) of the United Nations Charter. In considering the measures to be taken under this article the Administering Authority shall, in the interests of the inhabitants, have special regard to the provisions of Article 5 (a) of this Agreement.

ARTICLE 7

The Administering Authority undertakes to apply in the Territory the provisions of any international conventions and recommendations already existing or hereafter drawn up by the United Nations or by the specialised agencies referred to in Article 57 of the Charter, which may be appropriate to the particular circumstances of the Territory and which would conduce to the achievement of the basic objectives of the international trusteeship system.

ARTICLE 8

In framing laws relating to the holding or transfer of land and natural resources, the Administering Authority shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests, both present and future, of the native population. No native land or natural resources may be transferred, except between natives, save with the previous consent of the competent public authority. No real rights over native land or natural resources in favour of non-natives may be created, except with the same consent.

ARTICLE 9

Subject to the provisions of Article 10 of this Agreement, 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:

- (a) shall ensure the same rights to all nationals of Members of the United Nations as to his own nationals in respect of entry into and residence in the Territory, freedom of transit and navigation, including freedom of transit and navigation by air, acquisition of property both movable and immovable, the protection of persons and property, and the exercise of professions and trades;
- (b) 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;
- (c) 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 organised in accordance with the law of any Member of the United Nations.

ARTICLE 10

Measures taken to give effect to Article 9 of this Agreement shall be subject always to the over-riding duty of the Administering Authority in accordance with Article 76 of the United Nations 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:

- (a) to organise essential public services and works on such terms and conditions as he thinks just;
- (b) to create monopolies of a purely fiscal character in order to provide the Territory with the fiscal resources which seem best suited to local requirements, or otherwise to serve the interests of the inhabitants of the Territory;
- (c) where the interests of the economic advancement of the inhabitants of the Territory may require it, to establish or permit to be established, for specific purposes, other monopolies or undertakings having in them an element of monopoly, under conditions of proper public control; provided that, in the selection of agencies to carry out the purposes of this paragraph, other than agencies controlled by the Government or those in which the Government participates,

the Administering Authority shall not discriminate on grounds of nationality against Members of the United Nations or their nationals.

ARTICLE 11

Nothing in this Agreement shall entitle any Member of the United Nations to claim for itself or for its nationals, companies or associations the benefits of Article 9 of this Agreement in any respect in which it does not give to the inhabitants, companies and associations of the Territory equality of treatment with the nationals, companies and associations of the State which it treats most favourably.

ARTICLE 12

The Administering Authority shall, as may be appropriate to the circumstances of the Territory, continue and extend a general system of elementary education designed to abolish illiteracy and to facilitate the vocational and cultural advancement of the population, child and adult, and shall similarly provide such facilities as may prove desirable and practicable in the interests of the inhabitants for qualified students to receive secondary and higher education, including professional training.

ARTICLE 13

The Administering Authority shall ensure in the Territory complete freedom of conscience and, so far as is consistent with the requirements of public order and morality, freedom of religious teaching and the free exercise of all forms of worship. Subject to the provisions of Article 8 of this Agreement and the local law, missionaries who are nationals of Members of the United Nations shall be free to enter the Territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools and hospitals in the Territory. The provisions of this Article shall not, however, affect the right and duty of the Administering Authority to exercise such control as he may consider necessary for the maintenance of peace, order and good government and for the educational advancement of the inhabitants of the Territory and to take all measures required for such control.

ARTICLE 14

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

ARTICLE 15

The Administering Authority may arrange for the co-operation of the Territory, in any regional advisory commission, regional technical organisation or other voluntary association of States, any specialised international bodies, public or private, or other forms of international activity not inconsistent with the United Nations Charter.

ARTICLE 16

The Administering Authority shall make to the General Assembly of the United Nations an annual report on the basis of a questionnaire drawn up by the Trusteeship Council in accordance with Article 88 of the United Nations Charter. Such reports shall include information concerning the measures taken to give effect to suggestions and recommendations of the General Assembly and the Trusteeship Council. The Administering

Authority shall designate an accredited representative to be present at the sessions of the Trusteeship Council at which the reports of the Administering Authority with regard to the Territory, are considered.

ARTICLE 17

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 or for any other purpose not inconsistent with the basic objectives of the international trusteeship system.

ARTICLE 18

The terms of this Agreement shall not be altered or amended except as provided in Article 79 and Articles 83 or 85, as the case may be, of the United Nations Charter.

ARTICLE 19

If any dispute whatever should arise between the Administering Authority and another Member of the United Nations relating to the interpretation or application of the provisions of this 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 United Nations Charter.

LONDON

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:

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1947

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