

Invites the Secretary-General, and the agencies participating in the Technical Assistance Board, to give sympathetic consideration to requests of the Libyan Government for assistance with economic development programmes which would strengthen the Libyan economy, including the repair or reconstruction of damaged property and installations, public and private, and in this connexion to appoint, as requested by the Libyan Government, any additional experts that may be required to collect the necessary data, to complete the survey of the problem of war damages and to make recommendations.

366th plenary meeting,  
29 January 1952.

### 530 (VI). Economic and financial provisions relating to Eritrea

Whereas, in accordance with the provisions of article 23 and paragraph 3 of annex XI of the Treaty of Peace with Italy,<sup>15</sup> 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 resolution 390 A (V) of 2 December 1950, recommended that Eritrea be constituted an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown not later than 15 September 1952, and laid down the necessary provisions for effecting the federation of Eritrea with Ethiopia, and left for settlement by the United Nations only the problem referred to in paragraph 19 of annex XIV of the Treaty of Peace with Italy, while taking into account, *inter alia*, the importance of assuring the continuing collaboration of the foreign communities in the economic development of Eritrea,

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",

Whereas it is desirable that the economic and financial provisions relating to Eritrea should be determined before Eritrea is constituted an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown in order that they may be applied as soon as possible,

The General Assembly

Approves the following articles:

#### Article I

1. Subject to the provisions of paragraphs 4 and 5 of this article Eritrea<sup>a</sup> shall receive, without payment, the movable and immovable property located in Eritrea owned by the Italian State, either in its own name or in the name of the Italian administration in Eritrea, and such property shall be transferred to Eritrea not later than the effective date of the final transfer of power from the Administering Power to the appropriate authorities referred to in paragraph 14 of resolution 390 (V) of the General Assembly of the United Nations.

2. The property referred to in paragraph 1 shall be taken as comprising:

(a) The public property of the State (*demanio pubblico*);

(b) The inalienable property of the State (*patrimonio indisponibile*);

(c) The property of the Fascist Party and its organizations as listed in article 10 of the Italian Royal Decree No. 513 of 28 April 1938;

(d) The alienable property of the State (*patrimonio disponibile*);

(e) The property belonging to the autonomous agencies (*aziende autonome*) of the State which are:

*Ferrovie dell'Eritrea*

*Azienda Speciale Approvvigionamenti*

*Azienda Miniere Africa Orientale (AMAO)*

*Azienda Autonoma Strade Statali (AASS)*;

(f) The rights of the Italian State in the form of shares and similar rights in the capital of institutions, companies and associations of a public character which have their *siège social* in Eritrea. Where the operations of such institutions, companies and associations extend to Italy or to countries other than Eritrea, Eritrea shall receive only those rights of the Italian State or the Italian administration of Eritrea which appertain to the operations in Eritrea. In cases where the Italian State or the Italian administration of Eritrea exercised only managerial control over such institutions, companies and associations, Eritrea shall have no claim to any rights in those institutions, companies and associations.

3. Properties, institutions, companies and associations referred to in paragraph 2 of this article shall be transferred as they stand at the date of transfer and Eritrea will take over all commitments and liabilities outstanding at that date in connexion with those concerns.

4. Italy shall retain the ownership of the following property listed in paragraph 2 of this article, that is to say:

(a) The immovable property necessary for the functioning of Italian government representation in Eritrea;<sup>b</sup>

(b) The immovable and movable property as at the date of the present resolution used for the functioning of the schools and hospitals of the Italian community in Eritrea.

<sup>a</sup> The term "Eritrea" as used in the present resolution is to be interpreted in conformity with paragraph 3 of resolution 390 (V) where the jurisdiction and responsibilities of the Federal Government and the Eritrean Government are set out.

<sup>b</sup> The nature of Italian Government representation remains for settlement between the future Federal Government and the Italian Government in accordance with international law and practice.

<sup>15</sup> See *Treaty Series. Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations*, volume 49, 1950 I, No. 747.

5. The following property listed in paragraph 2 of this article, that is to say, buildings used for worship (including the land on which they are built and their appurtenances), shall be transferred by Italy to the religious communities concerned.

6. Italian cemeteries, monuments and ossuaries in Eritrea shall be respected. Arrangements for their preservation and maintenance shall be made between Italy and, after Eritrea becomes an autonomous unit federated with Ethiopia, the appropriate authority under the Federal Act.

7. Subject to the provisions of paragraphs 4, 5 and 6 of this article, nothing in paragraph 1 of this article shall be taken as in any way restricting the right of the Administering Power to make, during the period of its administration, such dispositions of property referred to in paragraph 2 of this article, whether limited to that period or otherwise, as may be required by law or may be appropriate for the good government of the territory, or may be necessary for the implementation of the present resolution.

#### *Article II*

1. Subject to the provisions of this article, the Administering Power shall continue to have the custody of all public archives and documents located in Eritrea which relate to administrative or technical matters in Eritrea or to property which is to be transferred by Italy under article I of the present resolution or are otherwise required in connexion with the administration of the territory.

2. Italy shall hand over to the Administering Power, on request, the originals or copies of any such public archives or documents located in Italy.

3. The Administering Power shall hand over to Italy, on request, the originals or copies of any such public archives or documents located in Eritrea which are of interest to Italy or concern Italian nationals or juridical persons, especially those who or which have transferred or hereafter transfer their residence to Italy.

4. The rights and obligations of the Administering Power under the preceding provisions of this article shall, when Eritrea is constituted an autonomous unit federated with Ethiopia, devolve upon the appropriate authority under the Federal Act to which the Administering Power shall hand over such public archives and documents as have been received from Italy.

5. The handing over of the above-mentioned archives and documents or copies thereof shall be exempt from payment of dues and taxes, and the cost of transport thereof shall be borne by the government requesting them.

#### *Article III*

The Italian social insurance organizations now operating in Eritrea shall remain wholly responsible for fulfilling all their respective obligations towards insured persons as is provided for under present social insurance legislation, and the present legal rights and

obligations of the said organizations shall be respected. These obligations may be extended to include other categories of insured persons by agreement between the appropriate authority under the Federal Act and the said organizations.

#### *Article IV*

1. Italy shall continue to be liable for the payment of civil and military pensions or other retirement benefits earned as at the date of coming into force of the Treaty of Peace with Italy and owed by it at that date.

2. The amount of these pensions or retirement benefits shall be determined in accordance with the law which was in force in Eritrea immediately prior to the cessation of Italian administration of the territory and shall be paid directly by Italy to the persons entitled in the currency in which they were earned.

#### *Article V*

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

#### *Article VI*

Italy shall return to their owners, in the shortest possible time, all ships in its possession or that of its nationals or juridical persons which are proved to have been the property of its former Eritrean subjects or to have been registered in Eritrea, except in cases in which the ships have been acquired in good faith.

#### *Article VII*

1. The property, rights and interests of Italian nationals, including Italian juridical persons, in Eritrea shall, provided they have been acquired in accordance with the laws prevailing at the time of acquisition, 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 Eritrea who have left or who leave Eritrea to settle elsewhere shall be permitted freely to sell their movable and immovable property, realize and dispose of their assets and, after settlement of any debts and taxes due from them in Eritrea, transfer their movable property and the funds they possess, including the proceeds of the above-mentioned transactions, unless such property or funds were unlawfully acquired. Such transfers of property or funds shall not be subject to any export duty.

The procedure for the transfer from Eritrea of such property or funds and the times within which they may be transferred shall be determined by agreement between the Administering Power, or after Eritrea becomes an autonomous unit federated with Ethiopia the appropriate authority under the Federal Act, on the one hand, and Italy on the other hand. No such agreement shall restrict the right of transfer provided for in the paragraph above.

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 Eritrea and which wish to remove their *siège social* elsewhere 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 Eritrea and provided also that the greater part of the activity of the company is carried on outside Eritrea.

4. The property, rights and interests in Italy of former Italian nationals belonging to Eritrea and of companies previously incorporated under Italian law and having their *siège social* in Eritrea 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 Eritrea or by persons in Eritrea to persons in Italy shall not be affected by the transfer of sovereignty. The Administering Power, Italy and, after Eritrea becomes an autonomous unit federated with Ethiopia the appropriate authority under the Federal Act, shall facilitate the settlement of such obligations. As used in this paragraph the term "persons" includes juridical persons.

#### Article VIII

1. Property, rights and interests in Eritrea which, as a result of the war, are still subject to measures of seizure, compulsory administration or sequestration, shall be restored to their owners.

2. Nothing in this article shall apply to any compulsory acquisition or requisition by the Administering Power for public purposes in Eritrea which is valid under the civil law of Eritrea.

#### Article IX

1. The former Italian nationals belonging to Eritrea 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.

2. Until the relevant international conventions are applicable to Eritrea the rights in industrial, literary and artistic property which existed in Eritrea under Italian law shall remain in force for the period for which they would have remained in force under that law.

#### Article X

1. In this article:

(a) "Concession" means a grant by the former Italian administration or by the Administering Power or by a municipal authority of the enjoyment in Eritrea of specific rights and assets in exchange for specific

obligations undertaken by the concessionaire with regard to the use and improvement of such assets, such grant being made in accordance with the laws, regulations and rules in force in Eritrea at the time of such grant;

(b) "Contract in the nature of a concession" means a lease for a period of years by the former Italian administration or by the Administering Power or by a municipal authority of land in Eritrea by the terms of which lease the tenant undertakes obligations similar to those of a concessionaire in the case of a concession, such lease not being made under any specific law, regulation or rule containing provisions for such leases.

2. Concessions granted during the period of the former Italian administration shall be recognized as valid for all purposes and shall be respected accordingly.

3. Where a concessionaire satisfies the appropriate authorities that a document of title perfecting his concession should have been issued to him but, owing to conditions created by the state of war or to *force majeure*, was not so issued, and that his concession, if it had been perfected by the issue of the document, would not be liable to revocation, the appropriate authorities shall issue a document of title to the concessionaire which shall have the same validity as the document which should have been issued originally.

4. Where the period of the lease, in the case of a contract in the nature of a concession granted during the period of the former Italian administration, has expired during the period of administration by the Administering Power and has been renewed on a temporary basis by the Administering Power, or where any lease of such nature has been initially granted by the Administering Power, such Power may, if satisfied that the tenant has fulfilled the obligations undertaken by him and that it is in the interests of the economy of Eritrea so to do, grant to the tenant a concession for such period as is appropriate having regard to the nature of the land in question.

5. A concession or contract in the nature of a concession granted during the period of the former Italian administration shall not be liable to revocation by reason of the failure by the concessionaire or tenant to fulfil any obligation of the concession or contract if the appropriate authorities are satisfied that such failure was due solely to conditions created by the state of war or to *force majeure*.

6. Where a concessionaire or tenant satisfies the appropriate authorities that any document of title evidencing his concession or contract in the nature of a concession has been lost or destroyed and the appropriate authorities are able to ascertain the terms of the document and are satisfied that the concession or contract in the nature of a concession is not liable to revocation, they shall issue to the concessionaire or tenant a new document of title which shall have the same validity as the one which has been lost or destroyed.

#### Article XI

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. All or any of such persons may be members of the Tribunal provided for in article X of resolution 388 (V) of the General Assembly of the United Nations. The Tribunal, whose decisions shall be based on law, shall have the two following functions:

(a) It shall give to Italy and the Administering Power, or when Eritrea becomes an autonomous unit federated with Ethiopia the appropriate authority under the Federal Act, upon 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 disputes upon the unilateral request of any of those authorities.

2. The Tribunal shall have exclusive competence on matters falling within its functions in accordance with paragraph 1 of this article. In the event of any matter in dispute being referred to the Tribunal, any action pending in civil courts shall be suspended.

3. Italy, the Administering Power and, when

Eritrea becomes an autonomous unit federated with Ethiopia the appropriate authority under the Federal Act, shall supply the Tribunal as soon as possible with all the information and assistance it may need for the performance of its functions.

4. The seat of the Tribunal shall be in Eritrea. The Tribunal shall determine its own procedure. All requests referred to in paragraph 1 of this article shall be presented to the Tribunal not later than 31 December 1953 and the Tribunal shall pronounce its decision on each such request within a delay not exceeding two years from the date of its presentation to the Tribunal. As soon as its decisions have been pronounced on all such requests pursuant to the foregoing, the Tribunal shall terminate. 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.

*366th plenary meeting,  
29 January 1952.*