

in General Assembly resolution 39 (I) of 12 December 1946;

2. To revoke the recommendation intended to debar Spain from membership in international agencies established by or brought into relationship with the United Nations, which recommendation is a part of the same resolution adopted by the General Assembly in 1946 concerning relations of Members of the United Nations with Spain.

*304th plenary meeting,
4 November 1950.*

387 (V). Libya: Report of the United Nations Commissioner in Libya; Reports of the administering Powers in Libya

The General Assembly,

Having resolved by its resolution 289 A (IV) of 21 November 1949 that Libya shall be constituted a united independent and sovereign State,

Having noted the report² of the United Nations Commissioner in Libya, prepared in consultation with the Council for Libya, and those of the administering Powers,³ submitted in accordance with General Assembly resolution 289 A (IV), as well as the statements⁴ made by the United Nations Commissioner and the representatives of the Council for Libya,

Having noted in particular the confidence expressed by the United Nations Commissioner that the aim of the General Assembly, namely, that Libya should become an independent and sovereign State, will be attained within the time-limit prescribed, with the increasing co-operation of the administering Powers with the United Nations Commissioner and the mutual co-ordination of their activities toward that end,

Having noted the statements in the above-mentioned report of the United Nations Commissioner regarding the needs of Libya for technical and financial assistance both before and after independence, if such assistance is requested by the Government of Libya,

1. *Expresses confidence* that the United Nations Commissioner in Libya, aided and guided by the advice of the members of the Council for Libya, will take the necessary steps to discharge his functions toward the achievement of the independence and unity of Libya pursuant to the above-mentioned resolution;

2. *Calls upon* the authorities concerned to take all steps necessary to ensure the early, full and effective implementation of the resolution of 21 November 1949, and particularly the realization of the unity of Libya and the transfer of power to an independent Libyan Government; and, further,

3. *Recommends:*

(a) That a National Assembly duly representative of the inhabitants of Libya shall be convened as early as possible, and in any case before 1 January 1951;

² See *Official Records of the General Assembly, Fifth Session, Supplement No. 15.*

³ See documents A/1387, A/1390 and A/1390/Add.1.

(b) That this National Assembly shall establish a Provisional Government of Libya as early as possible, bearing in mind 1 April 1951 as the target date;

(c) That powers shall be progressively transferred to the Provisional Government by the administering Powers in a manner which will ensure that all powers at present exercised by them shall, by 1 January 1952, have been transferred to the duly constituted Libyan Government;

(d) That the United Nations Commissioner, aided and guided by the advice of the members of the Council for Libya, shall proceed immediately to draw up a programme, in co-operation with the administering Powers, for the transfer of power as provided in subparagraph (c) above;

4. *Urges* the Economic and Social Council, the specialized agencies and the Secretary-General of the United Nations to extend to Libya, in so far as they may be in a position to do so, such technical and financial assistance as it may request in order to establish a sound basis for economic and social progress;

5. *Reaffirms* its recommendations that, upon its establishment as an independent State, Libya be admitted to the United Nations in accordance with Article 4 of the Charter.

*307th plenary meeting,
17 November 1950.*

388 (V). Economic and financial provisions relating to Libya

A

Whereas, in accordance with the provisions of article 23 and paragraph 3 of annex XI of the Treaty of Peace with Italy, the question of the disposal of the former Italian colonies was submitted on 15 September 1948 to the General Assembly by the Governments of France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America,

Whereas, by virtue of the above-mentioned provisions, the four Powers have agreed to accept the recommendation of the General Assembly and to take appropriate measures for giving effect to it,

Whereas the General Assembly, by its resolutions⁵ of 21 November 1949 and of 17 November 1950, recommended that the independence of Libya should become effective as soon as possible, and in any case not later than 1 January 1952,

Whereas paragraph 19 of annex XIV of the Treaty of Peace with Italy, which contains the economic and financial provisions relating to ceded territories, states that "The provisions of this annex shall not apply to the former Italian colonies. The economic and financial provisions to be applied therein will form part of the arrangements for the final disposal of these territories pursuant to article 23 of the present Treaty",

⁴ See *Official Records of the General Assembly, Fifth Session, Ad Hoc Political Committee, 7th-17th meetings inclusive.*

⁵ See resolutions 289 (IV) and 387 (V).

Whereas it is desirable that the economic and financial provisions relating to Libya should be determined before the transfer of power in that territory takes place, in order that they may be applied as soon as possible,

The General Assembly

Approves the following articles:

Article I

1. Libya shall receive, without payment, the movable and immovable property located in Libya owned by the Italian State, either in its own name or in the name of the Italian administration of Libya.

2. The following property shall be transferred immediately:

(a) The public property of the State (*demanio pubblico*) and the inalienable property of the State (*patrimonio indisponibile*) in Libya, as well as the relevant archives and documents of an administrative character or technical value concerning Libya or relating to property the transfer of which is provided for by the present resolution;

(b) The property in Libya of the Fascist Party and its organizations.

3. In addition, the following shall be transferred on conditions to be established by special agreement between Italy and Libya:

(a) The alienable property (*patrimonio disponibile*) of the State in Libya and the property in Libya belonging to the autonomous agencies (*aziende autonome*) of the State;

(b) The rights of the State in the capital and the property of institutions, companies and associations of a public character located in Libya.

4. Where the operations of such institutions, companies and associations extend to Italy or to countries other than Libya, Libya shall receive only those rights of the Italian State or the Italian administration which appertain to the operations in Libya. In cases where the Italian State or the Italian administration of Libya exercised only managerial control over such institutions, companies and associations, Libya shall have no claim to any rights in those institutions, companies or associations.

5. Italy shall retain the ownership of immovable property necessary for the functioning of its diplomatic and consular services and, when the conditions so require, of the schools necessary for the present Italian community whether such property is owned by the Italian State in its own name or in the name of the Italian administration of Libya. Such immovable property shall be determined by special agreements concluded between Italy and Libya.

6. Buildings used in connexion with non-Moslem public worship and their appurtenances shall be transferred by Italy to the respective religious communities.

7. Special agreements may be concluded between Italy and Libya to ensure the functioning of hospitals in Libya.

Article II

Italy and Libya shall determine by special agreements the conditions under which the obligations of Italian

public or private social insurance organizations towards the inhabitants of Libya and a proportionate part of the reserves accumulated by the said organizations shall be transferred to similar organizations in Libya. That part of the reserves shall preferably be taken from the real property and fixed assets in Libya of the said organizations.

Article III

Italy shall continue to be liable for the payment of civil or military pensions earned as of the coming into force of the Treaty of Peace with Italy and owed by it at that date, including pension rights not yet matured. Arrangements shall be concluded between Italy and Libya providing for the method by which this liability shall be discharged.

Article IV

Libya shall be exempt from the payment of any portion of the Italian public debt.

Article V

Italy shall return to their owners, in the shortest possible time, any ships in its possession, or that of its nationals, which are proved to have been the property of former Italian nationals belonging to Libya or to have been registered in Libya, except in the case of ships acquired in good faith by Italy or its nationals.

Article VI

1. The property, rights and interests of Italian nationals, including Italian juridical persons, in Libya, shall, provided they have been lawfully acquired, be respected. They shall not be treated less favourably than the property, rights and interests of other foreign nationals, including foreign juridical persons.

2. Italian nationals in Libya who move, or who have since 3 September 1943 moved, to Italy shall be permitted freely to sell their movable and immovable property, realize and dispose of their assets, and, after settlement of any debts or taxes due from them in Libya, to take with them their movable property and transfer the funds they possess, unless such property and funds were unlawfully acquired. Such transfers of property shall not be subject to any import or export duty. The conditions of the transfer of this movable property to Italy will be fixed by agreement between the administering Powers or the Government of Libya upon its establishment on the one hand, and the Government of Italy on the other hand. The conditions and the time-periods of the transfer of the funds, including the proceeds of above-mentioned transactions, shall likewise be determined.

3. Companies incorporated under Italian law and having their *siège social* in Italy shall be dealt with under the provisions of paragraph 2 above. Companies incorporated under Italian law and having their *siège social* in Libya and which wish to remove their *siège social* to Italy shall likewise be dealt with under the provisions of paragraph 2 above, provided that more than 50 per cent of the capital of the company is owned by persons usually resident outside Libya and provided also that the greater part of the activity of the company is carried on outside Libya.

4. The property, rights and interests in Italy of former Italian nationals belonging to Libya and of companies previously incorporated under Italian law and having their *siège social* in Libya, shall be respected by Italy to the same extent as the property, rights and interests of foreign nationals and of foreign companies generally. Such persons and companies are authorized to effect the transfer and liquidation of their property, rights and interests under the same conditions as may be established under paragraph 2 above.

5. Debts owed by persons in Italy to persons in Libya or by persons in Libya to persons in Italy shall not be affected by the transfer of sovereignty. The Government of Italy and the administering Powers or the Government of Libya after its establishment shall facilitate the settlement of such obligations. As used in the present paragraph, the term "persons" includes juridical persons.

Article VII

Property, rights and interests in Libya which, as the result of the war, are still subject to measures of seizure, compulsory administration or sequestration, shall be restored to their owners, and, in cases submitted to the Tribunal referred to in article X of the present resolution, following decisions of that Tribunal.

Article VIII

The former Italian nationals belonging to Libya shall continue to enjoy all the rights in industrial, literary and artistic property in Italy to which they were entitled under the legislation in force at the time of the coming into force of the Treaty of Peace. Until Libya becomes a party to the relevant international convention or conventions, the rights in industrial, literary and artistic property which existed in Libya under Italian law shall remain in force for the period for which they would have remained in force under that law.

Article IX

The following special provisions shall apply to concessions:

1. Concessions granted within the territory of Libya by the Italian State or by the Italian administration of Libya, and concession contracts (*patti colonici*) existing between the *Ente per la Colonizzazione della Libia* or the *Istituto della Previdenza Sociale* and the concessionaires of land to which each contract related shall be respected, unless it is established that the concessionaire has not complied with the essential conditions of the concession.

2. Land placed at the disposal of the *Ente per la Colonizzazione della Libia* and of the colonization department of the *Istituto della Previdenza Sociale* by the Italian State or the Italian administration of Libya and which has not been the object of a concession shall be transferred immediately to Libya.

3. Land, buildings and their appurtenances referred to in sub-paragraph (d) of paragraph 4 below shall be transferred to Libya in accordance with the arrangements to be made under that sub-paragraph.

4. Special agreements between Italy and Libya shall provide for:

(a) The liquidation of the *Ente per la Colonizzazione della Libia* and of the colonization department of the

Istituto della Previdenza Sociale, the interim status of those institutions for the purpose of enabling them to fulfil their obligations towards concessionaires whose contracts are still in operation, and, if necessary, the taking over of their functions by new organizations;

(b) The repayment by those institutions to financial concerns of the quotas subscribed by the latter in the establishment of the *Ente per la Colonizzazione della Libia*, and, in the case of the *Istituto della Previdenza Sociale*, the reconstitution of that part of its reserves invested by that institution in its colonization department;

(c) The transfer to Libya of the residual assets of the institutions to be liquidated;

(d) Arrangements relating to land placed at the disposal of these institutions and to the buildings on and appurtenances to that land, in which, after their abandonment by the concessionaires, no further investment could be made by the institutions;

(e) Payments in amortization of the debts of concessionaires owed to those institutions.

5. In consideration of the renunciation by the Italian Government of its claims against those institutions, the latter shall cancel the debts of the concessionaires and the mortgages securing those debts.

Article X

1. A United Nations Tribunal shall be set up, composed of three persons selected by the Secretary-General for their legal qualifications from the nationals of three different States not directly interested. The Tribunal, whose decisions shall be based on law, shall have the following two functions:

(a) It shall give to the administering Powers, the Libyan Government after its establishment, and the Italian Government, on request by any of those authorities, such instructions as may be required for the purpose of giving effect to the present resolution;

(b) It shall decide all disputes arising between the said authorities concerning the interpretation and application of the present resolution. The Tribunal shall be seized of any such dispute on the unilateral request of one of those authorities.

2. The administering Powers, the Libyan Government after its establishment and the Italian Government shall supply the Tribunal as soon as possible with all the information and assistance it may need for the performance of its functions.

3. The seal of the Tribunal shall be in Libya. The Tribunal shall determine its own procedure. It shall afford to the interested parties an opportunity to present their views, and shall be entitled to request information and evidence which it may require from any authority or person whom it considers to be in a position to furnish it. In the absence of unanimity, the Tribunal shall take decisions by a majority vote. Its decisions shall be final and binding.⁶

326th plenary meeting,
15 December 1950.

⁶ For the explanation of certain points in the above resolution, as drafted by Sub-Committee 1 of the *Ad Hoc* Political Committee, see document A/1726.

B

The General Assembly

Authorizes the Secretary-General, in accordance with established practice,

1. To arrange for the payment of an appropriate remuneration for the members of the United Nations Tribunal set up under article X above and to reimburse their travel and subsistence expenses;

2. To assign to the United Nations Tribunal such staff and provide such facilities as the Secretary-General may consider necessary to carry out the terms of the present resolution, utilizing the existing United Nations staff of the Libyan Mission in so far as possible.

*326th plenary meeting,
15 December 1950.*

389 (V). Technical and financial assistance to Libya

Whereas Libya as a result of the war has suffered extensive damages to private and public property, both movable and immovable, as well as to its system of communications,

Whereas the existence of these war damages and the necessity of repairing them represents one of the major economic and financial problems to be taken into consideration in order that an independent Libya may be established with a sound basis for economic and social progress, which is one of the avowed purposes of the United Nations in accordance with paragraph 4 of the resolution⁷ adopted by the General Assembly on 17 November 1950,

The General Assembly,

Instructs the Secretary-General to study the problem of war damages in connexion with the technical and financial assistance which Libya may request from the Economic and Social Council, the specialized agencies and the Secretary-General, and to report on the subject to the sixth session of the General Assembly.

*326th plenary meeting,
15 December 1950.*

390 (V). Eritrea: Report of the United Nations Commission for Eritrea; Report of the Interim Committee of the General Assembly on the Report of the United Nations Commission for Eritrea

A

Whereas by paragraph 3 of Annex XI to the Treaty of Peace with Italy, 1947, the Powers concerned have agreed to accept the recommendation of the General Assembly on the disposal of the former Italian colonies in Africa and to take appropriate measures for giving effect to it,

Whereas by paragraph 2 of the aforesaid Annex XI such disposal is to be made in the light of the wishes and welfare of the inhabitants and the interests of peace and security, taking into consideration the views of interested governments,

⁷ See resolution 387 (V).

Now therefore

The General Assembly, in the light of the reports⁸ of the United Nations Commission for Eritrea and of the Interim Committee, and

Taking into consideration

(a) The wishes and welfare of the inhabitants of Eritrea, including the views of the various racial, religious and political groups of the provinces of the territory and the capacity of the people for self-government,

(b) The interests of peace and security in East Africa,

(c) The rights and claims of Ethiopia based on geographical, historical, ethnic or economic reasons, including in particular Ethiopia's legitimate need for adequate access to the sea,

Taking into account the importance of assuring the continuing collaboration of the foreign communities in the economic development of Eritrea,

Recognizing that the disposal of Eritrea should be based on its close political and economic association with Ethiopia, and

Desiring that this association assure to the inhabitants of Eritrea the fullest respect and safeguards for their institutions, traditions, religions and languages, as well as the widest possible measure of self-government, while at the same time respecting the Constitution, institutions, traditions and the international status and identity of the Empire of Ethiopia,

A. Recommends that:

1. Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown.

2. The Eritrean Government shall possess legislative, executive and judicial powers in the field of domestic affairs.

3. The jurisdiction of the Federal Government shall extend to the following matters: **defence, foreign affairs, currency and finance, foreign and interstate commerce and external and interstate communications, including ports.** The Federal Government shall have the power to maintain the integrity of the Federation, and shall have the right to impose uniform taxes throughout the Federation to meet the expenses of federal functions and services, it being understood that the assessment and the collection of such taxes in Eritrea are to be delegated to the Eritrean Government, and provided that Eritrea shall bear only its just and equitable share of these expenses. The jurisdiction of the Eritrean Government shall extend to all matters not vested in the Federal Government, including the power to maintain the internal police, to levy taxes to meet the expenses of domestic functions and services, and to adopt its own budget.

4. The area of the Federation shall constitute a single area for customs purposes, and there shall be no barriers to the free movement of goods and persons within the area. Customs duties on goods entering or leaving the Federation which have their final destination or origin in Eritrea shall be assigned to Eritrea.

5. An Imperial Federal Council composed of equal numbers of Ethiopian and Eritrean representatives shall meet at least once a year and shall advise upon the com-

⁸ See *Official Records of the General Assembly, Fifth Session, Supplements, Nos. 8 and 14.*