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STANDING COMMITTEE ON PETITIONS

SUMMARY RECORD OF THE HUNDRED AND TWENTY-FIFTH MEETING

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Held at Headquarters, New York,
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PRESENT

<u>Chairman:</u>	Mr. QUIROS	El Salvador
<u>Members:</u>	Mr. PETHERBRIDGE	Australia
	Mr. MASSONET	Belgium
	Mr. TARAZI	Syria
	Mr. SUMSKOI	Union of Soviet Socialist Republics
	Mr. MATHIESON	United Kingdom of Great Britain and Northern Ireland
<u>Also present:</u>	Mr. DOISE	France
	Mr. BECQUEY	Special Representative of the Administering Authority for the Trust Territory of the Cameroons under French Administration
<u>Secretariat:</u>	Mr. RANKIN	Secretary of the Committee
	Mr. BERENDSEN	Assistant Secretary of the Committee

PETITIONS CONCERNING THE TRUST TERRITORY OF THE CAMEROONS UNDER FRENCH ADMINISTRATION: CONSIDERATION OF DRAFT REPORTS (T/C.2/L.53/Add.1 to 3, L.60, L.61, L.62)

The CHAIRMAN requested the Committee to consider the draft report (T/C.2/L.60) concerning the petitions summarized in document T/C.2/L.53/Add.1.

Mr. SUMSKOI (Union of Soviet Socialist Republics) asked how paragraph 3 on page 2 of the draft report would be affected if the Committee felt that the Council should decide that special information was required on certain resolutions.

Mr. RANKIN (Secretary of the Committee) replied that the resolutions to be specified by number in paragraph 3 would be those on which no information was required and that, by implication, those that were not mentioned would be the ones on which further information was needed.

I. Petition from Mr. Dob Dang Benoik (T/PET.5/128)

Mr. RANKIN (Secretary of the Committee), replying to a question by Mr. SUMSKOI (Union of Soviet Socialist Republics), explained that the house referred to in paragraph 5 was not the house claimed by the petitioner but the one owned by the chief.

Mr. SUMSKOI (Union of Soviet Socialist Republics) remarked that that fact should be stated more clearly.

The CHAIRMAN recalled that, according to the Administering Authority, the house had been returned to the petitioner but that the petitioner alleged that certain parts of the house had been removed. It might therefore be better to refer to the dispute concerning the damage to the house.

Mr. MATHIESON (United Kingdom) pointed out that the petitioner's complaint referred not only to the house but also to the chieftainship. It should be made clear in the resolution that recourse to the courts was open to him only in respect of the dispute over the damage to the house.

The CHAIRMAN said that the Council was not obliged to make recommendations in every case. When it decided not to make a recommendation, it would be better not to specify, as did paragraph 3 of the draft resolution, that it considered that no recommendation was necessary, because such a statement might give the petitioner the impression that the United Nations had not given his plea sufficient attention or regarded it as of no interest.

Mr. TARAZI (Syria) agreed. There was also a discrepancy between paragraph 2 of the draft resolution which implied the recommendation that the petitioner should consider bringing the dispute before the customary tribunal, and paragraph 3, which stated that no recommendation by the Council was necessary.

Mr. SUMSKOI (Union of Soviet Socialist Republics) recalled that, at the beginning of the session, the Committee had decided to adopt a new form of resolution and that he had remarked that the new form would not affect the purport of the resolutions. Yet the resolutions still followed the same pattern, the main stress remaining on the Administering Authority's observations. There was still no reference to the fact that the petitions raised important matters or that the Committee or Council was taking any action in that connexion.

Mr. MATHIESON (United Kingdom) agreed with the Chairman and the Syrian representative that the formula in paragraph 3 should be used only in cases where it was specifically appropriate. It could be varied as required; it might briefly summarize the specific circumstances which had led the Committee to decide against taking action, or, again, it could indicate that the Council had not found it possible to make a recommendation, by reason, for example, of rule 81. In the case of resolution I, nothing would be lost by the omission of paragraph 3.

With regard to the USSR representative's point, the United Kingdom delegation had thought that the new form of resolution was more economical and less stereotyped than the old. The Administering Authority's observations were mentioned only when it was necessary to draw the petitioner's attention to errors of fact or to the existence of circumstances of which he might not have been aware. It would be quite simple to avoid references to the Administering Authority by replacing the words "Notes the Administering Authority's observations that..." by the words "Notes that...", since the Preamble had made it clear that the Administering Authority had been the source of the information.

Mr. SUMSKOI (Union of Soviet Socialist Republics) stressed that the point he had raised was one of principle, not simply one of drafting. A study of the draft resolutions showed clearly that the main emphasis was thrown on the Administering Authority's observations, to the virtual exclusion of the Committee's opinions and the petitioner's point of view. The impression given was that the Committee fully supported the Administering Authority.

In the case in point, far from suggesting that the reference to the Administering Authority should be deleted in paragraph 1, he felt that it should be retained, as indicating the source of the statement, which would otherwise appear to have been adopted by the Committee.

Mr. MATHIESON (United Kingdom) did not agree that because the Committee and Council had heard the Administering Authority's point of view as well as that of the petitioner they would necessarily appear to be prejudiced on the side of the Administering Authority. The Committee's task was to consider petitions with a view to asking the Administering Authority to correct any undesirable situations which might be shown to exist, or alternatively to draw the petitioner's attention to certain circumstances of which he might not have been aware, owing to ignorance of the law or of relevant facts, and for that purpose it was necessary to consult the Administering. Furthermore, the

Charter itself provided that the Trusteeship Council should accept petitions and examine them in consultation with the Administering Authority. The alternative was to assume that in each and every case the petitioner was perfectly correct both with regard to fact and with regard to law, which would clearly be as wrong as to assume that the Administering Authority was perfect in every instance.

Mr. TARAZI (Syria) agreed that it was necessary to consult the Administering Authority in considering petitions. He pointed out, however, that the form of resolution used did not place the Administering Authority and the petitioner on the same footing: the observations of the Administering Authority were stressed and accepted by the Committee, while the substance of the petitioner's complaint was frequently not mentioned at all in the resolution. In a court of law, the judgment summarized the plaintiff's case and the arguments advanced in its favour even when the case was rejected.

Mr. RANKIN (Secretary of the Committee) agreed that paragraph 1 of the form of resolution was uninformative, but he pointed out that the resolution was only the last item in a series of documents consisting of the petition itself, the Administering Authority's observations, any additional information given in Committee by the Special Representative, the Committee's report and the official record of the meeting at which the petition was discussed.

Mr. MASSONET (Belgium) would prefer the formula contained in paragraph 3 of the draft resolution to be retained as a matter of practical necessity, but he would not object to its deletion provided that everyone concerned could gather from the rest of the resolution what action was required of them.

Mr. MATHIESON (United Kingdom) said that in the case of a resolution concerning a Trust Territory under British Administration the United Kingdom Government would assume that no action was required if no direct recommendations

were made to the Administering Authority. Provided the resolution indicated the Committee's findings in such a way as to show that no action was required by the Administering Authority, the paragraph could quite well be omitted.

The Committee agreed to delete paragraph 3 of draft resolution I.

The CHAIRMAN, reverting to the point raised by the USSR representative, thought that the question of the emphasis given to the Administering Authority's observations should be considered in each particular case. In the case in point, the statement contained in paragraph 1 of the resolution had to be attributed specifically to the Administering Authority; otherwise it would appear that the Council had made the statement its own, whereas it had merely noted the Administering Authority's statement.

With regard to paragraph 2 of the resolution, it appeared that the chief who had been responsible for the damage complained of by the petitioner was now dead, so that the petitioner might well be surprised to receive a recommendation to bring legal proceedings against a dead man. It seemed inadvisable to expand the paragraph somewhat, so as to make it clear that he should proceed against the dead person's heirs.

Mr. BECQUEY (Special Representative) pointed out that the petitioner had said that the damage had been caused by two persons, only one of whom was now dead, so that his remedy would be to proceed against the person who was still living.

The CHAIRMAN put draft resolution I, as amended, to the vote.

The resolution was adopted by 4 votes to none, with 2 abstentions.

Mr. TARAZI (Syria) explained that he had abstained from voting, not because he disagreed with the substance of the resolution, but because he did not consider the form entirely satisfactory, since it took no account of the petitioner's point of view.

The CHAIRMAN was anxious to find a solution to that problem, which seemed likely to arise in practically every resolution before the Committee. As the Secretary of the Committee had pointed out, the reply to the petitioner did not consist entirely of the resolution, but included additional documentation, which amounted to the respective cases of the plaintiff and defendant in a court of law, with the difference that whereas the Administering Authority was able, through its Special Representative, to add to its observations, the petitioner was not in that position.

Mr. TARAZI (Syria) thought that when a resolution was in the petitioner's favour, the form was not of any great importance. When, however, the resolution went against the petitioner, his delegation would like to see the petitioner's point of view and the factors which had led the Council to reject it clearly stated in the resolution.

The CHAIRMAN fully appreciated the point raised by the Syrian representative. As, however, a new way of dealing with petitions was being devised, he hoped that such difficulties would be resolved in due course.

II. Petition from Mr. Mbida Joseph Assene (T/PET.5/136)

The CHAIRMAN asked what were the "certain events" alluded to in paragraph 4.

Mr. BERENDSEN (Assistant Secretary of the Committee) explained that the events in question related to the difficulties of the petitioner's father under the German administration. Since no reference to that matter could be found in the French records, it might be best to delete the paragraph.

Mr. SUMSKOI (Union of Soviet Socialist Republics) pointed out that if the petitioner received a reply accompanied by all the relevant documents he would be surprised to read the observations of the Special Representative concerning the events mentioned in paragraph 4. The draft resolution in

question was a glaring example of an empty resolution which did not satisfy anybody. The Administering Authority had clearly not investigated the case properly and it was impossible to base a resolution on such meagre information.

Mr. BERENDSEN (Assistant Secretary of the Committee) pointed out that when T/PET.5/136 had been discussed only one proposal had been made, that of the Australian representative, who had suggested that the Committee should draw the attention of the petitioner to the observations of the Administering Authority.

Mr. PETHERBRIDGE (Australia) explained that he had made his proposal for a special reason. The main point in the case was that the petitioner had been sentenced in 1935 to three years' imprisonment for embezzlement and had then been deposed. Although it might be possible to add a paragraph drawing attention to the Administering Authority's observations, that was not really necessary since the petitioner would obtain the information from the accompanying documents.

The CHAIRMAN understood the USSR representative's criticism of the draft resolution. He pointed out, however, that during the discussion of the petition in question the USSR representative had not made a formal proposal and the Secretariat had of course drawn up a draft resolution on the basis of the only proposal made. It was not too late, however, for any member of the Committee to make a fresh proposal.

Mr. SUMSKOI (Union of Soviet Socialist Republics) said that he had no specific proposal to make. He merely wished to emphasize once more that all the resolution did was to draw attention to these Administering Authority's observations, which were too vague to form the basis of a resolution.

Mr. MATHIESON (United Kingdom) suggested that in the present case it was possible to be specific without unduly inflating the resolution. He proposed that the petitioner's attention should be drawn to the fact that he had formerly been chief of his tribe but had been convicted for embezzlement of tax money and deposed, and that the Trusteeship Council recommended that he should not be restored as "king" of the Mbidambani tribe.

The United Kingdom proposal was adopted by 3 votes to none, with 3 abstentions.

The meeting rose at 12.30 p.m.