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MEETING

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at 10.30 a.m.**

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Chairman: Mr. F. VAN LANGENHOVE (Belgium).

The Tunisian question (A/2405 and Add.1)

[Item 56]*

1. Mr. DOMINGUEZ CAMPORA (Uruguay), intervening on a point of order, stated he wished to make a clarification in regard to the vote taken at the previous meeting. In the vote on the Moroccan question, it had been his understanding that the Committee was voting on an amendment and not on the draft resolution as a whole. His delegation was in favour of the draft resolution and would vote for it in the plenary session.

2. The CHAIRMAN drew attention to the state of the Committee's work. It was already the sixth week of the session which the General Assembly had decided to adjourn on 8 December. The Committee had just completed the first item on its agenda and at that rate the last items might be sacrificed altogether. The Tunisian question might be held to be rather similar in some respects to the Moroccan question and therefore the debate should be substantially shorter. The Chairman appealed to all representatives to do all they could to expedite proceedings, in particular not to defer their statements and to submit draft resolutions without delay.

3. Mr. TAKIEDDINE (Lebanon) recalled the statement made on 11 December 1952 (545th meeting) by the head of the Lebanese delegation concerning the endeavours of Lebanon to bring about a peaceful settlement of the Tunisian question and its interest in the entire problem. France and Tunisia were linked by two treaties which were more than seventy years old: the Bardo Treaty of 2 May 1881 and the La Marsa Convention of 8 June 1883. The Bardo Treaty gave sanction to French military occupation which had resulted from disturbances on the Algerian-Tunisian border and was intended to meet the immediate difficulties. The two signatories were the Bey of Tunis, the sovereign head of an independent State, and General Bréart who was backed by a military force. There was no question that the Bey then was chief of a State enjoying full sovereignty. Since its establishment as a self-governing and independent State in 1705, Tunisia had retained all characteristics of a State. In 1857, under the influence of the western Powers, particularly of France, the Bey had promulgated a

fundamental Pact guaranteeing security to all inhabitants and equality for all in matters of taxation and of law. In 1861, a constitution was promulgated under which the Bey was made responsible for any unconstitutional act he might commit. The judiciary was independent and the magistrates could not be removed. Those were the conditions at the time of the imposition of the Treaty of Bardo. Greater detail could be found in the French book *Maroc et Tunisie* published by Julliard.

4. Shortly after the Bardo Treaty, uprisings began which cost the lives of about 30,000 peasants and workers. Because of its military and economic weakness, Tunisia was then forced to sign the La Marsa Convention which contained the word "protectorate" for the first time. In seventy years of French administration, those two treaties had been violated and abused by the French Government.

5. The Treaty of Bardo began by stating the joint desire of France and the Bey to prevent further disturbances and to strengthen their friendship. The first article confirmed and prolonged existing treaties. Under the terms of article 2 the Bey agreed to French military occupation of those points it deemed necessary for the re-establishment of order on the frontiers and the coast. That occupation was to cease when French and Tunisian military authorities had agreed that the local administration was able to maintain order. Under article 3, France undertook to support the Bey against any danger threatening his person or dynasty or jeopardizing the tranquillity of the State. Article 5 set up a resident minister to supervise the execution of the Act. Article 6 entrusted to France the protection of Tunisian interests abroad. Other provisions related to financial matters.

6. The La Marsa Convention imposed upon the Bey the institution of administrative, judicial and financial reforms which France might consider useful and obliged him not to negotiate any loan on behalf of the Regency without authorization of the French Government.

7. The treaties were provisional in character; they had no specific time-limits and were to lapse when the disorders had ceased. Once the restoration of order had been achieved, the Treaty of Bardo was to be abrogated and replaced by a new instrument establishing relations between France and Tunisia. The restoration of order alone had justified military occupation; thus, either France had not succeeded in its work of pacification and civilization or the occupation should not have been perpetuated.

8. The Treaty of Bardo had an international character as a diplomatic agreement between two sovereign chiefs of State and yet the sovereignty of Tunisia had been challenged and finally denied by France. The treaties showed that the Bey had entrusted the exer-

* Indicates the item number on the agenda of the General Assembly.

cise of only some of his rights to France and his sovereignty had been formerly recognized in both treaties. Professor Ch. André Julien in his book *L'Afrique du Nord en marche* argued that the Bey had neither renounced nor delegated his sovereignty under the La Marsa Convention, although that would have been the case if the policies of Paul Cambon had been adopted by France. Marshal Lyautey, in his report of 3 December 1920, had described a protectorate as a country which retained its institutions and its administrators and administrated itself under its own organs but was under the control of a European Power as regards foreign representation, the administration of the army and finances, and as regards economic development. He had stated that the formula was one of control rather than direct administration and there was no question of the exercise of co-sovereignty. Professor Julien, however, had observed in his book that there was a great difference between doctrine and practice and that France had imposed direct administration, leaving to the lawyers the task of justifying a *posteriori* the accomplished fact. The representative of Lebanon said that, while direct administration was contrary to the spirit of the protectorate, it was the basis of the policy of the French Residents.

9. Gradually a situation arose which determined the nature of the struggle of the Tunisian people to regain their rights. There was established the theory of the French colonists, which was never accepted by the Tunisians: that there existed only co-sovereignty based on an interpretation of the treaties. The French thesis was that the Bey with his seal endorsed the subsequent acts modifying the initial character of the Protectorate. That theory was discussed by Montéry in his article entitled *Les données du problème tunisien* in which he said that it could scarcely be affirmed that the Bey had voluntarily alienated part of his sovereignty in sealing his decrees or in allowing certain acts of sovereignty under the provisions of the La Marsa Convention. All beys without exception had resisted the French representatives in order to affirm their sovereignty. The struggle of the Tunisian people for their liberty began when the treaties were signed and their nationalism became more ardent with each violation of the treaties. The policy of the French Residents was to create a colony *de facto* and to hope that the legal status would follow.

10. It had been the beys who sought representative and responsible government although it was in their own interest to reach an understanding with the Residents in order to avoid all responsibility. It had turned out that the supposedly enlightened guide had refused to grant the reforms which were requested. The opposition came from the Residents and the French colonists who were exploiting the country. Whenever a Resident displayed any understanding or liberal ideas, the colonists would secure his removal. In that manner events had occurred which had caused the present crisis in which an oppressed people was pitted against a partner which had become its ruthless adversary. On 17 August 1950, France had appealed to Mr. Chenik to set up a government to negotiate and a joint manifesto was published stating that the government would make successive institutional modifications leading to internal self-government. For the first time, France had agreed that reforms should not be imposed but should be agreed upon, and proceeded to deal with legitimate Tunisian spokesmen. That new policy of

Mr. Robert Schuman was opposed by reactionary groups in France and by the colonists in Tunisia. Nevertheless, real reforms were drawn up and promulgated and the Council of Ministers for the first time since 1881 was presided over by the Prime Minister rather than by the Resident-General. The Prime Minister became the sole chief of the administration and the control of the Resident acquired a less pronounced character. The French in Tunisia, however, resisted the decision of the French Government and created obstacles in the path of the Council of Ministers. Under the pressure of those colonists, French policy became increasingly rigid and was formally reversed in Mr. Robert Schuman's letter to Mr. Chenik dated 15 December 1951. That letter, which was the origin of the present crisis, sought to reaffirm co-sovereignty in Tunisia.

11. The letter stated that France did not intend to depart from a course of action designed for the benefit of the whole of the Tunisian people and that it was firmly attached to the principle that the French in Tunisia, who had played an important part in the economic life of the country, could not be eliminated from participation in the functioning of the political institutions. The Tunisian view of co-sovereignty had been given at a Press conference on the previous day by Prime Minister Chenik who stated that the formula of the Protectorate as it had been applied previously was incompatible with the true evolution of the people of Tunisia on the political as well as on the social and economic levels. Mr. Chenik has pointed out further that that system had no place in the framework of world evolution and did not permit Tunisia to take part in the work of the free nations. It was against that co-sovereignty, he said, that the Tunisians had tried to rise.

12. The French Minister for Foreign Affairs, in a statement on 20 December 1951, asserted that the Government had never used the term "co-sovereignty" nor expressed such an idea. The letter of 15 December 1951, however, clearly set forth that idea. If it was admitted that power should pass to the people of Tunisia, with the Bey as the head of State, and if at the same time it was demanded that the French should participate in the nomination and composition of the representative bodies, co-sovereignty was automatically imposed. An opinion on the matter was given in the French Assembly on 5 June 1952 by Mr. Robert Verdier who had just completed an investigation in Tunisia. Mr. Verdier stated that France had been following two contradictory policies in Tunisia. Since 15 December 1951, it had been following a policy drawn up by certain colonists and that policy had finally become the true government policy. Mr. Verdier had then traced recent events in and statements concerning Tunisia showing that the people had been led to believe that the French Government was prepared to negotiate and that the difficulties had arisen since 15 December 1951. The change of policy contained in the note of that date had been welcomed by the colonists and had aroused the opposition of the Tunisian people. Mr. Takieddine remarked that that observation of Mr. Verdier showed how 140,000 colonists dictated Tunisian policy to Paris.

13. The colonists, unfortunately, had been successful in imposing a policy involving so-called reforms which constituted a retrogression to nineteenth century colonialism. If they had really intended to introduce

free and democratic institutions and to return sovereignty to the Bey, he would not have refused to place his seal on them. The reforms proposed by the French Government were regarded by the Bey as contrary to the national aspirations of his people and he had refused to place his seal on them. A successor to the Bey was already under consideration and indeed was only awaiting the action of the Resident-General.

14. The reforms of 20 December 1952 provided for *conseils de caïdat* which were Tunisian but subject to French control. Their prerogatives remained completely illusory and the whole administration remained, in effect, in the hands of the Finance Minister who was a Frenchman. In the municipalities, the colonists had political rights so far out of proportion to their number as to vitiate the principle of democratic representation. Representation in the municipal council had been so arranged as to give the French almost equal numbers with the Tunisians. Furthermore, the President of the Council could delegate his power to the Vice-President who, actually, was a Frenchman, and that delegation of powers had now become an obligation. Such were the reforms that the Bey was forced to accept. Four which he rejected were even harsher. The reforms violated not only the treaty but also the principles of right and justice. They gave 140,000 colonists equal if not greater rights than those given to three and one-half million Tunisians.

15. The majority of the people naturally had boycotted the elections which were carried out in an atmosphere of terror and under conditions of martial law. Everyone was afraid to speak. Indeed, if France wished to negotiate, she could not find a qualified spokesman in Tunisia because all the true representatives had been forced into exile.

16. In such a case, it was the duty of the United Nations to reaffirm its interests in Franco-Tunisian relations and continue the consideration of the matter. France had been encouraged by bad advice to persevere in its policy. Only complete independence and sovereignty would put Tunisia in a position to recognize the work done by France under the Protectorate.

17. In its resolution of 17 December 1952 (611 (VII)), the General Assembly had expressed the hope for continued negotiations on an urgent basis with a view to self-government and had appealed to the parties to continue their discussions. The situation had, however, deteriorated. The Tunisians, moreover, looked at their neighbour Libya where independence had been obtained through the United Nations. France had everything to gain in the way of friendship and mutual confidence if it would help Tunisia and withdraw as it had done in the cases of Syria and Lebanon. On the other hand, there was nothing to be gained by the imposition of terror. Force had never permanently subjugated a country.

18. If France desired useful negotiations they would have to be conducted with persons who at present were imprisoned or dispersed and not with Mr. Bacouche and his Ministers. The Tunisian Ministers who went to France to negotiate in 1951 had not ended Franco-Tunisian collaboration. The colonists were the guilty parties and there could be no understanding and no progress as long as the French Government obeyed their orders. The colonists were rich, strong, armed and ready to destroy whatever threatened their wealth. Accordingly, the Tunisians had turned to the United

Nations and fifteen Asian and African countries had espoused their cause.

19. The delegation of Lebanon, together with other delegations, was resolved to continue the efforts to see the principles of the Charter carried out. The people of Tunisia had the right to self-government, independence and sovereignty. Those principles of the Charter were the goal which the General Assembly was being asked to recognize. Accordingly, the following urgent measures should be taken: (1) the suppression of exceptional measures so as to guarantee the people the normal freedoms of assembly and expression; (2) a general political amnesty to all leaders who had been imprisoned, exiled or dispersed throughout the world; (3) the establishment of constitutional democratic institutions leading to elections based on universal suffrage; (4) the granting of increased political responsibility to the people and negotiations between France and the true representatives of Tunisia to end the tension and re-establish peace and prosperity.

20. Sir Percy SPENDER (Australia) said that the Australian views on the Tunisian question had been fully stated at the seventh session. He had also just made a statement on Morocco, concerning which Australia had an entirely similar attitude. He wished to state, however, that on the recommendation of the representative of Lebanon he had read *Principia Mathematica* with a view to finding the truth about domestic jurisdiction. That reading had not changed his views or the views of his Government and had not thrown any light upon the problem with which the Committee was concerned. If any reference was to be made to a book in order to determine the proper construction of the Charter, Sir Percy suggested recourse to the *Institutes* of Justinian. The Australian delegation was satisfied that no jurisdiction existed in the present case. France's responsibilities in Tunisia could not be overborne by calling upon clauses of the Charter which, when it was a question of domestic jurisdiction, became inoperative by virtue of Article 2, paragraph 7. There was no purpose in repeating the various legal arguments on the question. Moreover, intervention by the United Nations in matters of that kind was more likely to cause trouble by creating unrest than to produce solutions. The votes which the Australian delegation would cast on any draft resolutions on Tunisia would be similar to those which they had cast on the question of Morocco.

21. It was to be hoped that discussion on the present item would be concluded expeditiously in view of the slow progress which the Committee had made to date.

22. Mr. TAKIEDDINE (Lebanon) said that he would be very appreciative if the representative of Australia would await the arrival of Mr. Malik who alone was qualified to discuss the point which he had raised.

23. Mr. RASSART (Belgium) said that the fact that his Government felt that the United Nations was incompetent in the Tunisian and Moroccan questions would prevent his delegation from dealing with the substance of that question. Whatever might be the temptation to reply to hasty generalizations, his delegation had never forgotten that this meeting was a diplomatic gathering of representatives of governments and not a court of justice and still less a world parliament. His delegation would, therefore, await other

opportunities to reply to statements which it regarded as foolhardy.

24. Mr. Rassart said that it might be proper to give political, economic, and social precision to such words as autonomy, independence, freedom and emancipation which had been freely used in the debate. More and more a distinction was being made between the colonial and the anti-colonial States and between the highly developed countries and the under-developed ones. He said this in order to explain that these matters should be handled with prudence lest they might "boom-crang".

25. With regard to the Tunisian question, the position of his delegation was fundamentally the same as it was on the Moroccan question. It was a question of principle: the Belgian delegation held that the United Nations was incompetent to deal with the Tunisian question.

26. The representative of Belgium wished to recall briefly the reasons set forth by his delegation in the course of the debate held during the seventh session (538th meeting) in the First Committee on the Tunisian question and some days ago during the discussion of the Moroccan question (630th meeting) to the effect that the question was one within the domestic jurisdiction of a State, coming under the provision of Article 2, paragraph 7, of the Charter.

27. His delegation maintained that the treaties concluded between France and Tunisia, like those concluded between France and Morocco, were organic in character. They established the general political conditions to which the reciprocal relations of the contracting States were subject. They directly affected the constitutional structure of States and the normal operation of their organs of government. That those matters were essentially within the domestic jurisdiction could not be denied. His delegation wished to challenge formally, moreover, the claim of some delegations which maintained that the question was no longer within the domestic jurisdiction of a State since it had been covered by an international covenant or treaty. In this respect, the representative of Belgium pointed out that the Charter of the United Nations and the Covenant of the League of Nations had been based on totally different principles. In the League system, the criterion of exclusive competence was set out in Article 15 of the Covenant, in accordance with which a question ceased to be within the province of domestic jurisdiction once it had been covered by a convention. But the San Francisco Conference, in spite of the efforts of his delegation to defend the old system of the Covenant, deliberately had rejected that criterion and had adopted the new one, which was that of essentially domestic jurisdiction.

28. The argument of his delegation, therefore, stemmed from that distinction between the terms of the Covenant and those of the Charter of the United Nations. According to the criterion set out in the Charter

of the United Nations, a question which was outside the competence of the United Nations because it was essentially within the domestic jurisdiction of a State, remained outside the competence of the Organization, even though it had been covered by an international convention, as that fact did not alter the nature of the question. That was true so long as the Security Council was not called upon to apply enforcement measures under Chapter VII of the Charter. That was why his delegation maintained that the relations between France and Tunisia were beyond the competence of the United Nations.

29. Those representatives who maintained that the General Assembly was competent to discuss any question under Article 10 claimed that the Article would be meaningless if domestic jurisdiction could be invoked to oppose the discussion of any question. They concluded that there was a conflict between Article 10 and Article 2, paragraph 7, and that the latter Article should be sacrificed. They did not seem to realize that a distinction should be drawn between a general discussion of questions within the framework of the Charter, such as human rights and full employment, for example, and the discussion of particular domestic measures adopted by States within their own domain.

30. If this distinction was kept in mind it would be realized that the provisions of Article 10 and Article 2 were perfectly compatible. Otherwise the Member States could be drawn into a discussion of, for example, their fiscal régimes or social legislation for the sole reason that such matters are covered in some Articles of the Charter or by international treaties.

31. Wisdom demanded that the General Assembly should respect the limits of the Charter concerning its competence and should avoid ill-advised intervention. One could not but be surprised that the United Nations, conceived to foster peace and co-operation among peoples, should seek to intervene between two parties which had recently demonstrated their ability to settle their differences in an atmosphere free of tension and in a spirit of co-operation.

32. Mr. ABDELRAZEK (Egypt) felt that it was somewhat unjust that certain delegations, basing themselves on the idea of the non-competence of the General Assembly, had tried to deprive others of the right to speak in detail on the Tunisian question. The development of events, however, had proved that there was a great difference between the situation in Tunisia and the situation in Morocco. He, therefore, begged the Chairman to grant sufficient time to those representatives who wished to address the Committee on the Tunisian question.

33. The CHAIRMAN in answer to the statement of the representative of Egypt stated that every representative had a perfect right to speak if he so desired.

The meeting rose at 12.5 p.m.