



COLONIAL OFFICE

TRUSTEESHIP
Territories in Africa
under United Kingdom
Mandate

*Presented to Parliament by the Secretary of State
for the Colonies by Command of His Majesty
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TRUSTEESHIP.

TERRITORIES IN AFRICA UNDER UNITED KINGDOM MANDATE.

1. On the 17th January, 1946, the Secretary of State for Foreign Affairs informed the General Assembly of the United Nations that it was the intention of His Majesty's Government in the United Kingdom to place the mandated territories of Tanganyika, Togoland under British mandate and Cameroons under British mandate under the International Trusteeship System established in Chapters XII and XIII of the United Nations Charter. A similar statement was made in both Houses of Parliament on the 23rd of January by the Prime Minister in the House of Commons(a) and by the Secretary of State for Dominion Affairs in the House of Lords(b). The relevant passage in Mr. Bevin's speech to the General Assembly is reproduced at Annex I and the Parliamentary Statement at Annex II. The text of a Parliamentary question and answer dated the 26th March(c), bearing on British nationality in these territories, is also reproduced (Annex III).

2. Article 79 of the United Nations Charter provides that the terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the States directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations. Article 85 provides that the General Assembly shall approve the terms of trusteeship and their alteration or amendment, in the case of areas not designated as strategic. The interpretation of the phrase "States directly concerned" has led to considerable discussion, both in the Preparatory Commission of the United Nations and in the Fourth Committee of the General Assembly. The interpretation provisionally placed upon these words by His Majesty's Government in the United Kingdom is made clear in the Parliamentary Statement (Annex II).

3. The Parliamentary statement indicated that as soon as the draft terms of trusteeship had been agreed upon by the States regarded as being in any event directly concerned they would be communicated to Parliament and to the local Legislative Councils. The agreement of His Majesty's Government in the Union of South Africa and of the Government of Belgium to the draft terms of trusteeship for Tanganyika has been received. Pending consideration of any comments by any of the other Governments to which the text was communicated, the draft (Annex IV) is now presented to Parliament and is also being communicated to the Legislative Council of Tanganyika. The opportunity is thus provided for public opinion both in the United Kingdom and in Tanganyika to express itself before the terms of trusteeship are presented for approval by the General Assembly of the United Nations. It is the present intention of His Majesty's Government to bring the terms of trusteeship before the General Assembly at its next meeting in September, 1946. Any amendments which may after publication of the draft be found necessary or desirable, and which are agreed to in accordance with the provisions of the Charter, may subsequently be incorporated in the terms of trusteeship to be presented to the General Assembly for approval.

(a) Official Report, House of Commons, 23rd January. Column 149-152.

(b) Official Report, House of Lords, 23rd January. Column 1035-1037.

(c) Official Report, House of Commons, 27th March. Column 350.

4. The terms of trusteeship proposed for Togoland and the Cameroons under British Mandate are substantially identical with those for Tanganyika, and will be published separately as soon as they have been agreed on by the States recognised by His Majesty's Government as being in any event directly concerned.

5. Broadly speaking, the terms of trusteeship in each case are modelled upon the existing mandates, but revised in conformity with the provisions of the United Nations Charter. The revised provisions should, in the opinion of His Majesty's Government, operate to the advantage of the inhabitants of the territories. The main differences between the objectives of the trusteeship system and those of the mandates are in the treatment of defence and economic matters.

Under the mandates it has been virtually impossible to make adequate arrangements for the defence of the mandated territories, and quite impossible, on a strict interpretation of the mandates, to make proper use of the resources of those territories in peacetime for the maintenance of international peace and security. The United Nations Charter, however, provides that one of the basic objectives of the trusteeship system is to further international peace and security, and Article 84 of the Charter lays upon the Administering Authority the duty of ensuring that the trust territory shall play its part in this. To this end the Administering Authority may make use of volunteer forces, facilities and assistance from the trust territory for 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 trust territory. This provision of the Charter is reproduced in Article 5 (c) of the draft terms of trusteeship.

Secondly, the mandates for these territories imposed an unqualified obligation to grant equal treatment in commercial and various other matters to all Members of the League of Nations, irrespective of whether such a provision operated to the advantage of the inhabitants of the territory or not. Similar rights were granted to the United States of America by special Conventions concluded with the United Kingdom (d). Under Article 76 (d) of the United Nations Charter, however, the grant of equal treatment in social, economic and commercial matters for all Members of the United Nations and their nationals is made subject to the overriding duty on the part of the Administering Authority to promote the attainment of the other objectives of the Trusteeship system, notably the political, economic, social and educational advancement of the inhabitants of the territories. This provision of the United Nations Charter is reflected in Articles 9 and 10 of the draft terms of trusteeship (which must be read together), Article 11, and the latter part of Article 12.

The other Articles of the draft do not seem to require any special comment.

6. Finally, in publishing these draft terms of trusteeship, His Majesty's Government invite special attention to two passages in the Foreign Secretary's statement to the General Assembly: first, to the effect that their willingness to place these territories under trusteeship is dependent upon the negotiation of terms of trusteeship which, in their view, are generally satisfactory, achieve the objectives of the Charter, and are in the best interests of the inhabitants of the territories concerned; and second, that continuity of administration—that is continuity of *British* administration—will be maintained until the ultimate objective of the Trusteeship System, self-government or independence as the case may be, is attained.

(d) Tanganyika (Cmd. 2729), Cameroons (Cmd. 2730) and Togoland (Cmd. 2731).

ANNEX I.

Statement to United Nations General Assembly by Secretary of State for Foreign Affairs, 17th January, 1946.

Another instrument which we welcome is the Trusteeship Council. We made our contribution to its creation at San Francisco and in the Preparatory Commission. At the end of the last war the mandatory system was devised. We have given careful consideration to our own position in connection with the mandates for which we are responsible; and I take this opportunity of informing the Assembly of our intentions.

We have decided to enter forthwith into negotiations for placing Tanganyika, the Cameroons and Togoland under the Trusteeship system. Preliminary negotiations have already started. I must make it clear that our willingness to place these territories under the Trusteeship system naturally depends upon our being able to negotiate terms which in our view are generally satisfactory, and which achieve the objectives of the Charter and are in the best interests of the inhabitants of the territories concerned.

These territories have been administered by us for over 25 years. We have fulfilled our obligations under the Covenant of the League and to the best of our ability administered and developed them in the interests of their inhabitants. We intend to continue this policy under the Trusteeship system. We are ready to accept the obligation which will rest upon us as the Administering Authority under this new system. Now, if this is to be achieved, it is most important that the people of the territories themselves and the world at large should be left in no doubt that the continuity of administration will be maintained, until the ultimate objective of the Trusteeship system, self-government or independence, as the case may be, is attained.

ANNEX II.

Statement to Parliament, 23rd January, 1946.

Honourable Members will doubtless be aware that my right honourable Friend the Secretary of State for Foreign Affairs made a statement on this subject at the General Assembly of the United Nations on the 17th January. I welcome this opportunity of confirming that statement in this House. In ordinary circumstances a statement of policy on such an important subject would, of course, have been made to Parliament in the first place, but His Majesty's Government felt that it was so desirable to take the initiative by assuring the United Nations of our earnest desire to see the international trusteeship system brought into operation at the earliest possible date that they felt they would be rightly interpreting the wishes of this House by making such a statement without waiting for Parliament to reassemble. I am circulating the full text of the statement with the Official Report.

As regards Tanganyika, Togoland and the Cameroons, which are to be placed under the international trusteeship system, the House will like to know that His Majesty's Government, in consultation with the Governors concerned, has already drawn up draft terms of trusteeship based, generally speaking, on the mandates, but revised to bring them into conformity with the provisions of the United Nations Charter. Without prejudice to the ultimate interpretation of the phrase "States directly concerned" His Majesty's Government felt that there were certain States which, on any interpretation, must be regarded as directly concerned in the African Mandated Territories, namely, France in respect of Togoland and the Cameroons, Belgium in respect

of Tanganyika, and the Union of South Africa in respect of all three. The draft terms of trusteeship have accordingly been sent to the Governments of those States for their observations. Copies of the drafts have been sent, for information only at this stage, to the Governments of China, the Soviet Union, the United States of America and (in respect of Tanganyika) France. I feel, therefore, that His Majesty's Government have, in this manner, taken all the practicable steps which it is within their power to take at present.

As soon as these drafts have been agreed upon by the States regarded as being in any event "directly concerned", and before they are submitted to the United Nations for approval, their terms will be communicated to Parliament and the local Legislative Councils.

Finally, there is one point which I should like to emphasise in regard to the status of the inhabitants of these territories. These territories have, for over 25 years, been under British administration on behalf of the League of Nations and will continue to be under British administration on behalf of the United Nations. They are not British Colonies and the inhabitants are not, therefore, as such British subjects. They are, however, and will continue to be, "British protected persons" of exactly the same status as the inhabitants of any British Protectorate not under mandate or trusteeship.

ANNEX III.

Extract from Official Report, House of Commons, 27th March, 1946.

SQUADRON-LEADER DONNER asked the Secretary of State for the Colonies whether, in view of the alarm among existing British settlers in Tanganyika and the misgivings of prospective settlers, he will give a guarantee that, as a result of the proposed transfer to the Trusteeship Council, no British citizens or future British immigrants into Tanganyika or their children or grandchildren will be deprived of their rights as British subjects without their consent.

MR. GEORGE HALL: Yes, Sir. The placing of Tanganyika under Trusteeship would not in any way affect, either now or in the future, the status of British subjects resident in the territory, which is preserved by the provisions of the British Nationality and Status of Aliens Act, 1914.

ANNEX IV.

Draft Terms of Trusteeship for Tanganyika.

Whereas the territory known as Tanganyika 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 June 26th, 1945, 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 Tanganyika 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, and by Articles 79, 83 and 85 of the said Charter it is provided that the terms of trusteeship are to be agreed upon by the States directly concerned and approved by the United Nations;

Now, therefore, the General Assembly of the United Nations, in accordance with Article 85 of the said Charter, having satisfied itself that the agreement of the states directly concerned, including the Mandatory Power, has been obtained in accordance with Article 79 of the said Charter, hereby resolves to approve the following terms of trusteeship for Tanganyika.

ARTICLE 1.

The territory to which this agreement applies comprises that part of East Africa lying within the boundaries defined by Article I of the British Mandate for East Africa and by the Anglo-Belgian Treaty of the 22nd of November, 1934, regarding the boundary between Tanganyika and Ruanda-Urundi.

ARTICLE 2.

His Majesty is hereby designated as Administering Authority for Tanganyika, 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 Tanganyika 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, and to collaborate fully with the Trusteeship Council in the discharge of all the Council's functions as defined in Article 87 of the United Nations Charter and in this agreement.

ARTICLE 4.

The Administering Authority shall be responsible (a) for the peace, order, good government and defence of Tanganyika, 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 other purposes of this agreement, as may be necessary, the Administering Authority:—

(a) shall have full powers of legislation, administration, and jurisdiction in Tanganyika;

(b) shall be entitled to constitute Tanganyika 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 Tanganyika, where such measures are not inconsistent with the basic objectives of the International Trusteeship System;

(c) and shall be entitled to establish naval, military and air bases, to erect fortifications, to station and employ his own forces in Tanganyika and to take all such other measures as are in his opinion necessary for the defence of Tanganyika and for ensuring that the territory 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 Tanganyika 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 Tanganyika.

ARTICLE 6.

The Administering Authority shall take measures to assure to the inhabitants of Tanganyika a progressively increasing share in the administrative and other services and in the government of the territory, both central and local, and to develop existing means for the expression of local opinion, with a view to the political development of the inhabitants of Tanganyika towards the attainment of the objective prescribed in Article 76 (b) of the United Nations Charter.

ARTICLE 7.

The Administering Authority undertakes to apply in Tanganyika the provisions of any international conventions and recommendations drawn up by the specialised agencies referred to in Article 57 of the United Nations Charter, the application of which would in his opinion 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, 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 may be transferred, except between natives, save with the consent of the competent public authority. No real rights over native land 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 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 Tanganyika, freedom of transit and navigation, acquisition of property both movable and immovable, the protection of person 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 Tanganyika, 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 overriding duty of the Administering Authority to promote the political, economic, social and educational advancement of the inhabitants of Tanganyika, 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 Tanganyika with the fiscal resources which seem best suited to local requirements, or otherwise to serve the interest of the inhabitants of Tanganyika;

(c) to establish, under conditions of proper public control, such other monopolies or undertakings having in them an element of monopoly as appear to him to be in the interests of the economic advancement of the inhabitants of Tanganyika.

ARTICLE 11.

Nothing in this agreement shall of itself entitle any member of the United Nations to claim for itself or for its nationals, companies or associations in Tanganyika the application of a more advantageous regime than that member itself grants in its own territory to Tanganyika and its inhabitants.

ARTICLE 12.

The Administering Authority shall ensure in Tanganyika complete freedom of conscience and the free exercise of all forms of worship which are consistent with public order and morality. 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 reside in Tanganyika, to possess property, and to erect religious buildings 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 Tanganyika, and to take all measures required for such control.

ARTICLE 13.

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.

ARTICLE 14.

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 Tanganyika as a strategic area in accordance with Articles 82 and 83 of the United Nations Charter, or for any other purpose not inconsistent with the basic objectives of the International Trusteeship System.

ARTICLE 15.

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

ARTICLE 16.

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.