

GENERAL
ASSEMBLYASSEMBLEE
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ORIGINAL: ENGLISH

TRUSTEESHIP

PROPOSED TRUSTEESHIP AGREEMENT FOR THE
MANDATED TERRITORY OF WESTERN SAMOA
SUBMITTED BY THE NEW ZEALAND GOVERNMENT

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

1. Letter of Transmittal to the Secretary-General
of 28 October 1946.
2. Text of Proposed Agreement.

Park Central Hotel,
New York, N.Y.

28th October, 1946.

Sir,

I have the honour to transmit herewith, by
direction of my Minister of External Affairs, the
proposed Trusteeship Agreement in respect of the
territory of Western Samoa.

I have the honour to be,

Sir,

Your obedient servant,

(sgd.) Carl Berendsen

New Zealand Minister to the United States
of America

The Secretary General,
United Nations,
Lake Success, L.I.

TRUSTEESHIP AGREEMENT FOR WESTERN SAMOA

WHEREAS the territory of Western Samoa has been administered in accordance with Article 22 of the Covenant of the League of Nations and pursuant to a mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of New Zealand;

Article 75 AND WHEREAS the Charter of the United Nations signed at San Francisco on 26 June 1945, provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be the subject of trusteeship agreements;

Article 77 AND WHEREAS under the said Charter the international trusteeship system may be applied to territories now held under mandate;

AND WHEREAS the Government of New Zealand have indicated their willingness that the said international trusteeship system be applied to Western Samoa;

Articles 79,
83 and 85 AND WHEREAS the said Charter provides further that the terms of trusteeship are to be agreed upon by the States directly concerned, including the mandatory power, and approved by the United Nations;

Article 85 NOW, THEREFORE, the General Assembly of the United Nations, in accordance with the terms of the said Charter, having satisfied itself that the provisions of Article 79 of the Charter have been complied with, hereby resolves to approve the following terms of trusteeship for Western Samoa, in substitution for the terms of the aforesaid mandate:

ARTICLE I

The territory to which this agreement applies is the territory known as Western Samoa comprising the islands of Opolu, Savai'i, Manono, and Apolima, together with all other islands and rocks adjacent thereto.

ARTICLE II

The Government of New Zealand are hereby designated as the administering authority for Western Samoa.

ARTICLE III

The administering authority shall have full powers of administration, legislation and jurisdiction over the territory, subject to the provisions of this agreement, as an integral part of New Zealand, and may apply to the territory, subject to any modifications which the administering authority may consider desirable, such of the laws of New Zealand as may seem appropriate to local conditions and requirements.

ARTICLE IV

The administering authority undertakes to administer Western Samoa in such a manner as to achieve in that territory the basic objectives of the international trusteeship system, as expressed in Article 76 of the Charter of the United Nations, namely:

- "(a) to further international peace and security;
- "(b) to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- "(c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, and to encourage recognition of the inter-dependence of the peoples of the world; and
- "(d) to ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objective and subject to the provisions of Article 80".

ARTICLE V

The administering authority shall promote the development of political institutions suited to Western Samoa. To this end and as may be appropriate to the particular circumstances of the territory and its peoples, the administering authority shall assure to the inhabitants of Western Samoa a progressively increasing share in the administrative and other services of the territory, shall develop the participation of the inhabitants of Western Samoa in advisory and legislative bodies and in the government of the territory, and shall take all other appropriate measures with a view to the political advancement of the inhabitants of Western Samoa in accordance with Article 76 (b) of the Charter of the United Nations.

ARTICLE VI

In pursuance of its undertaking to promote the social advancement of the inhabitants of the trust territory, and without in any way limiting its obligations thereunder, the administering authority shall:

- (1) prohibit all forms of slavery and slave-trading;
- (2) prohibit all forms of forced or compulsory labour, except for essential public works and services as specifically authorized by the local administration and then only in times of public emergency, with adequate remuneration and adequate protection of the welfare of the workers;
- (3) control the traffic in arms and ammunition;
- (4) control in the interest of the inhabitants the manufacture, importation and distribution of intoxicating spirits and beverages.

ARTICLE VII

The administering authority undertakes to apply in Western Samoa the provisions of any international conventions and recommendations as drawn up by the United Nations or its specialized agencies which are, in the opinion of the administering

authority, appropriate to the needs and conditions of the trust territory, and conducive to the achievement of the basic objectives of the international trusteeship system.

ARTICLE VIII

In framing the laws to be applied in Western Samoa the administering authority shall take into consideration Samoan customs and usages and shall respect the rights and safeguard the interests both present and future of the Samoan population.

In particular, the laws relating to the holding or transfer of land shall ensure that no Native land may be transferred save with the prior consent of the competent public authority and that no right over Native land in favour of any person not a Samoan may be created except with the same consent.

ARTICLE IX

The administering authority shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow missionaries, nationals of any State Member of the United Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling. The provisions of this Article shall not, however, affect the right and duty of the administering authority to exercise such control as it may consider necessary for the maintenance of peace, order and good government.

ARTICLE X

The administering authority shall ensure that the trust territory of Western Samoa shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the administering authority shall be entitled:

- (1) to establish naval, military and air bases and to erect fortifications in the trust territory;
- (2) to station and employ armed forces in the territory;

(3) to make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations toward 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;

(4) to take all such other measures in accordance with the Purposes and Principles of the Charter of the United Nations as are in the opinion of the administering authority necessary to the maintenance of international peace and security and the defence of Western Samoa.

ARTICLE XI

The administering authority shall as may be appropriate to the circumstances of the trust territory, continue and extend a general system of education, including post-primary education and professional training.

ARTICLE XII

Subject only to the requirements of public order, the administering authority shall guarantee to the inhabitants of the trust territory, freedom of speech, of the press, of assembly and of petition.

ARTICLE XIII

The administering authority may arrange for the co-operation of Western Samoa in any regional advisory commission, regional technical organization, or other voluntary association of states, any specialized international bodies, public or private, or other forms of international activity not inconsistent with the Charter of the United Nations.

ARTICLE XIV

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 the Charter of the United Nations and shall otherwise collaborate fully with the Trusteeship Council in the discharge of all the Council's functions. The administering authority shall arrange to be represented at the Sessions of the Trusteeship Council at which the reports of the administering authority with regard to Western Samoa are considered.

Article 88

ARTICLE XV

The terms of this agreement shall not be altered or amended except as provided in Article 79 of the Charter of the United Nations.

ARTICLE XVI

If any dispute 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 similar means, shall be submitted to the International Court of Justice.

APPENDIX TO TRUSTEESHIP AGREEMENT FOR WESTERN SAMOA

Text of Chapters XII and XIII of the Charter of the United Nations

CHAPTER XII

INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter shall be:

- (a) to further international peace and security;
- (b) to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- (c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the inter-dependence of the peoples of the world; and
- (d) to ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The Trusteeship system shall apply to such territories in the

following categories as may be placed thereunder by means of trusteeship agreements:

- (a) territories now held under mandate;
- (b) territories which may be detached from enemy States as a result of the Second World War; and
- (c) territories voluntarily placed under the system by States responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

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, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any States or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more States or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.
2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.
3. The Security Council shall, subject to the provisions 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.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play 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 trust 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 trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII

THE TRUSTEESHIP COUNCIL

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

- (a) those Members administering trust territories;
- (b) such of those Members mentioned by name in Article 23 as are not administering trust territories; and
- (c) as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- (a) consider reports submitted by the administering authority;
- (b) accept petitions and examine them in consultation with the administering authority;
- (c) provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

- (d) take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.
