UNITED STATES POLICY REGARDING QUESTIONS RELATING TO THE ESTABLISHMENT OF AN INTERNATIONAL TRUSTEESHIP SYSTEM UNDER THE UNITED NATIONS CHARTER; PRESIDENT TRUMAN'S DECLARATION OF NOVEMBER 6 PROPOSING A STRATEGIC AREA TRUSTEESHIP WITH THE UNITED STATES AS ADMINISTERING AUTHORITY FOR THE PACIFIC ISLANDS FORMERLY UNDER MANDATE TO JAPAN

[Pertinent documentation in Department's files 890.0146 and 740.00119 Council and in the files of the State–War–Navy Coordinating Committee (SWNCC) relating to interdepartmental consideration of some of the issues treated in this section has been omitted under the provisions of Department of State Regulation 1352, ante, p. IV.]

IO Files 1 : USGA/Gen/7

Briefing Book Paper 2

SECRET

DECEMBER 20, 1945.

8 (a) MEMORANDUM ON UNITED STATES PARTICIPATION IN ADMINISTRATION OF TRUST TERRITORIES

THE PROBLEM

Should the United States participate in the trusteeship administering authority of any trust territories other than in the Pacific, Korea and the Italian colonies?

DISCUSSION

American interest in dependent areas has traditionally been based on a broad humanitarian concern for the welfare of the inhabitants of

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1 The master files of the Reference and Documents Section of the Bureau of International Organization Affairs, Department of State.
2 This was one of eight papers prepared in the Division of Dependent Areas Affairs, Office of Special Political Affairs, Department of State, on trusteeship matters for the use of the U.S. Delegation to the first session of the General Assembly of the United Nations scheduled to meet in London on January 10; for other papers in this series, see infra. These papers are found in Briefing Book II of three briefing books carried to London by the U.S. Delegation; these briefing books are found in the IO Files. For general documentation relating to the Department of State preparation for the General Assembly session and the work of the U.S. Delegation in London relating to general policies of the United States, see pp. 51 ff.
these areas and a desire not to see these areas exploited for the benefit of a single power through restrictive trade practices. Public opinion in the United States, on the other hand, has consistently opposed taking on specific responsibilities in dependent areas where the interests of the United States are general and not specific.

In the case of the Japanese islands, considerations of security are so overwhelming that the United States will find it necessary to become the sole administering authority, at least for the majority of the islands.

In the case of Korea, an agreement for a four power trusteeship was reached with the Soviet Union before the trusteeship system of the United Nations had been established and, therefore, the possibility of the Organization itself being the administering authority could not be considered at that time.\textsuperscript{3}

In the case of the Italian colonies, the United States has already proposed in the Council of Foreign Ministers that they be placed under the trusteeship system, with the Organization itself as the administering authority.\textsuperscript{4} The United States would participate through its membership in the General Assembly and the Trusteeship Council, and through a representative on the Advisory Committee which, if it is proposed, shall advise the Chief Administrator of each of these territories.

In the case of the mandated territories,\textsuperscript{5} the prior historical claims of the mandatory powers will lead, it is assumed, to their being designated as administering authorities in the same territories over which they formerly had control.

If any other territories, however, should be considered for trusteeship or if some other disposition is desired for the territories mentioned above, the traditional interests of the United States would best be expressed by having the Organization itself as the administering authority. Administration by a single power or by two or more powers would not be so satisfactory because of the conflict between different national objectives inherent in such situations.

It should be noted that the United States will continue to have a special position with respect to all trust territories which were detached

\textsuperscript{3} For documentation concerning this subject, see \textit{Foreign Relations}, 1945, vol. vi, pp. 1018 ff., and \textit{ibid.}, 1946, vol. viii, pp. 605 ff.

\textsuperscript{4} For documentation on this subject, see \textit{ibid.}, 1945, vol. ii, pp. 99–559, \textit{passim}, and \textit{ibid.}, 1946, vol. xv, pp. 1 ff.

\textsuperscript{5} Article 22 of the Covenant of the League of Nations, approved by the Paris Peace Conference on April 28, 1919 and incorporated into the Treaty of Versailles which was signed June 28, 1919, provided for the mandates system under the general supervision of the League. For an annotated text of Article 22 with appropriate references to all international acts relating to the mandates system from its inception until 1941, see \textit{Foreign Relations}, The Paris Peace Conference, 1919, vol. xiii, pp. 94 ff.
from enemy states in this war or were formerly under mandate status. As one of the Principal Allied and Associated Powers in the first World War and as a signatory of the peace treaties which will follow the second World War, the United States will be one of the states directly concerned in the negotiation of the trusteeship agreements for these territories and as such will have the right to agree to the alteration or amendment of the agreements, in accordance with Article 79 of the Charter.

PROPOSED UNITED STATES POSITION

If the probability should arise of the United States participating in the administration of any territories other than those in the Pacific, Korea and the Italian colonies, the United States should take the position that it would be preferable to have the Organization as administering authority rather than one or more powers.

It should be emphasized in the General Assembly if necessary that a trusteeship agreement including the designation of the administering authority will have to be made by the states directly concerned before any agreement can be submitted to the General Assembly for approval.

IO Files: USGA/Gen/7

Briefing Book Paper

SECRET

DECEMBER 26, 1945.

8(e) QUESTIONS BEARING ON PACIFIC ISLANDS

THE PROBLEM

In view both of the interest of this Government in certain territories conquered from the Japanese, and of the difficulties which have delayed any actual implementation of the trusteeship system, certain questions arise. Should the U.S. make a specific clarification of its intentions to place Japanese mandated territories under trusteeship, and initiate negotiations among the states directly concerned? Which states should be so defined? Should this Government extend trusteeship to the other Japanese Islands desired for security purposes: The Bonin-Volcano Islands including Marcus Island, the Izu Islands, and the Ryukyu

*The United States concluded treaties or conventions with the appropriate Mandatory Power over a period of years defining the rights of U.S. nationals in Iraq, Syria and Lebanon, Palestine, East Africa (Tanganyika), the Cameroons, Togoland, Ruanda-Urundi, and the former German islands north of the Equator; see Foreign Relations, The Paris Peace Conference, 1919, vol. xiii, pp. 101 ff. U.S. rights defined in these instruments were equivalent to those possessed by members of the League of Nations.
Islands? Should the U.S. insist that it be the sole administering authority over any of the captured Japanese mandates or islands concerned?

**DISCUSSION**

The State Department is preparing policy papers on the above problems. In some cases, clearance with other departments of the government will be required before these papers can be considered as representing official United States policy.

**PROPOSED UNITED STATES POSITION**

In the event that the above questions are raised in the General Assembly, the United States should take the position that it is not prepared to discuss such questions, and they should be referred immediately to the Department.

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10 Files: USGA/Gen/7

*Briefing Book Paper*  
*December 26, 1945.*

**8(g) THE FORM OF TRUSTEESHIP AGREEMENTS**

**THE PROBLEM**

Should every trusteeship agreement to which the United States is a party be in the form of a treaty?

**DISCUSSION**

In American constitutional law language, the term “treaty” is applied to any international agreement which becomes binding upon the United States through ratification by the President by and with the advice and consent of the Senate “provided two-thirds of the Senators present concur”. The constitutional position of treaties as part of the law of the land, added to the traditional formalities of treaty-making, indicate that they are intended to be among the most solemn acts of the government. It would be initially assumed, therefore, that any international agreement to which the United States is a party and which attempts to determine the disposition of territories and to delimit the political rights of nations would be made in the form of a treaty. Trusteeship agreements, which are basically political arrangements between states, fall into this category.

From the point of view of either the acquisition or the relinquishment of rights or duties, a treaty is far the best sort of instrument, both legally and politically. It might be particularly important to make trusteeship agreements by treaty in cases where the agreement
will involve some modification of rights previously confirmed to the
United States by treaty, for example rights in many of the mandated
territories, or where the United States is to assume obligations, such
as those of the administering authority in a trust territory.

Because of the requirement that a treaty shall be approved by a
two-thirds vote in the Senate, there is always the possibility that a
treaty will fail there, even though it has the backing of the adminis-
tration and of a majority of both Houses of Congress.

The executive agreement, authorized by act or joint resolution of
Congress, is a type of instrument which might also be used for making
trusteeship agreements. Though not so universal in its applicability
as the treaty, the executive agreement with Congressional authori-
ization has been widely used to make international commitments and to
give them domestic implementation.

It would seem possible also for a trusteeship agreement to take the
form of an executive agreement when it is negotiated in pursuance of
decisions made in a treaty to which the United States is a party.

The question of which form of instrument should be used can most
properly be determined on the basis of prior consultation with the
representatives of appropriate branches of the government.

**RECOMMENDATION**

Trusteeship agreements should ordinarily be in the form of treaties
or of executive agreements authorized by Congress, as may be deter-
mined on the basis of prior consultation with the representatives of
appropriate branches of the government.

If a trusteeship agreement should be made for Korea before the
treaty of peace with Japan is signed, such an agreement might be
made by executive action authorized by Congressional resolution. It
would seem possible for other trusteeship agreements to be made by
executive agreement in pursuance of a previously ratified treaty, or
when authorized by Congress.

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10 Files: USGA/Gen/7

*Briefing Book Paper*

**SECRET**

**DECEMBER 27, 1945.**

8(b) **MEMORANDUM ON DISPOSITION OF MANDATED TERRITORIES**

**THE PROBLEM**

Should the United States take the position of urging the mandatory
powers who are Members of the United Nations to transfer their man-
dated territories to the trusteeship system, considering the inaction which thus far has marked the attitude of those powers?

DISCUSSION

The present mandated territories were detached from enemy states after the last world war and were placed under the mandates system of the League of Nations because the responsibility for their administration was felt to be a matter of international concern. The League of Nations is about to be dissolved, but the international responsibility for these areas will continue and would properly be expressed through the trusteeship system of the United Nations. In Article 77 of the Charter of the United Nations, it is specifically provided that territories now held under mandate may be placed under the trusteeship system, and Article 80, paragraph 2 of the Charter was designed to encourage the mandatory powers and other states directly concerned to take such action without delay. It has been assumed by the United States Government that mandatory and other interested powers would expedite action toward this end.

The Preparatory Commission has recommended unanimously that the General Assembly invite the mandatory powers to act in concert with states directly concerned to take steps toward placing the mandated territories under the trusteeship system of the United Nations.1

It should be noted in this connection that it is the view of the United States that the question of which states shall participate in the negotiation of trusteeship agreements as states directly concerned can be settled only by preliminary negotiation at the time when steps get under way to place the territories under trusteeship.

1For documentation on the Preparatory Commission of the United Nations which met in London November 24–December 22, 1945, see Foreign Relations, 1945, vol. 1, pp. 1479 ff. For the recommendations of the Preparatory Commission to the General Assembly concerning trusteeship, see Preparatory Commission of the United Nations, Reports of the Preparatory Commission of the United Nations (December 28, 1945), pp. 49 ff.; deliberations in the trusteeship committee of the Preparatory Commission may be found in Preparatory Commission of the United Nations, Committee 4: Trusteeship.

The Preparatory Commission proposed to the General Assembly a draft resolution as follows: “The General Assembly of the United Nations calls on the states administering territories under League of Nations mandate to undertake practical steps, in concert with the other states directly concerned, for the implementation of Article 79 of the Charter (which provides for the conclusion of agreements on the terms of trusteeship for each territory to be placed under the trusteeship system), in order to submit these agreements for approval preferably not later than during the Second Part of the First Session of the General Assembly.

“These trusteeship matters which will be taken up by the General Assembly at the First Part of its First Session for the purpose of expediting the establishment of the trusteeship system, will be considered by the Trusteeship Committee of the General Assembly, using the methods which the General Assembly considers most appropriate for the further consideration of these matters.”
PROPOSED UNITED STATES POSITION

The United States should support any proposal by which the General Assembly would take steps to encourage the transfer of territories mandated to Members of the United Nations to the trusteeship system, except that the General Assembly should not undertake any judgment as to the states directly concerned prior to the submission of trusteeship agreements to that organ for approval.

Editorial Note

The United States Delegation to the First Part of the First Session of the General Assembly arrived in London during the first week of January 1946; for information regarding the composition and organization of the Delegation, see ante, pp. 5-7. Mr. John Foster Dulles was given responsibility for representing the Delegation on Fourth Committee matters (trusteeship and non-self-governing territories), and on January 8 he presided at a meeting of trusteeship advisers and experts from the Advisory Staff of the Delegation. The subject under discussion was the resolution on trusteeship that had been drafted by the Preparatory Commission of the United Nations; and Mr. Dulles made a particular point of urging that this resolution be broadened by a United States Delegation proposal that would include an appeal to the colonial powers in general rather than limiting the resolution to the matter of the conversion of the old League of Nations mandates into trusteeships under the United Nations.

The relevant portion of the minutes of the meeting (Second Meeting of the United States Group on Trusteeship, January 8, 1946) read:

"Mr. Dulles said that he wondered whether the General Assembly in its resolution should not call on other states, not just the mandatory powers, since there were other types of territories eligible for trusteeship in addition to the mandated territories. He was particularly concerned, Mr. Dulles went on, with the necessity of appealing to dependent peoples throughout the world and of reassuring them at this meeting of the General Assembly that the United Nations was taking steps to promote their welfare. The Trusteeship Council was the only organ of the United Nations which could not be created at this time. He had reluctantly come to this conclusion on the basis of the technical difficulty of creating the Trusteeship Council and he, therefore, thought it all the more important to make plain to public opinion throughout the world that the question of trusteeship and the broad question of dependent territories was not being completely neglected at the first meeting of the General Assembly." Later in the discussion Mr. Dulles "commented that he wanted to put the whole emphasis on people, not on land", adding that "The real problem in this whole field of dependent areas was that people of one color were ruling those of another." (IO Files, document USTC/Prel/W.P. Min. 1)
Correspondent said there had been reports that delegation at London seems to be divided on the question of Japanese mandated islands, and asked what the Administration’s policy was regarding these islands. President declared that those we do not need will be placed under UNO trusteeship, and those we need we will keep. Asked how long we intended to keep these islands, Mr. Truman said as long as we needed them. Asked if they would be under individual trusteeship of this country, President replied in affirmative in regard to those islands we need. Asked if the others would be under the Security Council, Mr. Truman replied in affirmative, adding just like all of the rest of them. Correspondent asked if some islands would be under our trusteeship and some under individual trusteeship of other nations. President said some would be under individual trusteeships as well as collective trusteeship, but that policy would have to be worked out by United Nations Organization as it went along. Asked if we would have to ask UNO’s authority for our individual trusteeships, President replied affirmatively. Correspondent said that there were several Pacific islands below the Equator that were not Japanese mandated and asked if we were interested in those. President replied only in conjunction with our Allies. Asked if we had demanded any of these islands which we need, President declared we have not.

890.0146/1–1546 : Telegram

The Secretary of State to the Acting Secretary of State

SECRET

LONDON, January 15, 1946—11 a.m.
[Received January 16—10: 47 a.m.]

519. Discussion of trusteeship of mandated islands may make it expedient for me to make a statement. Please ask the President whether, if it becomes necessary, I may state:

“... The ultimate disposition of the islands mandated to Japan by the League is a matter for future decision but it will be the recommendation of the President that these islands be trusted under the UNO...”

14 Taken from Annex I of Secretary’s Staff Committee memorandum SC–192, April 11, printed in part, p. 567.
15 In telegram 525, Undel 79, January 17, 7 p.m., the Acting Secretary of State cabled that “President has today approved your suggested statement concerning mandated islands should you find it necessary to do so”. (890.0146/1–1546)
either under ordinary trusteeship arrangements or as strategic areas.”

[Byrnes]

WINANT

390.0146/1-1646: Telegram

The Secretary of State to the Acting Secretary of State

SECRET

LONDON, January 16, 1946—6 p. m.
[Received January 16—4:16 p. m.]

537. Would you inquire whether Army, Navy and State Department have initiated studies with view to arriving at conclusion as to islands formerly mandated to Japan in Pacific which we will propose for trusteeship either ordinary or as strategic areas. I understand Far Eastern Office has already commenced study of general terms of proposals.

If not already arranged for I suggest that you put someone in charge of dealing with this question as far as State Department is concerned and have him pursue the matter with War and Navy Departments and Joint Chiefs of Staff either on a separate basis or through the State, War, Navy Coordinating Committee as you think best.

Am making this suggestion not with any view to using results of such study here at this meeting of the Assembly but rather more to see that we are prepared to put the matter to the UN at the appropriate

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38 The distinction noted here between “ordinary trusteeship agreements” and “strategic [trusteeship] areas” has its origin in Article 82 of the United Nations Charter, which reads in part: “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. . . .” Goodrich and Hambro note that “This Article, taken together with Article 83, provides a special regime for those areas in which a Member or Members of the United Nations, or the United Nations, may have special interests of a strategic character. Presumably the interest in question may result either from the defense requirements of a particular state or states or from the needs of the Organization for maintaining peace and security.” (Leland M. Goodrich and E. Hambro, Charter of the United Nations Commentary and Documents, Boston, 1949, p. 452) See also Marjorie M. Whiteman, Digest of International Law, vol. 1, pp. 765 ff.

In a Department of State memorandum submitted to the State-War-Navy Coordinating Committee (SWNCC) in June 1946 the following appears: “From a practical point of view, in the placing of a territory under trusteeship, the most important difference between the strategic area agreement and the non-strategic area agreement is that a strategic agreement must be approved by an affirmative vote of seven members [of the Security Council] including the concurring votes of the permanent members and that a non-strategic area agreement must be approved by a two-thirds majority of the General Assembly (in which the approval of all permanent members of the Security Council need not be included).” (Appendix “B” to SWNCC document 59/1, June 24, 1946)
time. It is possible that the question might arise at the next meeting of the Assembly and I feel we should be prepared to meet it.\textsuperscript{17}

\textit{Byrnes}

\textit{Winant}

\textbf{Memorandum of Conversation, by the Associate Chief of the Division of Dependent Area Affairs (Bunche)}

\textbf{[London,] January 17, 1946.}

\textbf{Participants:} Mr. Creech-Jones, Parliamentary Under Secretary of State for the Colonies. 
Mr. Poynton, Assistant Secretary, Colonial Office. 
Mr. Ralph J. Bunche

Following Mr. Bevin’s speech before the General Assembly\textsuperscript{18} this morning Mr. Creech-Jones and Mr. Poynton undertook to explain to me the meaning of the statement in Mr. Bevin’s speech that “preliminary negotiations have already started” in connection with placing the British African Mandates under the trusteeship system. They stated that the United Kingdom Government had formulated draft trusteeship agreements for these territories and that these agreements were in process of transmittal to the several states which they thought might be interested.

\textsuperscript{17}The Acting Secretary cabled to the Secretary of State in telegram 628, Undel 94, January 19, 8 p. m.: “Studies referred to . . . are being initiated on Monday by a committee of the three Departments.” (890.0146/1-1046)

On January 21 the Department of State cabled Secretary Byrnes in telegram 661, amplyfying on the circumstances surrounding the initiation of the studies referred to in telegram 628 (501.BE/1-2146). The January 21 telegram also conveyed the following in a final paragraph drafted in longhand by Mr. Acheson and initialed by President Truman:

“The President believes that if it is possible without embarrassment to avoid a public statement and commitment at this time that would be desirable. He wishes to work out through appropriate sole trusteeship the control of necessary bases which the military services require. It may take a little time to get the appropriate forms agreed upon and pending this a public debate upon the question in this country will hamper rather than advance this solution. If this in any way embarrasses you please inform the President who wishes to support you in every way.” (501.BE/1-2146)

In the immediately preceding telegram (No. 660, January 21, 7 p. m., File No. 890.0146/1-1546) the Acting Secretary had cabled the Secretary asking that any action on telegram 519, January 15 be deferred “pending receipt of immediately following telegram. . . .” As it happened, telegram 661 arrived in London in garbled form and the corrected copy was not received until some days later and after the Secretary’s departure from London (501.BE/1-2646).

\textsuperscript{18}For the statement by the British Secretary of State for Foreign Affairs (Bevin) to the General Assembly on January 17 as regards the intention of the British Government to enter into negotiations for placing the British mandated territories of Tanganyika, the Cameroons, and Togoland under the United Nations trusteeship system, see United Nations, Official Records of the General Assembly, First Session, First Part, Plenary Meetings, p. 168; hereafter cited as GA(1/1), Plenary.
Copies of the agreements have been sent to Washington for transmittal to the Department and to the American Embassy here.²⁸

Mr. Creech-Jones and Mr. Poynton further stated that they had not known how to define with any accuracy the “states directly concerned” in these territories but that they had sent the agreements for review to the states which appeared most likely to be interested, namely, the other four great powers and also to Belgium and the Union of South Africa because of their proximity to and direct interest in the African mandated territories. Mr. Creech-Jones admitted that this was in effect an indication of his Government’s conception of the states which might be concerned in the agreements for these territories.

Mr. Creech-Jones also stated that the agreements would be discussed with the Dominions, but that with respect to all of them except South Africa this would be considered as purely a matter of domestic relations. There would be no suggestion, therefore, that the Dominions other than South Africa would be parties directly concerned in the African mandates.

IO Files: USTC/Prel/WP Min. 4

Minutes of Informal Meeting of the United States Group on Trusteeship, London, January 17, 1946, 5 p.m.

SECRET

Presiding—Mr. Dulles
Mr. Bloom
Mr. Cohen
Mr. Pasvolsky
Mr. Hackworth
Mr. Collier
Mr. Hiss
Mr. Gerg
Mr. Bunche
Mr. Green
Mr. Crawford

[Mr. Dulles reported that he wanted to “run over briefly” some of the main points of his discussion with Mr. Gromyko ²⁹ the night before

²⁸ Copies were received by the United States Delegation on January 19 under cover of a Foreign Office note of January 18 (IO Files: document USTC/Prel/33). Copies were transmitted by the British Embassy at Washington to the Department of State on February 5 under cover of an aide-mémoire dated February 4, not printed; see p. 561.
²⁹ Andrei A. Gromyko, Delegate of the Soviet Union to the General Assembly and sometime acting head of the Soviet Delegation in the absence of the Head of the Delegation (Vyshinsky).
and Mr. Creech-Jones that afternoon. "Everybody had agreed, including Mr. Gromyko and Mr. Creech-Jones, that the General Assembly should have nothing to do with the rules of procedure of the Trusteeship Council since, under the Charter, the Council was authorized to adopt its own rules." Mr. Pasvolsky then proposed "throwing out" the rules of procedure, and group discussion developed on this point.]

Mr. Dulles said that he would like to turn to the question of the "states directly concerned". He understood that the Trusteeship Council could not be set up until there was a balance between the trustee powers and the non-trustee powers. At least three trustee powers were required before the Council could be created. You could not get any trusteeship agreements, however, until you had decided which were the "states directly concerned".

He had discussed this question at considerable length with Mr. Gromyko, Mr. Dulles continued, and had explained the problem of getting an adequate number of trusteeship agreements to establish the Council. Mr. Gromyko had then asked Mr. Dulles about his views as to which were the "states directly concerned". Mr. Dulles replied that the State Department view was that the United States, United Kingdom, and France were the states directly concerned in the mandated territories, since they were the residual Allied and Associated Powers under the Treaty of Versailles. The State Department did not consider that nations became automatically "states directly concerned" because of geographic propinquity to the trust territory. Mr. Gromyko had replied that he noticed that the Soviet Union was not mentioned in this group. It was the view of his Government that the Soviet Union was a state directly concerned in any trust territory. When Mr. Dulles had asked what was the basis of this view, Mr. Gromyko had replied that the Soviet Union considered itself as concerned in any major economic, political, or geographic question anywhere in the world. Mr. Dulles had then asked whether Mr. Gromyko would include China on the same basis. Mr. Gromyko had replied that he had no opinion on this matter but that he would imagine that China would put forth a similar claim.

Mr. Dulles then had said that he had no competence to discuss this matter officially but that he was merely anxious to explore the problem. He had then asked whether Mr. Gromyko thought that the problem should be discussed during the General Assembly. Mr. Gromyko had replied in the negative, saying that the problem should be handled through diplomatic channels. Mr. Gromyko had then said that if he could consider Mr. Dulles as making an official call he would ask his Government for authority to discuss the question formally.
with the American Government. Mr. Dulles had replied that he was not speaking officially but was merely discussing the question as a member of the American Delegation.

Mr. Dulles continued that he had discussed the same question with Mr. Creech-Jones. In reply to a question the latter had commented that the Colonial Office had submitted copies of its draft agreements for their African mandates to the five permanent members of the Security Council and to the neighboring states, that is, Belgium and South Africa.

Mr. Cohen asked what was the nature of this submission. Mr. Dulles replied that he had understood that the British were not submitting the agreements in any formal way or with any indication that these were the indispensable powers concerned in the agreements. He understood that they were merely transmitting the agreements informally in order to invite suggestions about them. Mr. Creech-Jones had indicated that the British had no clear view about the "states directly concerned" but had implied that he would accept Mr. Dulles' view that geographic propinquity was not a necessary criterion, since it would automatically involve the Arab states in Palestine.

In the course of his talk with Mr. Creech-Jones, Mr. Dulles went on, he had got a general idea that it would be better not to try to get any abstract definition of the "states directly concerned". It would be better to start discussions with those states obviously concerned in the hope that an agreement could be concluded for submission to the General Assembly. If the General Assembly found that some indispensable powers had been omitted it could reject the agreement. This action of the British would soon force a decision on this question, since the General Assembly could not very long avoid taking a position. He would need guidance on this question, Mr. Dulles went on, in case it came up in the near future. He had thrown out to Mr. Gromyko Mr. Cohen's idea that the mandatory power might be considered the only state directly concerned. This suggestion seemed totally unacceptable to Mr. Gromyko, who had spoken about it in an extremely positive way.

Mr. Gericg said that he might continue this story by summarizing a memorandum of his conversation with Mr. Orts of the Belgian Delegation. It was clear that the British and the Belgians had been in consultation about this discussion. Mr. Orts had a draft agreement which he said was to be sent to the five great powers. Mr. Orts had said that while it might be better to send the agreement to the three great powers from which they had got their mandate, they intended to submit it also to the Soviet Union and China. The Belgians were somewhat
hesitant to bring the Soviet Union and China into Central Africa but intended to go ahead nevertheless. Mr. Gerig had suggested to Mr. Orts that since the United Kingdom was on their list as a great power they would not need to receive a copy as a neighboring state. This would avoid setting any unfortunate precedent. Mr. Orts had said that he had not thought of this aspect of the question but that he would give it consideration.

Mr. Bunche commented that he understood that the British were proposing to send their agreements to all of the Dominions as a purely domestic matter. They were sending them to the Union of South Africa, however, because of its special position in Africa.

Mr. Bloom asked why the Belgians and the British were sending their agreements to the Soviet Union. Mr. Gerig replied that they apparently regarded the Big Five as "states directly concerned", although others might be added.

[At this point Mr. Cohen stated that "in his opinion the procedure followed by Britain and Belgium was the most appropriate way of starting the negotiations." There followed a long discussion which revolved rather tenuously around the general problem of whether there should be immediate conversations to determine who were states directly concerned or whether to follow along with the British procedure of starting off on an informal and pragmatic basis; more concretely the discussion centered on the two questions of rights of the United States in the mandatory system and definition of the term "states directly concerned". Insofar as there was registered any sense of the committee during and at the end of these deliberations it appeared to be that the group agreed with the Cohen view, repeatedly stated, that "... it was up to the state with administrative responsibilities to take the initiative, after which the General Assembly could review the situation."

Mr. Cohen argued at one time that "This battle was lost at San Francisco. At that time there was a conflict of interests. We had a special interest in the Pacific which we wanted to protect and, therefore, we had to agree with the British interpretation about other mandated territories. We could not, therefore, force our views upon the mandatory powers in favor of a United Nations trusteeship. Mr. Pasvolsky pointed out that this decision had been taken at Yalta be-

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21 On January 18 the Belgian Representative to the General Assembly (Langenhove) declared to the General Assembly the intention of the Belgian Government to start negotiations immediately with a view to placing the Belgian mandated territory of Ruanda-Urundi under the United Nations trusteeship system; see GA (1/1), Plenary, p. 283.
cause it was the only possible solution of the problem. It has been
the American position and it was the only one acceptable to the
British."

At the end of the discussion, the group seemed to go along with
a statement by Mr. Hiss that "... it would not prejudice the position
of the United States to say that the definition of the 'states directly
concerned' would have to be handled through diplomatic channels." 218]

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Memorandum by the Assistant Secretary of the Navy for Air
(Sullivan) 22

CONFIDENTIAL

U.S. POSITION AS TO FUTURE STATUS OF THE PACIFIC ISLANDS

Articles from London which appeared in the morning papers on
January 15, 1946, and subsequently indicate uncertainty among the
United States representatives at the United Nations meetings as to
what the United States position should be as to the future status of
the Pacific islands. The President, at his press conference on Janu-
ary 15, made certain extemporaneous remarks as to the United States
position. His statements were in general terms.

In view of these circumstances, I feel there is an urgent need for
the State, War and Navy Departments to consider the question with
a view to reaching agreement as to United States policy with respect
to the future status of the Pacific islands. I feel this essential in order
to provide uniform guidance to the civilian and military representa-
tives of this Government at this and future United Nations meetings.

It is, therefore, my suggestion that the State-War-Navy Coordinat-
ing Committee hold a special meeting on this problem as soon as possi-
ble. At this meeting the Committee should be advised as to the present
state of development of a governmental position and as to what
instructions or guidance, if any, was given on this question to our
representatives at the present United Nations meeting. We should
then decide upon steps to be taken to develop and clarify the
governmental position at the earliest practicable date.

218 For the position taken by the United States subsequently in the Fourth Com-
mittee and then on the floor of the General Assembly on these issues, see U.S.
22 This document was circulated by the State-War-Navy Coordinating Commit-
tee Secretariat to the Committee on January 17 as SWNCC document 249.
United States Delegation Working Paper

CONFIDENTIAL

[LONDON,] January 22, 1946.

PROPOSED AMENDMENTS TO SECTION 1 OF CHAPTER IV: DRAFT RESOLUTION FOR THE GENERAL ASSEMBLY

(Submitted by U.S. Delegation)

1. Add the following as a new first paragraph in the Preamble to the Draft Resolution:

"Chapters XI, XII, and XIII of the Charter recognize the problem of the non-self-governing peoples as of vital concern to the peace and general welfare of the world community."

2. Substitute the following revised wording for paragraphs 1 and 2 of the proposed Resolution, following the introductory sentence:

"The United Nations, meeting in their First General Assembly, are keenly aware of the problems and aspirations of the peoples who are not directly represented here because they have not yet attained self-government. The General Assembly recalls with satisfaction the profound concern of the Charter for them, and, in particular, Chapter XI whereby Members which administer non-self-governing territories accept, as a sacred trust, various obligations, including the obligation to develop self-government and to assist the inhabitants in the progressive development of their free political institutions; and Chapters XII and XIII with reference to the establishment of an international trusteeship system for the purpose, among others, of promoting the progressive development towards self-government or independence of the peoples of trust territories.

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23 This refers to the draft resolution proposed by the Preparatory Commission; see footnote 7, p. 549. The U.S. amendment was submitted to the Fourth Committee by Mr. Dulles on January 24. In an introductory statement Mr. Dulles explained that this proposed change in the draft resolution of the Preparatory Commission was being made solely because "... the recent declarations of the intentions of the mandatory Powers promptly to negotiate trusteeship agreements had put the matter in a different light.

"These declarations were a very significant development, a development which justified the hopes of the public in the General Assembly. The United Nations should publicly express satisfaction at the progress already made.

"Another consideration underlying the United States amendment was the unrest which prevailed among dependent peoples generally. Beyond the probable zone of trusteeship, there were hundreds of millions of people who constituted a problem with which this Assembly should concern itself, as did the Charter. It was an urgent necessity that, on the one hand, dependent peoples should realize that the Charter, particularly Chapter XI, provided orderly processes for the attainment of their legitimate aspirations, while, on the other hand, the administering nations should quickly give concrete evidence of their intention to vitalize those processes." (United Nations, Official Records of the General Assembly, First Session, First Part, Fourth Committee, p. 15; hereafter cited as GA(I/1), Fourth Committee)
"The General Assembly regrets that it cannot, at this First Part of its First Session, establish the Trusteeship Council. This is not because of any lack of desire to do so, but because, before a Trusteeship Council can be established, trusteeship agreements must be concluded.

"Therefore the General Assembly particularly welcomes the expressed intention of certain Members to proceed forthwith to negotiate agreements for placing under the trusteeship system territories which are administered under League of Nations mandate. The General Assembly urges that this program be expedited by all states directly concerned so as to permit the establishment of the Trusteeship Council if possible not later than the Second Part of this First Session.

"The General Assembly expresses the hope that the progressive realization of the objectives of Chapters XI, XII, and XIII will make possible the attainment of the legitimate aspirations of non-self-governing peoples." 31

31 Subsequently amendments were submitted also by Canada, China, Iraq, Australia, India, Belgium, and the Netherlands (GA (1/1), Fourth Committee, pp. 43 ff.); and the matter was referred by the Committee to a sub-committee which was charged with preparing an agreed draft. For the deliberations of the Fourth Committee on the United States and other proposed amendments, see ibid., pp. 15 ff.

In the course of the Fourth Committee's discussions the question arose of fixing the criteria for determining who were the states directly concerned and whether the Committee's competence extended to this area. Mr. Dulles defined the position of the United States on this matter in a statement to the Committee on January 25. "There was no doubt," he said, "that, at some point, the General Assembly would have an opportunity to go into this matter. The normal procedure would be for the initiative to be taken by the mandatory Powers in drawing up agreements and in securing adhesion to such agreements by those States which, through diplomatic negotiations, might be considered as States directly concerned. When the agreements were finally submitted to the General Assembly for approval, the Assembly could then decide for itself whether the parties to the agreements were in fact the States directly concerned.

"For this reason and because of the difficulty of solving the problem in general terms, it would be inappropriate for the Assembly now to engage in a long and academic discussion as to which were the 'States directly concerned.'" (GA (1/1), Fourth Committee, pp. 19-20)

For the report of the Fourth Committee to the General Assembly and its draft resolution see GA (1/1), Plenary, p. 558, annex 13. General Assembly debate and approval of the resolution took place on February 9 (ibid., pp. 366 ff.). For text of the resolution, see United Nations, Official Records of the General Assembly, First Session, First Part, Resolutions Adopted by the General Assembly during the First Part of the First Session, p. 13.

In the General Assembly debate Mr. Dulles underscored the importance that the United States attached to a revision of the Preparatory Commission's proposed resolution, along the lines adopted: "There was one matter which the Preparatory Commission proposed which could significantly test the spirit of the United Nations. That was a suggested resolution which touched the fringes of the problem of dependent peoples. Your Fourth Committee took hold of that resolution and transformed it into a bold and significant advance. By the resolution now before you, the United Nations speaks out in relation to the whole colonial problem, solving hundreds of millions of dependent peoples, and not merely the fifteen millions who might come under trusteeship.

"We make it clear once and for all that the declaration regarding Non-Self-Governing Territories contained in Chapter XI of the Charter is not merely the
INTERNATIONAL TRUSTEESHIP

[For a statement by Acting Secretary of State Acheson at a press and radio conference on January 22, regarding “procedure and principles involved in individual trusteeship”, see Department of State Bulletin, February 3, 1946, pages 150 and 151.]

8628.01/2-446

The British Ambassador (Halifax) to the Secretary of State

No. 71 Ref: 419/19/46 Washington, February 4, 1946.

YOUR EXCELLENCY: I have the honour to invite your attention to Chapters XII and XIII of the United Nations Charter which provide for the establishment of a system of International Trusteeship. As Your Excellency is aware, Article 77 of the Charter provides that the International Trusteeship system may be applied to territories at present held under Mandate, and that it is a matter for subsequent agreement which territories shall be placed under the Trusteeship system, and upon what terms.

2. As Mr. Bevin informed the General Assembly of the United Nations on 17th January, it is the intention of His Majesty’s Government in the United Kingdom to enter into negotiations for placing Tanganyika, the Cameroons and Togoland under British mandate under the Trusteeship system.

3. I have the honour to transmit for Your Excellency’s information drafts of the terms of Trusteeship 32 which His Majesty’s Government in the United Kingdom propose for Tanganyika, the Cameroons and Togoland under British mandate. At the same time I am to place on record the understanding of His Majesty’s Government that these drafts are communicated to Your Excellency without prejudice to the interpretation, to be eventually adopted, of the phrase “States directly concerned” in Article 79 of the Charter. 33

I have, etc.

For the Ambassador

John Balfour

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Concern of the colonial Powers, but also the concern of the United Nations.” (GA (1/1), Plenary, pp. 367–368)

For an analytical summary in pertinent part of the problems, deliberations and actions of the General Assembly in the first part of the first session on the trusteeship question, see United Nations, Repertory of Practice of United Nations Organs (1955 edition), vol. iv, pp. 179–300.

32 Not printed. See British Cmd. 6846, June 1946, for the draft terms of agreement for Tanganyika and British Cmd. 9863, July 1946, for the Cameroons and Togoland drafts.

33 In telegram 1314. Delun 207, February 3, 11 a. m., the United States Delegation in London initiated an exchange with the Department, extending over a period of about 10 days, regarding a proposed reply to the British note transmitting the draft trusteeship agreements. Nothing came of this exchange. (880.014/2-346)
The attached draft note 34 to the British Government makes a claim that the United States is one of the "States directly concerned" to participate in the approval of the proposed trusteeship arrangement for Tanganyika. The arguments used in the note are good ones and I feel that the United States can, if it wishes to do so, establish its right to participate in this agreement as a State directly concerned.35

Whether, taking everything into account, this is advantageous from the standpoint of our over-all national interests, requires careful consideration. If we take this position in regard to Tanganyika, we could scarcely deny a similar position on behalf of the United Kingdom and France in respect of the Japanese Mandated Islands. This might strengthen the case of the Soviet Union as a State directly concerned in regard to Pacific islands.

It might be to the advantage of the United States as regards Pacific islands to take the position that the States directly concerned are the United States, Australia and New Zealand, the Pacific States which bore the brunt of the war against Japan. I have no final views in regard to this matter. I do feel strongly, however, that the attached note should be brought to the Secretary's attention and should be considered by him from the standpoint of the over-all national interests.

34 Not printed. Dated February 21 and drafted by the Deputy Director of the Office of African Affairs (Villard), it was almost identical with a draft prepared originally by the U.S. Delegation at the London session of the General Assembly (see footnote 33, p. 561).

35 The draft note said in pertinent part: "... it is the firm view of this Government that for several reasons the United States is one of the 'States directly concerned' in not only the African mandated territories referred to, but in all of the mandated territories. Among these reasons is the fact that the United States is one of the remaining principal Allied and Associated Powers in favor of which these territories were specifically renounced at the termination of the First World War. Also in this connection attention is directed to the treaties between the United States and the mandatory powers regarding the rights of the United States and its nationals in such territories.

"4. The Government of the United States therefore assumes that there will be no question as to its being a party to any trusteeship agreements affecting the African territories mandated to Great Britain which may be submitted to the United Nations for approval in accordance with articles 83 or 85 of the Charter and that it will participate in the decision as to which are the States directly concerned in the territories referred to. . . ."

"5. This Government would further suggest that it might be found desirable, if the observations of directly interested governments should be numerous, to hold a short conference of these States for the purpose of completing negotiations upon the trusteeship agreements to be submitted by them to the United Nations Organization for approval...." (8628.01/2-446)
of the United States, including a careful examination of the effect of this proposed position on trusteeship matters in the Pacific.

JOHN HICKERSON

Memorandum by the Secretary of State to the Chief of the Division of African Affairs (Villard)

[WASHINGTON,] February 25, 1946.

MR. VILLARD: Referring to the attached letter 36 to the British Ambassador, unless there is some very strong reason for the assertion of the right set forth in this letter, I believe it unwise to assert such a right.

I think that it would establish a precedent for assertion of similar rights by the Soviet Government and the British Government as to Pacific Islands where we do not intend to agree that they are states directly concerned.

J[AMES] F. B[RYNES]

Memorandum by the Chief of the Division of Dependent Area Affairs (Gerig) 37

[WASHINGTON,] March 4, 1946.

Subject: Draft Reply to British Ambassador Regarding Mandated Territories

In view of the Secretary’s note to Mr. Villard of February 25, in which he questions the desirability of the United States asserting its right to be a state directly concerned because of the precedent it might set for the assertion of similar rights by the Soviet and British Governments as to the Pacific islands, I have drafted the attached alternative 38 form of reply.

36 See Mr. Hickerson’s memorandum of February 23, supra.
37 Addressed to the Director of the Office of Special Political Affairs (Hiss) and Leo Pasvolsky, Special Assistant to the Secretary of State.
38 Marginal notation: “alternative to Villard’s new draft attached”. “Villard’s new draft” has reference to a second draft reply to the British Ambassador’s note of February 4, prepared in the Division of African Affairs on February 28; this replaced the first draft of February 21 described in Mr. Hickerson’s memorandum of February 23, p. 562. In the second draft there was no mention of a general U.S. position “in all of the mandated territories”. The emphasis was rather on the U.S. position in the British mandated territories in Africa resulting from the London conventions of February 10, 1825 between the United States and Great Britain. “The existence of these conventions,” read the second draft, “under the terms of which the United States has always considered that it had the right to be consulted in regard to the disposition of the territories in question, is regarded by the Government of the United States as affording ample ground for the contention that this Government is directly concerned in the terms of the proposed trusteeship agreements.” (62S.00/2-246)

Mr. Gerig’s draft, prepared as an “alternative” to Mr. Villard’s second draft and described in this memorandum, is not printed (62S.00/3-446).
This reply has the effect of maintaining our position under the Treaty of Versailles and the various conventions to be regarded as a state directly concerned, but does not ask the British Government at this time to acknowledge this claim. Instead, it proceeds immediately to a consideration of the terms of the agreements transmitted by the British Government and offers certain suggestions or amendments for their consideration. These amendments should be in an attachment to the reply, and the reply with these attachments might go out within four or five days if a brief acknowledgement of the British communication goes out today or tomorrow.

I am inclined to think that we will lose nothing by following the procedure suggested by the Secretary, provided we deal with the problem on purely practical grounds as a matter of urgency and without giving up our claims of twenty-five years standing. The British Government never has fully recognized our legal position and therefore it would probably be a protracted business to get them to accept our legal and treaty arguments in time to conclude the agreements by the next Assembly. Further, by pressing our legal position, we immediately raise a difficult question with the Soviet and Chinese Governments whose rights would be less strong by comparison, thus possibly opening a long controversy with them also.

I think it is possible without giving up any of our claims to influence the content of the draft trusteeship charters. In any case, the British Government as one of the states directly concerned would presumably have a veto power at any stage of the negotiations.

Finally, as to the changes or additions which we might propose on the British drafts, I would strongly recommend that we be very selective and reduce our observations to matters which are strictly essential. I doubt if we can get the British to accept a complete rewrite of their drafts which are largely based on the former mandate charters, though somewhat weaker in a few places. The appropriate divisions of the Department should at once formulate the suggestions which we have to make on the British drafts and DA is already prepared to make proposals.

8628.00/3-846

Memorandum of Conversation, by the Deputy Director of the Office of European Affairs (Hickerson)

[WASHINGTON,] March 8, 1946.

In the absence from Washington of Mr. Balfour, Mr. George Middleton, First Secretary of the British Embassy came in to see me today.
I handed to Mr. Middleton the Department’s note dated March 7\(^{39}\) acknowledging the British Embassy’s note of February 4 last, transmitting copies of the draft trusteeship agreements for Tanganyika, the Cameroons, and Togoland.

I told Mr. Middleton that it appeared to us desirable that I supplement our note of acknowledgment with the following information. We are now considering in the Department the whole question of states directly concerned in connection with trusteeship agreements. It is clear to us that the United States could assert an unassailable legal claim to be a state directly concerned in respect of these three mandates. This position could be established on either of two grounds: Our position as one of the Allied and associated Powers in World War I, and our Mandates Treaty with the United Kingdom. I went on to say that in my opinion either of these grounds was sufficient to establish our position as a state directly concerned and a combination of the two makes an unassailable position.

I continued, however, that we are now considering the question of states directly concerned from the overall standpoint. In other words, whereas we can certainly claim to be a state directly concerned, we are now considering whether from the standpoint of our overall national interest we wish to assert such a claim. I added that it seemed wise to us to tell the British Government the foregoing for their information and to suggest that no definitive action be taken by the British Government without further consultation with us.

Mr. Middleton expressed his appreciation and said that he would communicate this information to his government. He asked if I cared to hazard a prediction as to what decision we would reach and I replied that I would not. He inquired whether I could tell him what my personal view was and I replied that my personal view was that an ad hoc decision should be reached as regards each mandate, depending on circumstances. I said, however, that there is a sharp division of opinion in the Department on the subject and that many of my colleagues disagree with me.

JOHN HICKERSON

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880.014/4-446

The Secretary of the Navy (Forrestal) to the Secretary of State

CONFIDENTIAL

WASHINGTON, 4 April 1946.

MY DEAR MR. SECRETARY: I acknowledge receipt of copies of four draft trusteeship agreements for the African territories of Togoland,

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\(^{39}\) The note acknowledged receipt of the British note and the accompanying draft trusteeship agreements for Tanganyika, the Cameroons, and Togoland and stated that “Both the note and the draft agreements are being studied in the Department of State and it is hoped that a reply can be made in the near future.” (S828.01/2-446)
British Cameroons, Tanganyika and Ruanda-Urundi, which were forwarded with Mr. Acheson’s letter of March 29, 1946.

I have no comment to make as to the substance of these agreements. However, a question will arise at the time they are presented for consideration in the General Assembly of the United Nations whether the United States should assert that it is a state directly concerned with respect to these territories. I believe that the United States has no real interest in these territories other than a general concern for the welfare of their inhabitants.

I further believe that any assertions by the United States of direct concern in these territories might well serve as a precedent for other nations voicing their direct concern with respect to trusteeship for Pacific islands in which we have a definite strategic interest. Inasmuch as it is the view of the Navy Department that the number of states directly concerned in Pacific islands trusteeships should be kept to a minimum, I am strongly of the opinion that it would be most unwise for the United States to assert that it is directly concerned in connection with these four African territories.

Sincerely yours,

JAMES FORRESTAL

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10 The Belgian Foreign Ministry had on January 30 transmitted to the U.S. Embassy in Brussels draft terms of agreement for the Belgian mandated territory of Ruanda-Urundi; it was requested in a covering note that this text be conveyed to the U.S. Government for its information. The draft of the proposed agreement was transmitted to the Department in Brussels despatch 1151, February 6, received February 13, neither printed. (501/BE/2-646)

11 Not printed. Copies of the draft trusteeship agreements were forwarded also to the Secretary of War and the Secretary of the Interior. The Acting Secretary informed the three Secretaries that “I should be pleased to receive at this time any comments which you may care to make concerning them.” (862P.01/3-2946)

12 In a letter of April 10 the Secretary of War (Patterson) responded that “There appears to be no matter in these proposed agreements requiring comment from the military point of view.” He then went on to say: “However, I feel that the U.S. position concerning the submission to the U.S. Government of these draft agreements should be worked out with concern to the possible establishment of a precedent which we may later regard as unfortunate. If the U.S. Government were to acquiesce in regarding this country as a ‘state directly concerned’ under the United Nations Charter, in preliminary trusteeship moves with respect to such areas as Togoland, British Cameroons, Tanganyika and Ruanda-Urundi, a precedent might well be established which would make difficult our own application of a more restrictive definition for ‘directly concerned’ should it later prove desirable to do so in connection with trusteeship agreements applying to Pacific islands, or other areas in which our interests are particularly great.” (862P.01/4-1046)
SECRET

[WASHINGTON,] April 11, 1946.

POLICY AND PROCEDURES CONCERNING THE NEGOTIATION OF TRUSTEESHIP AGREEMENTS

COVERING NOTE

The attached document is designed to assist in formulating basic American policy on trusteeship matters which require immediate decision.

The need for such a decision is urgent because the British Government transmitted on February 4, 1946 copies of draft trusteeship agreements for Tanganyika, Togoland, and the Cameroons. In a covering note it stated that these draft agreements were transmitted to this Government for its “information” and “without prejudice to the interpretation, to be eventually adopted, of the phrase ‘states directly concerned’”. Also, the Belgian Government transmitted on January 30, 1946, under a similar covering note, a copy of a draft agreement for Ruanda-Urundi.

A reply to the British was drafted by interested Divisions of the Department, stating that the United States considered itself a state directly concerned in the African mandated territories because, among other reasons, of its position as one of the Principal Allied and Associated Powers. This draft reply did not receive the unanimous approval of the interested Offices; and the Secretary, in a memorandum to Mr. Villard dated February 25, 1946, expressed the view that it might be unwise for the United States to assert a claim to be a state directly concerned in the African mandated territories “unless there is some very strong reason”, because such an action might establish a precedent for assertion of similar rights by the Soviet and British Governments in the Pacific Islands.

In a letter dated April 4, 1946, received after the preparation of these papers, the Secretary of the Navy takes the position that “the number of states directly concerned in Pacific islands trusteeships should be kept to a minimum” and states that “any assertion by the United States of direct concern in these [African] territories might well serve as a precedent for other nations voicing their direct concern

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44 The Secretary's Staff Committee was responsible for “advising and otherwise assisting the Secretary of State in determining current and long-range foreign policy”. For the composition of this committee, see footnote 46, p. 569.

45 Staff Committee document SC-192 was drafted in the Division of Dependent Area Affairs. It consisted of several parts, one of which, this covering memorandum, is printed here. Discussion of Memorandum SC-192 by the Secretary’s Staff Committee, initially scheduled for April 18, was taken up by the Committee at a meeting especially convoked for that purpose on April 20; for minutes of this meeting, see infra.

46 Not printed.

47 Brackets appear in the source text.
with respect to trusteeship for Pacific islands in which we have a definite strategic interest”.

In as much as any definition of the “states directly concerned” in one region sets a precedent for some other region, as the Secretary indicated, a group of officers representing interested Offices and Divisions met several times to consider this problem again in its broadest aspects. They reached the conclusion that it was probably best to consider the states directly concerned in the mandated territories to be the five Great Powers, as successors to the rights of the Principal Allied and Associated Powers under the Treaty of Versailles, and the mandatory state if it is not such a power. A more restrictive definition would be difficult to secure and a broader definition would be obviously undesirable.

The Soviet Union, the United Kingdom, and France, as signatories of the Italian Armistice, will probably in any event claim to inherit the rights and titles which Italy holds in all the mandated territories as a Principal Allied and Associated Power; and the Soviet Union, the United Kingdom, and China, being among the acceptors of the Japanese surrender, will claim to share in the rights and titles that Japan similarly holds. It is doubtful whether the United States could succeed in denying these claims. It was felt, moreover, that the United States can most effectively protect its many interests in Africa and advance its general objectives regarding dependent peoples by asserting its treaty rights.

With regard to the special question of the Japanese Mandated Islands, it was considered that inclusion of the other four Great Powers as states directly concerned in these islands could not jeopardize American control there. Even if one of the other Great Powers were not included as a state directly concerned, it could veto a strategic-area agreement in the Security Council. . . . It is clear that if these five states cannot agree on the terms of trusteeship or if the Security Council does not approve the agreement, the United States will remain in de facto control of the islands. The group agreed that when the United States proposals for placing the islands under trusteeship are submitted to the other states directly concerned, these proposals should be published in order that our position would be promptly made known.

The group concluded that as soon as American policy is settled the United States should consult with the United Kingdom and France, as the remaining Principal Allied and Associated Powers, regarding the states directly concerned. It should be prepared to agree that these three Powers, together with the Soviet Union and China as inheritors of the rights which Italy and Japan hold as Principal Allied and Associated Powers, should be the only states directly concerned in mandated territories and that these five Powers should consult as to whether any other states might participate in the negotiations and
to what degree. The United States would, however, be prepared to give careful consideration to any different views proposed by the British or the French.

It is suggested that after the Department reaches a decision on these trusteeship matters it should forward its recommendations to the President for his consideration, with the suggestion that if the President provisionally approves these recommendations the Secretary should seek to obtain, through the State-War-Navy Coordinating Committee, the agreement of the Secretaries of War and Navy and of the Joint Chiefs of Staff.

Secretary's Staff Committee Files: Lot 122: Box 13147

Minutes of the One Hundred Ninety-Second Meeting of the Secretary's Staff Committee, Washington, April 20, 1946, 9:30 a.m.

Present: 46 The Secretary (presiding)

The Under Secretary
The Counselor
Messrs. Benton
Braden
Clayton
General Hilldring
Messrs. McCormack
Russell
Hiss
Hickerson
Henderson (for Mr. Dunn)
Vincent
Gergi, IS
Gange
Lewis
Brown

46 The Secretary's Staff Committee at this time, in addition to the Secretary himself, was made up of the two Under Secretaries (Acheson and Clayton), the Counselor of the Department (Cohen), the Assistant Secretaries (Benton, Braden, Hilldring and Russell), the Legal Adviser (not present at this meeting), the Special Assistant to the Secretary for Intelligence and Research (McCormack), the Director of the Office of Special Political Affairs (Hiss) in lieu of the Special Assistant to the Secretary for International Organization and Security Affairs (there was no incumbent at this time), and the Directors or Deputy Directors of certain geographic offices (Hickerson, Vincent and Henderson), in lieu of the Assistant Secretary for European, Far Eastern, and Near Eastern and African Affairs. Mr. O. Benjamin Gergi was present at this meeting in his capacity as Chief of the Division of Dependent Area Affairs. The others named were present presumably in the capacity of secretariat officials; Mr. Lewis recorded the minutes of the meeting.
The Committee met at 9:30 A.M.

_Policy and Procedures Concerning the Negotiation of Trusteeship Agreements_ (Document SC-192)

Mr. Hiss presented document SC-192 making recommendations regarding policy and procedures concerning the negotiation of trusteeship agreements. The immediate problem, Mr. Hiss said, was to formulate our position as to which are the “states directly concerned” in such agreements, under the provisions of Article 79 of the Charter. Mr. Hiss said that the British Government had transmitted to this Government on February 4 copies of draft trusteeship agreements for Tanganyika, Togoland and the Cameroons, and on January 30 the Belgian Government had similarly transmitted a draft agreement for Ruanda-Urundi. The agreements were transmitted to this Government for its “information”, and the question now arose as to how this Government should reply—as a “state directly concerned”, or otherwise. A reply would have to be made soon, or this Government would be accused of delaying the whole trusteeship program, or the British and Belgians would go ahead on the assumption that we are not interested.

It was also expected that the French Government would shortly transmit to us copies of draft agreements for the French mandates in Africa.

Mr. Hiss said an important factor in the problem was the effect which an assertion of U.S. claims as a “state directly concerned” in all the mandated territories would have on the policy which this Government may wish to apply to the Japanese mandated islands in the Pacific. He recalled that the Secretary, in a memorandum of February 23, 1946 had expressed the view that it would be unwise for the U.S. to assert a claim as a “state directly concerned” in the African mandated territories unless there was some very strong reason, because such an action might establish a precedent for assertion of similar rights by the Soviet and British Governments in the Pacific islands.

Referring to Article 79 of the Charter, Mr. Hiss said that it had been the understanding at San Francisco that the mandatory power was obviously a “state directly concerned”, while others directly concerned were to be determined by diplomatic negotiations. The importance of the question lay in the fact that no change could be made in a trusteeship agreement except with the consent of the “states directly concerned”. Since 1921, Mr. Hiss said, this Government has taken the position that title to mandates resides in the Principal Allied and Associated Powers in whose favor Germany renounced its titles. He also recalled that Secretary Hughes had asserted a U.S.

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*Supra.*
interest in Turkish territories placed under mandate, merely on the
ground of our war effort in the First World War. The U.S. has entered
into treaties with the mandatory powers, based on this legal theory,
which makes it impossible to modify the present mandates without
United States assent. At San Francisco the U.S. took the position
(informally) that we would certainly be a “state directly concerned”
in all mandates. However the War and Navy Departments have
recently taken the position that the United States should not assert
claims as a “state directly concerned” in the African mandates since
this would make it difficult for us to take a more restrictive position
with respect to Pacific strategic territories. The answer to this, Mr.
Hiss said, was that self-restraint by the U.S. would not cause China
or the Soviet Union to exercise corresponding self-restraint. Further-
more the British have in a sense already foreclosed this question by
sending copies of the draft African agreements to us and to China
and the Soviet Union and thus almost inviting claims on the part of
those powers to be considered “states directly concerned”? If we
renounced our claims with respect to the African mandates, we might
be accused of foregoing our own interests, particularly since we had
taken the leading part in formulating the whole trusteeship system.
Congress might feel that our treaty rights were not being safeguarded,
Mr. Hiss added. Moreover in certain areas (e.g. Palestine, Western
Samoa, New Guinea and Nauru) if we do not assert a claim as a “state
directly concerned” we have no treaty rights.

Mr. Hiss also pointed out that the Army and Navy are concerned
about limiting the number of states directly concerned in Pacific
territories which will be strategic trusteeships. Trusteeship agreements
for these areas will have to be approved by all members of the Security
Council (including China and the Soviet Union), so excluding them
at the formulation stage will not exclude them later.

Mr. Hiss said it was accordingly recommended that we consult with
the British and French regarding the definition of “states directly
c concerned”. In these consultations we would take the following general
position but keep an open mind to their suggestions:

(1) With respect to the mandated territories, the U.S., U.K. and
France as the remaining members of the Principal Allied and Asso-
ciated Powers, and China and the Soviet Union, as the inheritors
of the rights of Italy and Japan as Principal Allied and Associated
Powers, should be “states directly concerned”.
(2) The “states directly concerned” in the Italian colonies are the
U.S., U.K., France and the Soviet Union (in accordance with the
Italian armistice).
(3) As far as the non-mandated Pacific territories are concerned,
the “states directly concerned” are the acceptors of the Japanese sur-
(4) The five powers would consult on an *ad hoc* basis to determine any other "states directly concerned", or any others to be consulted.

Referring to the argument that the Big Five would have veto power in the Security Council over strategic trusteeship agreements, and that therefore it did not make any difference whether the Soviet Union and China were designated as "states directly concerned", **The Under Secretary** asked if our position would not be prejudiced if we admitted these states were directly concerned. We were recognizing a legal right on their part which might prejudice our position in other places, he said. Mr. Hiss said that if we did not recognize this legal right we would be basing our position solely on the right of conquest.

**The Secretary** raised the question of the status of the non-mandated Japanese islands (e.g. Okinawa) in the event the Security Council did not approve a trusteeship agreement proposed by us. **The Counselor** said there would presumably be a preceding step—the disposition of the islands in the peace treaty. If we do not agree to a peace treaty we will be in possession of the islands for the time being.

**The Counselor** emphasized that the important thing to consider was the status of "states directly concerned". If this meant only that such states should be consulted in advance we should construe the term broadly, but in fact the so-called "states directly concerned" must *agree* before a trusteeship agreement can even be submitted to the Security Council or the Trusteeship Council. Hence the more narrowly we construe the term the better. In so doing, however, let us consult other states broadly before we submit the drafts to the approving authorities. He agreed with the paper that if we broaden the definition to include ourselves with respect to all mandates, it will be impracticable to exclude the Soviet Union from *any* mandate. It seemed to him that it would be a legitimate construction to take "states directly concerned" to mean only the state immediately administering or in control of the territory. As many states as were interested should be *consulted*, however. He was not sure that the fact that a broader conception was carried away from San Francisco was important. However, he said, it must be recognized that the Charter refers to *states* directly concerned, in the plural, and it also refers to "agreement" to be reached among them. Mr. Hiss added that the Charter provided that terms should "be agreed upon by the states directly concerned including the mandatory power".

**The Secretary**, after reading from Article 79, asked how the agreement of the "states directly concerned" was to be obtained and how the "states directly concerned" would be determined. Mr. Hickerson (who had been an adviser to the American Delegation in drafting this portion of the Charter) said the Charter was ambiguous on this point,
and he said that frankly he thought a mistake had been made. He agreed that the Army and Navy wanted all the Japanese islands to be strategic areas and hence all the “Big Five” states would have a veto. He said he thought the most that should be done now was to consult realistically with the British and French, without taking a formal position, to see what they have in mind. He pointed out that the British had transmitted the draft agreements regarding the African mandates to us for “information” and “without prejudice to the interpretation . . . of ‘states directly concerned’”. He noted that the trusteeships proposed by the British were for non-strategic areas, and said that if we take the position with respect to them that all the “Big Five” are “states directly concerned”, we will in effect be extending the “Big Five” veto power to the General Assembly (which has authority over non-strategic trusteeships). Mr. Hickerson said he thought the position suggested by the Counselor (see above) was preferable.

Mr. Hiss pointed out that the veto would not be that of the “Big Five”, but of the “states directly concerned”. Moreover, the veto is negative. It is to no one’s interest except that of the mandatory power to exercise the veto. In fact the veto is being extended beyond the “Big Five” in this respect to other countries, e.g. South Africa.

The Counselor said he was not at all sure it would work out this way. The position outlined by Mr. Hiss generally assumes our right to a veto even before an agreement goes to the Trusteeship Council or the Security Council, and this would give us great influence. If it were necessary for a compromise to be reached before the agreement went to the appropriate United Nations organ, our position would be on record and hence compromised before the matter comes up in that organ. Mr. Hiss suggested we could waive our rights at the earlier stage in the interest of reaching an agreement for the higher body to consider rather than to waive them in a broad way prior to the consideration of an agreement. The Counselor emphasized his feeling that it would be much easier to reach mutual agreement if “states directly concerned” were kept to the minimum and others interested were merely consulted. The mandatory state could introduce the draft agreement. He referred to Palestine as an example—if the U.S. and the Soviet Union were accepted as “states directly concerned”, there would be others who would claim equal concern. He said he opposed drawing such a sharp line between (a) legal right to participate in the drafting and concurring on a trusteeship agreement and (b) consultation on such agreements prior to their submission to the Security Council or General Assembly.

Mr. Hiss said his proposal was designed to restrict the number of “states directly concerned” as much as feasible, but it was felt that there would have to be four or five such states in each case. He also-
re-emphasized his belief that it did not follow that other states would
give up their claims merely because we did so. Mr. Hickerson sug-
ggested we could find this out by consultation with U.K. and France,
at least as far as the mandated areas were concerned. If a draft agree-
ment goes into the General Assembly with only the mandatory pushing
it the result will be negotiating with 50 states in order to get approval.
Mr. Hiss said his recommendation provided for this consultation, but
that in order to carry out such consultation we must have prior clarifi-
cation of the concept of “states directly concerned”.

Mr. Hiss suggested that timing was a further consideration. If a
trusteeship agreement were turned into the General Assembly by the
mandatory with the approval of only that mandatory (as proposed by
the Counselor) the task of getting the agreement approved promptly
by the 51 members would be much more difficult than if it had been
previously approved by all those directly concerned. The Under
Secretary said he did not think speed was particularly important.

Mr. Henderson asked whether Counselor’s proposal was feasible
in view of the specific reference in the Charter to the plural, “states
directly concerned”. The Counselor said that while the language
seemed to indicate several states, the same language applied to the
voluntary placing of colonies under trusteeship by a colonial power,
and it would be strange to require the agreement of others for such
trusteeships. Mr. Henderson said he thought the Counselor’s propo-
sal was a very good one.

The Counselor said he would also think that we should get agree-
ment that trusteeship agreements would be submitted to certain groups
of interested states for their views.

Mr. Hickerson said he had discussed the whole problem, and par-
cipantly Western Samoa (for U.S. base rights), with the New Zealand
Prime Minister, Mr. Fraser. He (Fraser) does not hold a legalistic
interpretation of Article 79 but feels determination should be on an
ad hoc basis and the number of “states directly concerned” kept to the
minimum. With regard to Western Samoa he would prefer to consult
only the United States but recognizes that Australia will also have
to be consulted. Because Fraser is concerned about a tendency of Great
Britain to retire from the Pacific, he would also like to see Britain
assert a claim as a “state directly concerned” in Samoa.

The Under Secretary asked whether there was any difference be-
tween the Japanese mandated territories and other separated Japanese
territories, in so far as this problem was concerned. Mr. Hickerson
thought there might be. The Counselor pointed out that claims in
the mandates go back to Versailles, whereas a new treaty will be neces-
sary to dispose of the other Japanese territories. He said there were
no specific pertinent references in the Japanese surrender terms. The
UNDER SECRETARY said he assumed the Russians would not advance claims regarding the non-mandated territories because of the Kuriles (which they now hold). THE COUNSELOR asked whether there was any reference in the Yalta minutes which would bear out his assumption that the disposition of the Kuriles in favor of the Soviet Union was all they were to get from Japan. THE SECRETARY said the Yalta agreement merely provided that the Kuriles “shall be handed over” to the Soviet Union, and the only argument which can be derived from this is that no claim to anything additional was advanced by the Soviet Union at that time.

Mr. Hickerson, referring to the strategic trusteeships we propose to establish over the Japanese mandated islands, said a question of tactics was involved—whether we want the main discussion at the negotiating stage, or in the Security Council. He said the Department’s experts on Russia felt that tactically our position would be a little better if we should be blocked, to have it come in the Security Council acting before the world rather than at the negotiation stage. THE SECRETARY said he agreed with this line of reasoning—the quicker the matter went to the Security Council, the better it would be.

Mr. Hickerson said he had a formula which he had proposed in previous inter-office discussions of the problem. He favored consulting the British and French, and our course might be altered by their views, but assuming they still want to “dodge” the issue of “states directly concerned”, he would propose going directly to the Security Council with trusteeship agreements for the Japanese islands. We would say that these are being presented for approval without prejudice to the interpretation of “states directly concerned”, and that we know that all possible states directly concerned are in the Security Council, except New Zealand which has been consulted and approves. Then the whole discussion will be in the Security Council, and open.

THE SECRETARY said that if we followed the course recommended by Mr. Hiss, and encountered the usual delays in the preliminary stage, we could then follow the procedure suggested by Mr. Hickerson, with perhaps a prior thirty-day notice of our intention to submit the draft to the Security Council. We should try to get agreement before going to the Security Council but not let the matter be indefinitely delayed.

THE UNDER SECRETARY again raised the question whether our future position was not prejudiced if we recognize as legal rights the interests of certain other states in the mandated areas as “states directly concerned”. If an agreement should be defeated by a veto in the Security Council then in subsequent action we would have to take account of the fact that we had recognized their interest in the territory. Mr. Hiss said that if we base our claim solely on conquest, and a trusteeship agreement is not approved, we will have no legal claim. Mr.
Hickerson questioned this. Referring to the Marianas, he said Germany had the last clear-cut title. She surrendered it to the Principal Allied and Associated Powers. They gave a mandate to Japan, but Japan did not acquire sovereignty. We have driven out the Japanese and are in possession of the islands, but who has title? Mr. Hickerson said it was obviously cloudy. He would hope we could reach agreement in the peace treaty with Japan, but if not, we are in de facto control. The counselor said he thought we should avoid asserting the right of conquest over a mandated territory. Mr. Hiss said we would have to admit Japan had had some sort of title if we base our claim only on conquest.

Mr. Hiss said the immediate question was the reply to be made to the British and Belgians, and to the French when they ask. He said he assumed from the discussion that the Department was not prepared to assert the position that the U.S. is a "state directly concerned" in all the mandated territories on a legal basis. He asked whether we could say that this has been the U.S. position but we are not now asserting it, and give them our comments on the proposed agreements on their merits without asserting it.

The under secretary asked why we should say this has been our position. To do so assumes it is the legal position but we are not asserting it, he pointed out, and we might wish to say it was not the legal position. Mr. Hiss said it has in fact been our position for more than 20 years, and he thought we should not waive it out of hand in the hopes that other states would renounce similar interests.

Mr. Henderson said we could assert a right under existing treaties as a "state directly concerned" in Tanganyika but he did not think the Soviet Union or China could assert a legal claim either there or in the Japanese mandated islands. Their claims would have to be based on agreements yet to be made. Mr. Hickerson said we could waive our rights with respect to Tanganyika and rely on expressing our views in the General Assembly. The under secretary said he would prefer neither to waive or claim rights—but merely to reply because we have been consulted.

The counselor then proposed that in its reply to the British and Belgian communications on certain proposed trusteeship agreements this Government should reserve its legal right under existing treaties and that its observations on these proposed agreements should be without prejudice to its claims as a "state directly concerned". He further proposed that this Government should discuss the problem of defining "states directly concerned" with the British and French and should take the position that the conclusion of trusteeship agreements would be facilitated by defining this term as narrowly as possible, and that if this is agreed to this Government would propose consultation with
as many states as have a legitimate interest in any particular trusteeship agreement.

The Secretary said he thought this might take care of the immediate situation.

Mr. Hiss suggested the War and Navy Departments should also be consulted regarding their views and to try to show them how those views may not be as valid as they think. The Under Secretary said he thought their views were pretty valid.

The agreement of the Committee was recorded as follows:

Agreed that in its reply to the British and Belgian communications on certain proposed trusteeship agreements this Government should reserve its legal rights under existing treaties and that its observations on these proposed agreements should be without prejudice to its claims as a “state directly concerned”.

Agreed further that this Government should discuss the problem of defining “states directly concerned” with the British and French and take the position that the conclusion of trusteeship agreements would be facilitated by defining this term as narrowly as possible, and that if this is agreed to this Government would propose consultation with as many states as have a legitimate interest in any particular trusteeship agreement.

Agreed that there should be consultation with the War and Navy Departments to ascertain their views regarding the position the Department proposes to take in defining “states directly concerned” and regarding the areas which this Government will propose should be placed under the trusteeship system, it being understood that in the event of failure to reach agreement on these matters, the Staff Committee should consider the matter again.

The meeting adjourned at 10:40 A.M.

8628.01/2-446

The Acting Secretary of State to the British Ambassador (Halifax)

SECRET

Washington, May 7, 1946.

Excellency: I have the honor to refer further to your communication of February 4, 1946 (No. 71; Ref. 419/19/46) in which His Majesty’s Government in the United Kingdom transmitted to this Government drafts of the terms under which the United Kingdom proposes to place the mandated territories of Tanganyika, Cameroons and Togoland under the trusteeship system of the United Nations in accordance with Article 77 of the Charter.

The Government of the United States appreciates the initiative which has been taken by the Government of the United Kingdom with a view to the early establishment of the trusteeship system as contemplated in the Charter. This Government notes that the draft terms
of trusteeship have been transmitted to the United States Government “for their information” and “without prejudice to the interpretation to be eventually adopted of the phrase ‘states directly concerned’ in Article 79 of the Charter”.

This Government has carefully examined the draft terms of trusteeship proposed by His Majesty’s Government in the United Kingdom and takes this opportunity to transmit certain comments on these draft agreements which are outlined in the attachment appended hereto. These comments pertain largely to changes which it is believed experience has shown to be desirable since the original mandate charters were adopted a quarter of a century ago. We hope that these suggested changes and additions may find ready acceptance by the Government of the United Kingdom since in many cases the proposed changes or additions are in effect a codification of practices already adopted by His Majesty’s Government. Moreover, it is believed that these terms as broadened might serve as a useful guide when the terms of trusteeship for other territories are being drawn up.

In transmitting these comments, the United States Government does so without reference to the determination of the phrase “states directly concerned”. The position of the United States in this respect remains what it has been for the past twenty-five years, namely, that it has special and specific rights under the Treaty of Versailles and as a party to certain bilateral treaties, including treaties with the United Kingdom concerning the mandated territories. The United States believes that by virtue of this position it is entitled to be one of the “states directly concerned” in all mandated territories.

However, it is the view of this Government that in the interest of speeding up conclusion of trusteeship agreements it would be desirable to limit the number of negotiating states to a minimum, and in line with this principle it is felt that the most desirable procedure would be that the present mandatory powers should propose draft terms of trusteeship and that other particularly interested powers should be consulted in regard to these terms before they are actually submitted to the General Assembly for approval.

This procedure is proposed on the condition that the other interested powers agree to the principle of consultation as described above without pressing claims to be signatories to the terms of trusteeship for the African territories in question.

This Government further believes that a useful purpose might be served if informal discussions could take place very soon with His Majesty’s Government in order to explore these and other aspects of this subject. This would also afford an opportunity to consult together in regard to the draft terms of trusteeship. Such discussions might

*Printed as a separate memorandum, infra.*
take place either in London or, if desired, in Washington, and would, we believe, expedite matters so that a number of draft trusteeship agreements could be submitted to the General Assembly in September, thus enabling the Trusteeship Council to be constituted at that time. It is our intention also to ascertain the views of the French Government on the question of the most effective procedure for concluding the agreements. 49

Accept, Excellency, the renewed assurances of my highest consideration.

DEAN ACHESON

8625.00/5-746

Memorandum Accompanying Note From the Acting Secretary of State to the British Ambassador, May 7, 1946 50

COMMENTS ON THE DRAFT TERMS OF TRUSTEESHIP FOR TANGANYIKA, AND THE CAMEROONS AND TOGOLAND UNDER BRITISH MANDATE. 51

(Note: The comments which follow apply equally to the draft terms of trusteeship for Tanganyika, the Cameroons, and Togoland, since it is noted that these terms are identical with the exception of Articles 5 and 6 and the definition of boundaries contained in Article 1 of each draft agreement.)

Article 1a (new)

Comment.—In view of the uncertainty under the mandates system with respect to the location of rights and titles to mandated territories, the following wording is suggested as clarification of this matter:

“Upon the approval of these terms of trusteeship by the General Assembly in accordance with the Charter of the United Nations, all

49 The same note, mutatis mutandis, was transmitted to the Belgian Ambassador (Silvercrus) on May 14 (880.014/2-346). A note to the French Ambassador (Bouvet) on May 13 described the approach made by the British and Belgian Governments, set forth the position of this Government in general terms, and without referring directly to the fact that no draft terms had been submitted to this Government by the French Government proposed “informal discussions... very soon” either in Paris or Washington (862P.01/6-1346). The essential information regarding these notes was forwarded to the Ambassador in France (Caffery) in telegram 2360, May 15, 8 p.m., the Department indicating that it “would welcome any information you can obtain informally re French plans for negotiating trusteeship agreements for Togoland and Cameroons (urteil 605 Feb 7) [not printed] and French views on states directly concerned.” (862P.01/2-746) In telegram 3829, May 8, 5 p.m., to London, Ambassador Harriman was informed of the May 7 note to Lord Halifax and was requested to “inquire whether other Governments to which British sent draft agreements either as states directly concerned or for information have yet replied and, if so, what position they have taken re states directly concerned and draft terms of trusteeship.” (862P.01/4-2946) The same telegram, mutatis mutandis, was sent to Brussels on May 15 (telegram 515, File No. 862.01/5-946).

50 Drafted in the Division of Dependent Area Affairs.

51 References are to texts that are printed in British Cmd. 6840 and 6863, particularly to Annex IV of the former, “Draft Terms of Trusteeship for Tanganyika”.

310-101—72—38
rights and titles in the trust territory shall thereupon be vested in the United Nations. The United Nations shall exercise these rights as trustee for the inhabitants of the trust territory.”

Article 5

Comment.—With respect to paragraph (b), it is suggested that the qualifying words “with the approval of the General Assembly or of the Trusteeship Council” should be inserted after the words “shall be entitled”. At the end of this clause, consideration should also be given to the insertion of the words “and with the terms of this agreement”. It is suggested that the words “under his sovereignty or control” be eliminated in order not to bar future arrangements of this character which might include areas not under British sovereignty or control. Consideration might be given to establishing this clause as a separate Article to follow Article 5. An additional clause should be inserted sustaining the validity of arrangements of this character already established.

It is suggested that paragraph (c) be replaced by the following three paragraphs:

“(1) may establish and use military, naval and air bases, erect fortifications, and station and employ its own forces in the trust territory in carrying out its obligations toward the Security Council as well as for local defence and the maintenance of law and order within the trust territory.

(2) may enlist volunteer forces for the purpose of carrying out its obligations toward the Security Council and for local defence and the maintenance of law and order within the trust territory; and

(3) shall use such forces only within the trust territory except upon the call of the Security Council in accordance with any special agreement made by the Administering Authority under Article 43 of the Charter of the United Nations and, in recruiting such forces, shall take care that, except in case of a threat to international peace and security, as determined by the Security Council, enlistments shall not be permitted in such numbers as to disrupt the economic life of the territory.”

Article 6

Comment.—It is suggested that it would be of considerable value to specify in greater detail the steps by which the inhabitants of the territory will accomplish their progressive development towards self-government or independence. Such provisions would take account of the great interest of peoples throughout the world in the procedures and techniques for the development of political expression and political institutions in non-self-governing areas. To this end, the following revision of Article 6 is suggested:

“1. The Administering Authority shall foster the development of political institutions suited to the trust territory and shall promote
the progressive development of the inhabitants of the trust territory towards self-government or independence in accordance with Article 76(b) of the Charter by:

(a) providing for increasing participation of citizens of the trust territory in administrative and other governmental positions;
(b) establishing advisory and legislative bodies on a local and a territory-wide basis in the trust territory, as may be appropriate to the particular circumstances of the territory and its peoples;
(c) developing the use of popular election in the trust territory, with progressive widening of the franchise;
(d) extending to all citizens of the trust territory eligibility to hold appointive and elective office; and
(e) developing legislative, administrative, and budgetary autonomy for the trust territory.

2. At intervals not exceeding five years, beginning in 194—, the Trusteeship Council in consultation with the Administering Authority shall survey the development of the political institutions of the trust territory and the capacity for self-government achieved by its inhabitants, and shall report thereon to the General Assembly.

3. At such time as the General Assembly shall find that the inhabitants of the trust territory are ready for self-government it may make recommendations to the signatories as to the form which self-government shall take."

Article 7

Comment.—With respect to the application of international conventions to the territories, it is believed that the approach followed in Article 9 of the Mandate for Tanganyika is to be preferred to the abbreviated form of Article 7 of the draft terms, with the addition of references to conventions dealing with labor and health.

Article 8

Comment.—It is suggested that consideration be given to the use of the expression “land and resources” rather than merely “land” throughout this Article in order to safeguard the transfer of not only land but also of the sub-surface resources.

It is further suggested that the expression used in the terms of mandate, “previous consent”, be retained in the second sentence of this Article.

It is also proposed tentatively that the guarantees of the terms of mandate relating to usury be maintained.

Article 8a (new)

Comment.—In the implementation of the objective of the trusteeship system “to promote the ... economic ... advancement of the inhabitants of the trust territories”, it seems desirable, as in the case of the objective to promote the political advancement of the inhabi-
tants, to specify in some detail the steps which the Administering Authority should take in the achievement of this objective. It is recognized that the items which are included below in the suggested Article represent for the most part statements of programs or plans which are already in existence with respect to these territories. However, it is strongly urged that a valuable service may be performed through these first trusteeship agreements by the formalizing of high standards of administrative practice. With this object in view, the following detailed Article is proposed for inclusion in the terms of trusteeship:

"To promote the economic advancement of the inhabitants of the trust territory, the Administering Authority shall:

(a) regulate the development of natural resources, including the use of land and mineral resources, in accordance with sound conservation principles and for the benefit of all the inhabitants of the trust territory;

(b) encourage the development of efficient agriculture and industry, including diversification wherever desirable in the interests of the inhabitants;

(c) facilitate the access of the inhabitants to capital and technical assistance needed for economic development;

(d) assist the inhabitants, so far as feasible, to become qualified for and to obtain employment in all occupations, employments, and professions without discrimination;

(e) assist the inhabitants to participate in the world economy by permitting them to supply their needs from and to sell their produce in the most favorable markets;

(f) prevent the economic development of the trust territory from being distorted or retarded for the benefit of other peoples or territories;

(g) protect the inhabitants against the loss of their lands and occupations;

(h) assist the inhabitants to become progressively free to manage their own economic affairs subject only to the requirements of a sound international economy; and

(i) institute such other regulations as may be necessary for the economic advancement of the inhabitants of the trust territory."

Article 9

Comment.—It is believed that the insertion of the word "industrial" after the word "economic" in the introductory clause of the Article would serve a useful purpose in broadening the scope of these provisions on equal treatment. This terminology would follow the Mandates Agreements. The introductory clause should end with the word "nationals". Paragraphs (a), (b), and (c) should be independent subsections.

In order to make it wholly clear that aviation rights are included within these commercial equality clauses, paragraph (a) of Article
9 should be amended by the insertion of the phrase "including freedom of transit and navigation by air" after the phrase "freedom of transit and navigation".

Article 11

Comment.—The necessity of making a provision for protecting the interests of the inhabitants of the trust territory with respect to economic and commercial matters is fully appreciated and concurred in by the Government of the United States. It is believed, however, that the phrase "the application of a more advantageous regime" is not susceptible of precise definition. Moreover, under the commercial policy followed by the United States Government, while it is quite feasible to agree to most-favored-nation treatment for a trust territory, it would be most difficult for this Government to accept an undertaking by which its rights would depend upon a determination of whether a "more advantageous regime" existed in a trust territory for the United States and its nationals than was in existence in the United States for the trust territory and its nationals. The following provision is therefore suggested as a substitute for the present wording of this Article:

"Nothing in this agreement shall entitle any member of the United Nations to claim for itself or for its nationals, companies and associations the benefits of Article 9 of this agreement in any respect in which it does not give to the nationals, companies and associations of equality of treatment with the nationals, companies, and associations of any other state."

Article 11a (new)

Comment.—As an amplification of the objective stated in Article 76(3) "to promote the . . . social . . . advancement of the inhabitants of the trust territories," it is suggested that the following detailed provisions might be inserted as a new Article in the terms of agreement. Again, in many cases these items represent policies already in effect with respect to Tanganyika, Togoland, and Cameroons:

"To promote the social advancement of the inhabitants of the trust territory, the Administering Authority shall:

(a) protect the rights and fundamental freedoms of all elements in the population without distinction as to race, sex, language, or religion;
(b) prohibit all forms of slavery and slave-trading;
(c) prohibit all forms of forced or compulsory labor except when necessary for essential public works and services as specifically authorized by the local administration, with adequate remuneration, with adequate protection of the welfare of the workers, and in accordance with the provisions of the Forced Labor Convention, 1930;
(d) promote the progressive elimination of recruiting of workers and the development of the spontaneous offer of labor in giving effect to the principles of the Elimination of Recruiting Recommendation, 1936;

(e) prohibit penal sanctions for breach of contract of employment;

(f) promote employment at adequate wages, improve working conditions, assure freedom of association and, where feasible, encourage collective bargaining and provide needed social insurance and social services;

(g) protect the health of the people through improvement of housing and sanitation, adequate provision for medical care, including insofar as feasible the development of an adequate health service and the provision of necessary hospitals, dispensaries and mobile medical units, the strict application of necessary quarantine regulations, and public education concerning hygiene and nutrition;

(h) control the traffic in arms and ammunition;

(i) regulate the traffic in opium and other dangerous drugs;

(j) regulate in the interest of the inhabitants the manufacture, importation, and distribution of alcohol and other spirituous beverages; and

(k) institute such other regulations as may be necessary to protect the inhabitants against social abuses.”

Article 11b (new)

Comment.—The following provisions are suggested as implementation of the basic objective of the trusteeship system to promote the educational advancement of inhabitants of trust territories:

“The Administering Authority shall continue and extend the general system of elementary education throughout the trust territory, designed to abolish illiteracy and to facilitate the vocational and cultural advancement of the population, child and adult. It shall provide such facilities as may prove necessary in the interests of the inhabitants for qualified students to receive higher education, including training on the professional level.”

Article 12

Comment.—Great significance is attached to the establishment of broad rights with respect to the exercise of religion, religious teaching, and the legitimate activities of missionaries. In this regard, the wording of Article 8 of the Mandate for Tanganyika seems preferable to the shorter form adopted in the draft terms. It is suggested, therefore, that the phraseology of this Article follow Article 8 of the Mandate for Tanganyika with the addition of references to freedom of religious teaching and the right of missionaries to open hospitals in the trust territory as well as schools. Appropriately revised, this Article would read as follows:
"The Administering Authority shall ensure in the trust territory complete freedom of conscience, freedom of religious teaching, and the free exercise of all forms of worship which are consonant with public order and morality. Missionaries who are nationals of States Members of the United Nations shall be free to enter the trust territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools and hospitals throughout the territory; it being understood, however, that the Administering Authority shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control."

Article 12a (new)

Comment.—It is strongly urged that the following Article be inserted in the terms of agreement, since no where else in the trusteeship terms is there a direct statement of these fundamental democratic guarantees:

"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, freedom of migration and movement."

Article 17 (new)

Comment.—In order to make clear the right of the Administering Authority to accept membership for the trust territory in appropriate regional and international associations of states, the following additional Article is believed to be desirable:

"The Administering Authority may, on behalf of the trust territory, accept membership in any regional advisory commission, regional authority, or technical organization, or other voluntary association of states, may cooperate with specialized international bodies, public or private, and may engage in other forms of international cooperation, not inconsistent with the Charter."

Article 18 (new)

Comment.—The achievement of free interchange of information on an international basis is a purpose to which both the United Kingdom Government and the Government of the United States subscribe and toward the attainment of which both Governments continue to extend their efforts. It therefore seems appropriate to include in trusteeship agreements provisions which will facilitate such free interchange of information. The following additional Article is therefore proposed:

"1. The Administering Authority shall adhere to the principle of free interchange of information. To this end, nationals, corporations,
and associations of Members of the United Nations shall have the right throughout the trust territory to engage in such activities as writing, reporting, and gathering of information for public dissemination abroad, and shall enjoy freedom of transmission of material to be used abroad for publication and for the radio. Furthermore, the nationals, corporations, and associations of other Members of the United Nations shall enjoy freedom of publication in the trust territory, in accordance with the applicable laws and regulations, upon the same terms as nationals, corporations, or associations of the Administering Authority.

2. The term 'information', as used in this Article, shall include all forms of oral and written communications, printed matter, motion pictures, and photographs.

Memorandum Prepared in the Division of Dependent Area Affairs

[WASHINGTON,] MAY 7, 1946.

Supplementary Comments on the Draft Terms of Trusteeship for Tanganyika, and the Cameroons and Togoland under British Mandate. 52

Suggestions Relating to Procedural Matters and Drafting Changes

Article 2

Comment.—In view of the requirement of Article 81 of the Charter that the Administering Authority shall be “one or more states or the Organization itself”, it seems desirable to designate “the United Kingdom of Great Britain and Northern Ireland” rather than “His Majesty” as the Administering Authority. It likewise seems desirable to set forth in clear terms the basic role of the Administering Authority in the trusteeship system of the United Nations. The following revised wording is therefore suggested:

“The United Kingdom of Great Britain and Northern Ireland is hereby designated as Administering Authority for _________ and, in the exercise of rights and duties conferred upon it in this agreement, shall serve as agent of the United Nations as trustee.”

Article 3

Comment.—Since both the General Assembly and the Trusteeship Council are given important functions in the Charter of the United Nations with respect to the trusteeship system, the Administering

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52 This document was not transmitted to the British Government at this time, but was handed informally to representatives of the Foreign Office in London in June by Mr. Benjamin Gerig, Chief of the Division of Dependent Area Affairs. For the London conversations, see Mr. Gerig’s “Report” to the Acting Secretary, dated July 1, p. 601.
Authority should undertake to give effect to the actions of both of these organs in discharging with respect to the trust territory the functions set forth in the Charter and in the terms of trusteeship. The following revised wording is suggested for the latter portion of this Article:

“... and to give effect to the actions of the General Assembly and the Trusteeship Council in discharging their functions with respect to ________ as defined in the United Nations Charter and in this agreement.”

Article 4

Comment.—In view of the fact that this Article bears upon the responsibilities of the Administering Authority with respect to internal and international security, it is suggested that the words “good government” might properly be eliminated in this Article. The designators (a) and (b) might also be eliminated.

Article 5

Comment.—It is suggested that paragraph (a) of the draft terms for Tanganyika should contain, as do the draft terms for Togoland and the Cameroons, the words “subject to the provisions of this agreement”.

Article 10

Comment.—It is suggested that the introductory clause to Article 10 be revised to include the conception that the obligations specified in this Article are obligations of the United Nations as well as of the Administering Authority. The introductory clause so revised would read as follows:

“Measures taken to give effect to Article 9 of this agreement shall be subject always to the overriding obligation of the United Nations and of the Administering Authority to promote the political, economic, social and educational advancement of the inhabitants of ________, and to carry out the other basic objectives of the International Trusteeship System as stated in Article 76 of the Charter. The Administering Authority shall in particular be free:”

It is suggested that the words “as appear to him to be” in paragraph (c) be replaced by the words “as may be”. The exercise of the right set forth in paragraph (c) should be made subject to the approval of the Trusteeship Council.

Article 13

Comment.—It is believed that this important aspect of the trusteeship system would be made still more effective in its practical application by the inclusion of two additional clauses, the first of which would
make possible requests for special reports should this seem desirable, and the second of which would put into writing a useful practice which was quite generally followed under the Mandates System.

"1. The General Assembly or the Trusteeship Council may call upon the Administering Authority to submit special reports upon particular matters.

2. The Administering Authority shall include in its reports to the General Assembly information concerning the measures taken to give effect to suggestions and recommendations of the General Assembly and the Trusteeship Council."

Article 13a (new)

Comment.—The following suggested Article is also based upon a practice of the Mandates System which it might be useful to formalize in the trusteeship terms.

"The Administering Authority shall designate a special representative to be present at the sessions of the Trusteeship Council at which the reports of the Administering Authority with respect to ________ are considered."

Article 14

Comment.—It is suggested that the phrase "in accordance with Articles 82 and 83 of the United Nations Charter" be omitted, since the procedure of amending trusteeship agreements is fully specified in the Charter.

Article 15

Comment.—In view of the fact that these draft terms of agreement are non-strategic in character, the alteration or amendment of them should take place in accordance with Article 79 and 85 of the Charter.

Article 16

Comment.—Consideration might be given to the addition of a clause on advisory opinion.

Article 16a (new)

Comment.—Article 87(c) of the Charter states that visits to trust territories may be provided for at times "agreed upon with the Administering Authority". It therefore seems appropriate to include within each trust agreement a provision of the character of the clause which follows:

"The Administering Authority shall facilitate any periodic or special visits to ________ which the Trusteeship Council or the General Assembly may deem necessary, in accordance with Article 87(c) of the Charter."
Memorandum of Conversation, by the Deputy Director of the Office of European Affairs (Hickerson)

SECRET

[WASHINGTON,] May 24, 1946.

Mr. Middleton came in to see me at his request at 4 p. m. this afternoon and handed me the attached aide-mémoire, dated May 24, in answer to our note of May 7 in regard to the proposed trusteeship agreements for Tanganyika, the Cameroons and Togoland. Mr. Middleton suggested that I read the note and give him any immediate comments I wished to make.

I read the aide-mémoire and told Mr. Middleton that after a careful consideration of the note we would have a number of comments to make. I told him that my immediate reaction was that the British Government must have misunderstood in at least one important particular our note of May 7. The British aide-mémoire refers to the United States Government’s “not pressing to be recognized as a ‘state directly concerned’”. I told Mr. Middleton that the purpose of our note was to state that we felt that on either of two grounds we could establish a claim as a state directly concerned as regards to these three trusteeship agreements. Our note, however, indicated a willingness that in certain circumstances we would not press such a claim, but we reserved our right to press our claim if these conditions were not met. I said that the whole purpose of our proposal was to reduce to the absolute minimum the number of states actually signing the agreement (and thus possessing a veto power before the agreements reached the United Nations). I said that we hoped that the British and French Governments would agree that it would be desirable to consult governments and obtain their views without recognizing their status as states directly concerned.

I went on to explain to Mr. Middleton that to be more explicit, if we did not assert or claim to be a state directly concerned in the three British Mandates, we would expect the British Government not to assert a claim to be a state directly concerned in agreements in respect of the Japanese Mandated Islands; that we would furthermore expect them to hold to an agreed minimum the number of states signing their three trusteeship agreements as states directly concerned; and that if they recognized as states directly concerned countries in respect of these three agreements which we did not believe to be states directly concerned, we would reserve the right to assert our claim to sign the agreements as a state directly concerned.

Mr. Middleton said that he had understood our note in this sense.

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53 Infra.
and he believed the British Government did. He said that he felt the whole difficulty was that the British Government had not decided whether or not to waive its claims to be a state directly concerned “in the Pacific Mandated Islands”.

I said that I had commented only on one aspect of the note after a hasty reading, and that we might have a number of other comments to make after we had studied the note.

JOHN HICKERSON

862P.01/5-2446

The British Embassy to the Department of State

SECRET
Ref: 419/46

AIDE-MÉMOIRE

His Majesty’s Government have carefully considered the comments of the United States Government on the draft terms of Trusteeship for Tanganyika, and the Cameroons and Togoland under British Mandate, which were conveyed in the Acting Secretary of State’s note and attached memorandum of May 7th.

2. The present position regarding trusteeship agreements for the United Kingdom mandated territories in Africa is as follows:

(a) In January drafts were sent for concurrence to States which His Majesty’s Government have recognized as in any event “directly concerned” (i.e. Belgium in the case of Tanganyika, France in the case of British Togoland and the British Cameroons, and the Union of South Africa in respect of all three). Simultaneously drafts were also sent to all other members of the “Big Five” and to other British Commonwealth Governments members of the United Nations for information.

(b) The Belgian Government have already concurred in the Tanganyika draft and the South African Government in all three.

(c) No reply has yet been received from the French Government and no comments from the Soviet and Chinese Governments.

(d) For local reasons in East Africa it is desirable to publish at least the Tanganyika agreement as soon as possible, preferably before the end of May, 1946.

(e) As regards the form of publication, the Prime Minister originally announced to Parliament that the drafts would be published as soon as His Majesty’s Government had received the concurrence of the States directly concerned.

3. It is against this background and in relation to the future time-
table that His Majesty’s Government have to consider the United States suggestions contained in Mr. Acheson’s letter of May 7th. His Majesty’s Government much appreciate the fact that the United States Government, although not pressing to be recognized as a “state directly concerned”, have put their points to His Majesty’s Government in this way instead of bringing them up at the General Assembly without the opportunity of previous discussion. His Majesty’s Government wish to assure the United States Government that they are giving their detailed comments the most careful consideration. The United States Government will, however, appreciate that if His Majesty’s Government decided to modify their draft in the light of the United States Government’s suggestions this would now necessitate a second reference to the States hitherto recognized as directly concerned in order to obtain their concurrence in the alterations, which might not be altogether easy especially as the United States are not themselves claiming to be recognized as a State directly concerned. His Majesty’s Government would also wish to consult other British Commonwealth members of the United Nations as well as the Union of South Africa, particularly Australia and New Zealand, on account of possible repercussions on future terms of trusteeship for their mandated territories.

4. Between now and September it will be necessary to work to a close timetable if the terms of trusteeship are to be ready in time for submission to the General Assembly. Parliament was told on January 23rd that as soon as the drafts had been agreed upon by the States regarded as being in any event directly concerned their terms would be communicated to Parliament and to the local Legislative Councils (Hansard House of Commons January 23rd Column 151). There are already indications that Parliament and at any rate the Tanganyika Legislative Council may wish for a debate. Debates in the Legislative Councils must obviously come first so that in any Parliamentary debate the reaction of the inhabitants of the territories may be known. This means in practice that any local debates must take place during June so that the matter may be raised in Parliament, if desired, before the summer recess. Otherwise it will be too late for the General Assembly. Consequently His Majesty’s Government must arrange simultaneous publication in the United Kingdom and in territories concerned without delay. The only reason why publication has been deferred so long already is that His Majesty’s Government had hoped first to secure the agreement of all States whom they had recognized as being in any event States directly concerned. The proposed terms have been drawn up in confidential consultation with the governments of the territories concerned but the delay in making them available to the public is
already causing inconvenience, especially as it is known that they were communicated in January to the South African and various other governments, and further delay would cause acute embarrassment. In reply to a question in Parliament on May 15th enquiring what consultations are being held to ascertain the wishes of the local populations the Colonial Secretary stated inter alia that he hoped that publication of the proposed terms of trusteeship would be possible shortly.

5. From the foregoing it will be seen that adoption of the State Department’s proposal would involve a radical alteration of the timetable. The consequent delay (pending Anglo-American discussions) would not only cause His Majesty’s Government domestic embarrassment but might indeed prejudice the possibility of bringing the trusteeship agreements before the next General Assembly for approval which, according to Mr. Acheson’s note is the object of the proposed discussions. In all the circumstances His Majesty’s Government consider that it would not be practicable to defer publication in order to make textual amendments. The Foreign Office feel that the State Department will appreciate the importance His Majesty’s Government attach to complying with the proper processes of democratic consultation both in the United Kingdom and in the territories concerned.

6. Nevertheless, His Majesty’s Government are anxious to collaborate with the United States Government in this matter as fully as circumstances permit. They consider that early discussions with United States officials will be desirable and would be glad that they should take place in London. For the reasons given above, however, the timetable unfortunately precludes deferring publication until these discussions have taken place. Naturally, the drafts as published will not necessarily be final since the General Assembly might make its approval conditional upon amendments proposed by any member State. Although the terms of trusteeship must be agreed to by the existing mandatory power (Article 79 of the Charter) there is nothing to preclude His Majesty’s Government accepting amendments after publication of the original draft either at the General Assembly stage or earlier if His Majesty’s Government (and the other States directly concerned) consider them satisfactory. His Majesty’s Government could profitably consider with the United States Government and possibly other Governments between now and September which, if any, of the United States amendments they would be prepared to accept and, if the other States directly concerned also agree, these amendments could perhaps be incorporated before formal submission of the texts of the United Nations.

Washington, May 24, 1946.
AIDE-MÉMOIRE

The United States Government has carefully considered the views of the United Kingdom Government expressed in an aide-mémoire of May 24, 1946 replying to the Acting Secretary of State's Note of May 7, 1946 concerning the negotiation of trusteeship agreements with respect to Tanganyika and the Cameroons and Togoland under British mandate.

The United States Government is gratified with the sympathetic consideration which the United Kingdom Government is disposed to give to its comments on the draft terms of trusteeship and welcomes the opportunity to discuss these comments further with representatives of the United Kingdom Government in London.

As to the question of the states which should be signatories to the draft agreements and thus recognized as states directly concerned under Article 79 of the Charter of the United Nations, the United States Government regrets that the United Kingdom Government feel that they have already been committed to a specific definition in this respect according to which France, Belgium, and the Union of South Africa should in any event be included as states directly concerned.

The United States Government notes that this commitment was made without consultation with it and hopes that the United Kingdom Government and the Governments of the three States referred to will yet be able to agree not only that the procedure would be simplified but also that no real advantage to them would be lost if these three Governments would be satisfied with a procedure of consultation on these terms of agreement as proposed by the United States Government. Indeed, it appears to the United States Government that to be a signatory of an initial draft agreement as a state directly concerned gives no greater advantage than would obtain under the exercise of consultation, unless it be the doubtful negative advantage of being able to veto proposals made by the other signatories.

The United States Government, therefore, hopes that the Government of the United Kingdom will agree to make either by itself or jointly with the United States an approach to these three Governments asking them in the circumstances to consider the procedure of consultation as a substitute for negotiation and signature in formulating the initial terms of the draft agreements in question.
Should such an agreement not be reached, the United States Government would feel obliged to reconsider its position and to examine again whether and under what conditions it should press its claim also to be a signatory of the initial draft agreement as a state directly concerned, a claim which, under the condition specified in its Note of May 7, it was prepared to waive in the interest of speeding up the conclusion of trusteeship agreements. It should be noted that the United States Government has not, as suggested in the British aide-mémoire, waived the claim of the United States to be recognized as a state directly concerned. This Government merely expressed its willingness to waive its right, subject to certain conditions stated in its Note of May 7, to sign the draft agreement.\footnote{In the drafting history of this aide-mémoire a paragraph reading substantially as this one had first appeared and then disappeared. When the draft aide-mémoire was circulated by the Division of Dependent Area Affairs to the interested offices for initialling on May 29 it was accompanied by a memorandum from the Chief of the Division (Gerig) recommending that consideration be given to restoring the paragraph. This proposal was concurred in and the paragraph was re-inserted in the final draft with two changes which made the statement both clearer and more firm. (Memorandum by Mr. Gerig to the Office of European Affairs, the Counselor of the Department, the Under Secretary of State, the Office of Special Political Affairs, the Division of African Affairs, the Office of Near Eastern and African Affairs and the Division of British Commonwealth Affairs, May 29, File No. 862P.01/5-2446.)}  

With reference to publishing the draft terms of trusteeship when the United Kingdom Government has “received the concurrence of the states directly concerned”, the United States Government had hoped that this might follow rather than precede the consultations with the other particularly interested states, including the United States, especially as several other states had previously been consulted in the drafting of the terms.  

The United States Government does not wish unduly to delay the publication of the drafts since promises of publication have been made to local territorial authorities and to Parliament, whose delayed fulfillment might cause embarrassment. It sees no great inconvenience in this procedure since, as stated in the aide-mémoire, “there is nothing to preclude His Majesty’s Government accepting amendments after publication of the original draft either at the General Assembly or earlier” if they are considered satisfactory, and that such amendments could perhaps be incorporated before formal submission of the texts to the United Nations. It does, however, hope that publication will be in the form of a draft proposal by the United Kingdom rather than as an agreement between certain “states directly concerned”.  

The United States Government agrees with the suggestion contained in the aide-mémoire to the effect that it will be desirable to have conversations between the two Governments take place in London at an early date. The Secretary of State has designated for this purpose
Mr. Benjamin Gerig, Chief of the Division of Dependent Area Affairs, and Mr. Edwin L. Smith, of the Division of African Affairs, who, if agreeable to the United Kingdom Government, will be prepared to go to London next week to carry on conversations on these questions.  

WASHINGTON, May 31, 1946.

880.014/6-746

The Acting Secretary of State to the Chief of the Division of Dependent Area Affairs (Gerig)

SECRET

WASHINGTON, June 7, 1946.

MY DEAR MR. GERIG: In undertaking conversations with representatives of the British Government, and possibly of the French and Belgian Governments with regard to the negotiation of trusteeship agreements for mandated territories in Africa, you should be guided by the instructions which follow.

General Objectives

1. It is desirable that the Trusteeship Council be constituted at the September meeting of the General Assembly. This can be done if the mandatory powers, in response to the Resolution on Non-Self-Governing Peoples adopted by the General Assembly in February 1946, take the proper steps for submitting draft trusteeship agreements for their respective mandated territories and if, through the approval of these draft agreements by the General Assembly, a sufficient number of states are designated as administering authorities. (The Trusteeship Council, for example, might be constituted under Article 96 of the Charter with the United Kingdom, France, and Belgium as "Members which administer trust territories", and with the United States, the Soviet Union, and China as "those which do not", provided that trusteeship agreements can be brought into force for at least one mandated territory now administered by each of the former three states.) It is important, therefore, that you should assist in every possible way in facilitating the conclusion of these draft agreements, while safeguarding the American position on the "states directly concerned" and on the draft terms of trusteeship.

2. The American position on the "states directly concerned", as defined immediately below, is primarily designed to limit the exercise

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15 In telegram 4407, May 31, to London, the Ambassador in the United Kingdom (Harriman) was brought up-to-date on developments since telegram 3829, May 8, had been cabled to him. Specifically he was apprised of the May 24–May 31 exchange between the Department and the British Embassy and the impending trip to London by Messrs. Gerig and Smith. (882P.01/5–2346)
of the "veto" in this particular field of United Nations activity. Restriction of the "states directly concerned" to an absolute minimum, if possible to a single state, would thus eliminate one opportunity provided by the Charter for use of the "veto" by a Member which may wish unilaterally to block the proper development of the United Nations.

"States Directly Concerned"

1. You should attempt to obtain acceptance for the position on the "states directly concerned" which was stated as follows in the Department's note to the British Government (and, mutatis mutandis, to the French and Belgian Governments):

In transmitting these comments, the United States Government does so without reference to the determination of the phrase "states directly concerned". The position of the United States in this respect remains what it has been for the past twenty-five years, namely, that it has special and specific rights under the Treaty of Versailles and as a party to certain bilateral treaties, including treaties with the United Kingdom concerning the mandated territories. The United States believes that by virtue of this position it is entitled to be one of the "states directly concerned" in all mandated territories.

However, it is the view of this Government that in the interest of speeding up conclusion of trusteeship agreements it would be desirable to limit the number of negotiating states to a minimum, and in line with this principle it is felt that the most desirable procedure would be that the present mandatory powers should propose draft terms of trusteeship and that other particularly interested powers should be consulted in regard to these terms before they are actually submitted to the General Assembly for approval.

This procedure is proposed on the condition that the other interested powers agree to the principle of consultation as described above without pressing claims to be signatories to the terms of trusteeship for the African territories in question.

2. You should explain that this formula is designed to facilitate the conclusion of trusteeship agreements by keeping the number of "states directly concerned" to a minimum. The Member which forwards a draft trusteeship agreement to the General Assembly for approval would inform the latter that it had consulted all the particularly interested powers on the terms of trusteeship and had taken their views into account. Such consultation would obviate the need for prolonged discussion and perhaps extensive revision of the terms of trusteeship by the General Assembly. If a definition of "particularly interested powers" which should be consulted is called for, it may be suggested that it might include (a) the states having special treaty rights, (b) all the remaining permanent members of the Security
Council and (eventually) of the Trusteeship Council, and (c) any states in the region having special interests in the territory.

3. You should make clear that in waiving its right to be a signatory to the initial draft terms, the United States is not necessarily waiving its rights with respect to any alterations and amendments which may subsequently be proposed under Article 79.

4. In advocating this formula for consultation, you should point out that the “states directly concerned” in any mandated or other territories should, in any case, include those which have legal rights in the territory. You should maintain the principle that the United States, because of its treaty rights, is entitled to be a “state directly concerned” in all mandated territories, even though it is willing not to press its claim to be a signatory to the draft agreements for the mandated territories in Africa, provided that other states (except the mandatory power) do not do so. You need not attempt to obtain British and French concurrence in the claim of the United States to be a “state directly concerned” if you can persuade them to accept the procedure of consultation outlined in paragraphs 1 and 2 above.

5. If geographic propinquity is advanced as a criterion, you should not accept any interpretation that this factor is necessarily a basis for determining the “states directly concerned”. It may be advisable, however, to consult with such states in regard to the terms of trusteeship, as stated in paragraph 2 above.

6. If the British, French, or Belgians insist, with respect to the draft trusteeship agreements in which they are respectively interested, that states other than the mandatory power must be considered as “states directly concerned” and as signatories to the agreements, you should reserve your position and should immediately ask the Department for instructions. Should the British representative refer to Mr. Attlee’s statement in the House of Commons that the Union of South Africa is directly concerned in all the British mandates in Africa, it might be replied that all of the Union’s interests could be satisfied by being “consulted” as the United States now proposes.

7. Should the question of the Japanese Mandated Islands arise you should refer to the statements made by the President on January 15, 1946 and by the Acting Secretary of State on January 22. You may state that it is your personal assumption that this Government intends to place these islands under trusteeship. You should further inform the British and French representatives that, with respect to the Japanese Mandated Islands and any other Japanese territories which the United States may administer under trusteeship, this Government prefers that the “states directly concerned” be kept to an absolute minimum. In fact, it would prefer to submit the draft agreements to
the General Assembly or the Security Council as the sole “state directly concerned” after consultation with all interested states. In dealing with the draft agreements for mandated territories in Africa, moreover, you should bear in mind that every decision taken with regard to both the “states directly concerned” and the terms of trusteeship may set a precedent which may affect the trusteeship agreements for territories in the Pacific.

Comments on the Draft Agreements

In general, you should press for revision and expansion of the British and Belgian draft agreements in order to make adequate provision for the political, economic, social, and educational development of the people of the territories and for equal treatment in the territory for the Members of the United Nations and their nationals. The comments which were sent to the British and Belgians, together with the supplementary comments ⁵⁶ which are to be handed them informally, represent the maximum terms of trusteeship for these areas which this Government believes it possible to obtain under existing circumstances. In view of the voluntary character of the Charter, the terms of trusteeship must be satisfactory to the mandatory power which, under Article 79 of the Charter, is automatically a “state directly concerned”. While the revisions suggested to the British and Belgian Governments do not contain all the most desirable features that might be included in an ideal trusteeship agreement, they are probably the most that could be accepted by the mandatory powers.

Basic Objectives

It is the view of this Government that trusteeship agreements for the mandated territories should be as comprehensive as possible in order that they may serve as a general guide for the constitution or organic law of the territory. These trusteeship agreements should, so far as possible, supplement the bare outlines of the trusteeship system provided in the Charter and should contain specific provisions for fulfilling the objectives of the trusteeship system laid down in Article 76. The agreements, furthermore, should make clear the relationship of the administering authority to the United Nations and its principal organs.

Authority of the United Nations

It is highly important that, as proposed in a new Article 1(a) and in the revised Article 2, ⁵⁷ the authority of the United Nations with regard

⁵⁶ For the “Supplementary Comments”, see Memorandum Prepared in the Division of Dependent Area Affairs, May 7, p. 586.
⁵⁷ See Memorandum accompanying note from the Acting Secretary of State to the British Ambassador, entitled “Comments on the Draft Terms...”, p. 579; see also “Supplementary Comments”, p. 586.
to each trust territory should be made perfectly clear in the trusteeship agreement. The agreement should be based upon the principle that all rights and titles are vested in the United Nations and that the United Nations itself acts as trustee for the inhabitants of the trust territory and that the administering authority serves as agent of the United Nations, exercising the rights and duties conferred upon it by the trusteeship agreements. Such provisions would remove many of the ambiguities which characterized the mandates system of the League of Nations, and would reflect a genuine spirit of “trusteeship”.

Fulfillment of Objectives of Trusteeship System

Each trusteeship agreement should, so far as possible, be organized to prescribe, seriatim and in detail, the general objectives of the trusteeship system laid down in Article 76 of the Charter:

a. to further international peace and security;

b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territory, and their progressive development towards self-government or independence;

c. to encourage respect for human rights and for fundamental freedoms for all; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals.

Detailed provisions to supplement these general principles would have the following advantages: they would place the administering authority under definite obligation to fulfill these objectives; encourage the inhabitants of the territory to work for their own advancement in accordance with these principles; and provide criteria by which the General Assembly and the Trusteeship Council could supervise and review the work of the administering authority.

Fundamental Freedoms

It is of particular interest to this Government that trusteeship agreements for African territories should make special provision for carrying out Article 76(c) with regard to encouraging respect for human rights and fundamental freedoms, including such matters as freedom of speech, freedom of assembly, and the right of petition. The agreements should also provide for complete freedom of conscience, worship, and religious teaching.

Equality of Treatment

This Government has a special interest in the proper fulfillment of Article 76(d) relating to equal treatment in social, economic, and commercial matters for Members of the United Nations and their nationals. Similar provisions were included in the “A” and “B”
mandates of the League of Nations at the insistence of the United States, but this Government was unable to incorporate the principle of equal treatment in the “C” mandates.

The trusteeship agreements should contain at least the provisions of the “B” mandates for equal treatment in social, economic, industrial, and commercial matters for all Members of the United Nations and their nationals. The trusteeship agreements should provide for equal treatment with respect to: freedom of transit and navigation, including freedom of transit and navigation by air; acquisition of property both moveable and immovable; the protection of person and property; the exercise of professions and trades; the granting of concessions; and the administration of justice.

It is of special concern to this Government that these trusteeship agreements should provide for equal treatment of the missionary activities of nationals of all Members of United Nations. The principle of equal treatment is equally important in the field of freedom of information.

Procedural Matters

As the Charter affords only the barest outline of procedures for the supervision of trust territories by the United Nations, it is important that each trusteeship agreement make detailed provision for such supervision. Some of these procedural arrangements may ultimately be established by the Trusteeship Council in its Rules of Procedure. Until the Council adopts its Rules of Procedure, however, special provisions on these matters will be required in the trusteeship agreements along the lines suggested in the supplementary comments to be handed to the British and Belgian negotiators.

Sincerely yours,

DEAN ACHESON

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58 The degree of control exercised by the mandatory power over the political and economic life of the mandated territory varied according to the degree of civilization attained by the dependent peoples involved. This distinction gave rise to the three types of mandates (“A” mandates: Areas provisionally recognized as independent, but temporarily being given advice and assistance until reaching full nationhood—Syria and Lebanon, Palestine and Transjordan, and Iraq; “B” mandates: Areas where it was not considered feasible to grant autonomy and where the Mandatory Power was responsible for the administration under certain specified conditions—the Middle African territories of the Cameroons, Togoland, Tanganyika, and Ruanda-Urundi; “C” mandates: Areas inhabited by peoples in only a primitive stage of civilized development and which were administered under the laws of the Mandatory Power as integral portions of its territory—South West Africa and certain islands in the Pacific Ocean area). See Whiteman, Digest, vol. 1, pp. 598 ff.
Memorandum by the Chief of the Division of Dependent Area Affairs (Gerig) 59

[WASHINGTON,] July 1, 1946.

REPORT FOR THE ACTING SECRETARY

From June 12 to June 20, 1946, Mr. Smith and Mr. Gerig met in London with representatives of the British and French Governments to discuss, on the expert level, steps which will need to be taken to establish the trusteeship system of the United Nations. 60

In particular, the discussions dealt with two questions: (1) the procedure by which trust agreements for mandated territories will be brought before the General Assembly, and (2) the precise terms of such draft agreements. Five meetings were held with the British and two with the French representatives. The following summary of conclusions will be of special interest:

Conclusions

1. It is now clear that the Trusteeship Council can be established by the General Assembly in September. This is made possible because France, as well as the United Kingdom and Belgium, will have draft

59 Submitted to the Acting Secretary of State (Acheson) by the Deputy Director of the Office of Special Political Affairs (Ross) under a covering memorandum of July 2.

60 A series of conversations planned to take place in London, Paris, and Brussels in that order began in London on June 12 and concluded there on June 19.

The meetings with the United Kingdom officials took place at the Colonial Office on June 12–June 14 and June 19. Attending on the British side were Mr. Creech Jones, Parliamentary Under Secretary of State for the Colonies; Mr. A. H. Poynton, Head of the International Relations Department, Colonial Office; Mr. Melville, Economic Adviser, Colonial Office; Mr. J. G. Ward, Head of the United Nations Department, Foreign Office; Mr. Paul Mason of the North American Department, Foreign Office; and Mr. G. E. G. Shannon of the Domains Office. On the American side, besides Messrs. Gerig and Smith, there were Mr. Harry Hawkins, Counselor of Embassy for Economic Affairs, and Mr. Raymond A. Hare, First Secretary of Embassy. Minutes of these meetings are found in the London Embassy Files (1946): 800–Trusteeship.

The talks with the French also took place in London as a result of last-minute changes. The conversations were held at the French Embassy on June 18 and 19, with the French represented on June 18 by Mr. Le Roy, Second Secretary of the French Embassy in London (who had recently been in Paris for consultation on the trusteeship problem), and on June 19 by Mr. Le Roy and Mr. Lucas, French Foreign Ministry mandates expert who came from Paris especially for the talks. Minutes of these conversations are found in the office lot files of the Office of Special Political Affairs, Lot 61-D 146, Box 4581.

Regarding the proposed talks with the Belgians, see footnote 62, p. 603.
agreements ready to submit in regard respectively to the Cameroons, Tanganyika, and Ruanda-Urundi.

2. Both the United Kingdom and France are prepared to present these draft agreements to the Assembly according to our preferred procedure, viz., that they will present them alone after consulting with a number of states, including the United States, which may be regarded as directly concerned or particularly interested. Neither of these states think it necessary that these draft agreements need be formally signed by the directly concerned states prior to submission, although the British Government is not certain whether an informal right of veto might not exist for those states referred to by the Prime Minister as in any event directly concerned in certain African mandates, namely, South Africa, Belgium, and France. No difficulty, however, is anticipated.

3. Both the British and French representatives received very cordially our suggestions for certain modifications and additions in the draft terms. A majority of our proposals were accepted in some form, several subject to further consideration at the ministerial level.

4. While tentatively accepting the draft terms so modified, we made it clear that our Government and the United States Delegation to the Assembly remained completely free to propose any modifications and changes. In this connection, we especially reserved our position regarding a provision giving the trust power authority to establish certain general monopolies in the trust territories when these are regarded by it to be in the interest of the inhabitants. We proposed, in line with our draft, that such monopolies be subject to approval by the Trusteeship Council, but the British and French thought this gave too much executive authority to the Trusteeship Council. They agreed with us to try to find a better formula.

5. The French representatives frankly stated their hope that the inhabitants of the Cameroons and Togoland, under their trust, would eventually choose to be assimilated to the French Union. An article in the draft dealing with political development was drawn up by them in a way to favor such development. We induced them to accept in the article a reference to Article 76(6) of the Charter envisaging "self-government or independence", which they agreed to refer once more to the Cabinet.

6. The Soviet Union and China have received the British drafts but have made no proposals regarding them.

7. The French drafts will be submitted officially to the United States, Great Britain, the Soviet Union, and China near the end of
July. They thought it would include most or all of our suggestions agreed to.\[61\]

8. The British representatives feel certain that Australia and New Zealand will be prepared in September to present draft terms for their Pacific mandates. In this event, the occasion will arise to elect two states to the Trusteeship Council to retain the balance required under Article 86.

9. The British representative said their legal advisers were considering the question of what special procedure, if any, might be required to terminate the special treaties between the United States and Great Britain regarding the mandated territories when the new agreements are consummated. We said we would make similar inquiries.

10. No conversations were held with the Belgian representatives, who informed us through our Embassy in Brussels that they were not quite ready to discuss our proposals, but that they would soon be ready to discuss them through their Embassy in Washington.\[62\]

11. The French sent an official from Paris to London in order to avoid any possible suspicions on the part of the Soviet representatives now in Paris who, they thought, might have wished to participate in the conversations.\[63\]

12. Full texts of the draft terms as modified are annexed to this report.\[64\]

Benjamin Gerig
Edwin L. Smith

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\[61\] In the conversations of June 18 there was discussion of terms of agreement for Togoland and the Cameroons on the basis of drafts prepared in Paris. On June 20, however, a note was received by the U.S. Embassy in Paris from the French Foreign Ministry which stated that no final terms of trusteeship had yet been established and that the talks in London must be regarded as “strictly informal and unofficial” (telegram 448, Paris to London, June 20, repeated to the Department as No. 2986, File No. 880.014/6-2046). No official French drafts were in fact presented to the U.S. Government by the French Government until October 9.

\[62\] The Embassy at Brussels, however, on June 19 reported an initial and informal reaction on the part of the Belgians: The U.S. proposals might be appropriate for more advanced areas, but were feared to be “premature” and possibly “provocative” in their emphasis on freedom of political expression and specified progressive steps toward self government and independence “if applied to primitive tribes” in central Africa (telegram 760, June 19, from Brussels, File No. 8028.01/6-1946).

\[63\] Apparently this has reference to the presence in Paris at this time of the foreign ministers of the five great powers for meetings of the Council of Foreign Ministers.

\[64\] Texts not attached. See infra for copy of draft agreement for Tanganyika agreed upon at London and forwarded by the Department to the Embassy at London on July 15. The draft terms for Tanganyika were identical, with a few minor exceptions, to the draft terms for Togoland and the Cameroons.
Draft Trusteeship Agreement for Tanganyika

[Here follows the text of the preamble, which is the same as that printed in Cmd. 6840, June 1946.]

 ARTICLE 1.

The territory to which this agreement applies comprises that part of East Africa lying within the boundaries defined by Article 1 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 on behalf of the United Nations for Tanganyika. The responsibility for the administration of Tanganyika 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 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 the Council's functions as defined in Article 87 of the United Nations Charter and in this agreement. The Administering Authority shall to facilitate any periodic or special visits to Tanganyika which they may deem necessary, at times to be agreed upon with the Administering Authority, which the Trusteeship Council or the General Assembly may deem necessary, in accordance with Article 87 (c) of the Charter.

 ARTICLE 4.

The Administering Authority shall be responsible (a) for the peace, order, good government and defence of Tanganyika, and (b) for

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Enclosure to a letter of July 15 from the Deputy Director of the Office of Near Eastern and African Affairs (Villard) to the First Secretary of the American Embassy In the United Kingdom (Hare), not printed (London Embassy Files: 800-Trusteeship).

Additions to the text printed in Cmd. 6840 are underscored; deletions are indicated by canceled type.

A British text of this draft agreement was transmitted to the Department by the British Embassy on July 31 (see p. 612 for covering letter), and is the same as the American draft except as noted below. The British text was entitled "Revisé 'A' (June, 1946)", and is referred to in subsequent British communications either under this name or as "the joint text of June". In such instances reference should be made to the U.S. draft here printed.
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, subject to the provisions of the Charter and of this agreement;
(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 and with the terms of this agreement;
(c) may establish and use military, naval and air bases, erect fortifications, and station and employ its own forces in the trust territory in carrying out its obligations toward the Security Council as well as for local defense and the maintenance of law and order within the trust territory;
(d) may enlist volunteer forces for the purpose of carrying out its obligations toward the Security Council and for local defense and the maintenance of law and order within the trust territory.

Article 6.

1. The Administering Authority shall promote the development of political institutions suited to Tanganyika. To this end, the Administering Authority shall assure to the inhabitants of Tanganyika a progressively increasing share in the administrative and other services of the territory; shall develop the participation of the inhabitants of Tanganyika 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 Tanganyika towards the objectives of self-government or independence as prescribed in Article 76(b) of the United Nations Charter.

[Additional sentence to be added in case of Togoland and Cameroons: 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.]

2. The Administering Authority shall collaborate fully with the Trusteeship Council in the conduct of any surveys of the development of the political institutions and the capacity for self-government of the inhabitants of Tanganyika which the Administering Authority
and Trusteeship Council agree it would be useful to hold. The Admin-
istering Authority and the Trusteeship Council shall likewise agree
upon the time at which any such survey can usefully be held, and
upon the most appropriate methods of ensuring the free expression
of the wishes of the local population during the conduct of such survey.

Article 7.

The Administering Authority undertakes to apply in Tanganyika
the provisions of any international conventions and recommendations
already existing or which may hereafter be drawn up by the United
Nations or specialised agencies referred to in Article 57 of the United
Nations Charter which may be appropriate to the particular circum-
stances of the territory and its peoples, and which would the applica-
tion 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 and
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 66 may be transferred, except between natives, save with-
out the previous consent of the competent public authorities. No real
rights over native land and resources 67 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 Ad-
ministering 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) The Administering Authority 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, including freedom of transit and navigation
by air, acquisition of property both movable and immovable, the pro-
tection of person and property, and the exercise of professions and
trades;

(b) The Administering Authority 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 develop-
ment of the natural resources of Tanganyika, and shall not grant
concessions having the character of a general monopoly;

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66 The British Embassy text transmitted to the Department on July 31 in-
cluded the words “or resources” at this point (FW 8628.01/7-3146).
67 The British text read: “or resources”.
(c) The Administering Authority 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 in accordance with Article 76 of the Charter 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.

(Revision suggested by British)

. . . The Administering Authority shall in particular be free:

(a) No change.

(b) No change.

(c) For specific purposes, and as the interests of the economic advancement of the inhabitants of Tanganyika may require it, to establish, or permit to be established, other monopolies or undertakings having in them an element of monopoly, under conditions of proper public control.

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 and associations in Tanganyika the application of a more advantageous regime than that member itself grants in its own territory to Tanganyika and its inhabitants the benefits of Article 9 of this agreement in any respect in which it does not give to the nationals, companies and associations of Tanganyika equality of treatment with the nationals, companies and associations of any other state.
Article 11a.

The Administering Authority shall continue and extend the general system of elementary education throughout Tanganyika, designed to abolish illiteracy and to facilitate the vocational and cultural advancement of the population, child and adult. It shall provide such facilities as may prove necessary in the interests of the inhabitants for qualified students to receive higher education, including training on the professional level.

Article 12.

The Administering Authority shall ensure in Tanganyika complete freedom of conscience and, so far as is consistent with public order and morality, freedom of religious teaching, 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 laws. Missionaries who are nationals of States members of the United Nations shall be free to enter Tanganyika and to travel and reside in Tanganyika therein, to acquire and possess property, and 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 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 12a.

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 13.

1. 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 and submit such special reports upon particular matters as may be called for by the General Assembly or the Trusteeship Council.

2. The Administering Authority shall include in its reports to the General Assembly information concerning the measures taken to give effect to suggestions and recommendations of the General Assembly and the Trusteeship Council.

The British text at this point included the words "as may be appropriate to the circumstances of the territory", set off by commas.

In the British text the words "desirable and practicable" were used in place of "necessary".

The British text inserted "secondary and" ahead of "higher".
Article 13a.

The Administering Authority shall designate a special an accredited representative to be present at the sessions of the Trusteeship Council at which the reports of the Administering Authority with respect to Tanganyika are considered.

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 Agreement.

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.

Article 17.

(The Administering Authority may, on behalf of Tanganyika) accept membership in any regional advisory Commission, regional authority, or technical organisation, or other voluntary association of states, may cooperate with specialised international bodies, public or private, and may engage in other forms of international cooperation, not inconsistent with the Charter.

890.0146/7–2346

The Acting Director of the Office of European Affairs (Hickerson) to the Division of Dependent Area Affairs

CONFIDENTIAL

[WASHINGTON,] July 26, 1946.

The New Zealand Minister came in to see me in the late afternoon day before yesterday by an appointment made at his request. Sir Carl Berendsen handed me the attached note dated July 23, 1946, enclosing
a draft of the trusteeship agreement proposed by New Zealand in respect of Western Samoa.\textsuperscript{55}

You will observe that the second paragraph of the note states that the New Zealand Government is prepared to regard the United States as a "state directly concerned" within the meaning of that Article, and that the New Zealand Government accordingly invites the comments of the United States on this draft. You will also observe that the note states that a similar approach is being made to the Governments of the United Kingdom and France, and that the comments of Australia have already been received.

Sir Carl Berendsen also handed me the attached aide-mémoire dated July 23, 1946, which should be read in connection with his note.

Last February at the Secretary’s request I discussed with the New Zealand Prime Minister, the Right Honorable Peter Fraser; Sir Carl Berendsen, and Mr. A. D. McIntosh, Secretary of the Department of External Affairs, a proposal of the United States Joint Chiefs of Staff, approved by the President, that the United States Government be granted by New Zealand joint rights of military use of certain facilities constructed by the United States during the war on Upolo Island in Western Samoa.\textsuperscript{56} I am taking up the New Zealand note and aide-mémoire with the War and Navy Departments and the Joint Chiefs of Staff insofar as it relates to base rights.\textsuperscript{57} I shall be glad to

\textsuperscript{55} Neither printed, but see footnote 87 below regarding the text of Article IX of the proposed agreement.

\textsuperscript{56} For documentation on discussions between the United States and New Zealand regarding the desire of the United States to acquire base rights in Western Samoa, see vol v, pp. 1 ff. At the time that these negotiations were initiated by the United States in talks at Washington in February 1946 the New Zealand representatives were handed a draft agreement which described United States views as to the nature of a trusteeship that New Zealand might set up over an area in which the United States might acquire base rights (ibid., p. 3; the draft was handed to the New Zealanders on February 21). The New Zealand representatives at the same time had presented to the Department of State on a most informal basis proposals described as a sketch of the form a trusteeship agreement for Western Samoa might take, having regard to Western Samoa’s status as a “C” mandate; this text apparently had been drafted before the Washington talks on bases, and it was noted by the New Zealand Legation that “some use has been made of the United Kingdom draft for Tanganyika”. (811.24590/3–146)

\textsuperscript{57} This was done in an “official letter” from the Acting Secretary of State to the Secretaries of War and Navy respectively on July 30 in which special attention was directed to Article IX, section 3, of the proposed trusteeship agreement. Article IX provided that:

"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 enter into such agreements in accordance with the purposes and principles of the Charter of the United Nations as it may deem necessary or desirable with other members of the United Nations with respect to sharing rights of occupation and operation, and responsibility for the establishment, maintenance
collaborate with you in bringing together in a single document all of our comments on this draft agreement.

When I read this note in Sir Carl’s presence I inquired whether he had heard of the development of our thoughts in regard to the interpretation of the phrase “states directly concerned”. He replied that he had not. I then explained to him briefly our views and told him of Mr. Gerig’s conversations in London with the British and the French. Sir Carl said that he was completely in accord with these views “on common sense grounds”, but that he did not know whether the language of the Charter could be “so stretched”. He said that he was confident that the New Zealand Government would be glad, however, to go along with this interpretation. He added that if there were general agreement with that interpretation, their note could be regarded as part of the consultation process.

JOHN HICKERSON

[Annex]

The New Zealand Legation to the Department of State

AIDE-MÉMOIRE

1. In the preparation of the draft Trusteeship Agreement for Western Samoa, the New Zealand Government have endeavoured to meet the point of view of the United States (as expressed in discussions on bases, and in comments on draft agreements prepared by the Government of the United Kingdom) as far as possible, without sacrifice of the following main principles, from which they are unable to depart:

(a) That the agreement should adhere as closely as possible to the form of the Mandate;

(b) That it is unnecessary and most undesirable that Western Samoa or any part of it should be declared a strategic area;

(c) That the grant of base rights to the United States or to any other state under bilateral arrangements should be subsequent to the conclusion of the Trusteeship Agreement, and should be made on lines consistent with New Zealand’s obligations to the United Nations.

and control of existing or additional military bases and facilities in the trust territory; and

(4) to 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 the local defence and the maintenance of law and order within the trust territory.” (text from draft agreement, dated July 23, 1946, File No. 890.0146/7-2346)

In the same letter it was stated by the Acting Secretary that “After handing [the] note and aide-mémoire to Mr. Hickerson, Sir Carl Berendsen stated orally that he was authorized to inform the United States Government that New Zealand was prepared to work out a bilateral agreement with the United States giving the United States joint military rights in Western Samoa which he believed would be satisfactory to both governments.” (511.24569/7-3046)
2. Subject to these considerations, the New Zealand Government will be happy to consider and to discuss any views which the United States Government may feel it desirable to express.

3. It is the general desire of the New Zealand Government that the agreement should be a simple document, susceptible of easy translation into the Samoan language, and reasonably comprehensible to the Samoans.

4. The New Zealand Government hold no strong views as to the method by which the agreement of the United States might finally be expressed. They do, however, contemplate an informal exchange of notes, but if this procedure should raise any difficulties for the United States Government, then the New Zealand Government would be satisfied with an unqualified assurance that the draft, as finally agreed upon, is acceptable to the United States and will have the active support of the United States before the General Assembly.

WASHINGTON, July 23, 1946.

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The First Secretary of the British Embassy (Middleton) to the Chief of the Division of Dependent Area Affairs (Gerig)

CONFIDENTIAL

WASHINGTON, July 31, 1946.

Dear Mr. Gerig: With reference to your recent discussions with the Colonial Office in London regarding the draft terms of trusteeship for Tanganyika and Togoland and the Cameroons under British Mandate, I am enclosing three copies of a provisional revise of the draft terms of trusteeship for Tanganyika.\(^88\)

2. I have been asked to point out that the revised draft is to be regarded only as the United Kingdom record, on the official level, of the understandings reached during your recent discussions. I am sure that you will understand that the revisions which have tentatively been agreed are entirely without commitment on the part of His Majesty's Government and are subject to reference to Ministers, and to consultation with the Governors of the territories concerned. We for our part recognize that your acceptance of modifications in the original State Department proposals are subject to reference to higher authority in Washington.

3. I have also been asked to pass along the following two small explanatory comments on the revised text:

"(a) Article 12A. The United States text added the words 'freedom of migration and movement'. Mr. Gerig agreed to drop 'migra-

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\(^88\) Not printed; see footnote 65, p. 604.
tion'. The United Kingdom representatives said that they would think whether there was some more effective way of describing 'freedom of movement', but they have not yet been able to devise a suitable synonym.

"(b) Article 13. The United States text included a reference to special reports. Provisionally, no reference to this has been made in the revised text, but the point is still being considered."

Yours sincerely,

G. H. Middleton

890.0146/8—1946

Memorandum of Conversation, by the Acting Director of the Office of European Affairs (Hickerson)

WASHINGTON, August 19, 1946.

Mr. Harry 69 came in to see me at 5 p.m., Friday afternoon, August 16th at his request and handed me the attached undated memorandum and its enclosure.69 It will be noted that the enclosure is a draft trusteeship agreement for New Guinea. Mr. Harry said that the Australian Government would be grateful to receive the comments of the U.S. Government on this draft as a matter of urgency. He said that it would be of assistance if they could receive the views of the U.S. Government through our representative in Canberra.

I told Mr. Harry that we would be glad to consider this draft and to give the Australian Government our comments on it as soon as we can. I said that since our experts are here and not in Canberra it might be desirable for our experts in the Division of Dependent Areas to discuss this matter with officers of the Australian Embassy, but that I assumed that we would have no objection to transmitting our views when they are finalized through our Embassy in Canberra if that is the wish of the Australian Government.

I read the aide-mémoire of the draft hurriedly. I commented to Mr. Harry that I saw no mention in the draft or the aide-mémoire of the proposals which we gave to the Australian Embassy in Washington on March 14, 1946 proposing an agreement under which the United States would have joint military rights with Australia in certain facilities in the Admiralty Islands.61 I said that since no specific reference was made I assumed that it is the view of the Australian Government that Article VII of the draft would provide adequately for such an agreement with the United States; it reads as follows: "The Administering Authority may take all measures in the Territory

69 Second Secretary of the Australian Embassy.

60 Aide-Mémoire and attached draft trusteeship agreement for New Guinea not printed.

61 For the Department’s memorandum of March 14, see vol. v, p. 16.
which it considers desirable to provide for the defence of the Territory and for the maintenance of international peace and security.” Mr. Harry said that he was not informed on this aspect of the matter.92

JOHN HICKERSON

800.014/8-2046

Memorandum of Conversation, by the Chief of the Division of Dependent Area Affairs (Gerig)

SECRET

[WASHINGTON,] August 20, 1946.

Participants: Mr. G. H. Middleton, First Secretary, British Embassy
Alger Hiss—SPA
Benjamin Gerig—DA

At our invitation, Mr. Middleton came to the Department to consider whether it would be wise for the British Government to notify the Soviet Government prior to the meeting of the General Assembly with respect to the procedure by which the British Government is proposing to submit its draft trusteeship agreements to the Assembly for approval.

Mr. Hiss pointed out that the Soviet Government may not be aware that the British and American Governments had agreed upon a simplified procedure for submitting the trust agreements to the Assembly, a procedure which would not require the agreement to be formally signed by states directly concerned but, instead, would be submitted by Great Britain after informal consultations with a number of states particularly interested. Mr. Hiss added that the Soviet Government had several times heard United States Delegates explain a more formal procedure under Article 79, in which signature by the states directly concerned would be required. In a conversation which Mr. Dulles had with Mr. Gromyko in London, the former got the impression that the Soviet Government expected that signatures would be called for under Article 79 and that the U.S.S.R., as a state directly concerned, would wish to sign an agreement. He, therefore, thought it was possible that the Soviet Government, unless informed otherwise in advance, might come to the Assembly under a misapprehension and cause unnecessary

92 In a memorandum of even date to the Chief of the Division of Dependent Area Affairs (Gerig) Mr. Hickerson said: “I am taking up with the War and Navy Departments and the Joint Chiefs of Staff the security aspects of this draft and its effect upon our proposed agreement with Australia giving us joint military rights in certain installations in the Admiralty Islands. Mr. Richards of BC [Arthur Richards, Assistant Chief of the Division of British Commonwealth Affairs] and I will be glad to collaborate with you in the preparation of a reply to the Australian aïde-mémoire.” (800.014/8-1946)

Copies of the Australian documents were forwarded for comment to the War and Navy Departments on August 20.
delay by claiming "surprise". He wondered whether the British draft agreements might not be submitted to the United Nations about two weeks before the Assembly is to meet. This draft could indicate without special emphasis the plan with respect to submission to the UN.

Mr. Middleton said that he agreed that the problem should be considered. He thought his government would feel committed to transmit to the Soviet Government informally a copy of the revised draft of the agreement before submitting it formally to the UN. He pointed out that the prior draft had been similarly given to the Russians at the same time it had been given to us. No comment had been received from the Russians. Mr. Middleton said that he thought his government might transmit the revised draft about two weeks before the Assembly meets and in that draft indicate without calling attention to the point their plans as to the method of submission. He said he would take the matter up with the Foreign Office and the Colonial Office and would let us know their reaction. In the course of the discussion Mr. Middleton confirmed Mr. Gerig's understanding that the British had never accepted the view that the agreement of states directly concerned should be evidenced by their signing an agreement prior to its submission to the UN. Consequently our proposal that there be no such signing was entirely in line with their own views and plans. Any "surprise" to the Russians would, therefore, be something the British would not feel responsible for.

The discussion then turned on whether the problem of defining the states directly concerned under Article 79 might arise in the Assembly. It was suggested that states claiming to be states directly concerned might assert that their affirmative vote would be required in the two-thirds necessary for approval of the agreements. It was also suggested that to avoid the necessity of settling the issue such states might say merely that they were prepared to accept the agreement thus making the issue moot but that they wished to be recorded as claiming the status of states directly concerned whose agreement would be necessary for any amendment of the agreement. It was agreed that such statements, however, might elicit quite a number of similar pronouncements which might become embarrassing. Palestine was mentioned as an example in which such pronouncement would be embarrassing.

Mr. Middleton pointed out that in the absence in the Charter of any fixing of responsibility for determining which are the states directly concerned, the United Kingdom Government, on practical grounds, took the initiative with respect to their mandated territories and named a limited list of countries which, in any event, might be so regarded. He agreed that the list was not exclusive but that in the
absence of any Charter definition they thought this procedure a feasible one. Mr. Hiss explained that the U.S. position had, all along, been that we considered ourselves a state directly concerned, but did not think it necessary that effect be given to this status through signature of a formal instrument.

Mr. Middleton repeated that there was a danger of a misunderstanding here and said again that he would immediately take it up with London and let us know the result in due course.

890.0146/7-2346

The Acting Secretary of State to the New Zealand Minister (Berendsen) 93

SECRET

[WASHINGTON,] August 21, 1946.

Sir: [Here follow introductory amenities, and statement that the United States Government had carefully examined the draft terms of trusteeship prepared by New Zealand and was transmitting in an enclosure “certain comments” for revisions and additions. It was noted that many of these “have already been accepted by the Government of the United Kingdom for inclusion in the terms of trusteeship for Tanganyika.”]

On August 12, 1946, Mr. John Reid of your Legation was informed by Mr. Hickerson of this Department that Article IX of the draft trusteeship agreement relative to the maintenance of international peace and security is agreeable to the United States Government. This statement is hereby confirmed. Furthermore, this Government agrees to the provisions of paragraph 1(c) of the aide-mémoire which you left at the Department of State on July 23, 1946, stating that the question of base rights should be taken up subsequent to the conclusion of the trusteeship agreement.

[Here follows exposition of this Government’s position on the question of “states directly concerned”, at the outset of which appreciation was expressed that New Zealand was prepared to regard the United States as a “state directly concerned” in Western Samoa.]

DEAN ACHESON

93 Handed to Mr. John S. Reid of the New Zealand Legation by Mr. Hiss on August 21. Memorandum of conversation regarding exchange of views between Messrs. Hiss and Reid on this occasion not printed (890.0146/7-2346). On August 23 at the request of the New Zealand Legation there was an article-by-article review of the agreement made by representatives of the Department and Legation (memorandum of conversation not printed, 890.0146/8-2346).
SECRET

WASHINGTON, August 29, 1946—9 a.m.

169. Australian Government in aide-mémoire transmitting draft trusteeship agreement for New Guinea requested Dept authorize you to discuss agreement with them. Comments on Australian draft and covering note on procedures for submission to GA being airmailed via London because of length.94 No comment has yet been made on Article 7 of Australian draft agreement relating to defense and security matters. This Article, and its relations to US Govt’s proposal March 14, 1946 concerning desire of US to obtain joint rights with Australia in certain installations in Admiralty Islands, are still under consideration. Our views on this matter will be cabled in near future.

Following are general instructions for use when you receive airmailed document.

[Here follows a four-page exposition of the U.S. position regarding the question of states directly concerned, the procedure for submitting trusteeship agreements to the General Assembly, and U.S. desiderata (briefly) in respect of terms of the trusteeship agreement along the lines of the Tanganyika draft.

There was also included an instruction that should the question of the Japanese Mandated Islands arise reference should be made to the statements made by President Truman on January 15, 1946 (see p. 551) and by Acting Secretary Acheson on January 22 (bracketed note, p. 561). "You may state it is your personal assumption that US Govt intends to place these islands under trusteeship. You should further inform Australians that, re Japanese Mandated Islands and any other Japanese territories which US may administer under trusteeship, we prefer the 'states directly concerned' be kept to absolute minimum. In fact, we would prefer to submit draft agreements to General Assembly or Security Council as sole 'state directly concerned' after consultation with all interested states."]

94 Text of U.S. revisions in Department of State Files (880.0146/8-2946); instruction not printed (880.0146/8-2946). Draft terms together with text of note to be handed to the Government of Australia at Canberra transmitted to the Australian Embassy in Washington under cover of an aide-mémoire of August 20, none printed (880.0146/8-2946).
His Majesty’s Government have never considered that agreement to terms of trusteeship by the “States directly concerned” should take the shape of a formal treaty. Therefore we do not contemplate that the draft terms of trusteeship as agreed upon under Article 79 will carry any signatures. It will be seen from the draft terms for our African territories (published as Command Papers 6840 and 6863) that these terms have been drawn up in the form of an Assembly resolution the preamble to which contains the words “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”. In submitting the draft terms of trusteeship to the Secretary-General we intend to inform him that the agreement of Belgium and South Africa, in the case of Tanganyika and France and South Africa in the case of the West African mandated territories has been obtained and to enclose copies of the relevant notes from them provided these governments have no objection. As regards Soviet thesis attributed to Gromyko by Dulles and Gerig, we cannot trace any record that Soviet Delegation expressed view that trusteeship agreements required signature by “States directly concerned”, nor do we recollect this point being made. His Majesty’s Government’s attitude as explained above is different. Charter is admittedly obscure but nowhere states explicitly that process described in Article 79 (regarding terms of trusteeship being agreed upon by “States directly concerned”) itself constitutes (or is identical with) the “trusteeship agreement” mentioned in e.g. Articles 75, 77, 80 and 81. It will be noted that term “trusteeship agreement” is not used in Article 79 and in our opinion this variation of wording was deliberate and is significant. The trusteeship agreement in our view is the instrument which governs relationship between administering authority and United Nations (to whom administering authority is accountable). The trusteeship agreement is the document which designates the administering authority (Article 81) and by which the territory is placed under the trusteeship system established by the United Nations (Articles 75 and 80). It must be something different from the proposal referred to in Article 79 because the States directly concerned do not themselves place the territory under trusteeship. Their function under

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*Transmitted to the Director of the Office of Special Political Affairs (Hiss) by the First Secretary of the British Embassy (Middleton) under a covering letter of September 5 as an explanation of “the preliminary views of His Majesty’s Government in the United Kingdom as to the manner in which the problem of submitting trusteeship agreements might be met.”*
Article 79 is simply to agree upon the terms of trusteeship which they must do before the United Nations can take action on any draft terms. In other words although the word “agreement” in the term “trusteeship agreement” clearly means an instrument of some kind the phrase “agreed upon” in Article 79 has no such formal significance but means simply “concerned”. Such concurrence (or agreement without a capital A) can as stated above be obtained by diplomatic consultation and no question of signature arises. Our interpretation is implicit in the form of draft terms of trusteeship communicated to Soviet Government among others in January. Soviet Government have so far made no comment either on form or on content of these drafts and despite attitude adopted by Yugoslav and Soviet Delegations during preparatory commission on interpretation of “States directly concerned” have not approached us since receipt of these drafts with request to be recognised as “State directly concerned”. That being so we believe it would be tactical mistake to approach Soviet Government at this late stage on the procedural question without any obvious reason for doing so. In our view such an approach would be likely to create impression that we felt doubtful about our interpretation. It would weaken our position by provoking suspicion and at same time giving Soviet Union plenty of time to think up objections. We believe it is much wiser to proceed according to plan as though no uncertainty existed. If Soviet Delegations at New York argue in favour of “agreements” signed by States directly concerned we should rely on arguments outlined above to counter such interpretation and trust United States Government (whose objective on this point seems identical with ours) would support us.

We naturally desire to avoid a clash with the Russians when the draft terms of trusteeship come up for discussion. While there may be arguments which Russians could use against procedure we propose we should have thought that following action would be open to us. We were urged by the Assembly resolution of February 9th to take all “practical steps” for the implementation of Article 79 of the Charter. As no authoritative interpretation has been given to this Article, His Majesty’s Government have been obliged to work on basis of their own interpretation which was explained to the Assembly at the time. In presenting the draft terms to the Assembly in the form of a draft Assembly resolution His Majesty’s Government do not intend to preclude the discussion at the Assembly of the interpretation of Article 79 or of any comments on the draft terms made by other States either during debates at the Assembly or through diplomatic channels. But His Majesty’s Government will insist on adherence to the wording of Articles 79 and 85 which limit the functions of the Assembly to approval or disapproval of the draft terms. Thus if a Delegation
wishes to secure a change in the draft terms of trusteeship submitted by the mandatory power it could only move that the Assembly should not approve them unless amended in some particular respect. Even if such a motion were carried by necessary majority this would not of itself be effective in amending draft terms since under Article 79 "States directly concerned" (including mandatory power) must agree upon any alteration or amendment of terms of trusteeship before such amendment can be approved by United Nations. Russia would have NO veto on the terms of trusteeship unless she establishes a claim to be a State directly concerned. There is nothing in the Charter to indicate how it should be decided who are the "States directly concerned", but as it is essentially a political issue presumably it will be decided in the last resort by the Assembly. Russia would therefore require a two-thirds majority (see Article 18) to carry a motion that she should be recognised as a State directly concerned.

740.00119 Council/9-346: Telegram
The Acting Secretary of State to the Ambassador in France (Caffery)
SECRET

WASHINGTON, September 3, 1946.

4567. Secdel 812. For Cohen from Hiss.

1. Middleton of British Embassy told us today that he had been asked to take up “with highest possible authorities” the difficulty in which the British find themselves vis-à-vis Parliament with respect to Tanganyika trusteeship agreement. Creech Jones insists that as the initial British draft was submitted to Parliament the revised draft agreed at the technical level when Gerig was in London cannot be submitted to the United Nations without having first been tabled in Parliament. As Parliament is not now in session any submission of the revised draft would entail delay in establishment of trusteeship system in which British say they have been leading exponent of speed. British Embassy was directed to ask us what amendments we considered absolutely essential and to ask us whether we considered in the present state of international relations amendments so essential as to warrant delaying establishment of trusteeship system. Embassy was also informed that amendments proposed by Assembly could only be accepted ad referendum.

2. We suggested Parliamentary situation would be met by French revised draft for Cameroons and Togoland being submitted first. French revised draft almost identical to British revised draft. British Assembly Delegation could agree to this as they have suggested no difficulty in substance with our proposals. British revised draft could
be submitted to Parliament when it reconvenes. Middleton believes reconvening date is end of September.

3. We pointed out British original draft would invite numerous amendments which would cause confusion and make ultimate form of agreement uncertain. We indicated our own view that we would have to favor substantial amendments. British would be in embarrassing position if they oppose amendments they really agree to in substance but would be equally embarrassed in Parliament if they accepted amendments ad referendum and submitted greatly modified agreement for Parliamentary approval. We also said information conveyed by Middleton came as great surprise. Middleton gratefully accepted suggested procedure which he will refer to Foreign Office and said that until Foreign Office reaction received Embassy would not need to take matter up with higher authorities.

4. In view of fact that our suggestion involves British ceding of leadership to French and of possibility French may be unwilling to propose revised draft it is doubtful our suggestion will be acceptable to the Foreign Office. If not, we feel important we retain free hand to propose in Assembly bulk of amendments agreed to in Gerig’s London’s talks. We feel original British draft would be unfortunate precedent as first trusteeship agreement. Will of course submit matter to Secretary for decision if British do not accept our suggestion.

[Hiss]

CLAYTON

811.24590/9-046

Memorandum for the File, by Mr. Edward T. Wailes of the Division of British Commonwealth Affairs

[WASHINGTON], September 9, 1946.

On the basis of the attached memoranda from the War and Navy Departments \(^{36}\) and subsequent telephone conversations with Captain

\(^{36}\) Neither printed. A War Department memorandum of August 23, signed by Colonel J. E. Baston, Jr., of the General Staff Corps, noted that “the trusteeship agreement for New Guinea as proposed by Australia does not make any provision for the future use by U.S. Forces of the base we developed on Manus Island. Nor does the Aide-Mémoire mention any plans for providing an agreement on the use of Manus... The New Zealand form of trusteeship agreement is considered much more favorably by the War Department.” After suggesting that an attempt be made to persuade the Australians to revise their agreement to the form of the New Zealand agreement (that is, Article IX (3) of the New Zealand agreement) the War Department memorandum concluded: “In event the Australians decline to change the form of the agreement it is recommended that an expression of intent be obtained from the Australians with regard to their intentions on future military base agreements with the U.S.” (890.0146/8-2346) A similar point of view, stated in more general terms, was expressed by Captain R. L. Dennison, Office of the Chief of Naval Operations, Navy Department, in a letter of August 27 (890.0146/8-2746).
Dennison of the Navy and Mr. Gerig of DA, I asked Mr. L. R. McIntire, First Secretary of the Australian Embassy, to call on me this afternoon to discuss Article VII of the Australian draft trusteeship agreement for New Guinea. Miss Beard of BC was present.

I told Mr. McIntire quite frankly that we felt Article VII of the Australian draft was not sufficiently explicit and that we greatly preferred Article IX of the New Zealand draft. He said he was not surprised to hear this comment. At the suggestion of Captain Dennison I then added that if the Australian Government adopted phraseology similar to Article IX of the New Zealand draft we, of course, would want them to consider such phraseology sufficiently broad and inclusive to provide the necessary means for their entering into a base agreement with respect to rights at Manus such as we had discussed with them on previous occasions.\(^7\) I added that we felt that the phraseology of New Zealand’s Article IX sufficiently inclusive to permit such an agreement and that we only wished to make sure that the Australian Government felt so likewise.\(^8\)

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Edward T. Wailes

SWNCC Files: Series 59

Memorandum by the Ad Hoc Committee Appointed at the 42nd SWNCC Meeting\(^9\)

SECRET

[J] 10 September 1946.

As directed by SWNCC at its 42nd meeting, there is submitted here-with a draft text of a trusteeship agreement (Appendix)\(^1\) for the Japanese Mandated Islands. This text has been developed by the ad hoc Committee solely for exploratory purposes. The ad hoc Committee considers that with one exception as described below, the draft is fully consistent with the applicable provisions of the United Nations Charter.

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\(^7\) Documentation on the discussions relating to military bases is found in vol. v, pp. 1 ff.

\(^8\) The Embassy at Canberra had already been notified of this Government’s position in telegram 180, September 6. “Please press this point...” (890.0146/9-646)

\(^9\) This paper with its appendix was circulated by the Secretariat of the State-War-Navy Coordinating Committee on September 10 to the Committee as SWNCC document 59/4.

A month earlier the ad hoc committee had had under study five different types of trusteeship agreements “to cover all possible contingencies for territories formerly mandated to Japan or formerly under Japanese control” (a report of the ad hoc committee to this effect was circulated to the Committee on August 8, not printed; unnumbered document dated August 8 filed with the papers of Series 59 in the SWNCC Files).

\(^1\) Appendix not printed. Except for Article 8 the text of the draft agreement included in 59/4 is the same with minor technical revisions as that printed in the White House press release of November 6 on the proposed trusteeship arrangement (see Department of State Bulletin, November 17, 1946, pp. 889 ff.)
The draft trusteeship agreement is based on the hypothesis of a strategic agreement for the entire area.

The *ad hoc* Committee believes that substantially the same text could be used for other islands which were pre-war Japanese territory.

The members of the *ad hoc* Committee agree on all Articles of the attached draft except Article 8 concerning the application of Article 76(d) of the Charter, which requires equal treatment in social, economic and commercial matters for all Members of the United Nations and their nationals.

On this Article, the State Department representatives consider that Article 76(d) requires "national" treatment and believe that if made subject to security requirements could be safely applied. They further believe that if "most-favored nation" treatment, as suggested by the Navy representatives, were adopted it would react unfavorably on our economic interests in other mandated territories.

The Navy Department representatives agree that Article 76(d) of the Charter may be technically applicable under the terms of the Charter to a strategic trusteeship. However, the provisions of this subparagraph do not seem appropriate for the area in question. The sparseness of population and the lack of indigenous resources are factors which should make unnecessary provisions in the agreement for free-for-all social, economic and commercial exploitation.

The principal objections to Article 76(d) of the Charter as applied to the ex-Japanese Mandates are:

a. The area would be open to exploitation by nationals of all Members of the United Nations while the United States, under the terms of the agreement, holds responsibility for the protection of the social and economic welfare of the inhabitants.

b. Subversive activities could be undertaken under the guise of commercial development, inter-island traffic and welfare activities.

The above objections are not removed by the State Department representatives' proposal that the application of the terms of Article 8 in the draft agreement should be stipulated as subject to the requirements of security. This test could not be practically or equitably applied for adequate protection of security interests. The Navy Department representatives have proposed a "most-favored-nation" clause in Article 8. This was done because the terms of the Charter seem to require provisions for equal treatment of all Members of the United Nations. It is believed that "most-favored-nation" interpretation can be applied to the terms of Article 76(d) of the Charter. Even this provision, however, does not appear adequately to protect security interests.

The difference of opinion between the members of the *ad hoc* Committee as demonstrated by Article 8 is not based on the relative phil-
osophysical merits of “national” treatment versus “most-favored-nation” treatment but principally on security considerations alone.

Memorandum by the Chief of the Division of Dependent Area Affairs (Gerig) to the Department of State Member on the State–War–Navy Coordinating Committee (Hulldring)

[WASHINGTON.] September 11, 1946.

Subject: Comment on SWNCC 59/4

(1) Agreement on all Articles except Article 8 was reached by State, War, and Navy members of the ad hoc Committee.

(2) The present draft containing 16 Articles represents a combination of the State draft of August 8 containing 27 Articles, and of the Navy (JCS) counter draft of August 24 containing 9 Articles.

(3) Nothing essential from the original State draft is omitted in the present draft. It was possible by condensation, combination, and abridgement to arrive at the present text. All the essential features of the Navy Department draft are also retained.

(4) Disagreement by the ad hoc Committee remains on only Article 8 where the text is presented in parallel columns. State’s representatives consider that “national” treatment is required under Article 83(2) and Article 76 of the Charter, while Navy’s representatives consider that “most-favored-nation” treatment would be safer and also legitimate in these circumstances. The War Department representative on the ad hoc Committee did not express himself finally either way.

(5) The distinguishing features of this draft are:

(a) It designates the whole area as strategic (Art. 1);
(b) It specifies that the goal shall be self-government instead of independence, thus announcing in advance that independence is no objective (Art. 6);
(c) It provides, however, for full use of the Trusteeship Council as regards economic and social matters outside of any closed areas (Art. 13);
(d) It restricts any possible fiscal, administrative or customs union to a union “with other territories under United States jurisdiction” instead of with “adjacent” territories, as was proposed in the original State draft (Art. 9); and
(e) It provides that the agreement cannot be “terminated” without the consent of the United States (Art. 15).

(6) Captain Dennison and Colonel Giffen showed a very great desire to meet State’s representatives on every possible point and the compromise was arrived at in the ad hoc Committee very congenially.
The Acting Secretary of State to the Ambassador in Belgium (Kirk)

SECRET

WASHINGTON, September 13, 1946—1 p. m.

1018. Urteil 1157 September 8. Please inform Belgian Govt we hope they will submit draft trusteeship agreement for Ruanda-Urundi to GA without mention of any specific Members as “states directly concerned”. We believe requirements of Article 79 will be fulfilled if Belgium informs GA it has consulted with all Members particularly interested in Ruanda-Urundi and given full consideration to their views. If Belgium insists on naming UK and France as “states directly concerned” this may precipitate a succession of claims by other Members to be so considered and thus delay approval of trusteeship agreement.

We appreciate favorable consideration given by Belgian Govt to our suggested revisions and are reviewing points not agreed upon in Villard conversations. We would be glad to accept Belgian suggestion of informal meeting with Brit and French in New York during week prior to GA.

CLAYTON

4 The conversations on the technical level at Brussels, projected originally for June at the time of Gerig talks with the British and French experts, took place on September 6 between the Deputy Director of the Office of Near Eastern and African Affairs (Villard) and representatives of the Belgian Foreign and Colonial Offices. This telegram was in response to Brussels telegram 1157, September 8, summarizing the discussion (501.BB/9-846). Minutes of the meeting were transmitted to the Department under Brussels despatch No. 458, September 8, not printed (862S.01/9-846).

5 Villard had reported in telegram 1157 that “Belgians agreed submit alone to Assembly unsigned document containing trusteeship terms for Ruanda Urundi stating document has been agreed to by French British [sic] as state directly concerned in any event and that US (and possibly France) have been consulted as particularly interested powers. They feel bound to reach prior accord with Great Britain by exchange of communications as in technical conformity with Article 79 of Charter but are prepared to state this arrangement is without prejudice to final determination of States directly concerned.” It is clear from the minutes of the meeting that the French should not have been named in this telegram along with the British as a state directly concerned. Mr. Hiss however did not have the minutes of the meeting available when this telegram was drafted, hence the confusion apparent in the text.

6 Villard had reported in the telegram under reference that the chief Belgian spokesman, Mr. Walter Loridan, Chef de Cabinet of the Belgian Ministry of Foreign Affairs, “appeared well versed and several times questioned my statement as to British and French approval of certain articles indicating he has had more recent contact than we with interested French and British officials. He suggested informal meeting New York or Washington with British, French and ourselves prior to submission agreement to General Assembly to establish uniformity which he deems indispensable.”
The Chargé in the United Kingdom (Gallman) to the Secretary of State

SECRET

LONDON, September 13, 1946—6 p.m.
[Received September 13—2:07 p.m.]

8165. From Villard. Sir George Gater, Permanent Under-Secretary of State for Colonies, who also was in Brussels last week, told me at luncheon yesterday that British Govt had not yet had time to consider on higher level revised trusteeship drafts discussed with Gerig last June.

This morning Secretary of State for Colonies called meeting his staff to go over matter. In subsequent conversation at Colonial Office Poynton informed me that approval had been given to most of our suggestion modifications, principal exception being revision for political surveys which British cannot accept. Early FonOff approval is expected after which final revised draft will be forwarded Washington and elsewhere.

Poynton also stated that while agreement of states defined by British as directly concerned would be sought, it would be unnecessary to submit changes for parliamentary approval. Colonial Office is in touch with Belgians and feels informal and separate discussions in NY prior to Assembly would be useful in interest of uniformity. Position of French regarded as uncertain.

Repeated Brussels 142.

GALLMAN

SWNCC Files: Series 59

Revised Draft Article 8 of Draft Trusteeship Agreement

SECRET

ARTICLE 8

1. In discharging its obligations under Article 76(d) as defined by Article 83(2), the administering authority, subject to the requirements of security, and the obligation to promote the advancement of the inhabitants, shall accord to nationals of each Member of the United Nations and to companies and associations organized in conformity with the laws of such Member, treatment in the trust territory no less

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7 This document was circulated by the Secretariat of the State-War-Navy Coordinating Committee on September 16 to the Committee as SWNCC document 59/5. This paper was considered by the Committee at a special meeting on September 17 and approved. The draft trusteeship agreement as revised was then forwarded to the Joint Chiefs of Staff on September 19; see SWNCC document 59/6, infra.
favorable than that accorded therein to nationals, companies and associations of any other United Nation, except the administering authority.

2. The administering authority shall ensure equal treatment to the Members of the United Nations and their nationals in the administration of justice.

3. Nothing in this Article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory. Such rights shall be subject to agreement between the administering authority and the state whose nationality such aircraft possesses.

4. The administering authority may negotiate and conclude commercial and other treaties and agreements with Members of the United Nations and other states, designed to attain for the inhabitants of the trust territory treatment by the Members of the United Nations and other states no less favorable than that granted by them to the nationals of other states. The Security Council may recommend, or invite other organs of the United Nations to consider and recommend, what rights the inhabitants of the trust territory should acquire in consideration of the rights obtained by Members of the United Nations in the trust territory.

SWNCC Files: Series 59

Memorandum by the State-War-Navy Coordinating Committee to the Joint Chiefs of Staff

SECRET

WASHINGTON, 19 September, 1946.

SWN-4759

Subject: Draft Trusteeship Agreement

References: a. SWNCC 59/4
            b. SWNCC 59/5

The State-War-Navy Coordinating Committee has developed draft terms of a trusteeship agreement for exploratory purposes only. The draft agreement has been drawn for application to the ex-Japanese mandates. It is believed, however, that substantially the same text could be used in the case of a strategic trusteeship agreement applied to any other area.

The Joint Chiefs of Staff are requested, as a matter of priority, to submit comments from a military point of view on the merits of the

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*This paper was circulated by the Secretariat of the State-War-Navy Coordinating Committee on September 20 to the Committee as SWNCC document 59/6. There was no covering substantive memorandum and this paper constituted Enclosure "B" of 59/6; Enclosure "A" consisted of the draft terms of agreement as revised, not printed.
enclosed draft as a trusteeship agreement and particularly for its adequacy for protection of security interests.

In the event that this form of a trusteeship agreement is unacceptable from a military point of view, it is requested that the State-War-Navy Coordinating Committee be advised of the specific respects in which it is unacceptable.

It is not intended that the submission by the State-War-Navy Coordinating Committee or consideration by the Joint Chiefs of Staff of this draft agreement shall prejudice the ultimate decision as to whether the strategic control desired by the United States over former Japanese-held islands is to be accomplished through sovereignty or through United Nations trusteeship.

For the State-War-Navy Coordinating Committee:

A. D. Reid

Secretary

500.014/9-546

The Department of State to the British Embassy *

SECRET

AIDE-MÉMOIRE

The United States Government was glad to learn from the extract of a Foreign Office telegram dated August 31, 1946, which was attached to Mr. Middleton's letter of September 5, 1946 addressed to Mr. Hiss, that the respective views of the two Governments as regards the procedure for submitting trusteeship agreements to the General Assembly are now almost identical.

It is noted that the United Kingdom Government considers that the phrase “agreed upon” in Article 79 of the Charter means simply “concurred in” and that such concurrence can be obtained by diplomatic consultation without any recourse to formal signature. It is further noted that the United Kingdom Government believes that it would be a tactical mistake to approach the Soviet Government as to any other possible interpretation of this Article.

The United States Government is very anxious to avoid a protracted debate in the General Assembly, both as regards the nature of the “agreement” and the states which might have to concur in an agreement of this informal character. Therefore, the Department undertakes once more to urge the United Kingdom Government to consider whether it would not be possible and highly desirable for the United

* Handed to the First Secretary of the British Embassy (Middleton) on September 20 by the Chief of the Division of Dependent Area Affairs (Gerig).
Kingdom Government to present the draft terms of trusteeship to the
General Assembly without specifying any particular states by name
as having concurred in the agreement. Should the United Kingdom
Government specify as "states directly concerned" those named in
Prime Minister Attlee's statement of January 23, 1946 and also in
the British Embassy's aide-mémoire of May 24, 1946, this Government
might deem it necessary to inform the General Assembly that it con-
siders that the United States is entitled to be a "state directly con-
cerned" in all mandated territories. Such a decision might easily result
in a large number of other claimants, and thereby start the General
Assembly on a protracted debate and possibly a series of votes as to
which states should qualify under Article 79 of the Charter.

It seems to this Government that the General Assembly should be
able to "satisfy itself that the agreement of the states directly con-
cerned including the mandatory power has been obtained . . . " , as
stated in the preamble of the draft agreements, without undertaking
to specify these states in each case. This Government is expressing the
same view to the Belgian and French Governments.\textsuperscript{10}

The United States Government is also somewhat disturbed by the
possibility that some mandatory powers may only be able to accept
ad referendum certain changes which might be proposed by the Gen-
eral Assembly. This Government agrees with the Foreign Office view
as to the procedure in case changes should be proposed by the Gen-
eral Assembly, namely, that the mandatory power would need to agree
to such changes before the terms of trusteeship could be approved by
the United Nations.

It is to be hoped that the pre-Assembly consultations will have
resulted in such a wide area of agreement that any changes in the
draft agreements which may be necessitated in order to obtain the
approval of the General Assembly could readily be agreed to by the
mandatory powers through their representatives to the General
Assembly. This would obviate the delays incident to reference back to
Parliaments and would permit the Trusteeship Council to be estab-
lished by the General Assembly this year. In furtherance of this

\textsuperscript{10} Actually aide-mémoire were handed first to the Australian Embassy and the
New Zealand Legation on September 30, neither printed (501.014/9-3046).
Aide-mémoire were transmitted to the Belgian and French Embassies on Oc-
tober 7 and 8, respectively, neither printed (500.0146/10-746 and 501.BB/10-846
respectively). A memorandum was handed to Mr. A. A. Gromyko of the Soviet
Delegation to the General Assembly on October 15, at the United Nations, not
printed (501.BB/10-1146). All were substantially of the same content as this
aide-mémoire of September 20 to the British Embassy.

On October 18 a memorandum was handed to the Chinese Ambassador (Koo)
by the Director of the Office of Special Political Affairs (Hiss), explaining this
Government's position regarding states directly concerned. This was an abbre-
viated composite of the Secretary of State's note of May 7 to the British Am-
bassador, p. 579, and this aide-mémoire. (501.BB/10-1846)
objective the United States Government has warmly accepted the Belgian proposal for further separate and informal discussions by the Belgian, United Kingdom, French, and United States Governments just prior to the opening of the General Assembly.

For the foregoing reasons the United States Government believes that it will be both possible and desirable to leave the question of "states directly concerned" undetermined and the enumeration of such states unspecified. If the question should arise in the General Assembly, the United States Delegation is likely to urge the wisdom of leaving the phrase undefined. And if the General Assembly does not concur in this view, it may urge that all states, except of course the mandatory power, should agree to waive the exercise of any special rights which their designation as states directly concerned might appear to give them and, instead, to accept as binding the two-thirds vote of the General Assembly. If all the other states are willing to agree to this formula the United States Government, as mentioned before, will be willing to waive the exercise of its rights in this respect. The United States will, however, reserve its rights with respect to future alterations and amendments of the terms of trusteeship.

WASHINGTON, September 20, 1946.

S625.01/2-446

The Acting Secretary of State to the British Ambassador
(Inverchapel)

SECRET

WASHINGTON, September 20, 1946.

EXCELLENCY: I have the honor to refer further to your communication of February 4, 1946 (No. 71; Ref. 419/19/46) in which the United Kingdom Government transmitted to this Government drafts of the terms under which the United Kingdom proposes to place the mandated territories of Tanganyika, the Cameroons, and Togoland under the trusteeship system of the United Nations in accordance with Article 77 of the Charter. In addition to its original comments, transmitted to the British Embassy in a note of May 7, 1946, the United States Government, which is still considering the revised draft for Tanganyika sent to Mr. Gerig by Mr. Middleton in a letter dated July 31, 1946 desires to suggest at this time the following clause for inclusion as the final paragraph of Article 9 of the drafts:

"Nothing in this article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory. Such rights shall be subject to agreement between the administering authority and the state whose nationality such aircraft possess."
The inclusion of this paragraph seems desirable since, in the view of the Government of the United States, aviation traffic rights (taking on and discharge of passengers, cargo, and mail) require special treatment in accordance with the Chicago Convention on International Civil Aviation and with relevant bilateral treaties.\textsuperscript{11}

Accept, Excellency, the renewed assurances of my highest consideration.\textsuperscript{12}

WILLIAM L. CLAYTON

800.014/10-846

The British Ambassador (Inverchapel) to the Acting Secretary of State \textsuperscript{13}

SECRET

WASHINGTON, 8 October 1946.

Sr.: The United States Government are aware of and indeed are known to share the wish of His Majesty's Government in the United Kingdom to see the Trusteeship system set up without delay. In this spirit His Majesty's Government expressed their readiness to cooperate as fully as circumstances permitted in considering the amendments to the draft terms of trusteeship for the territories in Africa under United Kingdom mandate proposed by the State Department in their secret note to my predecessor of the 7th May, 1946.\textsuperscript{14} Representatives of the State Department were accordingly invited to London early in June to discuss these amendments. The discussions on the official level resulted in a joint text which was communicated to the State Department informally shortly afterwards.\textsuperscript{15} As was explained at the time, this text was subject on the part of His Majesty's Government in the United Kingdom to ministerial approval.

2. After full consideration His Majesty's Government in the United Kingdom are now glad to state that, subject to a satisfactory understanding being reached with United States Government regarding the attitude of the latter to the text, they are prepared to accept sub-

\textsuperscript{11} For documentation regarding U.S. policy with respect to international civil aviation matters, see pp. 1450 ff.

\textsuperscript{12} Similar notes of even date, \textit{mutatis mutandis}, were sent to the French Ambassador (Bonnet) and the New Zealand Minister (Berendsen); text cabled to the Chargé in Australia (Russell) for communication to the Australian Government, in telegram 194, September 20 (501.BB/9-2046).

\textsuperscript{13} Marginal notation: “Handed by Mr. Middleton to Mr. Hiss—Oct. 10, 1946”. For discussion that took place between Messrs. Hiss and Middleton on this occasion see memorandum of conversation of October 10 by the Chief of the Division of Dependent Area Affairs, p. 638. At the same time Mr. Middleton transmitted to the Department an \textit{aide-mémoire} dated October 9, infra.

\textsuperscript{14} This has reference to the “Comments on the Draft Terms” which were incorporated into the Memorandum Accompanying Note from the Acting Secretary of State to the British Ambassador, May 7, p. 579.

\textsuperscript{15} See letter from the First Secretary of the British Embassy (Middleton) to the Chief of the Division of Dependent Area Affairs (Gerig), July 31, p. 612.
stantially the joint text of June. The revised draft terms of trusteeship which His Majesty’s Government are prepared to adopt subject to this understanding and to the concurrence of the Governments who concurred in the original texts are enclosed herewith, and are accompanied by an explanatory memorandum. In the few cases where His Majesty’s Government have not felt themselves able to follow the June text the reasons are given.

3. It is the intention of His Majesty’s Government in the United Kingdom, when the concurrence of the “states directly concerned” has been obtained, to communicate the revised texts to the Secretary-General of the United Nations. It is furthermore the intention of His Majesty’s Government to submit the proposed terms of trusteeship to the United Nations on its own behalf as mandatory power, and not collectively on behalf of itself and of the “states directly concerned”.

I have [etc.]

For the Ambassador
D. D. Maclean

[Enclosure]

ANNEX A

AIDE-MÉMOIRE

REVISED DRAFT TERMS OF TRUSTEESHIP

FOR TERRITORIES IN AFRICA UNDER UNITED KINGDOM MANDATE

SECRET

The revised draft terms of trusteeship for territories in Africa under United Kingdom mandate are identical with the texts resulting from the discussions in June between United States and United Kingdom experts, except in the following respects.

Article 2.

After very careful consideration His Majesty’s Government have found themselves unable to accept the inclusion in this Article of the words “on behalf of the United Nations”. They cannot find any words in the Charter to warrant definition of the position in these terms. They feel that the position of the Administering Authority under the trusteeship system in relation to the United Nations is clearly set out in the Charter, and that it would be undesirable to attempt to define it further in the terms of trusteeship themselves. It is felt that the inclusion of these words might give the erroneous impression that the

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19 Copy of revised draft terms accompanying this note not printed. The revised draft terms are printed in British Cmd. 6935, October 1946. The explanatory memorandum follows as “Annex A”.

20 See draft terms of agreement for Tanganyika, p. 604.
United Nations itself had administrative functions in respect of trust territories where a single state is designated as administering authority. It will be recalled that in his statement to the General Assembly in January, 1946, when announcing the intention of His Majesty’s Government to place the territories in question under the trusteeship system, the Foreign Secretary said: “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”.

**Article 5(b).**

It has been decided to retain the words “under his sovereignty or control”. His Majesty’s Government are not in a position to constitute a trust territory under their control into a customs, fiscal or administrative union with any territory not under their control. Further His Majesty’s Government are anxious to avoid anything which might create an impression either locally or internationally that they wish in any way to attach other territories to territories under their administration.

**Article 6(1).**

The words “in accordance with Article 76(b) of the United Nations Charter” have been substituted for the words “towards the objectives of self-government or independence as prescribed in Article 76(b) of the Charter”. It is felt that the Article as now amended is already sufficiently explicit and that all that is required is a simple reference to the relevant Article of the Charter where the objectives in question are set out.

**Article 6(2).**

His Majesty’s Government are unable to accept the addition of a paragraph to Article 6 about surveys of development of political institutions. They appreciate that there was considerable discussion at the Preparatory Commission on this question and that it is felt in some quarters that it is desirable that such surveys should become a feature of the International Trusteeship System. Should the United Nations eventually decide that such surveys were desirable and should provision be made for them in the rules of procedure of the Trusteeship Council or anywhere else, the position would have to be re-examined. In the meantime however His Majesty’s Government feel that they would not be justified in prejudging the issue by including a provision for such surveys in the terms of trusteeship.
Article 8.

The word "natural" has been inserted before "resources" in this Article. This has been done as a result of a suggestion by local authorities who considered that it is desirable to define more clearly what was meant by "resources".

Article 10(c).

There has been a slight rewording in this Article in order to make the sense clearer.

Article 11.

The word "nationals" has been substituted by "inhabitants" as this is a more appropriate description of the status of the people of Tanganyika. There has further been a slight rewording at the end of this article, which does not involve any change in the sense of the article.

800.014/10-946

The British Embassy to the Department of State 21

AIDE-MÉMOIRE

During the discussions which were held in London on the official level in June, 1946, with State Department officials to consider trusteeship matters, the thesis was put forward on the United States side that the mandatory power is the only "state directly concerned" in the terms of trusteeship for its mandated territories, and that the obligation of Article 79 of the Charter can be discharged simply by a process of diplomatic consultation with other states. Subsequently the views of the United States Government were further elaborated in the State Department's Aide-Mémoire of the 20th September, 1946.

2. His Majesty's Government in the United Kingdom appreciate the motives of the United States Government in putting forward its suggestions for simplifying the procedure of consultation with other governments and expediting the conclusion of trusteeship agreements. They share the desire of the United States Government to avoid lengthy debate in the General Assembly on the issue of "states directly concerned" and have no desire to provoke such a debate. Indeed the respective views of the two governments on the interpretation to be placed on Article 79 of the Charter would now appear to be almost identical.

3. It will be recalled that at the time that His Majesty's Government in the United Kingdom announced their intention of bringing the African territories under United Kingdom mandate under trustee-
ship, there was not (and there still is not) any agreed or authoritative interpretation of the phrase "states directly concerned". His Majesty's Government in the United Kingdom therefore had no alternative but to give a practical interpretation themselves in what appeared to be a generally accepted sense. As is known, His Majesty's Government in the United Kingdom informed the General Assembly that they were communicating the draft terms of the trusteeship to certain states who seemed on any interpretation to be directly concerned with the terms of trusteeship for the territories in question. The United Kingdom drafts were also communicated for information to the other states mentioned by name in Article 23 of the Charter. It was made clear at the time that this action was without prejudice to the ultimate interpretation of the phrase "states directly concerned" and the action of His Majesty's Government in the United Kingdom was not challenged by any delegation at the General Assembly. Since that time the states which, in the opinion of His Majesty's Government in the United Kingdom, were in any event directly concerned, have concurred in the original United Kingdom draft terms of trusteeship, the drafts themselves have been published as command papers and the command papers which refer to the concurrence of these states have been communicated for information to the Secretary-General. His Majesty's Government in the United Kingdom cannot go back on these published statements.

4. In the light of the foregoing and particularly in view of the history of Article 79 of the Charter at San Francisco, His Majesty's Government in the United Kingdom do not feel that they could avoid all reference at the next meeting of the General Assembly to agreement to the terms of trusteeship by "states directly concerned". His Majesty's Government in the United Kingdom, however, have never contemplated the conclusion of a formal treaty among "states directly concerned" and do not interpret Article 79 of the Charter as meaning that any "state directly concerned" can indefinitely hold up the submission of draft terms of trusteeship to the General Assembly should it unfortunately prove impossible to reach agreement in any particular case. Moreover, for their part, as the United States Government is now aware, His Majesty's Government in the United Kingdom will be presenting the draft trusteeship agreements on their own behalf alone and not on behalf of a group of "states directly concerned", and will be taking the line that Article 79 of the Charter could adequately be fulfilled by obtaining the concurrence of certain states in these drafts through diplomatic channels.

5. Whether or not it will be possible to avoid a discussion on the
meaning of the expression "states directly concerned", His Majesty's Government in the United Kingdom consider that it is in any event almost certain that the General Assembly will not approve the drafts until it is told what states have in fact been consulted. His Majesty's Government in the United Kingdom therefore expect that it will be necessary at some stage for them to declare which states they have formally consulted and possibly to produce written evidence in the shape of formal correspondence that such states have agreed to the draft terms presented. They do not, however, propose to take this action unless requested by the Assembly, which might conceivably be equally satisfied by oral statements from the delegations concerned.

6. With reference to the last paragraph of the State Department's note of the 20th September, His Majesty's Government in the United Kingdom would be very content if it should prove possible to leave the general question of the interpretation of "states directly concerned" still undetermined. But the General Assembly itself may be unwilling to approve the draft terms of trusteeship on this basis. In the view of His Majesty's Government in the United Kingdom one of two things may then happen. Either the General Assembly itself may wish to settle the general question of the interpretation of Article 79 of the Charter before proceeding to the examination of individual drafts; or some particular state or states may put forward claims to be "states directly concerned", in respect of particular mandated territories (not necessarily only those under United Kingdom mandate), and press for consideration of their claims by the General Assembly. Either of these courses would probably lead to a prolonged discussion which His Majesty's Government in the United Kingdom, like the United States Government, would much prefer to avoid. His Majesty's Government in the United Kingdom note that, in that event, the United States delegation is likely to urge the wisdom of leaving the phrase undefined. The United States Government will appreciate that any one new claim to be directly concerned put forward at the General Assembly would be likely to provoke others. For this reason His Majesty's Government in the United Kingdom express the hope that the United States Government, since it shares their general approach and interest in this question, will feel able to agree with the procedure outlined in paragraphs 4 and 5 above and to refrain from making any formal reservation at the General Assembly of its own claim to be a "state directly concerned" in respect of mandated territories.

Washington, October 9, 1946.
Memorandum by Mr. John Foster Dulles of the United States Delegation to the Secretary of State

CONFIDENTIAL

[WASHINGTON,] October 9, 1946.

I spent the morning with Mr. Hiss and Mr. Gerig discussing trusteeship in anticipation of the next meeting of the General Assembly. I had previously told the President and Secretary Forrestal that I would be in Washington and the President had asked me to call on him at 12:45 and Forrestal had asked me to lunch with him following that. I took advantage of these two meetings to try to advance somewhat what Messrs. Hiss and Gerig had told me was the Department’s policy with respect to Trusteeship.

In the course of the conversation with the President, I said to him that I felt it of the utmost importance that he or you should at the next Assembly meeting make an authoritative and definite statement of U.S. intentions with regard to the Japanese Mandated Islands which are now under our administration. The President said that he expected to discuss this with you as soon as you returned.

I then lunched with Secretary Forrestal and told him that in my opinion it was very important that the United States clearly state its intentions at the next Assembly. I recalled that there had been indecision for about eighteen months. I stated that in my opinion from an over-all standpoint the United States needed to demonstrate to the rest of the world its capacity to act decisively in relation to international affairs. There were, I said, a number of countries who were doubtful as to whether we had that capacity and whether it was safe for them to associate themselves with us. I said that the indecision shown with reference to the Japanese Mandated Islands would, if prolonged, weaken our position in the world; that the differences of opinion between the State Department, War Department and Navy Department were well known and could not be continued without giving the world the impression that in such matters our Government was unable to make up its mind and come to a decision.

I said that while some decision was of first importance, irrespective of what that decision was, I thought it was important that the decision should be in favor of strategic trusteeship rather than annexation. There was a long history beginning with the Atlantic Charter which had given other nations reason to believe that we would not annex outright and if we did so it might set an example for others to do likewise with a result that the entire trusteeship system might collapse.

The Secretary could not have seen this immediately, as he was still at the Paris Peace Conference.
Secretary Forrestal seemed impressed by what I had said and he asked me to talk to Admiral Nimitz and Admiral Sherman. I repeated to them the substance of the above emphasizing that I thought it entirely possible and proper to get, in these largely uninhabited islands, the military rights which the Navy felt indispensable. I referred to the fact that we had not annexed the Panama Canal Zone but had a lease in perpetuity. Admiral Nimitz and Admiral Sherman put various questions to me which I was able to answer so that they felt fairly satisfied, and I gained the impression that the Navy people were by no means unalterably opposed to strategic trusteeship for the Japanese Mandated Islands. Admiral Nimitz asked me to look over an agreement which had been drafted to cover this contingency and to let him know what I thought of it, and I am planning to do so.

John Foster Dulles

501 BR/10-1046

Memorandum of Conversation, by the Chief of the Division of Dependent Area Affairs (Gerig)

SECRET

[Washington,] October 10, 1946.

Participants: Mr. George Middleton, First Secretary, British Embassy
SPA—Mr. Hiss; DA—Mr. Gerig

Mr. Middleton said he had two points to take up with us. First, the United Kingdom Government agreed with our recent proposal 22 that it was desirable not to specify by name states as "directly concerned" under Article 79 whose concurrence would be necessary in voting the trusteeship agreements at the Assembly, and that the British would transmit the draft trusteeship terms for Tanganyika, the Cameroons, and Togoland to the Assembly without referring to any other states as being directly concerned. The British Government, he said, felt able to do this in the hope that the United States Government would refrain from making any formal reservation at the General Assembly of its own claim to be a "state directly concerned" in respect of mandated territories. Mr. Middleton added, however, that the British Government was not convinced that other states might not press the Assembly to define and specify certain states as "directly concerned". 24

On this point, Mr. Hiss said that it was our hope that a protracted debate could be avoided and that the United States Delegation, he

22 See Department of State aide-memoire of September 20, p. 628.
24 It seems probable that sometime during the preceding statement by Mr. Middleton he handed Mr. Hiss the British Embassy aide-memoire of October 9, p. 634.
thought, would merely state that while it considered itself entitled to be a state directly concerned if such states were to be designated, it was prepared, if others also agreed, not to press such a claim. He explained that our waiver, of course, was for this Assembly, and did not necessarily extend to future amendments and alterations of such agreements.

Mr. Middleton then raised his second point, which he said was more difficult and to which the United Kingdom Government attached great importance. At that point he handed us a copy of the official revised text of the trusteeship terms which the British Government was now prepared to submit to the Assembly. It contained, he said, substantially all the revisions which the United States experts had pressed in London last June, except on point 10(c) relating to the establishment of general monopolies, on which the experts did not agree. He said that the British Cabinet would have preferred to put forward their original terms, and that it was with some difficulty that the Cabinet was able to agree to a number of our revisions. They decided, however, to put the revised draft forward, provided we could give them some assurance that, apart from Article 10(c), the United States Delegation would support the amended text, and would not press for further revisions.

On this second point, Mr. Hiss said that if the United Kingdom Government wanted a formal commitment of this kind, the Department could not give it because it was not possible to tie the hands of our Delegation completely even before they had seen the text which would be the subject of negotiation at the Assembly. He hoped that the British Government would not press us on this point. He added, however, that it was unlikely that our Delegation would depart from the revisions tentatively agreed upon. Mr. Middleton then said that if we could not give adequate assurance on this point, the British Government might feel that it should fall back on its original text. Mr. Hiss said he felt that would be unfortunate, since it would mean that we, as well as others, would have to introduce a much larger number of amendments which would probably result in failure to reach agreement at this Assembly at all. He hoped that the suggestions previously made to the effect that we did not anticipate any difficulties on points apart from Article 10(c) would be sufficient to give the British Government the assurances it desired.

Mr. Middleton then said he hoped this would be sufficient and that he fully understood the constitutional difficulties of attempting to bind our Delegation. He urged, however, that every effort be made to support the revisions agreed on at the technical level and, further, that the United States Delegation would not support amendments of sub-

25 Not printed; see footnote 19, p. 632.
stance without first consulting with the United Kingdom Delegation.

Mr. Hiss said that he thought, in keeping with our previous practice of consultation, our Delegation would consult with the British Delegation on any amendments of substance which might arise at the Assembly.

At the end of the discussion, Mr. Hiss summarized our position by saying that he thought it would be possible informally to tell London that officials in the Department felt that, except for Article 10(c), the United States Government, through its Delegation, would generally agree with the revised draft in so far as it followed the original revisions agreed on in London, but that it should be explained, nevertheless, that we could not bind the hands of our Delegation to the Assembly.

Mr. Hiss agreed to discuss the matter with the Acting Secretary, and Mr. Gergi agreed to compare the two texts immediately to see if there were substantive differences between the two revisions which might occasion any difficulty.

890.0146/10-1146: Telegram

The Ambassador in Australia (Butler) to the Secretary of State

SECRET             CANBERRA, October 11, 1946—4 p. m.
[Received October 11—10:22 a.m.]

235. Dept 208, October 9, 7 p. m. 29 No definite reply yet from External Affairs re proposed Australian trusteeship agreement. Watt has stated that general feeling is that suggested revisions are too lengthy, that conditions New Guinea vary from those of Tanganyika and Western Samoa, and that Australia has adhered to UN Charter and would abide by its spirit but did not care to be restricted by too much detail, some of which might later be regretted. Embassy finds no disposition to question US formula of consultation with particularly interested powers prior to submission agreement to GA. No opposition so far manifested as to position of US as a state directly concerned. Watt intimated two days ago desire for conference on Embassy’s note dated and delivered September 23 but since then has received orders proceed NY October 13. Embassy presumes conference will be called next week.

29 Telegram 208 read: “In view short time remaining before opening General Assembly please cable (Dept 169 Aug 29) any available information developments proposed Australian trusteeship agreement.” (890.0146/10-946)
Memorandum of Telephone Conversation, by the Director of the Office of Special Political Affairs (Hiss)

[WASHINGTON,] October 11, 1946.

Mr. Middleton called me on the telephone this afternoon and referring to the conversation which he, Mr. Gerig and I had yesterday (which is the subject of a separate memorandum of conversation) said that the Ambassador had asked him to clarify with me the matter of the degree of support which our Delegation would be prepared to give the Tanganyika draft. He said that he understood from his conversation with Mr. Gerig late yesterday afternoon, after Mr. Gerig had had an opportunity to examine the text of the British revised draft, that there were three points on which we still felt dissatisfied, namely, the draft of Article 10 (c) on monopolies, the absence of provision for periodic surveys, and the absence of a recital that the agreement is entered into by the United Kingdom on behalf of the United Nations. Mr. Middleton said that he understood that as to the provision with respect to periodic surveys we would probably be satisfied with a British statement of record that they would agree to such surveys if conducted in the form of questionnaires. He said that in any event he understood our position to be that if we can reach a meeting of the minds on these three points we would be willing to recommend to the Delegation that the United States not initiate any substantive amendments to the revised agreement and that it not support any substantive agreements which would be inconsistent with the spirit of the revised agreement.

I told Mr. Middleton his understanding of the views which Mr. Gerig and I had expressed yesterday was accurate but that I wanted to make sure that he understood fully the detailed application of this statement. There were a number of provisions which we had proposed in the course of Mr. Gerig's conversations in London which the British have been reluctant to include in the agreement but which they had been prepared to have included in questionnaires to be formulated by the Trusteeship Council. In the event that some other Delegation were to propose similar provisions for incorporation in the agreement we would certainly not wish to oppose them although we would be willing to say what we had already said to the British, namely, that we would be satisfied if they were incorporated in questionnaires. I thought that in some such cases we might abstain from voting and in others we might actually support the proposed amendment.

I then said that I wanted particularly to emphasize the fact that I was speaking in terms of my estimate of what the Delegation would do. I said that Mr. Middleton should understand that I was not in a
position to bind the Delegation in any sense. We had every reason to believe, however, that the Delegation would see the issues as we see them. We have been careful to go over many of the points with the Delegates who will be most interested in trusteeship matters and we did feel that our estimates were accurate but they were estimates and not commitments. Mr. Middleton said that he thoroughly understood this.

Mr. Middleton indicated plainly that he thought the British Government would be mistaken were it to ask for written commitments and I made it plain that I was confident we could give them no written commitments. I pointed out that it seemed to me that it would certainly not be in the interests of the British Government in any event to submit the original draft agreement instead of the revised agreement, and I pointed out in this connection that the French agreement which has been filed with the United Nations is almost identical to the British revised agreement; furthermore the French have stated the British have agreed to the French draft agreement. In view of this and of our conversations with the British I did not see how they could possibly oppose amendments to the original draft which merely incorporated those of our proposals which the British had agreed to at the technical level and had incorporated in their revised draft. Mr. Middleton seemed to be in agreement with me but said that this was, of course, a matter for London to determine. He said that the Ambassador is extremely anxious to reach a maximum of agreement and I feel sure the Embassy will recommend that the British not pursue further the suggestion that we either give a written commitment to support the revised draft or they would have to revert to the original draft.

S628.01/10-1446

The First Secretary of the British Embassy (Middleton) to the Director of the Office of Special Political Affairs (Hiss)

SECRET CONFIDENTIAL WASHINGTON, 14 October, 1946.

My Dear Hiss: May I refer to Mr. Clayton's secret note of the 20th September to Lord Inverchapel suggesting the following clause for inclusion as the final paragraph of Article 9 of the draft trusteeship agreements: "Nothing in this article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory. Such rights shall be subject to agreement between the administering authority and the state whose nationality such aircraft possess".

The Foreign Office assume that your proposal is designed to limit the granting of all five freedoms, implicit in the preamble to Article 9, to granting of non-traffic rights, (i.e. first and second freedoms) only,
and that the granting of the third, fourth and fifth freedoms could therefore be made only by bilateral agreements between the States concerned.\(^{27}\)

If this interpretation is correct, the Foreign Office consider that there would seem some doubt whether the suggested amendment is in accordance with the provisions of Article 76(d) of the Charter, from which Article 9 of the draft terms of trusteeship derives. They are not convinced that the amendment would be justifiable under the proviso to Article 76(d) contained in the words “without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80”. In consequence though it is appreciated that the United Kingdom might obtain considerable material advantages from accepting the proposed amendment, His Majesty’s Government do not feel able at this stage to incorporate it in their draft terms of trusteeship or to take the lead in proposing in the Assembly such an amendment, which might expose them to criticism of attempting to strain the provisions of the Charter.

In explaining the difficulties of His Majesty’s Government as outlined above, we have however been instructed to let you know informally that should the United States Government still desire to propose the inclusion of this or a similar amendment, in the Assembly, His Majesty’s Government would have no objection to their doing so; and if the general view of the Assembly was that the provision is reconcilable with the Charter, they would be willing to accept a recommendation to incorporate it in the draft terms of trusteeship, subject to the concurrence of the States recognised by His Majesty’s Government as directly concerned.

Yours sincerely,

G. H. MIDDLETON

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501.BE/10–1546 : Telegram

The Acting United States Representative at the United Nations (Johnson) to the Secretary of State

SECRET US URGENT

New York, October 15, 1946—10 p. m.

[Received 10:33 p. m.]

671. For Hiss from Gericg. Johnson and I found Gromyko still thinking a formal agreement would be required probably signed by five big powers and submitted by them to Assembly for approval.\(^{28}\) He

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\(^{27}\) Regarding the “five freedoms of the air”, see editorial note, p. 1450.

\(^{28}\) Mr. Johnson had on this date handed to Mr. Gromyko a memorandum explaining that the United States favored a simplification of the procedures relating to the negotiation of trusteeship agreements under Article 79; see footnote 10, p. 629.
referred to conversation with Dulles in London 29 in which latter expressed opinion such formal agreement among states directly concerned would be probable procedure. We explained that while this was one method which might be pursued, our more simplified procedure would also be consistent with Article 79 and that short time remaining indicated simplified procedure preferable. Gromyko said he would inform his delegation but did not know what reaction might be expected since they had always assumed the more formal procedure would be followed.

JOHNSON

8628.01/10-1646

Memorandum of Conversation, by the Director of the Office of Special Political Affairs (Hiss)

[WASHINGTON,] October 16, 1946.

Mr. Middleton came to see me yesterday at his request.

He said that he had good news on the subject of the British attitude toward states directly concerned and, he believed, also on the question of the status of the revised draft agreement for Tanganyika.

As to the first point he said that the Foreign Office is now quite happy about the arrangements made with respect to proposed procedure for dealing with “states directly concerned.” They agree with us in hoping that the matter can be left undefined. They have gone so far as to say now that if, in urging that it be left undefined, we wished to mention the possibility that the Charter could be interpreted as meaning only the proposed administering state is to be considered as a state directly concerned the British Delegation would be willing to go along with stating that that is a possible interpretation provided that the French, the Belgians and the South Africans, to whom they feel committed as being states directly concerned in the British African Mandates, are also agreeable to such a position. Mr. Middleton made it clear on this point that the Foreign Office is not prepared to support such an interpretation as a definitive interpretation but merely to agree that it is a possible interpretation and as such is indicative of the uncertainty of the issue and the desirability of leaving it undefined at this time. They think it might also be helpful as an argument in support of why those claiming to be states directly concerned should be willing to waive their claims for the purposes of the present Assembly.

With respect to the status of the present revised draft agreement for Tanganyika Mr. Middleton said that the Foreign Office have said that they were sorry that if in an excess of enthusiasm they had asked

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29 See minutes of informal meeting of the United States Group on Trusteeship, London, January 17, p. 554.
for a written commitment from the Department that we would not 
initiate amendments and would consult any amendments proposed by 
others. They understand fully that we are not in a position to give 
such a commitment and are perfectly satisfied with the oral assur-
ances which Mr. Gerig and I had previously given that this was in 
fact the attitude of the Department, that we would urge it upon the 
Delegation and that we had every reason to believe that the Delegation 
would accept it.

Mr. Middleton went on to say that the Foreign Office further were 
agreeable to the issue of paragraph 10(c) (on monopolies) being left 
outside these oral assurances. He said we could “agree to disagree” 
about paragraph 10(c) and it was understood that we were perfectly 
free to initiate a substantive amendment to that paragraph.

As to the phrase “on behalf of the United Nations” which we wished 
to be inserted as governing the assumption of trusteeship, Mr. Middle-
ton said that the Foreign Office regarded the exclusion of this as being 
as important to them as we regarded a revision of paragraph 10(c). 
He asked whether we could agree that if in the course of the informal 
conversations with the mandatory powers, planned to be held prior to 
the Assembly discussion, it developed that all the mandates were 
equally opposed to the inclusion of this phrase we would agree not to 
initiate an amendment proposing its inclusion in the agreement. I 
told Mr. Middleton that frankly we regarded this as a matter of less 
moment to us than paragraph 10(c) but nonetheless considered it an 
important matter of principle which should be clarified so as to leave 
no doubt of the status of the trustee. It seemed to me the kind of issue 
that we would not wish to try to prevent the Delegation from raising 
although I felt sure the Delegation itself would not consider it the 
kind of issue which would prevent our approval of the agreement if 
not settled satisfactorily to us, assuming other provisions of the 
agreement were satisfactory.

Mr. Middleton said that he was now in a position to assure us that 
the Foreign Office has no objection to an obligation with respect to 
political surveys being incorporated in questionnaires or regulations 
of the Trusteeship Council. The Foreign Office is also prepared to 
make this commitment as a matter of record in the Assembly.

Mr. Middleton said that the Embassy had been asked by the Foreign 
Office to be sure that the oral assurances which Mr. Gerig and I had 
given as outlined above had been brought to the attention of the Acting 
Secretary. I said that I would undertake to do this and would com-
unicate again with Mr. Middleton promptly after I had talked to 
Mr. Acheson.

Referring again to paragraph 10(c) Mr. Middleton said that he 
had been asked to repeat orally to the Department the British argu-
ments as to why they did not feel that they could agree to determination as to the propriety of a given monopoly by an organ of the United Nations. They felt that freedom of action on the part of the trustee was necessary in order that the trustee could carry out its obligations for the welfare of the inhabitants. They felt that the open-door provisions of the mandates had resulted definitely in certain disadvantages to the inhabitants of the mandated area. They believe that Article 76(d) of the Charter, which relates to equal treatment, makes it clear that such treatment is to be given without prejudice to the attainment of the basic objectives re the welfare of the inhabitants. They think we should be prepared to accept lesser rights than we had under the mandates in view of the provisions of Article 76(d) and the whole change in the conception of the administering states' responsibilities under the Trusteeship System as opposed to the mandate system. They feel that any approval by a United Nations organ would result in endless appeals by vested interests which would obstruct necessary action for the welfare of the inhabitants. Finally, they feel that any abuse can be corrected in view of the fact that the right of petition will be available.

Mr. Middleton said that the British Government wished to point out that their position on this matter does not mean that they will fail to give full consideration to our views in the course of any informal meetings we may have on the subject of paragraph 10(c).

Reverting again to the question of the phrase "on behalf of the United Nations" Mr. Middleton said that the British position is that there is an important distinction between trusteeships administered by a single power and trusteeships, such as we have proposed for the African colonies, which the United Nations is to administer directly. In the former cases the trustee is not merely an agent of the organization. He pointed out that the trustee has no recourse to the United Nations if there is a budget deficit. He said that if the Assembly were to insist on the inclusion of this clause he felt sure that the United Kingdom would have to reconsider its entire attitude toward the agreement and would consider that many of the obligations contained in it were inconsistent with such a thesis. He informed me that it was his understanding that the Australians are equally vigorously opposed to the inclusion of this clause.

8628.01/10-1646

Memorandum of Conversation, by the Director of the Office of Special Political Affairs (Hiss)

[WASHINGTON,] October 16, 1946.

After clearing the matter with Mr. Acheson at the 9:30 meeting this morning I told Mr. Middleton that Mr. Acheson approved the oral
assurances which had previously been given Mr. Middleton and that with the exception of points listed hereafter we would recommend to our Delegation to the General Assembly that they initiate no substantive amendments to the British draft trusteeship agreement for Tanganyika (or the draft agreement for Togo and the Cameroons) and that we would not support any substantive amendments without prior consultation with the British Delegation. (See memoranda of conversations of October 11 and October 16).

The exceptions as to which Mr. Middleton and I were already agreed related to paragraph 10(c) on the subject of monopolies and the phrase “on behalf of the United Nations” as the basis on which trusteeship would be assumed by the United Kingdom. As to the former point Mr. Middleton had already this morning received informally from the Department suggested new language and the whole subject will be considered in the informal conversations in New York between representatives of the two delegations. If agreement is not reached we remain free to initiate an amendment on that subject. With respect to the phrase “on behalf of the United Nations” we do not attach the same importance to this as to the monopolies provision but we nonetheless consider it an important matter of principle and would not wish to give any assurances that we would not take the initiative in proposing its insertion in the agreement. This subject, too, however, could be discussed further in the informal conversations in New York.

I went on to refer to the provision relating to aviation landing rights and pointed out to Mr. Middleton that in view of the note on this subject which he had sent to me after the earlier talks with Mr. Gerig and me this point would also be regarded as not covered by the oral assurances. (In his note Mr. Middleton had said that British Government is not prepared to adopt our proposal on this subject because they feel that a provision to the effect that landing rights should be granted only on a reciprocal basis would be inconsistent with the Charter. He had, however, said that his Government would have no objection to our Government raising the point.) Mr. Middleton concurred that this was the agreed status of this point.

I then referred to three other topics which we had found, after careful examination of the draft revised agreement, had not been incorporated but had not been mentioned in the Embassy’s aide-mémoire with which the draft revised agreement had been submitted. In Article 3 the revised draft left out a provision for special visits which we had suggested; in Article 5 our proposal that fiscal, customs and administrative unions with neighboring territories be permitted with the approval of the Trusteeship Council had been omitted; in Article 12(a) our proposals that “freedom of movement” be guaran-
teenth had been left out. I said that as to special visits and freedom of movement we felt that important matters of principle were involved and that while we did not attach the same importance to them that we did to the monopolies provision we nonetheless did not feel prepared to give assurances not to initiate provisions on these points. The two points could, of course, be discussed further in the forthcoming talks in New York. This arrangement was satisfactory to Mr. Middleton. As to the fiscal, customs and administrative unions point I said that I would wish to check further with my associates in the Department before giving Mr. Middleton a final answer but that I thought our position would be that although we considered the provision desirable it was merely designed to increase the authority of the trustee and if the administering power did not desire it I did not see how we could urge it further. (Subsequently, after Mr. Green of DA had checked with the other interested Divisions, I told Mr. Middleton by telephone that we would be willing to drop this point and to include it within the general oral assurances.)

I then said there remained one further point, namely, the question of the political surveys. Mr. Middleton had told me on October 15 that his Government is prepared to make a statement of record to the Assembly that political surveys might be included in questionnaires. Subsequently, on examining the record of the Preparatory Commission, we had discovered that both we and the British had opposed a provision for political surveys being put in the draft regulations of the Trusteeship Council on the ground that there was no authority for such surveys unless they were authorized by the agreements themselves. Mr. Middleton readily agreed that unless the Assembly were prepared to take a different view as to the legal status he could not expect the political surveys point to be within the scope of our oral assurances. It was agreed that this matter would be explored further in the New York conversations. (Subsequently I called Mr. Middleton to say that if the legal question on this point was satisfactorily settled we would want the British statement of record on this subject to be a statement of willingness that political surveys would be covered by questionnaires and by periodic visits.)

I reiterated that it was understood that with respect to amendments offered by others which merely proposed the addition of topics we ourselves had proposed but had agreed either to drop altogether or to drop from the agreement provided they were to be covered by questionnaires, periodic visits or regulations of the Trusteeship Council, although we would be prepared to consult the British Delegation before taking a position it should be anticipated that we would not oppose such amendments. In some cases we might vote for them after
stating our willingness to have them taken care of by the questionnaires, periodic visits and regulation method, or after stating that we did not feel too strongly the topics should be included, as the case might be. In other cases we might be prepared to abstain after making our position clear in the same manner.

I then informed Mr. Middleton of the results of the conversations which Mr. Gerig and Mr. Herschel Johnson had had with Mr. Gromyko in New York on October 15 on the subject of "states directly concerned" (see telegram 671, October 15, from New York).

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Memorandum of Telephone Conversation, by the Associate Chief of the Division of Dependent Area Affairs (Green)

[WASHINGTON,] October 16, 1946.

Mr. Middleton telephoned at noon to say that there were two points in connection with our position on the British draft terms of trusteeship which he wished to clarify before telegraphing London. He said that Mr. Hiss had informed him earlier in the morning that the Department was still studying its position on Article 5(b) and that he understood Mr. Hiss to say that we were concerned about the omission of any provision concerning the establishment of customs, fiscal or administrative union, or federations. I said that he may have misunderstood Mr. Hiss, for we were concerned not with the omission of the provision as a whole, but rather with the omission of the clause "subject to the approval of the General Assembly or the Trusteeship Council" which we had proposed at London. I said that I understood that the British representatives in London had told Mr. Gerig and Mr. Smith that it would be difficult to incorporate such a provision in the Tanganyika agreement since arrangements for associating Tanganyika with Kenya and Uganda were already far advanced, but that the British spokesmen apparently did not feel quite so strongly on this point with respect to Togoland and the Cameroons.

Mr. Middleton said that the British had been willing to state that any such arrangements must be consistent not only with the basic objectives of the trusteeship system but also "with the terms of this agreement". He asked whether inclusion of this phrase would not give adequate protection. I replied that while I thought that the phrase would probably be sufficient to make sure that any such unions or federations would not violate the commercial equality article, I would like to consult other officers of the Department on this point. The Department had previously felt, I continued, that approval of the General Assembly or the Trusteeship Council would be necessary to
make sure that any union or federation was in accordance with the trusteeship agreement. Mr. Middleton said that he personally could not see why such a provision was necessary and asked whether I thought he ought to emphasize the point in his telegram to London. I replied that I personally did not think this matter was of equal importance to the monopolies provision and certain other points on which we had reserved judgment, and that I would let him know our views as soon as possible.

Mr. Middleton then said that he had one suggestion to make concerning the suggested revision of Article 10(c) on monopolies which he had discussed earlier this morning with a group of officers of the Department. He suggested that the last clause of our suggested revision be altered as follows: "provided that the conditions laid down by the appropriate United Nations agencies and approved for the purposes of this Article by the Trusteeship Council relating to the circumstances in which and the manner by which such monopoly undertakings may be established or maintained are satisfactory". Mr. Middleton said that he thought the phrase "for the purposes of this Article" should be inserted in order to make clear that the Trusteeship Council was not reviewing the general work of other organs of the United Nations or of the specialized agencies, since the latter might well resent such an implication. I replied that I thought this amendment was a useful one and that I would inform the other officers who had talked to Mr. Middleton this morning.

501.BB/10-1646

The Ambassador in France (Caffery) to the Secretary of State

RESTRICTED

No. 6421

Paris, October 16, 1946.

The Ambassador has the honor to transmit herewith copies of drafts of trusteeship agreements for French Cameroons and French Togoland, which the French Government will submit to the General Assembly of the United Nations.31 A representative of the Foreign Office stated that these documents, which have not yet been released to the public, contain two noteworthy provisions, namely, (1) that the administering authority may establish military, naval and air bases

31 Neither printed, in Washington on October 8 the French Minister (Lacoste) had shown copies to the Director of the Office of Special Political Affairs (Hiss) at the time that this Government's aide-mémoire of even date was transmitted to the French Embassy (see footnote 10, p. 629). On October 9 the French Embassy officially transmitted copies to the Department. (Memoranda of conversations between Messrs. Hiss and Lacoste, October 8 and 9, not printed; Files Nos. 501.BB/10-846 and 862P.01/10-946 respectively).
in the trust territories and may recruit volunteer forces, and (2) that provision has been made for periodic visits of inspection to the trust territories whenever the General Assembly or the Trusteeship Council may deem it necessary. This right of visit was regarded as the greatest departure from the former mandate agreements, and was viewed with certain misgivings. Orally it was explained that the establishment of military bases and the recruiting of volunteer forces would be for the purpose of carrying out France's obligations toward the Security Council.

501.BB/10-1846

Memorandum by the Director of the Office of Special Political Affairs (Hiss) to the Acting Chief of the Division of Dependent Area Affairs (Green)

[WASHINGTON,] October 18, 1946.

Mr. Cohen 32 told me today that he had shown Senators Connally and Vandenberg the draft which he took with him when he last went to Paris 33 that set forth our plan with respect to our interpretation of “states directly concerned”. Both the Senators read the paper and returned it to him without comment. He feels, consequently, that in view of this reaction by the Senators we are entitled to assume that they see no objection from the point of view of the Senators’ prerogatives to our agreeing that the Assembly may approve a trusteeship agreement to which we were not a party but which replaced a mandate as to which the United States has a convention with the mandatory.

82P.01/10-2146

Memorandum of Telephone Conversation, by the Associate Chief of the Division of Dependent Area Affairs (Green)

[WASHINGTON,] October 21, 1946.

Mr. Middleton telephoned this morning to say that he had been unable to reach Mr. Hiss. He said that he wished to inform the Department that the British Government was publishing as a white paper the “Revise A” of the Draft Terms of Trusteeship for Tanganyika, Togoland and the Cameroons. The Government was doing this in order to get through the parliamentary processes, but its action did not in any way constitute a commitment as to the final text of the

32 Benjamin V. Cohen, the Counselor of the Department.
33 Senators Connally and Vandenberg were members of the United States Delegation at the Paris Peace Conference.
three agreements. This action merely carried one step further the earlier parliamentary procedure by which the British Government had published the original draft terms of trusteeship as white papers. Publication at this time, he repeated, would not preclude any change which might be agreed to during the informal conversations in New York or in the General Assembly itself.

Mr. Middleton said that the British Government was following the same procedure it had used with respect to the original white papers. It was sending copies to the permanent members of the Security Council, to the British Dominions for purposes of consultation, and to France, Belgium and South Africa as states which the British felt were “states directly concerned” in any event in the three territories.

Mr. Middleton said, finally, that he had not received any information concerning the arrival of the Delegation in New York, but he was sure Mr. Poynton would get in touch with Mr. Gereig immediately upon arrival.

Morandum by the Assistant Chief of the Division of British Commonwealth Affairs (Richards) to the Deputy Director of the Office of European Affairs (Hickerson)

[WASHINGTON,] October 21, 1946.

Attached is the New Zealand draft trusteeship agreement for Western Samoa as now revised by the New Zealand Government. This revision was handed to Mr. Hiss on Saturday.\(^{34}\)

SPA is now preparing a “position paper” on this revision and has asked for our comments on Article X (4) which is much more general than what was originally proposed.\(^{35}\) Mr. Reid told Mr. Hiss orally that his Government felt that the original wording was too broad and that they “did not want to invite other powers” to share too much in the use of defence installations. He added, however, that his Government felt that they had such friendly relations with the US that we should have no conflict over the revised wording.

Arthur Richards

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\(^{34}\) On October 19 Mr. Reid, First Secretary of the New Zealand Legation, had handed to Mr. Hiss an aide-mémoire dated October 18 with the text of a revised draft trusteeship agreement for Western Samoa and a memorandum of comment on the draft, none printed except the excerpt in the following footnote. Memorandum of conversation of October 19 between Messrs. Hiss and Reid not printed.

\(^{35}\) In the course of revision of the draft terms, Article IX (3) of the original draft had become Article X (4) in the revised draft. The revised text provided that the administering authority should be entitled “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” (890.0146/10-1846).
Minutes of the Fourth Meeting of the United States Delegation, New York, Hotel Pennsylvania, October 21, 1946, 10 a. m.\textsuperscript{36}

SECRET

[Here follows list of names of persons (23) present.]

In opening the meeting Senator Austin expressed the gratitude of the Delegation to Senators Vandenberg and Connally for the work done in Paris. He then called upon Mr. Gerig to discuss the problems which it was expected would arise in the Trusteeship Committee.

Trusteeship Questions\textsuperscript{37}

Mr. Gerig explained that the most important questions would be the following:

1. Procedure in Negotiating and Adopting Trusteeship Agreements;
2. The Question of the Future Status of South West Africa; and
3. The Functions of the General Assembly on Information to be Transmitted by Members Concerning Non-Self-Governing Territories.

Procedure in Negotiating and Adopting Trusteeship Agreements

Mr. Gerig discussed the proposals made by the Department aimed at simplifying the procedure for negotiating and approving trusteeship agreements, particularly as regards the definition and rights of the "states directly concerned". He explained that we had proposed to the mandatory powers and the Soviet Union and China that if all other claimant states were prepared to do the same, the United States would be willing not to press its claims to be a signatory to the draft trusteeship agreements and to leave the determination of the "states directly concerned" undefined when the draft agreements are submitted to the Assembly for approval and to abide by an unqualified two-thirds vote of the Assembly. He added that our proposals had been accepted by the United Kingdom, France, and New Zealand. The Soviet Government had been informed but had not yet accepted them. He pointed out that the Soviet Union had previously indicated that it was a "state directly concerned" in its capacity as a member of the

\textsuperscript{36} For documentation regarding organization and arrangements for U.S. representation at the second part of the first session of the General Assembly, opening at New York on October 23, see pp. 1 ff.

\textsuperscript{37} The Delegation had before it at this meeting a position paper dated October 19, document US/A/C.4/2 (IO Files), not printed, which was organized on the same basis as the sub-divisions of these minutes. Positions described in the paper were those which in pertinent part have been developed in the previous documentation, with specific reference to the procedure for submitting the trusteeship agreements to the General Assembly and the question of the terms of the agreements themselves. This paper was the last of several written in the Division of Dependent Area Affairs in a conventional drafting process which began in September (documents found in the IO Files in series SD/A/C.4/1 ff.).
Security Council and the Trusteeship Council and on account of its worldwide interests. The Arab states, as well as others, might also put in claims and, unless our proposed procedure were followed, the General Assembly would be forced to designate specifically “states directly concerned”. Unless the Assembly were to decide this question by a two-thirds vote, one of the states directly concerned might veto any agreement.

Mr. Gerig explained that the viewpoint of the Soviet Union appeared to be that the proper procedure would be for four or five states directly concerned to confer together and draw up a more or less formal agreement. Senator Vandenberg expressed the opinion very strongly that our proposed procedure was already “out” and that the Russian position would have to be met.

Mr. Gerig said that if pressed to define the “states directly concerned”, it was thought in the Department that we would probably have to vote for the inclusion of the Soviet Union in this category. He pointed out that the Soviet Union was particularly anxious to see the Trusteeship Council established and that we were not asking them to renounce their rights but merely not to exercise them to the full.

Mr. Sandifer expressed the opinion that if the Soviet Union were brought fully into the preliminary negotiations, it might waive the exercise of these further rights. Mr. Dulles pointed out that by our proposed procedure we were following a policy already laid down at London. We felt that it was undesirable to secure a formal definition of “states directly concerned” as it would involve endless decisions concerning the definition as well as claims from the Arab states, for instance, regarding Palestine. He agreed with Senator Vandenberg that much depended on preliminary agreements on the question with the Soviet Union.

Senator Vandenberg reiterated that the whole matter lay at the mercy of an advance agreement with the Soviet Union and Mr. Dulles pointed out that the Soviet Union could make an alliance with other states as well as with its own bloc and thus exert a practical veto power over the whole trusteeship system.

After Senator Vandenberg had stated that the procedure must be cleared and Senator Austin had suggested that the matter should be placed before the Secretary of State, the following decision was taken:

**Decision:** It was unanimously decided that no attempt should be made to define “states directly concerned” at the present time if it could be avoided.

It was unanimously decided that the Secretary of State should confer with Foreign Minister Molotov regarding the procedure in negotiating and adopting trusteeship agreements as soon as
possible, especially as regards leaving the "states directly concerned" unspecified.

Terms of Trusteeship Agreements and Monopolies

Mr. Gerig, in discussing the terms of the draft trusteeship agreements on which differences remain, first took up the question of monopolies in trust territories. He explained that the British, French, and Belgian draft agreements proposed that the administering authority should be entitled to establish general monopolies in the trust territories, if such monopolies were considered to be in the interest of the inhabitants, as provided in Article 76(b) of the Charter. The United States had suggested that if such monopolies were established, they should not only be in the interest of the economic advancement of the inhabitants, but that determination of such interest should be subject to the approval of the Trusteeship Council. The British, French, and Belgian Governments have not agreed to our proposal.

Mr. Villard pointed out that the mandatory powers were opposed to securing the approval of the Trusteeship Council as they felt this would lead to endless delays and, in general, discourage investors.

Mr. Sandifer said that the British argument was that the administering authority should have the right to agree to the establishment of monopolies, loans, etc.

Mr. Bloom stated strongly that complaints against monopolies should go to the Trusteeship Council, while Mrs. Roosevelt expressed concern for the welfare of the inhabitants in the matter. Mr. Stevenson felt that the Department formula was perfectly acceptable. Mr. Dulles, with whom Mrs. Roosevelt expressed her agreement, stated that we should stick to our principles and vote for the prevention of monopolies. Mr. Dulles then proposed the following motion as a substitute for the formula suggested by the Department:

"That the position of the United States Delegation should be that the trusteeship agreements should make no provision for monopolies other than natural or fiscal monopolies or such monopolies as might be approved by the Trusteeship Council as being an application of Article 76 of the Charter."

Decision: The motion was unanimously adopted.

Aviation Rights

Mr. Gerig explained the United States proposal regarding aviation rights which stated that:

"Nothing in this article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory, such rights being subject to special agreement between the administering authority and the state whose nationality such aircraft possess."
Senator Connally opposed raising the claims on aviation rights and Mr. Fahy agreed.

Decision: It was voted that the provision which the Department had suggested be added to each trusteeship agreement on aviation rights should be omitted.

Economic and Social Advancement of the Inhabitants of Trust Territories

Mr. Gerig explained that the United States had proposed to the mandatory powers that there be added to their draft trusteeship agreements detailed provisions concerning the economic and social advancement of the inhabitants of the trust territory.

Senator Connally moved that the recommendation of the Department on this subject be approved.

Decision: It was recommended that the United States Delegation should not initiate discussion on the subject of economic and social advancement as stated on pages 14 and 23 of the British draft agreement for Tanganyika (SD/A/C.4/6a) and that if other Members proposed that specific provisions on social matters be included in the trusteeship agreements, the Delegation should act in a negotiating capacity to reach a compromise acceptable to the mandatory power.

Freedom of Information

Mr. Gerig stated that the United States had suggested to the United Kingdom that it would be appropriate to include in trusteeship agreements provisions to facilitate the free interchange of information, but that the British preferred not to include such provisions in the trusteeship agreements in as much as the question was being considered by the Commission on Human Rights with a view to a possible convention on the subject.

Mrs. Roosevelt pointed out that any conference on freedom of information should include such important subjects as movies and radio adding that the United Nations Secretariat had expressed a desire to postpone consideration of this question for one year.

Decision: It was decided to defer consideration of this item for the present.

Responsibility of Administering Authority to the United Nations

Mr. Gerig pointed out that while the British and Australian drafts for Article 2 of the trusteeship agreements have eliminated the phrase that the trusteeship was being administered "on behalf of the United Nations", the Government of the United States wished to indicate that cognizance should be taken of the responsibility of the administering authority to the United Nations. He pointed out that the British feel that such a phrase should be eliminated as unnecessary and as embar-
rassing to the exercise of the full authority of the administering power in the territory.

Mr. Sandifer expressed the opinion that the British tended, by this reservation, to obscure the nature of the trusteeship system. Mr. Fahy stated that the phrase, although correct, was not essential.

Decision: It was recommended that while not pressing unduly for consideration of this phrase, the Delegation might find it desirable to state our views for the record.

New Zealand and British Requests Not To Amend

He added that the New Zealand and British Governments had requested an undertaking that we would not initiate further amendments at the General Assembly, that we would agree not to support any amendment in substitution which may be proposed by other states. Mr. Gerig said it had been made clear that our Delegation could in no way have their hands tied. Mr. Dulles said that although this was true, he hoped the Delegation would confine itself to a minimum of changes.

The Future Status of South West Africa

Mr. Gerig summarized the present position as to the future status of South West Africa by explaining that the United States Government had proposed to the Government of South Africa that a United Nations Commission should be established to investigate the problem of South West Africa and to report to the next session of the General Assembly. He added that the South African Government had replied that it proposed to submit to the General Assembly a statement on the outcome of its consultation with the peoples of South West Africa regarding the future status of the mandated territory, and on the implementation to be given to the wishes thus expressed.

Senator Austin expressed the opinion that it might be unwise to take a position as to the annexation of South West Africa by the Union in view of the fact that we might be forced into the position of having to annex some of the Japanese Mandated Islands in the Pacific.

Mrs. Roosevelt asked for information as to what policy toward annexation we were contemplating in the Pacific and wondered what we were afraid of. She said that although the War and Navy Departments could offer advice, she felt that it was still up to the Department.

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28 The New Zealand request had been conveyed to this Government in the New Zealand Legation's aide-mémoire of October 18, not printed (890.0146/10-1846); see footnote 34, p. 632.
of State and to the President to make a final decision in the matter of
annexation taking into account our general interests.

Mr. Dulles stated the opinion that the United States Delegation
would be in an embarrassing position unless some declaration of inten-
tion regarding the Japanese Mandated Islands were made. He traced
the history of internal dissension between the various Departments of
this Government which went back as far as the period before Dumber-
ton Oaks. He requested the Chairman of the Delegation to confer with
the President and the Secretary of State on the urgent necessity of
making a declaration of intention regarding the Japanese Mandated
Islands. The Chairman stated that he would do so.\textsuperscript{39}

\textit{Decision:} It was decided to defer consideration of this question until
conversations on the technical level with the South African Delegation
had taken place.\textsuperscript{40}

[Here follows short discussion relating to information to be trans-
mitted to the General Assembly regarding Non-Self-Governing
Territories.]

\textit{Memorandum of Record, by the Assistant Chief of the Division of
British Commonwealth Affairs (Richards)}

[WASHINGTON,] October 22, 1946.

At Mr. Hickerson’s suggestion I talked to Mr. Reid, First Secretary
of the New Zealand Legation, regarding the revised wording of Article
X (4) of the new draft trusteeship agreement for Western Samoa.

I informed Mr. Reid that we would go along with the revised word-
ing, and that we would recommend that the Army and the Navy agree,
on the understanding that no change in the New Zealand point of
view existed and that the New Zealand Government continued to be
prepared to enter into discussions with the US, as soon as the trustee-
ship agreement was approved by the General Assembly, looking toward
a bilateral agreement for the joint use of bases in Western Samoa.

Mr. Reid stated that he was sure that there had been no change in
this regard, but he would telegraph to Wellington at once for confirma-
tion and would inform me immediately upon the receipt of a reply.

\textit{Arthur Richards}

\textsuperscript{39} Senator Austin reported on this matter in telegram 867, October 22, 12:10
a.m., not printed.

\textsuperscript{40} For subsequent developments see footnote 62, p. 683.
SECRET  URGENT  NEW YORK, October 22, 1946—11:10 p. m.
[via Courier]

691. GA Secret Summary.

Conversations with U. K. on Trusteeship

In technical level conversations on October 22 on the remaining differences between the U. S. and the U. K. with regard to draft terms of trusteeship for the British African Mandates, it was agreed that, except for the wording of Article 2, which designates the administering authority, and the key question of monopolies, the U. S. would not take the initiative in the GA in raising and pressing substantive amendments on the several points of disagreement still remaining. The U. S. would be free, however, to support proposals by other Delegations in line with the original U. S. position on these several points.\(^{43}\) This followed the lines of earlier discussions in Washington between the British Embassy and the Department.

With regard to Article 2, both groups agreed to consider a possible wording to the effect that the administering authority is designated “under the international trusteeship system”. The U. K. representatives held strong objections to the proposed U. S. wording “on behalf of the United Nations.”

The basic remaining difference on the monopolies was whether the prior approval of the Trusteeship Council should be required for the establishment of monopolies in trust territories. The U. K. representatives strongly opposed such a provision largely on the grounds that it would act as an effective bar to the economic development of trust territories and to the general advancement of the inhabitants. No agreement was reached on this point; the discussions will continue tomorrow.

AUSTIN

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Editorial Note

In a meeting held on October 22, 1946, with representatives of the State, War, and Navy Departments, President Truman stated that the form of a contract on trusteeships would be agreed upon by the

\(^{43}\) Similar understandings were reached with the French on October 25 (telegram 708, October 25, from New York, File No. 501.BB Summaries/10-2546) and the New Zealanders and the Belgians on October 23 (telegram 718, October 28, from New York, File No. 501.BB Summaries/10-2846).
United Nations first, and that the United States would then offer the islands formerly under Japanese mandate for trusteeship under that form. In response to the statement by Secretary of the Navy Forrestal that he wanted to make certain that the terms of the arrangement would permit the Navy to maintain adequate bases, Secretary of State Byrnes gave assurances that no changes in the United States proposal would be accepted without the approval of the President or the Secretary of State. See James F. Byrnes, Speaking Frankly (New York: Harper and Brothers, 1947), pages 219–220; Walter Millis, editor, The Forrestal Diaries (New York: The Viking Press, 1951), pages 213–214. Cf. Foreign Relations, 1945, volume I, pages 350–351. For the public statement on this subject which the President made on November 6, 1946, see page 674.

501.BB/10–2346: Telegram

Senator Austin to the Secretary of State

SECRET US URGENT New York, October 23, 1946—11:30 p. m.
[Received October 24—12:05 a.m.]

702. For Hiss and Green from Gerig. Reference my telegram 691 of October 22. Second meeting was held today with British experts re monopolies question in trust territories, Stinebower and Fowler assisting. Difficulty still remains question of prior approval by Trusteeship Council. British representatives informed us that present instructions prevent them accepting any provision requiring such approval. Following text for Article 10(c) suggested by British experts:

"Where the interests of the economic advancement of the inhabitants of Tanganyika 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 any non-governmental agencies to carry out the purposes of this clause, the administering authority shall not discriminate on grounds of nationality against other members of the United Nations; and that in every case in which use is made of the powers conferred by this clause the administering authority shall immediately report to the Trusteeship Council a full explanation of the circumstances and the reasons why the measures taken are considered necessary."

Above text not cleared with British delegation or with London. British representatives in sending to London for instructions desire to know reactions of United States to above draft proposal. We are presenting it for consideration of delegates tomorrow. [Gerig.]

Austin
Minutes of the Tenth Meeting of the United States Delegation, New York, Hotel Pennsylvania, October 25, 1948, 9 a.m.

SECRET

[Here follow a list of names of persons (26) present and the discussion on several agenda items.]

Trusteeship Discussions

Mr. Bloom reported that the Trusteeship Committee of the Delegation had discussed the trusteeship problem for a long time on October 24 but could not come to any conclusion. They felt that until a statement regarding the U.S. position on the Pacific Islands was available, the Delegation could not come to any final decision. He therefore wished to request that the Delegation should send another message to Washington requesting additional instructions on the Pacific problem.

Mr. Dulles concurred with Mr. Bloom and cited the South African question. He pointed out that the Delegation could not have a decision on whether the situation should be investigated because if it were to be proposed that the U.S. annex the mandated islands, then the South African precedent might be used to provide for an inspection. On this inspection group might be all the permanent members of the Trusteeship Council. He asked, therefore, how the Navy would like to have Soviet representatives inspecting Pacific Island bases. In other words, he said, the Delegation does not want to be embarrassed. He continued that the question of monopolies was similarly complicated for the reason that the Navy wanted to establish trade monopolies for Americans on Pacific Islands because they thought that if foreigners were allowed in, they would photograph the islands and therefore endanger security.

Mr. Dulles inquired how, if these views of the Navy were correct and were the U.S. Government's position, how the British proposals for a monopoly in Tanganyika could be opposed. The United States was incapable of establishing a position on these questions until the American Pacific Islands position was defined. He said that he and Mr. Bloom were in agreement that the United States practically had to abstain until a directive came from Washington.

Mr. Ross reported that the message which had been sent by the Delegation was being considered in the Department through conversations between Mr. Byrnes, Mr. Forrestal and the President. Apparently no conclusion had been reached yet. Now Mr. Byrnes had gone to

43 For the Delegation's discussion of the South West Africa question at the Delegation meeting, see Minutes of the Fourth Meeting, October 21, 10 a.m., p. 608.
South Carolina for two or three days. Mr. Ross said if it was agreeable he would send a further message pointing out that it was the decision of the U.S. Delegation that until the American position on the Pacific Islands was defined that the Delegation could not go to work on the trusteeship question.

Senator Austin inquired whether the Navy had receded from its original position and Mr. Ross said he did not know.

Mr. Bloom inquired whether any consideration had been given to consulting the Chairmen of the Committees of the Senate and House. From what he had heard on the Hill about this question, committees of both Houses were very much interested in the Pacific Islands question. He thought that if a decision were made without these committees being at least informed, and preferably consulted, that there would be considerable difficulty. He would like to have the Secretary of State informed that the various chairmen of the military committees should be consulted on this question. Senator Austin said he knew that the military committee of the Senate would dig into this subject thoroughly. Mr. Bloom commented that if Mr. Vinson was not given a chance to say something on this question he would be very much displeased.

Senator Austin suggested that there would probably be some more informal work done before Monday and it might be well to reach the respective chairmen by telephone and arrange an appointment on Monday. Mr. Bloom pointed out that the chairmen of the various committees had gone over these questions year after year whereas the Secretaries of State only picked them up at the time they entered office. He said there were many questions to which a great deal of consideration had been given over the years.

Mr. Fahy said he supposed there was a difference between annexation of territories for military bases as provided in a peace treaty and annexation of a mandated territory as was involved in the case of South West Africa. Mr. Dulles pointed out that in this connection consideration was being given only to the mandated islands and it was this on which clearance was needed.

Senator Connally remarked that this was simply because other nations had interests in these islands. Mr. Dulles replied this was the case and that also involved was a substitution of the United Nations for the League of Nations. Mr. Dulles said that if there was an agreement, as he hoped there would be, on a strategic trusteeship for the mandated islands, the Navy was going to be very stringent in what it would accept in the agreement. Mr. Dulles did not want the Delega-

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4 "See letter from the Acting Secretary of State to the Director of the Bureau of the Budget (Webb), December 3, p. 695."
tion to be in the position of opposing in someone else's trust agreement what was going to be included in a United States agreement. He emphasized that he and Mr. Bloom were in full agreement on the need for instructions and clarifications of the United States position.

[Here follows discussion of a proposed schedule for attendance by delegates at the next five Plenary Sessions.]

890.0146/10–1846

Memorandum of Conversation, by the Assistant Chief of the Division of British Commonwealth Affairs (Richards)

SECRET

[WASHINGTON,] October 25, 1946.

Participants: Mr. Reid, First Secretary of the New Zealand Legation
Mr. Hickerson, EUR
Mr. Richards, BC

Mr. Reid called at his request to explain the New Zealand position regarding Article X (4) of the revised draft trusteeship agreement for Western Samoa.

Mr. Reid stated that the revised wording represented no change in New Zealand policy as regards future negotiations with the United States and with other members of the British Commonwealth, especially the United Kingdom and Australia, looking toward defense arrangements in the South Pacific. He stated that New Zealand is willing to undertake discussions along such lines at an appropriate time.

Mr. Reid was informed that the revised draft appeared to be acceptable to the Department and that the Army and the Navy would be advised of the changed wording.45

501.BB/10–2346: Telegram

The Secretary of State to Senator Austin

SECRET

WASHINGTON, October 29, 1946—7 p. m.

255. For Gadel. Urte702, Oct. 23. 1. British suggestions to amend Article 10c or to substitute short general statement of principle for

45 Approval of the new wording was given by the War Department on October 28 and by the Navy Department on October 29 (two memoranda for the files by Mr. Richards dated October 28 and 29, respectively, File Nos. 811.2459/10–2846).

Final talks between the New Zealand Legation and the Department on the draft trusteeship agreement for Western Samoa took place on October 25 and 28 (memoranda of conversation not printed, File Nos. 890.0146/10–1846 and 890.0146/10–2846, respectively). In the end the main question related to the degree of support on the draft agreement New Zealand could expect from the U.S. Delegation at the General Assembly. Mr. Hiss described the position of the United States as outlined in conversations with representatives of the British Embassy on the same general question, October 11–16 (see memoranda of conversation of even dates, pp. 641–642 and 644–650).
Articles 9 and 10 (telephoned Gerig to Green Oct 28) not satisfactory to Dept.

2. If Gadel considers modification necessary of Dept's original position favoring prior approval of other monopolies by Trusteeship Council, Gadel might suggest version requiring that any proposed monopoly be submitted to Trusteeship Council or its designee and should be considered approved if not disapproved within a specified period such as, for example, 60 days. The latter version would meet British objection that Trusteeship Council approval would unduly delay action and discourage capital from entering area.

3. If not possible to obtain British agreement to version suggested in para. 2, Dept suggests accepting modification of Article 10c proposed by British (urpel 702) if rephrased as follows:

"Where the interests of the economic advancement of the inhabitants of Tanganyika 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 any non-governmental agencies to carry out the purposes of this clause, the administering authority shall not discriminate on grounds of nationality against other members of the United Nations; and that in every case in which use is proposed to be made of the powers conferred by this paragraph the administering authority shall report to the Trusteeship Council or its designee for consideration a full explanation of the circumstances and the reasons why the measures proposed to be taken are considered necessary. Such report shall be submitted at least blank days prior to any final decision by the administering authority."

Sixty days might be considered reasonable.

4. Dept aware British objections to prior approval by Trusteeship Council of other monopolies are based on both legal and practical grounds. Dept feels, however, British objection on legal grounds to granting Trusteeship Council right of "approval" could be met under broad scope of Article 87 (d) of Charter of UN by insertion of appropriate provision in trusteeship agreement. Administering authority could legally agree therein to accept "decision" or "recommendation" of Trusteeship Council. Dept willing not to force issue on legal authority being granted Council in trusteeship agreement and believes wording in para. 2 should satisfy British practical objections.

5. British experts' suggested alternate proposal to consolidate detailed provisions of Articles 9 and 10 into single statement of general principle appears even more undesirable than the mandate provisions and is subject to uncertain interpretation.48

Byrnes

48 A U.S. Delegation working paper of even date, not printed, written after this telegram was received in New York, analyzes in some detail the several pro-
Memorandum of Conversation, Between Members of the United States and Soviet Delegations to the United Nations

SECRET

[NEW YORK,] October 31, 1946.

Participants:  Mr. Gromyko, Mr. Novikov, Mr. Stein, of the Soviet Delegation
              Mr. Bloom, Mr. Dulles, Mr. Yost, Mr. Gerig

At our invitation, the Soviet Delegates took lunch with us today at the University Club to consider various questions which we thought might arise in the trusteeship discussions at the Assembly. As we had not had any reply from Mr. Gromyko to the memorandum which was handed to him by Mr. Johnson and Mr. Gerig on October 15, we thought it advisable to follow up on this matter and to discuss any other matters which might be of interest to the two Delegations.

Mr. Bloom asked Mr. Dulles to state some of the questions which particularly interested us. Mr. Dulles said that we might start by considering the views which we respectively held on the best way to consider the draft trusteeship agreements in the Fourth Committee. He thought it would be necessary, in any case, to have a Subcommittee and the question arose as to the size and composition of this Subcommittee.

Mr. Gromyko said that it would be desirable to have a rather small Subcommittee and Mr. Novikov added that it would be good to have a few days of general discussion by the whole Committee based on the Secretary-General’s report as to these trusteeship agreements.

Mr. Dulles then suggested that the Subcommittee might well be composed of about ten states, somewhat on the pattern of the projected Trusteeship Council. Mr. Gerig suggested that perhaps the Rapporteur of the Committee might be added and that the question might also arise as to whether the Subcommittee should be composed exactly as the Trusteeship Council, since that might prejudice the election of two or three of the states that might later be considered for election to the Trusteeship Council. It was generally agreed that such a Subcommittee composed generally along these lines would be desirable.

Mr. Dulles then suggested that the Committee might be composed...
of the five permanent members of the Trusteeship Council, the other states submitting trust agreements if they are not among the five, and that would leave two or so to be added.

Mr. Gromyko thought that if the Rapporteur was Czechoslovakia, that would account for one, and that one of the Arab states might be another. Mr. Novikov suggested India, but Mr. Gromyko did not feel that that would necessarily be a wise selection.

Mr. Gromyko then raised the question of what our view was concerning “states directly concerned”.

Mr. Dulles said that they were familiar with our view, as stated in the memorandum, namely, that we hope it will be possible for all to agree on a simple procedure by which a formally signed agreement by certain states will not be necessary. He thought this was entirely feasible if we could get a Subcommittee composed as suggested before since this would give each of the five powers ample opportunity to make further suggestions or amendments. He added that the United States, as they well knew, had already made a number of suggestions to the mandatory powers and that some of these suggestions were included in the revised drafts.

Mr. Gromyko said that it was difficult to see how Article 79 could be interpreted as not requiring a formal agreement by certain states directly concerned. Then after the formal agreement was concluded, it would be necessary under Article 81 for the Assembly to approve such an agreement.

Mr. Dulles said that that was undoubtedly one possible procedure and that we had, ourselves, at one time felt along the same line. More recently, however, we felt that another procedure would be equally valid and we felt strongly that it would be necessary to adopt a simpler procedure if we were to get a Trusteeship Council at all this year. We certainly did not wish to do anything which was contrary to the Charter, but felt our proposal was entirely consistent with the Charter.

Mr. Bloom said that if we have a formally signed agreement, the question might arise as to completing such a formal agreement by some form of ratification and that this would certainly take some time. When Mr. Novikov said that an executive agreement might be sufficient, Mr. Bloom said that even an executive agreement in our system requires a joint resolution of Congress, that Congress is not now in session, and that such a procedure would certainly delay the establishment of the Trusteeship Council. Mr. Bloom added that a Subcommittee composed as previously suggested would, in Parliamentary practice, be entirely feasible since all the members could indicate their
position in the Subcommittee and the report could be made on behalf of all of them.

Mr. Gromyko then asked Mr. Dulles to reply to a specific question, namely, whether the United States would consider that the Five Powers were “states directly concerned” in all mandated territories.

Mr. Dulles asked Mr. Gerig if we have a position on this general question as to who might be regarded as “states directly concerned” in case it came to a vote.

Mr. Gerig said that he thought our position was that if it became necessary to specify “states directly concerned” it would have to be done by a vote of the General Assembly, probably by a two-thirds vote. He said he did not know if we had a definite position because we had hoped the question would not arise. But he thought that we felt that the Five Powers, because of their special position on the Trusteeship Council as well as the Security Council might be in a position to put forward special claims to be states concerned in the draft trusteeship agreements which would be brought before this session of the Assembly. Mr. Yost said that that was also his impression.

Mr. Dulles said that that was also his impression and that we would try to give them a more definite reply if they desired it, which they did.

Mr. Dulles said that they knew, of course, that the United States has a special treaty position which was different from that of the Soviet Union and China, namely, that the United States was one of the Principal Allied and Associated Powers in whose favor the mandated territories had been renounced by Germany at the end of the First World War. He said that this was not necessarily a special position that we would emphasize, but he thought it should be mentioned.

Mr. Stein said he thought the Treaty of Versailles mentioned “Allied and Associated Powers” and not “Principal Allied and Associated Powers”. Mr. Gerig said that he was quite certain that the word “Principal” stood in the text and Mr. Stein acknowledged that Mr. Gerig was probably right.

Mr. Stein then said that, in their view, the terms proposed by the mandatory powers were very inadequate and unsatisfactory. Mr. Dulles said that we also regarded them in their original form as quite inadequate but that he thought the revised drafts which were not yet in circulation would be found to be much better. As he had said before, the United States had made a number of suggestions, many of which were accepted, and it was on that account that we felt they were substantially pretty good, although they were capable of some improvement.

The discussion was friendly and cordial throughout. The Soviet Delegation did not, however, give a clear indication that they were
yet ready to accept the simplified procedure which we suggested. It
did, however, appear that their first objective was to be classified in
relation to all trust territories as a "state directly concerned" and that
to get this they might make some concessions.48

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**Memorandum of Telephone Conversation, by the Director of the Office of Special Political Affairs (Hiss)**

[WASHINGTON,] November 1, 1946.

Participants: Mr. John Foster Dulles—Gadel
Mr. John C. Ross—Gadel
Mr. Alger Hiss

After the morning meeting in Mr. Acheson's office I called Mr.
Dulles and Mr. Gerg and told them of the decisions which had been
reached as a result of consideration of New York's telegram 741 of
October 31, 9 p.m.49 I explained that it was the Department's position
that in the event our proposal is not accepted that claims to be states
directly concerned in trusteeship agreements be waived by all other
interested member states for the purposes of the present Assembly, we
should take the position that the Assembly should refuse to designate
any except the respective mandatories as being states directly con-
cerned. I added that this meant we would vote against any proposal for
a general formula which included additional states directly concerned
and against any motions recognizing individual states as directly con-
cerned. I explained that the Department felt that this was a justifiable
interpretation of the ambiguous language of the Charter and I pointed
out that neither at San Francisco nor at London had it been possible
to arrive at an agreement of what states should be regarded as directly
concerned or upon any principles for determining this question. I
pointed out that it can be argued that under Article 77 (1) (c) a sov-
eign voluntarily agreeing to place some of its territory under trustee-
ship would presumably be the only state directly concerned. If the
general language of the Charter can mean this in such a case it can
mean it also also in the case of mandates. I said that the Department
felt that if a number of states, including the Soviet Union, were to be
recognized as states directly concerned there was every likelihood that
no agreements would be approved certainly at this Assembly and that
the trusteeship system would be further indefinitely delayed. I added
that the Department felt that there would probably be widespread

48 The substance of this memorandum was summarized and sent to the Depart-
ment in telegram 741, October 31, 9 p.m., not printed.
49 See footnote 48, above.
support among the smaller powers in as much as our proposal meant resistance against extension of the veto power in the trusteeship field and in the General Assembly. We thought that the mandatory states should be able to accept our point of view for the reason that by the power they unquestionably have to refuse to adopt unacceptable suggestions of the Assembly they can by their own commitments to states they consider directly concerned give these other states all the protection they would have if they were so designated by the Assembly itself. I added that no decision had been reached by the Department as to the position we would take if despite our opposition one or more states were to be designated as directly concerned in any particular agreement. We might at that time decide to assert our own claims in view of the decision of the Assembly, a decision which we would regard as unwise but as necessarily changing the situation confronting us. Of course, if despite our opposition a general formula was passed which included us, and we doubt the likelihood of any formula which would exclude us being adopted, then we would accept the decision of the Assembly and regard ourselves as being a state directly concerned.

Mr. Dulles told me that he found himself substantially in agreement with the Department’s point of view. He feels that the Russians are planning a campaign of obstruction to the proposed agreements. They have indicated they will emphasize the need for provisions looking toward early independence which would be unacceptable to the mandatory powers. If the Russians have a veto right they would then be able to prevent the establishment of the trusteeship system. Mr. Dulles said that he was inclined to feel that although the establishment of the trusteeship system is important, that establishment is really of less substantive importance than is the propaganda issue which the Russians are raising about what states are really the defenders of the dependent peoples. He said that once the trusteeship agreements were approved there will be relatively little of substance which the Trusteeship Council will itself accomplish and, as in the case of the mandate system, the administering powers will be responsible in fact for what goes on in their territories. He regards Chapter 11, which relates to dependent territories generally and of course covers a far greater area of the world’s surface and a far greater population group than does the trusteeship system, as more important than the trusteeship system itself. He indicated that he was anxious that we not get in a position of appearing to rush through the Assembly against Russian opposition agreements which are satisfactory to colonial powers. He said he thought the Russians would try to class us with the colonial powers.

Mr. Dulles said that as a lawyer he cannot conscientiously argue strongly for the Department’s interpretation of the Charter. In his
opinion the language, by using the phrase "the states directly concerned, including the mandatory powers in the case of territories held under mandate", means at least a group larger than the respective mandatory states. However, he agrees with the practicable reasons for urging the Assembly to avoid determining that any state other than the respective mandatories are directly concerned. He said that he would wish promptly to talk to the Russians and the mandatory states on the basis of the Department's views and that perhaps after that had been completed he might wish to come down to confer on the whole matter with the Department. I pointed out that Mr. Cohen would be in New York by Sunday or Monday and suggested that Mr. Dulles and Mr. Gerig keep in touch with him.

Mr. Gerig told me that in recent talks with the British the British have indicated more sympathy than heretofore with our suggestion that the Charter be interpreted as including only the mandatory with respect to each trust territory. He thought that in view of these recent indications it might be possible to get the British to go along with us. Mr. Dulles doubted this and was not at all sure that we could avoid having a number of states designated. He said that the possibilities for logrolling in this connection are evident and said that he was sure that the Russian group of states and the Arab states would oppose our position. He thought it possible also that Chile and perhaps some other Latin American states would do the same. If the mandatories also opposed us, the possibilities for action contrary to our views would be considerable. Moreover it takes only one-third plus one to block the approval of a trusteeship agreement itself.

501.BB/10-3146: Telegram

The Secretary of State to Senator Austin

SECRET

WASHINGTON, November 1, 1946—8 p. m.

262. USdel. for Gadel. Reference your telegram 741 of October 31, 9 p. m. Confirming the telephone message from Hiss to Dulles and Gerig of today, Department believes Soviets and other Delegations should be told that if members interested in particular trusteeship agreements do not accept our proposal to waive for purposes of this Assembly claims to be states directly concerned and attempt is made to have Assembly define this term we will take the position that no state other than the mandatory should be determined by the Assembly to be a state directly concerned in the case of any of the proposed agreements. We would accordingly vote against any proposed general

* See footnote 48, p. 668.
principle of interpretation inconsistent with this view and would also vote against the designation of any individual member state, other than the mandatory in each case, as a state directly concerned. Department considers the Charter can appropriately so be construed and feels strongly that this is the only practicable interpretation if the issue is forced on the Assembly. Any other interpretation would be an unnecessary extension of the veto principle which has no place in the deliberations of the General Assembly.

It seems to us that the mandatory powers should be willing not to oppose us on this issue for the reason that it leaves open to each mandatory the privilege of consulting such other states as it desires and refusing to give its consent to any amendment proposed by the General Assembly which it is unable to agree to or which is unacceptable to any of the states the mandatory may itself consider bound to regard as states directly concerned.

In the event, which the Department considers unlikely, that the Assembly should nonetheless designate one or more particular states as directly concerned in any given trusteeship agreement, Department will consider position the United States should take with respect to possible assertion by it of a right to be similarly designated as a state directly concerned. Our present position is that we are prepared to waive for the purposes of the present Assembly our claims to be a state directly concerned and we urge all other member states to do likewise. If this appeal is rejected by any member we urge the Assembly to refuse to designate any state other than the respective mandatories. If, nonetheless, the Assembly does proceed to designate one or more additional states as directly concerned we will have to consider our own position as a possible claimant in the light of such action, which we will consider unwise, by the Assembly.

BYRNES

501.BB/11-746

Memorandum Prepared in the Division of Dependent Area Affairs

SECRET

[WASHINGTON,] November 6, 1946.

EFFECTS OF THE CONCLUSION OF TRUSTEESHIP AGREEMENTS ON UNITED STATES CONVENTIONS WITH THE MANDATORY POWERS

THE PROBLEM

The strong possibility that the “B” Mandates in Africa as well as the mandated territory of Palestine may be placed under the trustee-
ship system of the United Nations suggests the need for a careful consideration of the future status of the conventions between the United States and the respective Mandatory Powers. In view of the fact that the United States Delegation to the forthcoming meeting of the General Assembly will probably be called upon to indicate approval or disapproval of draft terms of trusteeship for each of the "B" Mandates, decisions on the following questions should be reached by this Government prior to the opening of the General Assembly:

1. If terms of trusteeship for the "B" Mandates should be presented, as is now contemplated, to the General Assembly by the Mandatory Powers after consultation with the particularly interested states rather than as formal agreements to which the United States and other states directly concerned would be parties, and if the General Assembly should approve these terms, what would be the status of the conventions between the United States and the Mandatory Powers?

2. If the Delegation should vote for the approval of terms of trusteeship for a territory now covered by one of the United States conventions with the Mandatory Powers, would such an affirmative vote constitute the "assent" of the United States to modification of the terms of mandate within the meaning of the provision which is included in each of these conventions in the following sense:

"Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate, as recited above, unless such modification shall have been assented to by the United States."

3. If the answer to Question 2 is in the affirmative, would this imply that the conventions with the Mandatory Powers would, in effect, be supplanted by the terms of trusteeship for the various trust territories?

4. Does it appear advisable to take specific steps to either continue in force the conventions with the Mandatory Powers or to terminate these conventions? If so, what procedures might be followed?

DISCUSSION

[Here follows detailed discussion of the problem with particular attention to the nature of American rights in the mandates and the effect of the replacement of the terms of the mandates by the terms of the proposed trusteeship agreements.]

The Assent Clause

As indicated above, if the United States Delegation to the General Assembly should vote for the approval of terms of trusteeship for a territory now covered by a convention with the Mandatory Power,
such an affirmative vote would constitute the assent of the United States to modification of the terms of mandate within the meaning of the provision included in each one of these conventions. It is difficult to see how the United States could approve terms of trusteeship, and at the same time maintain that it was not assenting to a modification of the terms of mandate. It is believed that such an exercise of the assent clause is also valid in terms of our domestic constitutional law. The conventions do not specify how the assent is to be given. It may also be pointed out, that during the period of active operation of the mandates system, the United States acting through the Department of State on several occasions gave its assent to modifications of the terms of mandate. In international discussions involving the assent clause, the United States has never taken the position that the assent of the United States involved anything else than an expression of the Executive Branch. Moreover, by its consent to ratification of the Charter the Senate plainly endorsed the trusteeship system under which, by Article 77, it is expressly envisaged that the mandates may be placed. The Senate insisted on no reservations as to the mandates conventions and asserted no special prerogatives with respect to trusteeship agreements for the territories under mandate.52

CONCLUSIONS

1. If United States Delegation votes in favor of the terms of trusteeship for the "B" Mandates, the rights of the United States and its nationals will depend upon the terms of trusteeship rather than upon the terms of mandate as specified by the conventions with the Mandatory Powers.

2. If United States Delegation votes in favor of the terms of trusteeship, this will constitute the assent of the United States to modification of the terms of mandate.

3. If United States Delegation votes in favor of the terms of trusteeship, the conventions with the Mandatory Powers will, in effect, be supplanted [supplanted?] by the terms of trusteeship for the various trust territories.

4. If the United States Delegation votes against the terms of trusteeship and if the terms of trusteeship do not enter into force, the rights of the United States and its nationals under the conventions with the Mandatory Powers are continued.

5. If the United States Delegation votes against the terms of

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52 It may be noted that this discussion is without reference to the Japanese Mandated Islands. In December the Legal Adviser's office began a detailed study as to what form of Congressional approval was required for the U.S. draft trusteeship agreement for the Japanese Mandated Islands or any Japanese Islands that might be included in the strategic trust territory.
trusteeship and if the terms of trusteeship nevertheless enter into force, it would probably be legally impossible for the United States successfully to maintain that such of its previous rights under the conventions which are inconsistent with the terms of trusteeship are still in force. The United States would, of course, have all the rights under the trusteeship agreements of a Member of the United Nations.

RECOMMENDATIONS

1. If the United States Delegation votes in favor of the terms of trusteeship for the "B" Mandates, no specific action to terminate the conventions with the Mandatory Powers seems necessary. It is unnecessary because, if the terms of trusteeship come into force, they will supplant the terms of mandate and the United States’ rights will be adjusted accordingly.

2. If the United States Delegation does not approve the terms of trusteeship for the "B" Mandates and if these terms do not go into force, no action with regard to the conventions is required. In such a circumstance, the rights of the United States and its nationals under the conventions would be retained.

3. If the United States Delegation votes against the terms of trusteeship and if these terms nevertheless enter into force, it would seem politically undesirable and probably legally impossible for the United States to seek to maintain such of its rights under the convention as may be inconsistent with the terms of trusteeship. The United States should accept a two-thirds vote of the General Assembly approving terms of trusteeship as binding and should regard its previous rights as having been adjusted accordingly. For the reason given under paragraph 1 above, it should not, however, take steps to terminate the conventions.

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501.BB/11-646: Telegram

The Acting Secretary of State to Senator Austin

SECRET U.S. URGENT WASHINGTON, November 6, 1946—1 p.m.

271. USdel. The President will make the following announcement today:

"The United States is prepared to place under trusteeship with the United States as the administering authority, the Japanese Mandated Islands and any Japanese Islands for which it assumes responsibilities as a result of the second World War. In so far as the Japanese Mandated Islands are concerned this Government is transmitting for information to the other members of the Security Council and to New Zealand and the Philippines a draft of a strategic area trusteeship agreement which sets forth the terms upon which this Government"
is prepared to place those islands under trusteeship.\textsuperscript{53} At an early date we plan to submit this draft agreement formally to the Security Council for its approval.\textsuperscript{54}

In accordance with this announcement I have sent this morning to the missions of the other members of the Security Council and of New Zealand and the Philippines, for the information of their Governments, copies of the draft trusteeship agreement under which our Government is prepared to place the Japanese Mandated Islands under trusteeship. Copies of the draft agreement will be forwarded to the Delegation which may be made available to other Delegations, the press, and the public.

I suggest that at an appropriate time you read the President’s announcement into the records of the General Assembly or of its Fourth Committee.

\textbf{Acheson}

\textit{Editorial Note}

On November 7 the United States representative on the Fourth Committee, Mr. Dulles, reading President Truman’s statement of November 6, announced to the Committee that the United States was prepared to place under trusteeship with the United States as the administering authority the Japanese mandated islands and any Japanese islands for which it might assume responsibilities as a result of World War II. This declaration was accompanied by a general statement to the Committee (approved by the Department in telegram 269, November 5, not printed, File No. 800.014/11–446) outlining the position of the United States regarding the establishment of a trusteeship system with particular reference to the implementation of Article 79 of the Charter.

After describing the problems involved in attempting a definition of the term “States directly concerned”, Mr. Dulles continued:

“In the light of these considerations the United States Delegation urges that the Assembly, and this committee on its behalf, should not become involved in all these questions. We prefer a practical procedure which, in harmony with the letter and spirit of the Charter, will, as quickly as possible, permit the establishment of the trusteeship system and the giving to the inhabitants of the trust territories the benefit of that system. Concretely, we propose:

“1. That a small sub-committee of this committee should be established to consider the draft trusteeship agreements before us and to negotiate on our behalf in relation to them;"
"2. That all states which are interested be given the opportunity promptly to submit to this sub-committee and to the mandatory power involved their suggestions regarding these proposed trusteeship agreements;

"3. That after hearing such suggestions and after consultation with the sub-committee, the mandatory power concerned shall promptly advise the sub-committee as to the acceptability of those suggestions;

"4. That the agreements reflecting any such modifications shall then be considered by this committee and referred by it to the General Assembly with the recommendation of this committee, in each case, as to approval or disapproval.

"Under this procedure", Mr. Dulles went on, "every state which is interested, whether or not technically a state ‘directly concerned’, whether it be large or small, whether it be near or far, will have an equal opportunity to present its views. All would, however, without prejudice to any rights they may possess, now forego formal classification as being, or not being, states ‘directly concerned’ and would forego formal signature of the preliminary agreement, accepting the verdict of a two-thirds vote of the Assembly." (United Nations, Official Records of the General Assembly, First Session, Second Part, Fourth Committee, Part I, p. 76. Hereafter cited as GA (I/2), Fourth Committee, Pt. I. Text of the complete Dulles statement on this occasion is found in Department of State Bulletin, December 1, 1946, pages 991 ff.)

Because of the wide range of subjects under consideration by the Fourth Committee at this time (there were three other items on the Committee’s agenda in addition to eight proposed trusteeship agreements), the Fourth Committee on November 14 appointed two sub-committees, Sub-Committee 1 taking over the trusteeship agreements as its sole concern. Sub-Committee 1 organized itself on November 15, and immediately began examination of the agreement proposed by New Zealand for Western Samoa. The summary record of this sub-committee is found in United Nations, Official Records of the General Assembly, First Session, Second Part, Fourth Committee, Part II. Hereafter cited as GA (I/2), Fourth Committee, Pt. II.

For an analytical summary in pertinent part of the work of the Fourth Committee, its Sub-Committee 1 and the General Assembly on the trusteeship question during the second part of the first session of the General Assembly, with detailed citations to the official record, see United Nations, Repertory of Practice of United Nations Organs (1955 edition), volume IV, pages 175–300. Hereafter cited as Repertory of UN Practice.
Memorandum of Conversation, by Mr. Charles W. Yost of the United States Delegation

SECRET


In the course of a conversation yesterday afternoon I asked Mr. Gromyko whether his Delegation had given further consideration to the suggested procedure for dealing with the question of "states directly concerned" which had been transmitted to them in an aide-mémoire a few days ago and which Mr. Dulles had explained more fully at our recent luncheon. Mr. Gromyko said that his Delegation is still studying this question. He felt, however, that it would be extremely difficult for them to accept the US proposal in view of the Soviet belief that the terms of Article 79 of the Charter require formally signed agreements among the "states directly concerned".

Mr. Gromyko asked whether we had given further consideration to the question he had raised at our luncheon as to whether the United States believes that the five principal powers are "states directly concerned" in all of the trusteeship agreements which have been presented. I replied that it is precisely because we feel that an attempt to define this term will lead to endless controversy and debate, and I cited the Indian claim to be a "state directly concerned" in the Tanganyika agreement, that we were proposing a procedure which would avoid this difficulty and enable the Assembly to set up the Trusteeship Council at this session. I pointed out that our procedure would accord to the Soviet Union, as well as to ourselves and to any other state which might consider itself directly concerned, ample opportunity to present its views to the proposed subcommittee, to the full committee and to the Assembly. Mr. Gromyko continued, however, to contest the constitutionality of our procedure and concluded our conversation by stating that, while it was, of course, most desirable to set up the Trusteeship Council as soon as possible, it would nevertheless be better not to do so at all, than to do so on an unsound constitutional basis and by virtue of trusteeship agreements which may not be satisfactory to all the "states directly concerned".

The Acting Secretary of State to Senator Austin

SECRET

WASHINGTON, November 8, 1946—7 p. m.

276. USdel. 1. After comprehensive review of monopoly problem in pending trusteeship agreements in which both geographic and eco-
nomic divisions participated under Thorp's guidance, Dept feels that its basic position (Dept 255 Oct 29) is sound in order to protect US interests in trust territories. Opposition to this position expressed consistently by other govts tends to confirm its real or potential importance.

2. Dept therefore recommends Gadel formally propose as amendment in Committee 4 substance of provision contained in paragraph 3 Dept 255.\footnote{Willard L. Thorp, Assistant Secretary of State for Economic Affairs-designate. }

3. Dept however appreciates Gadel's position in considering establishment of trusteeship system itself as of paramount importance. If this Govt's official position outlined in paragraph 2 should constitute sole reason for preventing mandatory powers agreement and therefore for delaying establishment of trusteeship system, Dept will at Gadel's request reconsider US position. Lines which such reconsideration might take will be suggested later by Dept. Until issue has been clarified on floor of Committee Dept feels that position indicated in its telegram 255 should be considered final one without any indication of further compromise.

4. Dept meanwhile wiring Wilcox in London re possibility of approach through other than office which has principally represented British viewpoint to date.\footnote{The reference is to Clair Wilcox, Director of the Office of International Trade Policy in the Department and at this time Chairman of the United States Delegation to the Preparatory Committee for the International Trade and Employment Conference then meeting in London (for documentation regarding this subject, see pp. 1263 ff.). As a result of the Department's action there ensued an exchange of telegrams between the Department and Mr. Wilcox which extended over a period from November 8 to November 21 (telegram 7623, November 8, to London, File No. 560.AL/11-1346; telegram 9843, November 13, from London, File No. 560.AL/11-1346; telegram 7768, November 18, to London, File No. 560.AL/11-1346; and telegram 9653, November 21, from London, File No. 560.AL/11-2146).

The premise stated by the Department in initiating the exchange in telegram 7623, November 8, was that "British insufficiency may be due to policy being shaped by Colonial Office. Latter appears unaffected by recent willingness other branches British Government including ForOff to subscribe to anti-monopoly principles." Mr. Wilcox was requested to discuss the matter "with such other officials", and in the same telegram was given a rather detailed background survey of the principal developments to date. (560.AL/11-1346)

The talks conducted by Mr. Wilcox in London in effect elicited no more than what was already known, namely that informally "no strong objections" to the United States position were entertained by the Foreign Office, but that formally the Foreign Office preferred to leave the question of the economic clauses of the trusteeship agreements "entirely" with the British Delegation to the General As-
INTERNATIONAL TRUSTEESHIP

SECRET

CANBERRA, November 8, 1946—noon.
[Received, November 8—10:38 a.m.]

264. ReDeptel 231, October 31 Australian Government’s reasons for refusing to accept our suggested alterations to draft New Guinea trusteeship agreement were outlined in Embtel 235, October 11. Embassy is confidentially informed that Australian delegation to GA is now under instructions to refuse to accept any amendments to draft as submitted.59

BUTLER

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The Chargé in the Soviet Union (Durbrick) to the Secretary of State

Moscow, November 12, 1946.
[Received November 12—10:51 a.m.]

4108. Pravda November 11th devotes column and half to 2 Washington despatches concerning Truman’s announcement of publication of American draft agreement for mandate over former Jap mandates, as well as full summary of draft agreement text.

Special Tass correspondent in New York dispatch comments on American plan as follows:

“Attention is given in political and journalistic circles to fact that Government of USA has made its announcement over head of allies on whom responsibility lies for peaceful settlement re Japan. Unusually broad scope of American plans likewise arouses surprise, as they include not only Pacific islands under Jap mandate but also any

semblably in New York “which includes expert on Tanganyika and which has been fully instructed.” At the same time the Foreign Office took occasion to “point out that proposals for US trusteeship Japanese islands contain no economic clause similar to US proposals for Tanganyika but only for economic equality among UN with an exception in favor of US as administering authority. Foreign Office indicates that disparity must be taken into account by New York delegation.” (Telegram 9653, November 21, from London, File No. 5601 AL/11-2146)

59 Telegram 231 read: “Australia’s draft trusteeship agreement for New Guinea presented to General Assembly follows original draft and incorporates none of our suggested amendments. ... Any information which you can obtain discreetly regarding Australian thinking on this question, particularly reasons for non-acceptance our suggestions and their probable attitude in General Assembly when question debated, would be helpful.” (71147/19-1546)

Repeated to New York for the United States Delegation as telegram 277, November 8, 7 p.m. (890.0146/11-846).

59 In telegram 266, November 8, the Ambassador in Australia cabled further: “Evatt informed me yesterday he is anxious to clear up all matters pending between U.S. and Australia. He specifically mentioned Manus Island, New Guinea and whaling.” (71147/11-846)
other Jap island which US desires to possess. At same time various comments are aroused by attempt of USA to make considerable part of Pacific Ocean with vast number of islands its strategic zone, which may be connected with plans for preparing a future war...

"Exceedingly broad formula re objectives towards which USA intends to extend its mandate is disclosed in certain measure by NY Herald Tribune which wrote November 7 that satisfaction of American claims would turn Pacific Ocean into American lake from San Francisco to Philippines...

"This paper writes that American proposal consists on satisfying army and navy which insist on full preservation of exceptional and secret rights re strengthening of air and sea bases in this region...

"NY Herald Tribune in November 8 editorial writes: 'If any other great power does not like this draft, it can impose veto on agreement, but in this event occupied territories will simply be transferred to our ownership by right of conquest and therein question will end.'"

Pouched to London and Paris.

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DURBROW

690.0146/11-1346: Telegram

The Ambassador in Australia (Butler) to the Secretary of State

SECRET

CANBERRA, November 13, 1946—9 a.m.

[Received 11:38 a.m.]

269. I was asked by Dr. Evatt to see him at his office yesterday. Counselor Russell accompanied me. Evatt discussed following matters:

(1). Manus Island. Evatt insisted that he discussed this question with Secretary Byrnes in presence of Messrs. Hickerson and Searls, though he does not say just when this occurred last July nor exactly what was agreed upon, if anything. He expressed desire for arrangements for mutual use of facilities there and for discussion as to financing same, saying that, to satisfy his Parliament, Australia must have arrangements for at least token right for mutual use of facilities in at least one American base.

(2). New Guinea trusteeship agreement. Evatt expressed feeling that suggested American revisions were altogether too elaborate, and, as such, would lead to future complications; that Australia could not agree to most of them. He desired agreement along broad lines. He felt that suggested revisions simply reiterate obligations in UN Charter which had already been accepted in letter and spirit by Australia and were therefore redundant and in one or two cases, notably anti-slavery clause, even insulting to Australia. He especially referred to desire of Australia to use discretion in applying matters of admission into

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* Omissions appear here and in the following paragraphs in the source text.
mandate of certain races, and to govern same as a C mandate in the same way as part of Australia. He did not believe that the "open door" could apply to a C mandate. He said that Australia would prefer to go on under the old pre-charter arrangement rather than accept most of the suggested revisions to the New Guinea trusteeship agreement. He pointed out that the Australian attitude in the New Guinea trusteeship agreement was in line with recent US attitude re the Marshalls, Carolines and Marianas which Australia was prepared to support. As regards "states directly concerned" he said Australia did not oppose regarding USA as one such, mentioning inferentially that USA based its claim to be such on rights acquired in the Versailles and other treaties. He expressed formally his belief that all trusteeship agreements should be submitted to all states directly concerned, though in each case their special interests must be as certain dand [garble] weighed, and he said that as regards the New Guinea agreement Russia had not been consulted as not being considered a state directly concerned. He said it was fortunate that the agreement was not one for a strategic area but was an ordinary one going to the General Assembly "where the veto was not in force." 61

[Here follows discussion of other subjects of interest in United States-Australian relations.]

**Butler**

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890.0146/11-2146: Telegram

_The Ambassador in the Soviet Union (Smith) to the Secretary of State_

Moscow, November 21, 1946.

[Received November 21—1:27 p.m.]

4195. After reviewing American plans for construction of Pacific bases, _Red Fleet_ November 19 major article by Ocherski "USA and

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61 This telegram was repeated to Secretary Byrnes at New York (attending the Council of Foreign Ministers) in Secdel 1154, November 14, 1 p.m. In a memorandum dictated at New York on November 15 Secretary Byrnes said: "Dr. Evatt did discuss with me his idea as to Manus Island. Hickerson and Searls were present.

"It was Evatt's thought that an arrangement could be made for our use of facilities at Manus Island in exchange for the right of Australia to use the facilities at Guam. My recollection is that Hickerson and Searls agreed to the use by Australia of facilities at some islands in which Evatt was not interested. We took the position that we could not answer as to Guam until I had conferred with Bevin as to the mutual use of facilities because I had previously discussed such a proposal with Mr. Bevin.

"Evatt correctly states the view he expressed at that time, namely, that Australia must arrange for the use of facilities in at least one American base in exchange for our right to use the facilities at Manus Island. We did not enter into a discussion as to financing the maintenance of facilities at Manus..."

(811.24590/11-1546)
Japanese mandated islands” comments as follows on American draft agreement for trusteeship over former Japanese mandated islands.

“USA is striving to retain former Jap islands in Pacific to set up powerful bases to maintain very strong Pacific fleet. What has brought this about? American military circles explain it by necessity for national defense; only simpletons can believe that construction of bases thousands of kilometers from US frontiers can be dictated by interests of national defense.

Admiral Sherman revealed true idea of American measures. He recently stated “if we control oceans our frontier will run along coasts of other countries... we can attack any target within radius of action of our air forces and other arms located on board our ships”. Thus Admiral Sherman openly admits US imperialist aspirations, and they are far from constituting interests of defense.

Above cited facts illuminate present US Pacific policy and reflect views of influential business and military circles, proponents of militarism and imperialism who prefer power politics to policy of international collaboration. Draft agreement now advanced by US for trusteeship over former Jap mandated islands is only part of general US policy in Pacific bases. This draft... is in flagrant contradiction with usages of international law and UN Charter. ...

“Even conservative American press regards draft plan as direct annexation of 15,000 Pacific islands under guise of trusteeship. ...

“American radio commentator Estelle Sternberger... opposes ‘US utilization of Pacific islands as aggressive act aimed at Soviet Union’. “American draft agreement... reflects policy of imperialistic elements which ignore international collaboration and seek to impose their will on others with aid of force”.

Dept please repeat Tokyo, Nanking.

SMITH

TO Files: US/A/M (Chr.)/24

Minutes of the Twenty-Fourth Meeting of the United States Delegation, New York, Hotel Pennsylvania, November 21, 1946, 9:00 a.m.

SECRET

[Here follow list of names of persons (33) present, and discussion of other items on the Delegation’s agenda.]

Trusteeship Agreements

Mr. Dulles continued that in Subcommittee I of Committee IV they were going through the draft trusteeship agreements in detail. The United States had a lot of fine suggestions but he had found that they were not included in the Pacific islands draft. He assumed that he should not press for inclusion in other trust agreements provisions that the United States would not accept in our agreements. Senator
Connally objected that this was exactly what he had had in mind when he had spoken earlier. Mr. Dulles gave as an example that the United States wished to introduce a statement that the administering authority was administering "on behalf of the United Nations". Also it was proposed to amend the statement that the trust territory could be administered "as an integral part of" the administering state to read "as if it were an integral part." However, this was not desired by other governments and the United States did not have this in its agreements because the Navy would not agree to it.

Mrs. Roosevelt said that if we thought certain things would improve matters for other nations and we thought that those things should be included in our agreements, then the Delegation had a responsibility to press its views. She said that she thought a significant remark had been made at a recent Delegation meeting when it was observed that we could disarm ourselves through our own people more quickly than any other way. She thought the way to do that was to give the impression that the military group in our own government was affecting policy decisions. She thought this impression would be given by United States action in this trusteeship matter. She thought that if the Delegation believed that it was right and good to have certain matters in other agreements, then it had an obligation to try to have those provisions agreed upon for ourselves. Mrs. Douglas said she wanted to support Mrs. Roosevelt because she was afraid that to hold back in this matter might wreck the United Nations.

Mr. Gerig thought that the difference between the strategic and non-strategic drafts was so great that a case could be made for presenting certain revisions in the non-strategic drafts. For example, we could press the case of a provision against monopolies, arguing against differential treatment and still not embarrass ourselves in regard to---

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The Delegation had just finished a discussion of the Fourth Committee's work regarding the proposal of the Government of South Africa to incorporate the mandated territory of South West Africa into the Union of South Africa. Describing opposition in the Committee to the South African proposal, Mr. Dulles indicated his desire to develop a moderate resolution under the sponsorship of the United States in order to head off the introduction of a resolution by India or Egypt "violently condemnatory" of South Africa, for in such a contingency "the United States would be in the position of having to vote for or against an extreme resolution". Mr. Dulles pointed out to the Delegation that "The United States' position was particularly delicate because the South Africans were taking the same position that the United States was taking in regard to the mandated Pacific islands, namely, that if the trusteeship proposal were turned down, the United States would hold on to them as a de facto matter. This was essentially what the Union of South Africa proposed." Shortly thereafter Senator Connally emphasized that "we must be very careful what was said in this connection because the United States potentially faced the same position." (US/A/M(Chir)/24) (For deliberations in the Fourth Committee on the question of South West Africa, see 52A (1/2), Fourth Committee, Pt. I., pp. 62–190, passim; the work of Sub-Committee 2 which handled the question may be found ibid., Pt. III, pp. 41–82, passim.)
our strategic area draft. He thought that the provision for administra-
tion on behalf of the United Nations was of secondary importance
and might be dropped.

Mr. Dulles said that he thought it was fundamental whether we
administered the islands in our own right or on behalf of the United
Nations, and also whether the territories should be administered as an
integral part of the United States. On both points he understood that
the Delegation’s hands were tied because the Navy refused to make
any agreements that contained such language.

Mrs. Roosevelt observed that the Navy was thinking only of the
interests of the Navy in this matter. She thought the Delegation had
to think of how the people of the country would feel.

Senator Austin asked Mr. Dulles whether he thought it would be
helpful to bring out the fact that United States’ policy was to keep
the territories under strategic area agreements only until the security
system of the United Nations was established.

Mr. Dulles said he would be delighted to be able to put forward
such a statement for it would clear the air greatly. He said that he had
planned to put forward a statement in connection with the Indian
proposal containing a delicate hint to the same effect and that he
might now consider changing it. However, he was not sure, nor was
Mr. Cohen, that such a statement would be cleared in Washington.
He said he thought it would have a great beneficial effect if Senator
Austin’s suggestion could be put forward.

Senator Austin said he had had a talk with General Romulo about
this question on the previous evening. He had found the Philippines
violently opposed to the United States position on the Japanese is-
lands. When he had told General Romulo, however, that the strategic
aspects would last only until the security system of the United Nations
was established, Romulo said that would make all the difference in
the world. Senator Austin thought that this fresh and unselfish
reaction was typical and important.

Mr. Dulles queried whether such a statement could be made. He
said it was his understanding that the Navy had yielded on the
trusteeship question with the understanding that there would be no
further dilution of the United States’ position. Senator Austin said
he would make a special effort to get this position cleared.

Mr. Dulles pointed out that at present the situation was reversed
from that in London where the United States was lined up against
imperialism. Now the United States was lined up with the colonial

* For statements by the Indian representative on the Fourth Committee to
the Committee on November 5 and 14, see GA (1/2), Fourth Committee, Pt. I, pp.
69–71, 109–111, and 115; actually the proposed Indian resolution was not intro-
duced until November 27, in Sub-Committee 2 (ibid., Pt. III, p. 47).
powers, the United Kingdom, France, Belgium and South Africa. He thought that on this side of the fence the United States would not carry abroad. Mrs. Douglas added that it would not carry at home either.

[Here follows discussion of other items on the agenda.]

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800.014/11-2846

Memorandum by Mr. Charles P. Noyes, Adviser on Security Council Matters to the United States Delegation to the United Nations

SECRET


MEETING ON TRUSTEESHIP

HELD IN MR. HERSCHEL JOHNSON’S OFFICE AT 10 A.M.

Present: Mr. Herschel V. Johnson, Charles P. Noyes, Gordon Knox, Joseph E. Johnson, Harding Bancroft, Hugh Borton and James Green

The meeting examined the proposed trusteeship agreement for the Japanese Mandated Islands, article by article, in connection with the draft commentary supplied by the State Department.

Preamble. It was agreed that the questions raised by the preamble were very delicate and were likely to be questioned most seriously by the Security Council. Several problems arose:

(1) Under what authority is the United States proposing this trust agreement?

(2) Is it possible to contend that the United States is the only “state directly concerned”?

(3) What is the United States position to be if Russia, for example, insists that it is a state directly concerned and that its signature is necessary before any trust agreement may be submitted to the Security Council?

In regard to question (1) it was agreed that the United States position is that as military occupant it is entitled to propose to the Security

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*Messrs. Knox, J. E. Johnson, Bancroft, Borton, and Green were, respectively, Assistant to the Acting United States Representative at the United Nations (Johnson), Chief of the Division of International Security Affairs, Associate Chief of the Division of International Security Affairs, Chief of the Division of Japanese Affairs, and Associate Chief of the Division of Dependent Area Affairs.*

*Not found attached to file copy. The document before the group for discussion was one of several drafts prepared in the Department of State between November 20, 1946 and February 18, 1947 as a commentary on the United States draft trusteeship agreement for the Japanese mandated islands. This was for the use of the Acting United States Representative when the Security Council undertook consideration of the draft terms and provided an interpretation of each article of the draft agreement. For nonconfidential excerpts from the final version, see Department of State Bulletin, March 8, 1947, pp. 420 ff.*
Council a trust agreement in regard to these Islands. It is recognized that the United States must in some way overcome the contention that until the Peace Conference recognizes United States legal rights to these territories, it is inappropriate for the United States to submit a trust agreement to the Security Council.

As to question (2), Mr. Green indicated that the Department’s present position in the Assembly is that only “the mandatory power” should be considered a state directly concerned within the meaning of the Charter. This gives rise to real difficulties because the United States certainly cannot contend that it is in the same position as a mandatory power exercising its mandate under the authority of the League of Nations. It was agreed that this difficulty would be studied in the Department. Whatever the technical difficulties involved, it is clear that the best argument we have for obtaining the agreement of other states that the procedure we have followed is appropriate is that the Big Five already have a veto power in the Security Council and that they therefore should not insist on a separate and additional veto power in connection with being a state directly concerned. It was also indicated, however, that if the U.S.S.R. was anxious, as it probably would be, to use this trusteeship question as a bargaining weapon, they were quite likely to insist on their position as a state directly concerned. It was also agreed that while the question was still open in the Assembly, the U.S.S.R. would certainly insist on its technical position because of the precedent involved. It was hoped that the Assembly decision on this question would be reached before it was necessary to have consultations in regard to the Japanese Mandated Islands so that we would be in a position to be guided by the Assembly’s decision.

As to question (3), it was felt that if the Russians took a firm position that they were a state directly concerned, we would have to go back to the Department for further instructions. In any case, we were in no hurry to have the Security Council accept our proposed agreement. Our main purpose was to make our intentions known that we would place these Islands under trusteeship rather than annex them. Now that that has been accomplished by the President’s statement, our main purpose was to obtain the Security Council’s agreement to a trusteeship agreement satisfactory to the United States. Our approach should not be “take it or leave it now”; our approach should be that if the Security Council is unwilling to agree to our proposal at this time we are entirely willing to postpone its consideration, if necessary until the Peace Treaty with Japan has settled the strategic problems of the Pacific.

Article 1. It was agreed that the territory under trust is limited to
the Islands with their territorial waters, presumably the three-mile limit, together with the column of air above this area.

Article 2. No problems.

Article 3. It was reported by the newspapers that Mr. Dulles had supported a proposal to take out of the trusteeship agreement for Western Samoa now before the Assembly the words in Article 3 “as an integral part of” New Zealand. Mr. Green indicated that Gerig had told him that Mr. Dulles had not supported this but had abstained from voting. In any case, the United States has taken the position in the case of other trusteeship agreements that the words should be “as if it were an integral part of”. Therefore, we shall doubtless be confronted with this inconsistency. Mr. Borton indicated that the Navy had been requested to consider a possible revision to the “as if” language but up to date had insisted on the present language. He also indicated that the Navy would resist the deletion of the words “as an integral part”. It was made clear, however, that it was not intended by these words to imply that sovereignty over the territory is vested in the United States.

Article 4. Mr. Green explained that it was the contention of the State Department that in the case of a strategic trust the objectives of the international trusteeship system were limited to “the people of the trust territory” in accordance with Article 83 (2) as contrasted with the territory itself in the case of nonstrategic trusts. The Department felt that this had been done intentionally with the purpose of limiting the obligations to paragraphs (76) a, b, and c of the Charter and excluding d. He did not know whether there was any history at San Francisco to support this position. It was agreed that this matter would be looked into in the Department as it might be a difficult contention to make without some such support. This contention is important in connection with Article 8 of the agreement.

Article 5. It was pointed out that the last sentence of the Department's comment under this point had been carefully worded and took into consideration the Navy's views. Mr. Joseph Johnson did not like the second “if” clause in this sentence. It was pointed out that it might also be a good plan to state categorically that the United States does not propose to exclude consideration of the armed forces, assistance and facilities set forth in this article when the time comes for considering special agreements under Article 43 of the Charter. Mr. Borton indicated that he thought the Navy considered the proposed bases in the Japanese Mandated Islands as similar in all ways to its other bases insofar as Article 43 was concerned. It was generally felt that the more specific the United States could be on this point, giving general assurances, the better our position would be.
Article 6. It was pointed out that in the fourth line of paragraph (1) the word "self-government" was used without using in addition the word "independence". This might raise a question. Navy representatives agreed that independence was included within the meaning of the word "self-government". . . .

Article 7. No problems.

Article 8. This article was certain to raise serious questions. It was agreed that the basic reason for providing for most favored nation treatment instead of national treatment was the requirements of security and we should be quite frank in so stating. We should also argue that Article 76 (d) of the Charter is not applicable in the case of strategic trusts because of the exact wording of Article 83 (2).

Article 9. No problems.

Article 10. No problems.

Article 11. It was pointed out that the provision of the status of citizens in the trust territory does not exclude giving the inhabitants the status of American citizens or American nationals if that is desired. However, we should not emphasize this as it looks too much like annexation.

Article 12. No comment.

Article 13. It was pointed out that there is at least some doubt whether the provisions in Article 83 (1) of the Charter make it a requirement of a strategic trust that the administering authority undertake the responsibility to submit reports, allow petitions, and provide for periodic visits to the territory, as well as to agree to answer questionnaires. It would be advisable, therefore, for the United States to point out that it was voluntarily accepting the obligations contemplated in Articles 87 and 88 in connection with the Japanese Islands in any part of the Islands which were not closed for security reasons, even though it was not required by the Charter to do so. It was also suggested that Mr. Johnson, in his initial statement to the Council, should go as far as possible in explaining why the United States felt it necessary to have entire discretion in closing in part of the trust territory for security reasons and should give some general assurances that the United States would act in a reasonable manner in this regard. It should also be made clear if possible that even in the case of closed areas, the United States would restrict applications of Articles 87 and 88 only insofar as reasonably necessary to insure security. Such statements would be very helpful in allaying criticism and suspicion in connection with this Article.

Article 14. The question was raised whether the United States could bar the application of any particular international conventions to closed areas. It was felt that it probably could do so by reason of the clause "which may be appropriate to the particular circumstances of
the trust territory”. It was apparently the view of the State Department representatives that this clause did not guarantee that the provisions of the inspection agreement in relation to disarmament or the atom bomb would be applied to the trust territory. It was, however, their intention to include in the initial statement of Mr. Johnson’s the statement that this would be done.

Article 15. No comment.

Article 16. No comment.

General Questions. It was stated that Mr. Dulles’ statement to the General Assembly over the weekend, which the papers had written up as a commitment by the United States to consider in the future turning the Japanese Mandates over to the United Nations as the administering authority, was entirely a New York affair and was not in any way authorized by Washington; in fact, the Department knew nothing about it.66

It was reported that the Secretary had requested postponement of submission of this whole matter to the Security Council until at least December 1st. The Department was apparently in no hurry to submit the matter to the Council, but in any case the matter should go back to the Secretary before any action is taken.

In regard to the general strategy, Mr. Borton stated that the President had decided that there would be no annexation of any Japanese Islands or Mandates; that at a later date the United States would submit a trusteeship agreement along the lines of the present one covering the Bonins and Volcano Islands; that there would be no attempt at the present moment to make a decision with regard to the Ryukyu Islands. It was the position, however, of the Army and Navy that no commitment could be made that the United States should have to wait for the Japanese Peace Treaty before it could submit a proposed trusteeship agreement for either of the latter two categories of Japanese Islands.

Mr. Bancroft stated that a document was being prepared on the question whether special provisions should be included giving the International Court jurisdiction. He indicated that the United States would probably claim that many questions involved in this trust agreement would be questions of domestic jurisdiction and could then be kept from the Court under provisions of the United States agreement on compulsory jurisdiction.67

Charles P. Noyes

66 See excerpt from the United States Delegation Minutes, November 21, 9 a.m., supra. Mr. Dulles made his statement at the morning meeting of Sub-Committee 1 on November 24 (GA(1/2), Fourth Committee, Pt. II, p. 35). See also the despatch in the New York Times, November 24, 1946, p. 1; text of the statement is also printed on p. 3.

67 For documentation on this subject, see pp. 53 ff.
Memorandum by Mr. John Foster Dulles of the United States Delegation

SECRET

NEW YORK, November 30, 1946.

Mr. Gerig and I dined with Messrs. Gromyko and Novikov on November 28th. They said they wished to consider whether some formula could be found to permit the Trusteeship Council to be established. They said that the two big difficulties, and the only serious difficulties, were:

(1) Which were the “states directly concerned”; and

(2) Could trust areas be fortified without the approval of the Security Council.

They stated as to (1) that it was the Soviet view that the five Permanent Members need not necessarily be considered “states directly concerned” in relation to all trust territory; that there could be a prior agreement between them that some would be deemed to be “states directly concerned” with reference to certain trust territories and others be deemed to be “states directly concerned” with reference to other trust territories. They intimated that the Soviet Union was not particularly interested in being considered a “state directly concerned” so far as the African mandated territory was concerned, but that they stood absolutely on the proposition that they were a “state directly concerned” in so far as related to enemy territory, specifically the Italian colonies, any Japanese islands and the Japanese mandated islands. There was a slight suggestion that if that position was conceded, they might not even claim to be a “state directly concerned” in Western Samoa and New Guinea.

We said that if the Soviet Union would not claim to be a “state directly concerned” as regards the African mandated territory, its position would be the same as that of the United States as regards these territories. We suggested that the Trusteeship Council might be set up on the basis of trust agreements with Great Britain, France and Belgium for African mandated territory. They said that they would not be willing to agree not to be a “state directly concerned” as regards the African territories, except as part and parcel of an agreement that they were a “state directly concerned” as regards other areas, notably the Pacific islands.

We said that instead of discussing which were and which were not “states directly concerned” it might be useful to consider what practical consequences the Soviet might want to draw from being a “state

* Addressed to the Secretary of State and Senator Austin.
directly concerned” in Pacific islands. They said that their particular interest was in military fortifications. It was their view that under the Charter there was no right to fortify for national purposes. There was a right to local defense and the maintenance of order. Otherwise, the only right was for international peace and security and that the only body which could administer international peace and security was the Security Council. Therefore, there could be no fortification beyond the need of local defense except in accordance with special agreements negotiated by the Security Council under Article 43. They indicated that in this respect they saw no difference between strategic and non-strategic areas.

They also referred to a continuing right in the Security Council to inspect fortifications which might be authorized by the Security Council in trust territory.

We said that we could not agree at all with their legal construction of the Charter, but that it might be more profitable to consider the practical aspects of the matter. The concrete result of their theory was that the United States would not have the right to maintain bases in trustee Pacific islands except as might be specifically authorized in each case by the Security Council, i.e., by Russia, and subject to its supervision and inspection. I said that that result was not one which was acceptable to the United States and that they could take it as absolutely positive that the United States would not agree to any construction which would involve those consequences. We said that the United States preferred trusteeship to annexation or de facto possession because that would give the native inhabitants the benefit of the Charter provisions with respect to the inhabitants of trust territories. Also, trusteeship would make it easier to move toward internationalization of military establishments if and when the Security Council actually demonstrated that it could be relied upon to maintain the peace. However, that had not yet been demonstrated and until it was demonstrated, we would want in the Pacific Islands the same rights that the Soviet Union would presumably exercise in such islands as the Kuriles Islands. We said that the Soviet Union had shown no disposition to accept for the Kuriles Islands the regime which it was seeking to impose on us as regards Pacific islands which might come under our administration.

They said that this was different because it had been agreed between the United States and the Soviet Union that the latter could annex the Kuriles Islands. We said that that was an informal agreement which had not yet been ratified by peace treaty and that other nations than the United States were concerned in this matter, notably China.

I said that it was personally my strong hope that neither the United
State: nor the Soviet Union would have advanced military bases or military zones which would menace each other or other friendly nations. But that the United States would not agree to a double standard under which the Soviet Union did not subject to Security Council control areas in its possession which it deemed vital; whereas the United States, as to comparable areas in its possession, would be subject to control and inspection by the Soviet Union.

Messrs. Gromyko and Novikov affirmed strongly that, if necessary, the Soviet would fight the issue through to the floor of the Assembly, and they expressed confidence that they could defeat approval of trusteeship agreements with provision for bases, etc.

While the discussion was extremely frank, the atmosphere throughout was friendly and cordial and it was agreed that we would each think the matter over to see whether there was any possible basis for agreement which would permit of going ahead harmoniously on the trusteeship matter.

SPA Files: Lot 54-D510, Box 20012

Memorandum of Telephone Conversation, by the Assistant Chief of the Division of Dependent Area Affairs (Bartlett)

[WASHINGTON,] December 1, 1946.

Mr. Gerig, who had just been talking with Mr. Cohen, stated that Mr. Cohen had had three suggestions to make regarding the method of presentation to the Security Council of the draft trusteeship agreement for the Japanese Mandated Islands. Mr. Gerig requested that Mr. Cohen's suggestions be brought to the attention of Mr. Green.

1. It was Mr. Cohen's recommendation that the formal presentation of the draft trusteeship agreement to the Security Council be postponed until after the General Assembly had acted upon the draft trusteeship agreements for non-strategic areas which are now being discussed in the Fourth Committee. He felt that to formally present the draft trusteeship agreement during the present discussion in Committee 4 would merely complicate its handling in the Security Council.

2. It was felt that Mr. Herschel Johnson's primary responsibility should be to explain and defend the detailed provisions of the draft trusteeship agreement and that the general introductory statement introducing it to the Security Council should preferably be made by the Secretary himself or, if that were not possible, should be prepared in a way which would indicate that it was being submitted on behalf of the Secretary.

3. Mr. Cohen indicated that perhaps consideration should be given to the desirability of this Government's acceptance in a certain degree
of the USSR interpretation of Articles 82, 84, and 43 of the Charter of the United Nations. This Government might be prepared both in non-strategic and in strategic trusteeship agreements to provide for referral to the Security Council of proposals for military facilities within the area. If the Security Council should then refuse to approve such proposals there would be in effect no agreement regarding them. The administering authority would, in such a case, be left however with the overriding power of taking measures for self-defense of the territory and, in lieu of international measures to maintain international peace and security, would be free, and indeed obligated to maintain the security of the trust territory as it saw fit.

501.BB/12-346

Memorandum of Telephone Conversation, by the Director of the Office of Special Political Affairs (Hiss)

[WASHINGTON,] December 3, 1946.

Mr. Gerig called me this morning and said that the question of monopolies was coming up today before the subcommittee of Committee IV.69 He said he thought it was clear that our present proposal (see telegram 255, October 29, 1946 to New York) cannot get sufficient votes in the subcommittee or in the full Committee to be adopted. Even if it were the British, of course, might very likely refuse to accept it in their trusteeship agreements and we would almost certainly not wish to have the entire trusteeship system held up for that reason alone.

Mr. Gerig went on to say that Mr. Thomas, the chief British representative on trusteeship matters, has expressed personal willingness to accept a revision of our proposal which Mr. Gerig feels is sufficiently close to our proposal to be acceptable under the circumstances. Mr. Gerig said he wanted to emphasize that Mr. Thomas has not been able to obtain governmental authority to accept the revision and Mr. Thomas' advisers are opposed to it.

Mr. Gerig then read to me the proposed revision. Under this revision

69 Except for the November 21 meeting, the Sub-Committee had been pre-occupied with an exhaustive article-by-article examination of the draft trusteeship agreement for Western Samoa from its first meeting on November 15 up to and including November 30. On November 30 Mr. Dulles withdrew a United States proposal for a new article in the agreement dealing with the monopolies question "in order to expedite the work of the Sub-Committee. . . ." (Ga (1/2), Fourth Committee, Pt. II, p. 102). The issue of the monopolies thus was not resolved in the Sub-Committee's work on the New Zealand agreement. On December 1 the Sub-Committee commenced a general and definitive consideration of the seven draft agreements for the six African territories and New Zealand together on the basis of the experience gained in the detailed examination of the terms for Western Samoa, and the problem of the monopolies came up for final settlement in this phase.
the last clause of the first sentence and the entire second sentence of our draft would be replaced by the following:

“and that the proposed grant of such monopoly rights shall be promptly reported to the Trusteeship Council and shall as a rule be made in such a manner as to enable the Trusteeship Council to give an effective opinion as to its compatibility with Article 76 of the Charter.”

Mr. Gerig said that Mr. Fowler has been over the proposed revision and thinks that it is the best we can hope to get. Mr. Fowler agrees with Mr. Gerig’s estimate that the present draft will be defeated if forced to a vote. Moreover Mr. Gerig pointed out that since government monopolies will not in any case be permissible even if our draft were to be adopted, it would simply encourage the administering authorities to establish government monopolies even though they otherwise would not be so inclined.

I called Mr. Stinebower, who was just about to leave for New York, and he said he also felt that this was the best we could get under the circumstances and represented a pretty good formula in view particularly of the strength of the belief on the part of our own representatives in New York that the monopolies issue is not of anywhere near the same importance as the issue of getting the Trusteeship Council established.

I then called Mr. Nitze 70 who called me back after consulting members of his office. Mr. Nitze said that it was the feeling of ITP that the proposed revision was, under the circumstances, acceptable. Mr. Nitze said that it was the understanding of ITP that the language meant that despite the phrase “as a rule” a prompt report about each proposed grant of monopoly rights would have to be made in any event. ITP understood that the exceptions permitted under the words “as a rule” related simply to the timing and manner of reporting rather than to the fact of reporting itself. Mr. Nitze also thought that the redraft had improved the language covering the type of consideration the Trusteeship Council should give to proposals relating to monopolies in that it spoke of “an effective opinion” as to the “compatibility with Article 76” of proposed grants of monopoly rights.

I then sent word to Mr. Gerig in New York that the revised draft of Article 10(c) would be acceptable to the Department. I pointed out ITP’s understanding of the meaning of the clause and said that I had the same understanding and had so informed ITP. I asked that Mr. Gerig let me know if there was any doubt as to this construction of the revised draft. 71

70 Paul H. Nitze, Deputy Director of the Office of International Trade Policy.
71 The new U.S. text, as proposed by Mr. Gerig and cleared in the Department by Mr. Hiss, came to a vote on December 4, the vote standing at 3 for, 7 against, and 7 abstaining. For statements made preceding the vote by the U.S. represent-
WASHINGTON, December 3, 1946.

My Dear Mr. Webb: In your letter of October 24, 1946, you requested an expression of my views on H.R. 6605, a bill "to provide for the government and administration of certain islands in the Pacific Ocean by the Department of the Interior", in the light of observations made thereon by the War, Navy and Interior Departments in the enclosures which accompanied your letter. 72

As stated in Secretary Byrnes’ letter of July 26 to Congressman Bell, 73 this Department is thoroughly in sympathy with the objective of placing United States administered islands with native populations under civilian administration.

In so far as H.R. 6605 relates to former Japanese controlled islands the Department of State is in agreement with the Secretary of War and the Secretary of Navy that it would be premature for action to be taken by this Government with respect to the determination of the form of administration which should be applied to such of these islands as we assume responsibility for as a result of the Second World War. However, the Department of State perceives no objection from the point of view of our foreign relations to consideration of the type of administration which should apply to Guam and American Samoa.

ative on the Sub-Committee, Mr. Gergig, and the U.K. representative, Mr. Thomas, see GA (1/2), Fourth Committee, Pt. II, pp. 165–167.

Certain declarations made by the Mandatory Powers during the work of the Sub-Committee regarding points at issue in the draft terms were included in the report of the Sub-Committee for the attention of the Fourth Committee, and in turn included in the Report of the Committee to the General Assembly (ibid., pp. 298–300 and GA (1/2), Plenary, pp. 1543–1545). In connection with the monopolies question there is included in the two reports the following declaration of the Intentions of the Governments of the United Kingdom and of Belgium:

"(a) The Governments of Belgium and the United Kingdom have no intention of using the grant of private monopolies in Trust Territories as a normal instrument of policy;

(b) Such private monopolies would be granted only when this was essential in order to enable a particular type of desirable economic development to be undertaken in the interest of the inhabitants;

(c) In those special cases where such private monopolies were granted they would be granted for limited periods, and would be promptly reported to the Trusteeship Council." (Ibid., p. 1544)

72 None printed. For more than a year there had been a continuing discussion within the Executive Branch, which in due course had repercussions in the Legislative Branch, as to the type of government and administration of certain islands in the Pacific Ocean area in the possession of or controlled by the United States. Opposing views were held by the Department of the Interior on the one hand and the Departments of War and the Navy on the other. Documentation on this subject in the central indexed files of the Department of State may be found in File No. 890.0146.

73 Not printed. Representative C. Jasper Bell was Chairman of the Committee on Insular Affairs, House of Representatives.
Legislation providing for civilian administration of Guam and American Samoa would be in keeping with American traditions and with the declaration regarding non-self-governing territories set forth in Chapter XI of the Charter of the United Nations. Furthermore, it is recalled that the United States has yet to fulfill, with respect to Guam, the obligation set forth in Article IX of the Treaty of Paris of 1898, as follows: "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress". Legislation providing for the form of government on Guam would contribute to the fulfillment of this treaty obligation.

In expressing this view the Department of State is not attempting to pass upon the effect of such a decision upon the security interests of the United States or upon the administrative and budgetary questions raised by the Secretary of Navy in his proposed report to Congressman Bell.

Sincerely yours,

DEAN ACHESON

501.BB/12-446: Telegram

The Acting Secretary of State to Senator Austin

CONFIDENTIAL

WASHINGTON, December 4, 1946—8 p. m.

304. USdel. For Gadel. Urteil 912 Dec 4. Dept gratified at Australian comprehensive additional article as indicating desirable spirit of compromise. Australian additional article is welcomed for its inclusion of certain explicit undertakings as to human rights, cooperation with Trusteeship Council, protection of indigenous land ownership, education, and participation of inhabitants in administrative services. Such partial inclusion of undertakings might, however, be interpreted later, when Australian agreement is compared with New Zealand agreement, to exclude such other "undertakings as to methods" contained in Western Samoa draft as social advancement, economic rights, and more complete expression of political development. Dept therefore recommends that Gadel should strongly urge Australian Delegation to accept such additional amendments as would bring New Guinea draft trusteeship agreement into substantial accord with Western Samoa agreement in so far as latter will receive approval Gadel.

ACHESON

"Not printed. The U.S. Delegation had reported that "Australian delegation in Subcommittee I of Committee IV tonight made statement accepting principle that certain explicit undertakings as to methods to be adopted in furtherance of charter objectives should be included in New Guinea trusteeship agreement and introduced comprehensive article (article 8), reading as follows..." (501.BB/12-446)
Memorandum of Telephone Conversation, by the Director of the Office of Special Political Affairs (Hiss)

[Washington,] December 5, 1946.

Participants: John Foster Dulles—U.S. Delegation to the General Assembly
Elizabeth Armstrong—U.S. Delegation to the General Assembly
Alger Hiss—SPA

Miss Armstrong called me yesterday afternoon and read over the telephone the attached draft proposals which she said Mr. Dulles wished to introduce in the subcommittee of Committee IV considering trusteeship agreements.75

After consulting Mr. Hickerson, Mr. Green and Captain Dennison, I called Miss Armstrong back and told her the following:

With Respect to the Proposal Dealing with "States Directly Concerned" 76

I assumed that in the third sentence of the second paragraph the word "permanently" had inadvertently been omitted from the phrase "no state has waived or prejudiced its right to claim", in as much as we have proposed waiver of claims for the purposes of approval of the agreements now before the Assembly. I said that as to the last two sentences we had serious doubts as to their wisdom. It seemed to us that they would simply keep alive the issue of "states directly concerned" whereas we hoped that the issue would die out at least for some time to come upon the completion of the current session of the General Assembly. These two sentences would require the Trusteeship Council to consider this problem and hence it would keep it alive. In addition, if the Trusteeship Council should not take our view and should list as "states directly concerned" some states which voted against the adoption of particular agreements, this might tend to cloud the title of the administering authorities named under such agreements. The last sentence in particular was disturbing as it would specifically require the Trusteeship Council to consider the explosive

75 On December 4 Sub-Committee 1 completed for all practical purposes its examination of the eight draft trusteeship agreements (although the final formal decisions were not taken until December 6), and prepared to turn to the question of the preambles of the agreements all of which except the New Guinea draft contained either a reference to Article 79 or a specific statement that the states directly concerned had concurred in the terms of the draft agreements. For an analytical summary of the handling of the question of States directly concerned at this time by the committees and the General Assembly, see Repertory of UN Practice, pp. 175–191, passim.
76 See Annex I.
question of “states directly concerned” if and when an agreement for Palestine or for the Italian colonies is submitted.

Miss Armstrong told me that the draft was also being taken up with Mr. Cohen. I said that I was glad to hear that and that the views which I had expressed should be regarded as tentative. I said that in the event Mr. Cohen and Mr. Dulles felt that the two sentences to which I had called particular attention were necessary in order to get by the problem of “states directly concerned” I thought the Department would be prepared to rely upon their judgment.

With Respect to the Proposal on Military Establishments

I said that our feelings were much stronger about this point. In particular, the proposed second paragraph seemed to us very inadvisable. I pointed out that we already had a tentative arrangement with New Zealand for the use of bases in Western Samoa and that also the paragraph would be inconsistent with our plans with respect to the mandated islands.

As to the first paragraph, we were worried about the phraseology as it might seem to give support to the Soviet interpretation of Article 43, namely, that military establishments in trust territories are only permissible if the Security Council specifically authorizes them. I said that I was working on a redraft of that paragraph along the lines of making it clear that, of course, any later agreement under Article 43 on the regulation of armaments would apply no less to trust territories than to the administering authority’s own territory.

I said that I felt confident that the views I had expressed with respect to the military establishments proposal represented strongly held views of the State, War and Navy Departments.

This morning Mr. Dulles called me on the above subjects and said that Mr. Cohen was with him. He said that he had agreed to strike out the last two sentences of the proposal relating to “states directly concerned” and instead simply to add a general statement to the effect that the procedure now being followed by the Assembly on this point would not necessarily have to be followed in the future.

With respect to the proposal on military establishments, Mr. Dulles said that he had agreed to eliminate the second paragraph; however, he felt very strongly that it was necessary to have something along the lines of the first paragraph and that he thought the suggestion I had made to Miss Armstrong as to alternative language would not help meet the problem he was facing. He said that the other delegations and the public simply do not understand that closure of a mili-

* See Annex II.
tary area from Trusteeship Council inspection does not mean closure of that area for purposes of armament inspection. He said that Senator Vandenberg himself in the last day or so had said that he thought our position of urging the Soviets to agree to international inspection for disarmament was inconsistent with our position of insisting upon the right to established closed areas in trusteeship territories. Mr. Dulles said he had readily explained the matter to Senator Vandenberg, whereupon the Senator said “why in the world isn’t that made clear publicly?”.

I told Mr. Dulles that I would attempt to clear a revision of the first paragraph of the proposed statement on military establishments within the Department and with the War and Navy Departments and that I thought it should be possible to maintain the essence of his draft.

I then cleared with Mr. Hickerson, Mr. Vincent, Mr. Green, Captain Dennison and Colonel Parker (in Colonel Giffen’s office) the following draft which I telephoned to New York for Mr. Dulles:

“The General Assembly in approving those terms of trusteeship which authorize military establishments calls attention to the fact that whenever any administering authority, as such, becomes a party to the special agreement or agreements to be negotiated on the initiative of the Security Council pursuant to Article 43 or a party to any agreement or agreements with reference to control or limitation of armaments providing for inspection or supervision of military establishments, such agreement or agreements will, of course, be controlling as to the matters covered by them and will govern the availability of such military establishments to the Security Council and their subjection to inspection or supervision for the purposes specified in such agreement or agreements.” 78

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78 This statement was submitted by Mr. Dulles to the Fourth Committee on December 9 with the proposal that it be included in the Report of the Rapporteur to the General Assembly (GA (1/2), Fourth Committee, Pt. I, pp. 143 and 144). Mr. Dulles initiated this action in connection with the Committee’s discussion of a series of amendments to the eight draft agreements proposed by the Soviet Union which restricted the administering authority’s right to establish military bases, erect fortifications, and station and employ armed forces in the trust territory except on the basis of obligations to the Security Council assumed by the administering authority (ibid., pp. 139–147, passim, and GA (1/2), Fourth Committee, Pt. II, pp. 236, 243 and 244, 252, 258, 259, 267 and 268, 269 and 270, and 271 and 272, annexes 4a, 5a, 6a, 7, 8, 10a, 11, and 12e, respectively). The Committee never gave formal consideration to the Dulles proposal; neither was the statement incorporated in the Rapporteur’s Report. The Soviet amendments were not accepted by the Fourth Committee.

Actually the Committee’s debate was a telescoped version of an earlier extensive consideration by Sub-Committee 1 of the question of whether the consent of the Security Council was required before naval, air, and military bases could be established in the trust territories (non-strategic). This had been in connection with the Sub-Committee’s deliberations on the draft trusteeship agreement for Western Samoa, specifically Article X. For an analytical summary of the Sub-Committee’s work on this question with copious references to the official record, see Repertory of UN Practice, vol. iv, pp. 253–262.
The Subcommittee proposes that Committee IV, in recommending any terms of trusteeship to this session of the General Assembly for approval, should propose that approval thereof be on the following understanding with respect to “states directly concerned”.

All members of the United Nations have had an opportunity to present their views with reference to the terms of trusteeship. There has, however, been no formal determination as to which of these nations are “states directly concerned” within the meaning of Article 79. Accordingly, the General Assembly in approving particular terms of trusteeship does not prejudge the question of what states are or are not “directly concerned” within the meaning of Article 79 and recognizes that no state has waived or prejudiced its right to claim to be or to be held to be such a “state directly concerned”. The General Assembly instructs the Trusteeship Council promptly upon its constitution to consider what states are “directly concerned” in the terms of trusteeship now approved and to submit its opinion on the matter to the next session of the General Assembly. It further instructs the Trusteeship Council to submit its opinion as to “states directly concerned” in connection with any future submission to the General Assembly of terms of trusteeship.

December 4, 1946.

[Annex II]

The General Assembly approves those terms of trusteeship which authorize military establishments on the understanding that as soon as any administering authority, as such, becomes a party to the special agreement or agreements to be negotiated on the initiative of the Security Council pursuant to Article 43 or a party to any other agreement or agreements with reference to control or limitations of armaments or inspection or supervision of military establishments, such agreement or agreements will be overriding and the administering authority cannot claim, under the present terms of trusteeship, any rights or privileges inconsistent therewith.

The General Assembly expresses the hope that administering authorities will not exercise their right to develop military establishments until the United Nations, through its Security Council, shall have had a further reasonable period of time in which to develop international agreements of the character referred to in furtherance of international peace and security.

December 4, 1946.
Memorandum by the Director of the Office of Special Political Affairs (Hiss) to the Under Secretary of State (Acheson)

[WASHINGTON,] December 6, 1946.

Mr. Dulles called me this morning and told me that he and Novikov had been named as a committee of two by Committee IV 79 to attempt to resolve the remaining outstanding differences on the subject of “states directly concerned.” Mr. Dulles said that he had met with Novikov and that he believes it may be possible to settle the issue on the basis of having the General Assembly direct those states submitting trusteeship agreements in the future to consult with the permanent members of the Trusteeship Council who will express an interest in the particular territory concerned and with other members of the United Nations especially interested in such territory. Mr. Dulles said that the Soviets do not wish a repetition of the procedure we followed with respect to our proposed agreement for the Japanese Mandates in which we published the agreement without prior consultation and announced our intention of presenting it promptly to the Council without inviting consultation in the interim. In particular they do not wish to have the United States propose a trusteeship for other Pacific Islands, such as Okinawa, without prior consultation. Mr. Dulles said that he has received express assurances the Soviets mean consultation when they say consultation and not a right of veto, i.e., they do not insist that we must reach agreement with them before submitting a trusteeship agreement in the future.

Mr. Dulles said that he had discussed this matter with the Secretary who had some anxieties as to whether the Navy might not feel that such a practice would commit us to discussions in which our ability to resist suggestions for revisions would be less than in a procedure where we first published our proposed text.

I told Mr. Dulles that his proposal seemed to me entirely consistent with the theory and practice which the Department itself had advo-

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79 Reference should be made here to the two meetings of Sub-Committee I on December 5 (GA/1/2), Fourth Committee, Pt. II, pp. 170-185) at which the issue was joined on the opposing viewpoints regarding interpretation of the phrase “states directly concerned.” The Soviet Union was the principal spokesman for a group holding that the Charter required a determination of the states directly concerned in the negotiation of the trusteeship agreements and the concurrence of these states in the terms of the agreements. In the course of the discussion Mr. Dulles introduced a statement outlining the U.S. Delegation’s position along the lines of the memorandum of December 5, supra, and proposed that a small drafting sub-committee be constituted “to find a formula acceptable to all” (ibid., p. 176). As no consensus was forthcoming on either the terms of reference of the composition of such a drafting sub-committee, the Chairman requested the representatives of the United States and the Soviet Union “to consult informally on the question and to report back to the next meeting of the Sub-Committee. . . .” (ibid., p. 185).
cated to the mandatory powers last Spring and Summer. We had urged the mandatories to refuse to enter into formal agreements with countries claiming to be “states directly concerned”. Instead we urged them to consult any interested states. Mr. Dulles said that Mr. Cohen had expressed agreement with the proposal.

I talked with Captain Dennison who is the Navy’s chief representative on trusteeship matters. Captain Dennison’s offhand reaction was quite favorable. He said he thought that if we could get our basic principle agreed to that agreement of “states directly concerned” is not a condition precedent to submission of a trusteeship agreement we would be willing to commit ourselves to consultations prior to publication. He thought there were indeed some advantages to such consultation in as much as we would not “have to air our dirty linen in public”, i.e., some controversial points might be settled in the course of consultations. He said he assumed that the consultations would not involve organized meetings in which there would be voting. I told him that the consultation would be by diplomatic means but that it was quite possible that group discussions with representatives of interested states might be held. In any event there would be no voting as the consultations would not constitute any organized meeting. He seemed satisfied on this point.

Later in the afternoon Mr. Dulles sent word that with the Secretary’s approval he was taking up with Mr. Novikov a draft along the foregoing lines. Attached hereto is a copy of Mr. Dulles’ draft proposal. The first paragraph represents a slight revision of a statement which he made to the Committee yesterday after clearing with Mr. Cohen and with the Department (I took it up with the War and Navy Departments and with Mr. Hickerson and Mr. Dulles accepted our suggestions). The second paragraph represents the new proposal which Mr. Dulles is discussing with Mr. Novikov.

[Annex]

**Draft Memorandum Which Mr. Dulles is Discussing With Mr. Novikov**

“All Members of the United Nations have had an opportunity in committee to present their views with reference to the terms of trusteeship now proposed to the General Assembly for approval. All member states which might be ‘states directly concerned’ within the meaning of Article 79 have either agreed in committee to the terms of trusteeship or have agreed to accept the terms approved by the General Assembly. There has, however, been no specification of ‘states directly concerned’
in relation to the proposed trust territories. Accordingly, the General Assembly in approving the terms of trusteeship does not prejudice the question of which states are or are not 'directly concerned' within the meaning of Article 79. It recognizes that no state has waived or prejudiced its right hereafter to claim to be a 'state directly concerned' in relation to any alteration or amendment of the trusteeship agreements now approved or in relation to any trusteeship agreements which may be subsequently proposed.

"As regards the procedure to be followed hereafter the General Assembly calls on member states which may initiate trust agreements in relation to territories (a) now held under mandate or (b) which may be detached from enemy states as a result of the Second World War in advance of submission to the General Assembly to consult with such permanent members of the Trusteeship Council as assert an interest in relation to the proposed trust territory and also to consult with any other member state which has a substantial distinctive relationship to the proposed trust territory. But nothing herein contained shall be deemed to imply that prior agreement on the part of such other states is a condition precedent to the submission to or approval by the General Assembly of terms of trusteeship."

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501.BB/12-746

Memorandum of Conversation, by the Chief of the Division of Dependent Area Affairs (Gerig)

SECRET


Subject: Conversations regarding "states directly concerned".

Participants: Mr. Ivor Thomas (UK); Mr. Dulles and Mr. Gerig (US).

Mr. Thomas, by request, came to see Mr. Dulles concerning the proposed draft statement prepared by Mr. Dulles and which had been given to Mr. Novikov yesterday with a view to serving as a basis for agreement on the question of "states directly concerned". (Draft attached hereto, the contents of which had been given to Mr. Thomas by Mr. Dulles yesterday.)

Mr. Thomas said that he had disclosed the essential features of the tentative draft to Mr. Bevin, whose first reaction was the following:

Mr. Bevin felt strongly

(1) that the United Kingdom did not feel that it was wise to give any private assurances by letter or otherwise to the Soviet Delegation although they felt less concerned with the Japanese islands north of the Equator than with the Italian colonies in this respect;
(2) that the United Kingdom did not feel that it could agree to the important second paragraph of the tentative draft without permitting the Cabinet to examine it carefully which could probably not take place before Tuesday; and

(3) that Australia and the Union of South Africa were in particular very much concerned about a procedure which would require consultation in advance with the Soviet Union and China in regard to territories which are of special concern to them.

Mr. Thomas said that the Union of South Africa, he felt, might initiate a trusteeship agreement for South West Africa if it were not necessary to recognize a special position in relation thereto by the Soviet Union.

Mr. Dulles said that the second paragraph, as Mr. Thomas knew, was designed not to outline a procedure for determining “states directly concerned”, but rather to avoid a precise attempt to define Article 79 by outlining a procedure for consultation only.

Mr. Thomas said his Delegation fully appreciated this point and felt that if the Soviet Union would find the proposal acceptable, it might go a long way toward breaking the deadlock on this question. He was mainly concerned about private assurances which might be given apart from this general statement.

Mr. Dulles then dictated the following memorandum addressed to Senator Austin giving a copy to Mr. Thomas which, in effect, states that we do not intend to give any private assurances to the relation of the Soviet Union to the Italian colonies:

“Mr. Ivor Thomas talked with me today regarding the conversations which I am having with Ambassador Novikov with respect to ‘states directly concerned’ and the establishment of a Trusteeship Council. I told him that he could feel assured that we would not, in the course of these conversations, give any private commitments or assurances to the Soviet Delegation that we would support a claim by the Soviet Union to be a ‘state directly concerned’ within the meaning of Article 79 in relation to Italian colonies.”

Mr. Dulles said that in regard to the Japanese islands north of the Equator, which he felt was the main concern of the Soviet, in particular the question of the future of the Ryukyu Islands, he did not know what the attitude of the United States would be if a specific request were made by the Soviet Union in regard to the future of those islands. This was, of course, a most difficult question and would probably arise before or at the time of the Peace Conference on Japan. In any case it seemed clear that what the Soviet Union is trying to get is some understanding with the Great Powers and, in particular, with the United States as to the future of those islands.

Mr. Dulles said that the Soviet had indicated that China was very much concerned with possible claims on the Ryukyu Islands which
might be made by the Soviet Union. Mr. Thomas said he had the same information.

It was agreed that if the Soviet Union rejects the second paragraph of the tentative proposal, it might be best to return to the original paragraph which slightly revised the statement made by Mr. Dulles in Committee IV on December 5. It seemed now that at least the requisite votes could be secured for that statement even though the Soviet group will vote against it. However, Mr. Dulles thought it might be desirable to indicate in an oral statement the main lines of the proposal contained in the second paragraph in order to let other Members of the Assembly know about the efforts which had been made to reach agreement.\(^60\)

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Memorandum of Conversation

SECRET

NEW YORK, December 9, 1946—3 p. m.

Participants: U.S.

Secretary Byrnes
Mr. Bohlen

U.S.S.R.

Mr. Molotov
Mr. Pavlov

Place: The Waldorf-Astoria

Subjects: 1. Moscow as meeting place of next session of CFM.
2. Trusteeship.
4. Appointment of Deputies to hear views of other countries on Germany.

\(^60\) Also on December 7 a conversation along similar lines took place with Professor Kenneth H. Bailey, Solicitor-General of the Commonwealth of Australia and member of the Australian delegation. The gist of Professor Bailey’s remarks was that he felt “the formula amounted, in fact, to recognizing the five great powers as automatically directly concerned almost everywhere”; particular concern was expressed at claims China and the Soviet Union might assert in this connection in respect of New Guinea and Nauru. At the end of the conversation “Mr. Dulles said that Mr. Novikov had not yet given any reaction to the proposal and if he did not do so in a day or two, we would, in any case, have to fall back on the original proposal contained in the first paragraph of the tentative draft. Mr. Bailey concluded by saying that that would certainly be their preference.” (memorandum of conversation by Mr. Gerig, December 7, SPA Files, Lot 54–D510, Box 20012.)

The two memoranda of conversation were forwarded by Mr. Gerig to the Department on the same date with the comment “You will see that a good deal of apprehension seems to be developing as to what might result from our talks with the Soviet.” (memorandum from Mr. Gerig to Mr. Hiss, December 7, SPA Files, Lot 54–D510, Box 20012)

\(^61\) For documentation on the New York meeting of the Council of Foreign Ministers, November 4–December 12, 1946, see vol. xii, pp. 965 ff.
[Here follow a brief reference to the trusteeship subject and an exchange regarding the proposal to hold the next session of the Conference of Foreign Ministers at Moscow.]

**Trusteeship**

Mr. Molotov, reverting to the question of Trusteeship, said he had wished to have a preliminary discussion with the Secretary in order to ascertain whether or not they could reach an agreement on the question of Trusteeship.

The Secretary replied that up to their conversation on Saturday he had thought that as a result of the talks between Mr. Dulles and Ambassador Novikov, a satisfactory agreement was being reached; but he gathered from Mr. Molotov that these talks had not been satisfactory to him.

Mr. Molotov said that if only consultation was being offered this would not constitute a satisfactory solution to the Soviet Government since it would not be in conformity with the Charter which set up a special position for the five permanent members of the Trusteeship Council. The Soviet position was that these five because of their special position should be regarded as countries directly concerned even though in all cases this right was not exercised. He felt this was an indisputable principle. In individual cases he felt it would be possible to reach agreement as to what countries should be regarded as directly concerned, but he repeated that each one of the five countries should have the right to declare its direct interest.

He did not mean that only the five would be directly interested but that certain small countries under specific circumstances should also be so regarded in connection with one or another trusteeship area. The actual determining in specific cases could be done in the interim period between this General Assembly and the next session. He suggested that if three or four specific trusteeship agreements could be made before the close of the present General Assembly, the Trusteeship Council could be set up right away. He repeated, however, that in the meantime the five countries should confirm through an exchange of letters their understanding that the five permanent members of the Trusteeship Council are regarded as having the right to be regarded as countries directly concerned in all cases.

The Secretary said he thought that it was reasonable to set up the Trusteeship Council during the present session and then use the interim to consider among themselves the question of the determination of countries directly concerned. He said he would talk over the subject with our representative on the Trusteeship Commission.

Mr. Molotov said that there was one difficulty which would have
to be settled and that was the question of military bases on trusteeship territories. The Soviet Delegation felt that in all cases involving military bases the Security Council would have to pass on the matter. He said if they could agree that any bases in trusteeship areas required Security Council approval and conclude three or four specific trusteeship agreements, the Trusteeship Council could be set up at this session. He said if there were other nonagreed questions in such trusteeship agreements, any country or countries could make a reservation on specific points without blocking the acceptance of the agreement.

The Secretary repeated that he would communicate with Mr. Dulles, our representative, on this matter and communicate with Molotov later.

Mr. Molotov then said that he understood that there was no objection to an exchange of letters confirming the understanding that in principle all five permanent members had the right to be regarded as directly interested countries.

The Secretary said that he had understood that this question was to be left open for further discussion and asked Mr. Molotov if he would outline his position once again so that he might communicate it to Mr. Dulles.

Mr. Molotov said he had in mind the conclusion of at least three trusteeship agreements during the present session of the General Assembly in order to permit the establishment of the Trusteeship Council; that they should agree on the principle of the right of the five permanent members of the Trusteeship Council to be regarded as directly interested countries; and an agreement on the question of Security Council approval on the question of military bases in trusteeship territories. He added that an exchange of letters would merely deal with the right of any one of the five to declare its interest in any trust area but that the actual determination of how this right would be applied in specific cases and what other countries could be regarded as directly interested, could be left for future consideration.

The Secretary said again that he would talk to Mr. Dulles on the subject.\[^{82}\]

[^{82}]: This ended the informal United States-Soviet talks and on December 10 Mr. Dulles wrote the following to Mr. Novikov:

"My dear Mr. Ambassador,

"On December 6 I handed you a tentative suggestion with reference to 'states directly concerned' in the hope that this would meet the point of view which you had put forward in Subcommittee I of Committee IV and permit us to make an agreed report to the Subcommittee.

"I understand that Mr. Molotov yesterday told Mr. Byrnes that this suggestion was not acceptable to your government and since in any event it was only a tentative proposal, it should of course be considered to be withdrawn." (10 Files, document US/A/C.4/33)"
Mr. Dulles opened the meeting of Sub-Committee 1 on December 9 by reporting 'that he had held consultations with Mr. Novikov, in an attempt to reach a formula with respect to the question of the 'States directly concerned', as had been requested by the Chairman. Since the time limit had passed, he had to report that it had not been possible in the time available to achieve a solution, and that there was no alternative except to continue with the situation as it had been before the consultations took place.' Therefore, Mr. Dulles asked 'to re-submit the proposal of his delegation, which provided for approval of the draft agreements at the current session of the General Assembly, without prejudice to future determination of the 'States directly concerned.'" (GA(I/2), Fourth Committee, Pt. II, page 201)

After some discussion the Sub-Committee adopted the United States proposal, by thirteen votes for, three against, and one abstenion, to the effect that the following recommendation be incorporated into the Report of the Rapporteur to the General Assembly:

"Approval of any terms of trusteeship by this session of the General Assembly should be on the following understanding with respect to 'States directly concerned':

"All Members of the United Nations have had an opportunity to present their views with reference to the terms of trusteeship now proposed to the General Assembly for approval. There has, however, been no specification by the General Assembly of 'States directly concerned' in relation to the proposed Trust Territories. Accordingly, the General Assembly, in approving the terms of trusteeship does not pre-judge the question of what States are or are not 'directly concerned' within the meaning of Article 79. It recognizes that no State has waived or prejudiced its right hereafter to claim to be such a 'State directly concerned' in relation to approval of subsequently proposed trusteeship agreements and any alteration or amendment of those now approved and that the procedure to be followed in the future with reference to such matters may be subject to later determination."

(GA(I/2), Plenary, page 1546)

The United States statement was incorporated into the supplementary report of the Sub-Committee which dealt solely with the question of "States directly concerned" as raised in the preambles of the draft agreements (GA(I/2), Fourth Committee, Pt. I, pages 301–304, annex 22a). The plenary committee on December 11 approved the supplementary report in toto for inclusion in its own Report to the General Assembly (ibid., pages 158 ff., and GA(I/2), Plenary, pages 1540–1557, annex 72).
The General Assembly debated the Report on December 13 (ibid., pages 1264 ff.) and the proposed trusteeship agreements were approved (ibid., pages 1287-1288). Texts of the eight trusteeship agreements (Western Samoa, Tanganyika, Ruanda-Urundi, The Cameroons under British Administration, The Cameroons under French Administration, Togoland under British Administration, Togoland under French Administration, and New Guinea) may be found in United Nations, Official Records of the General Assembly, First Session, Second Part, Supplement No. 5, Text of Agreements for Trust Territories. Text of the resolution on trusteeship agreements, adopted on December 13, is found in United Nations, Official Records of the General Assembly, First Session, Second Part, Resolutions Adopted by the General Assembly during the Second Part of the First Session, 23 October-16 December, pages 122 and 123; text of the resolution adopted by the General Assembly on December 14 regarding the organization of the Trusteeship Council may be found ibid., page 123.

For documentation relating to the elections to membership in the Trusteeship Council, see pages 117 ff.

711.47/12-546: Telegram
The Acting Secretary of State to the Ambassador in Australia (Butler)

TOP SECRET
WASHINGTON, December 9, 1946—10 a. m.

273. From Hickerson. Reurtel 299, Dec. 5.³³ Delay informing you regarding Manus caused by shortage personnel resulting from CFM and UN activities and is regretted.

During Evatt's visit to Dept he did raise question of joint rights of use of Manus in exchange for similar Australian rights at Guam. This was and is unacceptable to both State and Navy Depts. However, we offered Evatt such rights at Canton and American Samoa in exchange for similar rights at Manus. On Mar 14 we handed Australian Embassy a preliminary draft of a suggested base agreement for Manus. Please inform Evatt that at any time convenient to Aust Gov we would be happy to enter into discussions here in Washington with a view to early agreement our use Manus and that we are prepared include in agreement provision for similar Aust use Canton and Samoa. A copy of our proposal was sent to Canberra under cover secret letter dated Mar 18.

You are informed in strictest secrecy that the Navy Dept plans to withdraw completely from Manus within a few months. The Navy

³³ Not printed.
does not consider maintenance of facilities in Manus of significant importance to US. Nevertheless we are still prepared to enter into agreement outlined above provided the US is not obligated financially at Manus. [Hickerson.]

ACHESON

890.0146/12-746

Memorandum by the Under Secretary of State (Acheson) to President Truman


I am forwarding herewith, for your information, the translation of a note from the Soviet Embassy dated December 7, 1946. The Soviet Government expresses the view in this note that the question of trusteeship over the islands formerly under Japanese mandate, as well as over any Japanese islands, must be considered by the Allied Powers in the peace settlement in regard to Japan.

DEAN ACHESON

[Annex—Translation]

The Chargé of the Soviet Union (Orekhov) to the Acting Secretary of State

WASHINGTON, December 7, 1946.

Sir: With reference to your note of November 6 last, in which it was communicated that the United States of America is ready to place under trusteeship the islands which are under Japanese mandate and for which the United States will be the administering authority, I have the honor to inform you of the following:

The Soviet Government considers it necessary to study the given question and the “Draft Trusteeship Agreement for the Japanese Mandated Islands” which was presented by the Government of the United States of America.

The Soviet Government is prepared to take into account the interests of the United States of America in connection with this question, but at the same time it considers it necessary to express its view that the question of trusteeship over the islands formerly under Japanese mandate, as well as over any Japanese islands, must be considered by the Allied Powers in the peace settlement in regard to Japan.

Accept, Sir, the assurance of my very high esteem for you.

F. OREKHOV

*The substance of this instruction was communicated to the Australian Department of External Affairs by the U.S. Embassy at Canberra in a third person note dated December 12 (811.24590/12-1246). The Department was so informed in telegram 305, December 12, from Canberra (711.47/12-1246).*
Memorandum of Telephone Conversation, by the Director of the Office of Special Political Affairs (Hiss)

[WASHINGTON,] December 24, 1946.

Subject: British Comments on Our Proposed Trusteeship Agreement for the Japanese Mandated Islands

Mr. Balfour called me and said that he had looked into the above subject since I called him yesterday. He found that the Embassy had been informed that as of December 12 the Foreign Office was urgently engaged in obtaining the informal views of the Australian and New Zealand Chiefs of Staff. He said that in view of the importance of the issues involved he thought it unlikely that British views could be formulated by the first of the year and that he hoped we could defer presenting the draft agreement to the Security Council until we had received a further communication from the Embassy.

I asked Mr. Balfour if he would be good enough to obtain from the Foreign Office an estimate of just when we could anticipate receiving their views, pointing out that we might find it undesirable to delay very long although I felt sure we would be glad to accommodate the Embassy by delaying for a few days after the first of the year if the British views were to be obtainable by that time. He agreed to find out immediately the date when the Embassy would be in a position to supply us with the British comments.