

TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF  
THE PACIFIC ISLANDS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

RECOMMENDATION TO THE CONGRESS OF ACTION ENABLING THIS GOVERNMENT TO APPROVE THE TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF THE PACIFIC ISLANDS WHICH WAS APPROVED UNANIMOUSLY BY THE SECURITY COUNCIL OF THE UNITED NATIONS ON APRIL 2, 1947; AND A LETTER FROM THE SECRETARY OF STATE ENCLOSED A COPY OF THE TRUSTEESHIP AGREEMENT AND A MEMORANDUM WITH REFERENCE TO ITS NEGOTIATION IN THE SECURITY COUNCIL

JULY 3, 1947.—Referred to the Committee on Foreign Affairs, and ordered to be printed

To the Congress of the United States:

I wish to recommend to the Congress action enabling this Government to approve the trusteeship agreement for the Territory of the Pacific Islands which was approved unanimously by the Security Council of the United Nations on April 2, 1947. There is attached a letter from the Secretary of State enclosing a copy of the trusteeship agreement and a memorandum with reference to its negotiation in the Security Council.

The trusteeship agreement was proposed by the United States to the Security Council and approved by the Council with certain changes which were acceptable to the United States Government. Its terms are in conformity with the policy of this Government and with its obligations under the Charter of the United Nations. The terms of the agreement make ample provision for the political, economic, social, and educational development of the inhabitants of the trust Territory



*7/3/47*  
*McClellan*  
*Secretary of State*

and at the same time fully protect the security interests of the United States.

The United States has taken an active role from the beginning in the establishment of the trusteeship system of the United Nations. I believe, therefore, that it would be only fitting, as well as in the interest of the inhabitants of the islands, that the trusteeship agreement should be brought into force as soon as possible.

I have given special consideration to whether the attached trusteeship agreement should be submitted to the Congress for action by a joint resolution or by the treaty process. I am satisfied that either method is constitutionally permissible and that the agreement resulting will be of the same effect internationally and under the supremacy clause of the Constitution whether advised and consented to by the Senate or whether approval is authorized by a joint resolution. The interest of both Houses of Congress in the execution of this agreement is such, however, that I think it would be appropriate for the Congress, in this instance, to take action by a joint resolution in authorizing this Government to bring the agreement into effect.

I hope that the Congress may give early consideration to this matter.

HARRY S. TRUMAN.

THE WHITE HOUSE, July 3, 1947.

(Enclosure: Letter from the Secretary of State with two enclosures.)

DEPARTMENT OF STATE,  
Washington, July 2, 1947.

The PRESIDENT,  
The White House:

I have the honor to recommend that the Congress be requested to take action enabling the Government to approve, on behalf of the United States, the trusteeship agreement proposed by this Government and approved by the Security Council of the United Nations on April 2, 1947, whereby the United States of America is designated the administering authority for the territory of the Pacific Islands formerly mandated to Japan.

I transmit herewith for your information a copy of the text of the trusteeship agreement and a memorandum concerning the trusteeship agreement negotiation and the several revisions made in the Security Council which were accepted by the United States representative. Respectfully submitted.

G. C. MARSHALL.

(Enclosures: (1) Trusteeship agreement. (2) Memorandum with two annexes.)

MEMORANDUM

NEGOTIATIONS OF THE TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF THE PACIFIC ISLANDS BETWEEN THE SECURITY COUNCIL OF THE UNITED NATIONS AND THE UNITED STATES OF AMERICA

President Truman announced on November 6, 1946, that—

The United States is prepared to place under trusteeship, with the United States as administering authority, the Japanese mandated islands and any Japanese islands for which it assumes responsibility as a result of the Second World War.

A draft strategic trusteeship agreement was developed after long and careful interdepartmental consultations. Its provisions were a synthesis of State, War, and Navy Department views. It contained the terms whereby the United States was prepared to place within the trusteeship system of the United Nations the former mandated Marianas, Caroline, and Marshall Islands which are now administered under United States military government. Copies of the draft agreement were transmitted for information to the other members of the Security Council (Australia, Brazil, China, Egypt, France, Mexico, the Netherlands, Poland, the Union of Soviet Socialist Republics, and the United Kingdom) and to New Zealand and the Republic of the Philippines and were later transmitted to the newly elected members of the Security Council (Belgium, Colombia, and Syria).

On February 17, 1947, the text of the draft trusteeship agreement was submitted by the United States representative at the seat of the United Nations, the Honorable Warren R. Austin, to the Secretary-General, with a request that the matter be placed on the agenda of the Security Council at an early date. The United States submitted the draft trusteeship agreement for approval by the Security Council, rather than by the General Assembly, because under its terms the territory is designated as strategic. This is in accordance with article 82 of the Charter, which provides that—

there may be designated, in any trusteeship agreement, a strategic area or areas which may include part of all of the trust territory \* \* \*

and article 83, which states that—

all functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements \* \* \* shall be exercised by the Security Council.

Mr. Austin formally submitted the United States draft trusteeship agreement to the Security Council on February 26, 1947.<sup>1</sup> At that time he submitted to the Security Council a paper containing the text of the draft agreement, with article-by-article explanatory comments.<sup>2</sup> The Security Council began consideration of the draft trusteeship agreement on March 7, 1947, and discussions on the question were continued at four later meetings held on March 12, 17, and 28, and on April 2, 1947. During the course of the debates<sup>3</sup> the Governments of

<sup>1</sup> The complete statement by Mr. Austin in Security Council is found in United States delegation to the United Nations Press Release No. 143, February 26, 1947.  
<sup>2</sup> United States Delegation to the United Nations Press Release No. 142, February 25, 1947.  
<sup>3</sup> Verbatim Records of the Security Council discussions on the United States draft trusteeship agreement for the former Japanese mandated islands are contained in the following United Nations documents: S/P. V. 113, February 26, 1947; S/P. V. 116, March 7, 1947; S/P. V. 119, March 17, 1947; S/P. V. 123, March 28, 1947; S/P. V. 124, April 2, 1947.

New Zealand and India requested, under article 31 of the Charter, that they participate in the discussions. The New Zealand Government also requested that those members of the Far Eastern Commission not represented in the Security Council be invited to participate, if they so desired, in the discussions. The Security Council accordingly invited Canada, India, the Netherlands, New Zealand, and the Republic of the Philippines to be represented at subsequent discussions on the United States trusteeship agreement. The views of all of those states were heard at the Council's table.

During a long session on April 2, 1947, the Security Council reconsidered the entire agreement, article by article. In voting on proposed amendments, the United States representative followed the rule of casting a vote when the United States vote would be in the affirmative and abstaining from voting in cases wherein the United States did not favor the proposal before the Council. Thus he abstained from voting on proposals to revise article 8 (1) and article 15. Prior to the voting on each of these articles, the United States representative declared that the United States would not veto the amendment. In advance of his first abstention, he stated that—

On questions such as this, it is perfectly clear—to us, anyway—that the United States, where it may be obliged in view of its responsibilities to withdraw the tender of an agreement, should certainly not exercise a veto in the Security Council also.

Prior to his second abstention he said:

The United States being a party to the agreement, all I can do is, with the utmost modesty, state that an amendment in the nature of that proposed \* \* \* probably could not be accepted by the United States as a party to the agreement.

At the close of the session, the Security Council approved unanimously the United States draft agreement as a whole, including three minor revisions which were accepted by the United States representative with the consent of the United States Government. The three amendments are as follows:

*Article 3.*—An amendment proposed by the Representative of the Union of Soviet Socialist Republics to delete the words "as an integral part of the United States". Upon accepting this amendment at the 116th Meeting of the Security Council, the United States Representative said *inter alia*: "In agreeing to this modification, my Government feels that it should affirm for the record that its authority, in the trust territory is not to be considered in any way lessened thereby."

*Article 6 (1).*—An amendment proposed by the Representative of the Union of Soviet Socialist Republics and revised in the Council, to add after the words "toward self-government", the words "or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned." In accepting modification in Article 6 (1) at the 116th Meeting of the Security Council, the United States Representative declared that "the United States feels that it must record its opposition not to the principle of independence, to which no people could be more consecrated than the people of the United States, but to the thought that it could possibly be achieved within any foreseeable future in this case."

*Article 6 (1).*—An amendment suggested by the Representatives of New Zealand and India and introduced on behalf of the latter at the 124th Meeting of the Security Council, to delete the word "local" from the phrase "in local government." The observation of the Representative of India at the 124th Meeting in behalf of this deletion was that in certain countries the word "local" connotes municipal government, and that surely would not be the intention of the Representative of the United States.

In the final consideration of the United States trusteeship proposals, the original text of articles 1, 2, 4, 5, 9, 10, 11, 12, 14, and 19 was approved in each case without objection or comment. The American representative, Mr. Austin, requested that article 7 be perfected as follows:

"In discharging its obligations under Article 76 (c), of the Charter, the administering authority shall guarantee to the inhabitants of the trust territory freedom of conscience, and, subject only to the requirements of public order and security, shall guarantee to the inhabitants of the trust territory freedom of speech, of the press, and of assembly; freedom of worship, and of religious teaching; and freedom of migration and movement."

Mr. Austin stated:

The significance of this perfection of the article is that it moves up freedom of conscience so that it will not be subject to the requirements of public order and security.

The approval of the trusteeship agreement with the three minor amendments and this slight change followed the withdrawal or rejection of several other proposed amendments as follows:

*Preamble.*—Discussions on the Preamble concerned three alternative versions—suggested by Poland, the Netherlands, and the United States—of an amendment proposed originally by the Representative of Poland at the 116th Meeting of the Security Council. This proposal was to add the following phrase to paragraph four: "Whereas Japan has violated the terms of the above-mentioned mandate of the League of Nations and has thus forfeited her mandate \* \* \*" The United States Representative endorsed this proposal, but the amendment was reconsidered at the 124th Meeting. The Netherlands Representative proposed that the amendment read "Whereas, as a result of the signature by Japan of an act of unconditional surrender, the mandate held by Japan for these islands has come to an end." As a compromise, the United States Representative proposed the following wording: "Whereas the mandate, held by Japan for these Islands has come to an end." After failure to reach agreement on these alternative proposals, the original wording of the Preamble was approved unanimously.

*Article 8 (1).*—The United Kingdom Representative proposed an amendment to Article 8 (1) to delete the phrase "except the administering authority", holding that the inclusion of those words would give preferential position to the United States which did not seem to be in strict accordance with Articles 83 (2) and 76 (d) of the Charter. He asked whether that phrase in Article 83 (3) "without prejudice to security considerations" would not really give the United States sufficient safeguard. After replying to this question in the negative, the American Representative stated for the record: "\* \* \* the United States Government has no intention, through this clause or any other clause, of taking advantage for its own benefit, and to the detriment of the welfare of the inhabitants, of the merger and almost nonexistent resources and commercial opportunities that exist in the scattered and barren islands. The nature of this proposed clause is dictated by the fact that these islands are proposed as a strategic trusteeship area and by the obligations which the administering authority will assume under the Charter to further international peace and security" and to insure that the territory itself "shall play its part" in the maintenance of international peace and security."

*Article 13.*—The United Kingdom Representative proposed a redraft of Article 13 to read:

"The provisions of Articles 87 and 88 of the Charter shall be applicable to the trust territory, provided that the administering authority may at any time inform the Security Council, in accordance with Article 83 (3) of the Charter, that security considerations do not permit the exercise of the functions of the Trusteeship Council in regard to specific areas." He did not insist on this amendment, however, because the United States Representative stated for the record that the United States contemplates that notification shall be made to the Security Council whenever the proviso that is contained in Article 13 comes into use.

bers of the Security Council (Australia, Brazil, China, Egypt, France, Mexico, the Netherlands, Poland, the Union of Soviet Socialist Republics, and the United Kingdom) 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. At an early date we plan to submit this draft agreement formally to the Security Council for its approval.

Final disposition of islands belonging to Japan must, of course, await the peace settlement with Japan. The draft trusteeship agreement submitted to the Security Council for its approval relates only to the former Japanese mandated islands, which never belonged to Japan but were a part of the League of Nations mandate system. The United States has consistently and strongly supported the position of the General Assembly that former mandated territories should be placed under the trusteeship system as soon as possible.

The General Assembly, at the first part of its first session, called on "those members of the United Nations which are now administering territories held under mandate" to undertake practical steps for the implementation of article 79 of the Charter. Since the United States was, and is, occupying the territory formerly mandated to Japan, the United States desired to play its part in attaining the objectives of the General Assembly resolution, namely, that trusteeship agreements for all former mandated territories should be concluded promptly and the trusteeship system organized as soon as possible.

The Japanese mandated islands—the Marshalls, Marianas, and Carolines—consist of some 98 islands and island clusters, with a total land mass of only 846 square miles, a total population of only about 48,000 native inhabitants, and negligible indigenous economic resources.

The tremendous strategic value of the mandated islands to Japan is evident, however, in the way these islands were used in carrying out its basic plan of aggression. Before Japan entered the war on December 7, 1941, she had established fortified positions, naval bases, and air bases in the islands of the Japanese mandates. As a whole, the islands formed a deep, well-defended barrier between the United States and Guam, the Philippines, and its British and Dutch allies in the Far East.

The major part of the Japanese submarines which participated in the attack on Pearl Harbor staged through Kwajalein in the Marshall Islands. From this same base, Japanese submarines continued to carry out extensive operations against the United States shipping in the eastern half of the Pacific Ocean for years.

Air bases and amphibious staging points in the Marianas facilitated the capture of Guam in December 1941. Air forces and naval forces operating from the Marshalls were used in the capture of Wake Island.

On the outbreak of war, the Japanese mandated islands, with their naval and air forces and shore defenses, served to screen and protect the southward advance of the Japanese against the Philippines and British and Dutch possessions in the Southwestern Pacific Ocean.

The Palau group in the western Carolines served as the main forward support base for the attack on the Netherlands East Indies and Timor.

*Article 15.*—Extended debate took place before reaching agreement on Article 15. Two formal amendments to this article were presented by the Representatives of Poland and the Union of Soviet Socialist Republics. The Soviet amendment was to make Article 15 read as follows: "The terms of the present agreement may be altered and amended or the terms of its validity discontinued by decision of the Security Council." The Polish amendment was to modify Article 15 to read: "The terms of the present agreement shall not be altered, amended or terminated except as provided by the Charter." The United States indicated a willingness to accept the following text as a compromise: "The terms of the present agreement shall not be altered, amended or terminated except by agreement of the administering authority and the Security Council." The rejection of the Soviet and Polish amendments was followed by the acceptance of the original wording of Article 15.

*Proposed Article 17.*—An issue debated at length in the Security Council was embodied in an amendment proposed by Australia to add an Article 17 to the agreement which would have delayed its coming into force until the effective date of the peace treaty with Japan. The view thus expressed was supported by the United Kingdom and by New Zealand. The United States Representative argued most forcefully against this proposal which would have left the agreement in suspense for an indefinite period. As a basic contention of the United States Government, he emphasized throughout the debates that the matter did not depend upon, and need not await, the general peace settlement with Japan. Following this widening of the Council's discussions to include representatives of Canada, India, the Netherlands, and the Republic of the Philippines for the purpose of stating their views on the United States trusteeship proposals, the Australian Representative withdrew his proposal.

According to article 16 of the agreement, the Security Council having approved its terms of trusteeship, only the approval by the United States in accordance with its constitutional process is now required to bring the trusteeship agreement for the territory of the Pacific Islands into force.

(Enclosures: (Annex A) Statement by Warren R. Austin in the Security Council, February 26, 1947. (Annex B) Original text of the draft agreement with article-by-article explanatory comments, submitted by Mr. Austin to the Security Council, February 25, 1947.)

## ANNEX A

STATEMENT BY THE HONORABLE WARREN R. AUSTIN, UNITED STATES REPRESENTATIVE AT THE SEAT OF THE UNITED NATIONS, IN THE SECURITY COUNCIL, FEBRUARY 26, 1947, ON SUBMISSION OF UNITED STATES DRAFT TRUSTEESHIP AGREEMENT

Mr. President, the United States, like other nations adhering to the United Nations declaration of January 1, 1942, subscribed to the Atlantic Charter principle that "their countries seek no aggrandizement, territorial or otherwise."

It was for the purpose of making clear that the United States adheres unswervingly to this principle that the President of the United States on November 6, 1946, declared our intentions regarding Pacific islands whose control by Japan enabled her to attack the United States. The President said:

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 responsibility as a result of the Second World War. Insofar as the Japanese mandated islands are concerned, this Government is transmitting for information to the other mem-

It was this interlocking network of naval and air bases in the mandated islands that prevented sending early and effective support to China except by circuitous and highly difficult routes.

The atoll of Truk was used by the Japanese as a great naval and air base from which they launched their attacks against New Britain, New Ireland, New Guinea, and the islands of the Solomons chain. It was a base for their projected attack against Australia. From Truk and other bases, Japanese naval and air forces could and did penetrate to the eastward to threaten the Allied lines of communications between the United States, Australia, and New Zealand.

Until they were reduced, or bypassed and rendered innocuous by air and naval attack, the mandated islands threatened our lines of communications to Australia and prevented our early return to the aid of the Philippines and to China. It was only after neutralization of Truk and capture of Peleliu and Anguar in the Palaus that it was feasible to return to the Philippines, and it was only after capture of the Marianas that serious military pressure could be placed on Japan itself by our B-29's.

Tens of thousands of American lives, vast expenditures of treasure, and years of bitter fighting were necessary to drive the Japanese aggressors back from these islands. These islands constitute an integrated strategic physical complex vital to the security of the United States.

The American people are firmly resolved that this area shall never again be used as a springboard for aggression against the United States or any other member of the United Nations.

Most of the strategically important areas of the world, including those in the Pacific, are at present under the exclusive sovereignty of various of the larger nations. The United States, however, is proposing trusteeship rather than annexation as the basis for its administration of these highly strategic islands.

In undertaking to place under trusteeship a territory of such strategic importance to the United States as these islands, the United States is expressing its faith in the United Nations.

Our purpose is to defend the security of these islands in a manner that will contribute to the building up of genuine, effective, and enforceable collective security for all members of the United Nations. The first of the four basic objectives of the trusteeship system set forth in article 76 of the Charter is "to further international peace and security." Since the area of the former Japanese mandated islands is of paramount strategic importance, the United States proposes, in accordance with article 82 of the Charter, that the trust territory be designated a strategic area.

In preparing this draft-trusteeship agreement, the Government of the United States gave long and careful study not only to the Charter as a whole and to its specific provisions for strategic needs in special areas but also to the draft agreements for nonstrategic areas recently submitted to the General Assembly by five of the mandatory powers. This draft-trusteeship agreement is viewed by the Government of the United States as conforming, in substance and in form, with the Charter and as promoting the interests both of the inhabitants of the islands and of the United Nations. It contains the terms upon

which the United States is prepared to administer the former Japanese mandated islands as a trust territory.

In conformity with the provisions of the Charter for strategic areas, the trust territory will contain bases. Many atolls in the territory have potential value as base sites or as anchorages. Few such sites, however, are being developed and maintained at present.

The United States will administer this strategic trust territory in accordance with the provisions of the Charter. In particular, the United States will administer the territory in accordance with the obligations contained in article 2, paragraph 4—

to refrain from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

The United States as administering authority will insure that this trust territory shall play its part in the maintenance of international peace and security in accordance with its obligation under article 1 of the Charter—"to take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace." Its administration will also be in accordance with article 84 of the Charter, relating to the part to be played by trust territories "in carrying out the obligations towards the Security Council" of the administering authority.

The United States intends, therefore, to include this trust territory as fully as those territories under its sovereignty in the special agreement or agreements it will conclude with the Security Council for the provision to the United Nations of armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security as envisaged under article 43 of the Charter.

Pending conclusion of these permanent agreements under article 43, the United States will undertake that these islands play their part in whatever action the United States may be called upon to take in accordance with the obligations imposed by article 106 relating to transitional security arrangements.

The United States draft agreement provides that the administering authority may from time to time specify certain areas as closed for security reasons. This provision will not, of course, prejudice the full application to the entire trust territory of all international control and inspection measures that become part of a system of international control of atomic energy, other weapons of mass destruction, and conventional armaments.

The United States is willing to submit to international supervision, as provided in the agreement, the political, economic, social, and educational development of the inhabitants of the trust territory. It is equally willing to submit military and naval installations to whatever degree of supervision and control may be provided by agreements for the international control of armaments and armed forces.

In preparing this draft trusteeship agreement this Government of the United States bore constantly in mind article 73 of the Charter:

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of

self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants.

The United States Government believes that the draft trusteeship agreement now before you conforms fully with this principle in its provisions for the political, economic, social, and educational advancement of the inhabitants of the trust territory.

Although this is a strategic area vital to that system of international peace and security to which articles 73 and 76 refer, the United States draft agreement goes beyond the requirements of the Charter in strategic areas: It provides that articles 87 and 88—relating to reports, petitions, visits, and questionnaires in nonstrategic trusteeship areas—shall be applicable to the whole of this trust territory, except that the administering authority may determine the extent of applicability in any areas which may from time to time be specified by the administering authority as closed for security reasons. This exception has been made in recognition of the fact that an administering authority of a strategic trust territory should have the authority necessary to safeguard the installations established in the discharge of its responsibilities for the maintenance of international peace and security.

It is true that the fulfillment of the basic objectives of the trusteeship system will depend in all trust territories—and this territory is no exception—upon the good faith of the administering authority as well as upon effective supervision by the United Nations.

I can assure you on behalf of the Government of the United States that the United States will faithfully support the principle of effective supervision by the United Nations as fully in this trust territory as in any other trust territory within the limits imposed by its obligation to administer this area in such a way as to preserve the security of the United States and to strengthen collective security under the United Nations.

Articles 6 and 7 of the draft trusteeship agreement submitted to the Security Council contain strong provisions relating to the political, economic, social, and educational advancement of the inhabitants of this territory and to guarantees of their basic human rights. These are the fundamental objectives of the trusteeship system, aside from the strengthening of international peace and security. The United States is glad to invite the members of the Security Council to make a searching examination of the provisions contained in these articles, not only in relation to the requirements of the Charter but in relation to the comparable provisions of the trusteeship agreements approved by the General Assembly last December. The United States believes these articles, taken together with other provisions of the draft agreement, provide a maximum degree of protection for the welfare and advancement of the inhabitants of these islands.

The United States believes it has fulfilled the requirements of article 79 of the Charter, first, by transmitting copies of a draft trusteeship agreement for the former Japanese mandated islands to all members of the United Nations which, in the view of the Government of the United States, may have special interests in these islands, and, now, by formally submitting the draft agreement to the Security Council for its approval.

The United States Government does not consider that there is any barrier to the placing of these islands under trusteeship in accordance with the Charter whenever the Security Council approves the draft agreement.

As a result of the war, Japan has ceased to exercise, or to be entitled to exercise, any authority in these islands. The islands were entrusted to Japan under mandate from the League of Nations following the First World War. In utter disregard of the mandate, Japan used the territories for aggressive warfare, contrary to the law of nations, against the United States and others of the United Nations. By Japan's criminal acts of aggression, she forfeited the right and capacity to be the mandatory of the islands. The termination of Japan's status as mandatory in the islands has been frequently affirmed in the Cairo Declaration of 1943, subsequently reaffirmed in the Potsdam Declaration and in the instrument of surrender accepted by the powers responsible for Japan's defeat.

All authority in these islands is now exercised by the United States. The United States, in repelling Japanese aggression, occupied, and is in possession of, the former Japanese mandated islands. This Government is not aware that any other member of the United Nations has asserted any claim for trusteeship of these islands. All the members which may have special interests in the islands have been sent copies of the draft agreement which the United States, as the responsible administering authority in the islands, has submitted to the Security Council.

Under the above circumstances, it is the view of this Government that the conclusion of a trusteeship agreement pursuant to the Charter for the former Japanese mandated islands clearly can take effect at this time and does not depend upon, and need not await, the general peace settlement with Japan.

The United States Government considers that it has fulfilled its immediate responsibility to the United Nations by having responded on last November 6 to the call of the General Assembly and by taking this occasion today to submit the draft agreement to the Security Council and to present some of the more important aspects of the agreement.

The United States Government will continue to administer the former Japanese mandated islands in the spirit of the proposed trusteeship and in conformity with the provisions of the draft agreement which implement the basic objectives of the trusteeship system during the time these proposals are under consideration.

It is the profound belief of the Government of the United States and of the American people that the administration of these islands by the United States in accordance with the terms of this draft agreement would contribute both to the maintenance of international peace and security and to the well-being and advancement of the inhabitants of the islands.

For these reasons this Government considers that the United States should be designated as the sole administering authority. Such a designation is in accord with action recently taken by the General Assembly with respect to the several trusteeship agreements, wherein in each case a single member of the United Nations is designated as the administering authority.

ARTICLE 3

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

*Comment.*—This article is similar to the relevant provision of article XXII of the Covenant of the League of Nations and of the terms of the original "C" mandates, as well as to corresponding articles in the trusteeship agreements recently approved by the General Assembly. The words "as an integral part" of the United States are carried over from the original mandate to Japan and appear in other trusteeship agreements approved by the General Assembly. The phrase does not, of course, imply sovereignty over the territory.

ARTICLE 4

The administering authority, in discharging the obligations of trusteeship in the trust territory, shall act in accordance with the Charter of the United Nations, and the provisions of this agreement, and shall, as specified in Article 83 (2) of the Charter, apply the objectives of the international trusteeship system, as set forth in Article 76 of the Charter, to the people of the trust territory.

*Comment.*—This article explicitly places the United States under obligation to apply the objectives of the international trusteeship system to the people of the trust territory. Since these objectives were designed primarily for the protection and benefit of the inhabitants, this undertaking on the part of the United States is of fundamental importance. In articles 5, 6, 7, and 8 the draft agreement outlines the specific measures by which the United States proposes to implement these objectives.

ARTICLE 5

In discharging its obligations under Article 76 (a) and Article 84, of the Charter, the administering authority shall ensure that the trust territory 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; and
3. 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 defense and the maintenance of law and order within the trust territory.

*Comment.*—This article specifies the military measures which the United States may take in the trust territory to assist in the maintenance of international peace and security and to safeguard the security of the United States.

DRAFT TRUSTESHIP AGREEMENT FOR THE JAPANESE MANDATED ISLANDS, WITH ARTICLE-BY-ARTICLE EXPLANATORY COMMENTS

ANNEX B

PREAMBLE

Whereas article 75 of the Charter of the United Nations provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent agreement; and

Whereas under article 77 of the said Charter the trusteeship system may be applied to territories now held under mandate; and

Whereas, on December 17, 1920, the Council of the League of Nations confirmed a mandate for the former German islands north of the Equator to Japan, to be administered in accordance with article 22 of the Covenant of the League of Nations; and

Whereas Japan, as a result of the Second World War, has ceased to exercise any authority in these islands;

Now, therefore, the Security Council of the United Nations, having satisfied itself that the relevant articles of the Charter have been complied with, hereby resolves to approve the following terms of trusteeship for the Pacific islands formerly under mandate to Japan.

ARTICLE 1

The Territory of the Pacific Islands, consisting of the islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the League of Nations, is hereby designated as a strategic area and placed under the trusteeship system established in the Charter of the United Nations. The Territory of the Pacific Islands is hereinafter referred to as the trust territory.

*Comment.*—The entire territory of the Pacific islands is designated as strategic under the provisions of article 82 of the Charter in order to enable the United States to safeguard its own national security and at the same time to discharge its obligations for general security under the United Nations. The importance of these requirements was clearly shown in the last war.

It should be noted, of course, that the geographical extent of the trust territory is based upon the mandate formerly held by Japan. The three archipelagos in the trust territory include 98 islands and island clusters, with a total land area of 846 square miles inhabited by 48,297 natives. This agreement applies only to the Japanese mandated islands and does not apply to any islands under Japanese sovereignty for which the United States may become responsible.

ARTICLE 2

The United States of America is designated as the administering authority of the trust territory.

*Comment.*—Although the United States has not been the mandatory power responsible for these islands, the United States was primarily responsible for their liberation, is presently responsible for their administration, and considers them essential to the security of this country and to the maintenance of international peace and security.

Similar provisions are contained in the trusteeship agreements approved by the General Assembly.

Since, according to article 84 of the Charter, it is the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security, this article has been designed to list some of the powers necessary to fulfill that obligation and any obligation assumed under article 43 of the Charter.

## ARTICLE 6

In discharging its obligations under Article 76 (b) of the Charter, the administering authority shall:

1. foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government, and to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territory; shall develop their participation in local government; shall give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;
2. promote the economic advancement and self-sufficiency of the inhabitants and to this end shall regulate the use of natural resources; encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communication;
3. promote the social advancement of the inhabitants, and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcohol and other spirituous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and
4. promote the educational advancement of the inhabitants, and to this end shall take steps toward the establishment of a general system of elementary education; facilitate the vocational and cultural advancement of the population; and shall encourage qualified students to pursue higher education, including training on the professional level.

*Comment.*—These provisions elaborate the general objectives of article 76 (b) of the Charter and constitute a considerable advance over the terms of the original mandate.

This article refers to the development of the people of the territory as being directed specifically toward "self-government" rather than "self-government or independence" incorporated in article 76 (b) of the Charter. This article is not a prior judgment of the ultimate status of the trust territory but merely reflects its sparse, highly scattered population, its relatively underdeveloped, indigenous central government, and its lack of economic resources.

## ARTICLE 7

In discharging its obligations under Article 76 (c) of the Charter, the administering authority, subject only to the requirements of public order and security, shall guarantee to the inhabitants of the trust territory freedom of speech, of the press, and of assembly; freedom of conscience, of worship, and of religious teaching; and freedom of migration and movement.

*Comment.*—There were no comparable guarantees of freedom of speech, of the press, of assembly, and of migration and movement in the original mandate. The present article adds "freedom of migration and movement" to the other freedoms referred to in the agreements approved by the General Assembly. The provision that these free-

doms are subject not only to the requirements of public order, as in other trusteeship agreements, but also to the requirements of security, is considered necessary in view of the fact that the trust territory is a strategic area.

The right of petition is provided for in article 13 of this agreement.

## ARTICLE 8

1. In discharging its obligations under Article 76 (d) of the Charter, as defined by Article 83 (2) of the Charter, 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 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 possess.

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.

*Comment.*—1. The intent of this paragraph is to ensure the greatest freedom of international participation in the economy of the trust territory consistent with the basic prerequisite of insuring that its role as a strategic area is not interfered with. Accordingly, it provides for most-favored-nation rather than national treatment in the territory for all members of the United Nations.

The United States does not intend to take advantage for its own benefit of such meager and almost nonexistent resources and opportunities as may exist in these scattered and barren islands.

The Charter makes a specific exception to the application of economic principles affecting members of the United Nations when the area concerned is a strategic one. This exception is contained in article 83 (2) of the Charter of the United Nations, which provides that the basic objectives of article 76 "shall be applicable to the people of each strategic area" rather than to the territory as a whole or to people in other territories. Article 76 (d) also provides that the objectives contained therein shall not prejudice "the attainment of the foregoing objectives," including that of international peace and security. Since security is the overriding consideration in a strategic area, economic treatment is required which will be compatible with this objective.

2. This provision is in accordance with article 76 (d) of the Charter and insures equal treatment for the nationals of all members of the United Nations in the administration of justice.

3. The purpose of this provision is to state explicitly what has already been accepted in international practice, namely, that air



traffic rights which concern the picking up and discharge of passengers, mail, and cargo are subject to specific bilateral agreements. Thus, irrespective of what form of economic treatment for nonterritorial interests might be provided in any trusteeship agreement, air traffic rights would remain subject to bilateral agreements. Air transit rights, on the other hand, are covered by the Chicago Convention on International Civil Aviation, a multilateral agreement.

4. The intent of this paragraph is to protect the interests of the inhabitants of the trust territory in the economic treatment and other rights which they may obtain outside the trust territory. Since this agreement applies to a strategic area, the rights of other members of the United Nations in the territory are of a most-favored-nation character. The paragraph, therefore, provides that the United States may negotiate and conclude appropriate international agreements which will attain for the inhabitants of the trust territory most-favored-nation treatment by members of the United Nations. In addition, it provides that the Security Council or, at its invitation, other organs of the United Nations may recommend what other 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.

ARTICLE 9

The administering authority shall be entitled to constitute the trust territory into a customs, fiscal, or administrative union or federation with other territories under United States jurisdiction and to establish common services between such territories and the trust territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this agreement.

*Comment.*—This article should be read in connection with article 3 of the draft agreement, which provides in part that the administering authority shall have full powers of administration over the territory as an integral part of the United States. Both articles 3 and 9, it should be noted, are made subject to the terms of this agreement. The substance of article 9 permits customs, fiscal, or administrative union or federation with other territories under United States jurisdiction. It is practically identical with similar provisions in four of the agreements approved by the General Assembly. Provision for such union or federation is obviously desirable to ensure the efficient administration of such island areas as Saipau, which will face many problems common to the nearby island of Guam. However, such a provision does not imply sovereignty over the trust territory.

ARTICLE 10

The administering authority, acting under the provisions of Article 3 of this agreement, may 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.

*Comment.*—This article, which is permissive in character, seems particularly appropriate for the trust territory in that it offers the inhabitants an opportunity to benefit from association with other peoples who face similar problems. Such association would enable them to develop a regional economy, to take advantage of technical

studies on common problems, and to participate effectively in furthering their own development. The advantages of regional organization have been demonstrated by the Caribbean Commission. Similar developments are also under way in the South Pacific.

ARTICLE 11

1. The administering authority shall take the necessary steps to provide the status of citizenship of the trust territory for the inhabitants of the trust territory.

2. The administering authority shall afford diplomatic and consular protection to inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority.

*Comment.*—1. The status of citizenship will tend to create a common bond amongst peoples who otherwise might feel no unity and consequently would have difficulty in working toward the objectives of the trusteeship system as set forth in article 76 of the Charter.

Diplomatic and consular protection of the inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority serves not only to provide a necessary service but also to establish the rights of the inhabitants under international law.

ARTICLE 12

The administering authority shall enact such legislation as may be necessary to place the provisions of this agreement in effect in the trust territory.

*Comment.*—This article constitutes an international commitment upon the part of the United States to implement by legislation the provisions of the trusteeship agreement.

ARTICLE 13

The provisions of Articles 87 and 88 of the Charter shall be applicable to the trust territory, provided that the administering authority may determine the extent of their applicability to any areas which may from time to time be specified by it as closed for security reasons.

*Comment.*—The intent of this paragraph is to ensure that the functions of the Trusteeship Council in regard to nonstrategic trust territories may be appropriately applied to the strategic trust territory covered by this agreement.

The Charter itself provides for supervision over strategic areas in only the most general terms. Article 83 states merely that "all functions of the United Nations relating to strategic areas shall be exercised by the Security Council" and that "the Security Council shall \* \* \* avail itself of the assistance of the Trusteeship Council to perform those functions \* \* \* relating to political, economic, social, and educational matters in strategic areas." No indication is given as to what those "functions" should be. Accordingly, article 13 of the draft agreement provides that articles 87 and 88 of the Charter—relating to reports, petitions, visits, and questionnaires concerning nonstrategic areas—shall be applicable to the trust territory, even though it is designated as a strategic area, except that the administering authority may determine the extent of applicability in any areas which may, from time to time, be specified by the administering authority as closed for security reasons.

(Unrestricted, S/318, 2 April 1947 Original: English)

UNITED NATIONS SECURITY COUNCIL

\*TRUSTEESHIP AGREEMENT FOR THE FORMER JAPANESE MANDATED ISLANDS APPROVED AT THE ONE HUNDRED AND TWENTY-FOURTH MEETING OF THE SECURITY COUNCIL

PREAMBLE

WHEREAS Article 75 of the Charter of the United Nations provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent agreements; and

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

WHEREAS on 17 December 1920 the Council of the League of Nations confirmed a mandate for the former German islands north of the equator to Japan, to be administered in accordance with Article 22 of the Covenant of the League of Nations; and

WHEREAS Japan, as a result of the Second World War, has ceased to exercise any authority in these islands;

NOW, THEREFORE, the Security Council of the United Nations, having satisfied itself that the relevant articles of the Charter have been complied with, hereby resolves to approve the following terms of trusteeship for the Pacific Islands formerly under mandate to Japan.

ARTICLE 1

The Territory of the Pacific Islands, consisting of the islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the League of Nations, is hereby designated as a strategic area and placed under the trusteeship system established in the Charter of the United Nations. The Territory of the Pacific Islands is hereinafter referred to as the trust territory.

ARTICLE 2

The United States of America is designated as the administering authority of the trust territory.

ARTICLE 3

The administering authority shall have full powers of administration, legislation, and jurisdiction over the territory subject to the provisions of this agreement, and may apply to the trust territory, subject to any modifications which the administering authority may consider desirable, such of the laws of the United States as it may deem appropriate to local conditions and requirements.

ARTICLE 4

The administering authority, in discharging the obligations of trusteeship in the trust territory, shall act in accordance with the Charter of the United Nations, and the provisions of this agreement, and shall, as specified in Article 83 (2) of the Charter, apply the objectives of the international trusteeship system, as set forth in Article 76 of the Charter, to the people of the trust territory.

ARTICLE 5

In discharging its obligations under Article 76 (a) and Article 84 of the Charter, the administering authority shall ensure that the trust territory 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; and

\*See document S/231 for the original draft agreement submitted by the Representative of the United States.

This exception has been made in recognition of the fact that an administering authority of a strategic trust territory should have, in the discharge of its responsibilities for the maintenance of international peace and security, the authority necessary to safeguard the installations established for that purpose. It is permitted under article 83 (3) of the Charter, which wisely provides that the functions of the Trusteeship Council in strategic areas shall be "subject to the provisions of the trusteeship agreements and without prejudice to security considerations."

Article 13 of the draft agreement states only that the extent of applicability of article 87 and 88 of the Charter may, in "closed" areas, be determined by the administering authority. Hence, even in such areas the Trusteeship Council can, and normally would, be authorized to request and consider reports submitted by the administering authority, to accept petitions and examine them in consultation with the administering authority, and otherwise to keep itself informed of the political, economic, social, and educational development of the inhabitants.

Any agreement arising out of (a) the regulation of armaments, including the principle of inspection, or (b) the assignment of forces and facilities to the Security Council under article 43 of the Charter, would apply to the strategic areas of the Japanese mandated islands in the same way as to any United States territory.

ARTICLE 14

The administering authority undertakes to apply in the trust territory the provisions of any international conventions and recommendations which may be appropriate to the particular circumstances of the trust territory and which would be conducive to the achievement of the basic objectives of Article 6 of this agreement.

Comment.—This provision will secure for the inhabitants of the territory the benefits of all appropriate international conventions and recommendations, including agreements which already exist as well as those which may be adopted in the future by the United Nations and its specialized agencies.

ARTICLE 15

The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority.

Comment.—Under this provision, the United States as the administering authority of the trust territory would occupy the same position with respect to amendment of this agreement as the administering authorities of other trust territories with respect to the agreements for those territories.

ARTICLE 16

The present agreement shall come into force when approved by the Security Council of the United Nations and by the Government of the United States after due constitutional process.

Comment.—This article merely defines the steps necessary for the agreement to come into force under the Charter of the United Nations and the Constitution of the United States. Article 83 of the Charter provides that the terms of trusteeship agreements relating to strategic areas must be approved by the Security Council.

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.

ARTICLE 9

The administering authority shall be entitled to constitute the trust territory into a customs, fiscal, or administrative union or federation with other territories under United States jurisdiction and to establish common services between such territories and the trust territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this agreement.

ARTICLE 10

The administering authority, acting under the provisions of Article 3 of this agreement, may accept membership in any regional advisory commission, regional authority, or technical organization, or other voluntary association of states, may co-operate with specialized international bodies, public or private, and may engage in other forms of international co-operation.

ARTICLE 11

1. The administering authority shall take the necessary steps to provide the status of citizenship of the trust territory for the inhabitants of the trust territory.
2. The administering authority shall afford diplomatic and consular protection to inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority.

ARTICLE 12

The administering authority shall enact such legislation as may be necessary to place the provisions of this agreement in effect in the trust territory.

ARTICLE 13

The provisions of Articles 87 and 88 of the Charter shall be applicable to the trust territory, provided that the administering authority may determine the extent of their applicability to any areas which may from time to time be specified by it as closed for security reasons.

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The administering authority undertakes to apply in the trust territory the provisions of any international conventions and recommendations which may be appropriate to the particular circumstances of the trust territory and which would be conducive to the achievement of the basic objectives of Article 6 of this agreement.

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The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority.

ARTICLE 16

The present agreement shall come into force when approved by the Security Council of the United Nations and by the Government of the United States after due constitutional process.

Certified true copy.

For the Secretary-General of the United Nations.

A. SOBOLEV  
*Assistant Secretary-General  
in charge of Security Council Affairs.*



3. 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 defense and the maintenance of law and order within the trust territory.

ARTICLE 6

In discharging its obligations under Article 76 (b) of the Charter, the administering authority shall:

1. foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned; and to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territory; shall develop their participation in government; shall give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;
2. promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall regulate the use of natural resources; encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communication;
3. promote the social advancement of the inhabitants, and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcohol and other spiritous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and
4. Promote the educational advancement of the inhabitants, and to this end shall take steps toward the establishment of a general system of elementary education; facilitate the vocational and cultural advancement of the population; and shall encourage qualified students to pursue higher education, including training on the professional level.

ARTICLE 7

In discharging its obligations under Article 76 (c), of the Charter, the administering authority shall guarantee to the inhabitants of the trust territory freedom of conscience, and, subject only to the requirements of public order and security, freedom of speech, of the press, and of assembly; freedom of worship, and of religious teaching; and freedom of migration and movement.

ARTICLE 8

1. In discharging its obligations under Article 76 (d) of the Charter, as defined by Article 83 (2) of the Charter, 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 favourable 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 favourable than that granted by them to the nationals of other states. The Security