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Seventh Special Session

VERBATEIM RECORD OF THE EIGHT HUNDRED AND FORTY-FIRST MEETING

Held at Headquarters, New York,
on Thursday, 12 September 1957, at 10.30 a.m.

President:

Mr. HOOD

(Australia)

1. Opening of the seventh special session
2. Adoption of the agenda (T/1537)
3. The future of Togoland under French administration:
Report of the United Nations Commission on Togoland
under French administration (T/1536 and Corr.1,
1536/Add.1 and Corr.1, 1536/Add.2)

Note: The Official Record of this meeting, i.e., the summary record, will appear in provisional mimeographed form under the symbol T/SR.841 and will be subject to representatives' corrections. It will appear in final form in a printed volume.

OPENING OF THE SEVENTH SPECIAL SESSION

The PRESIDENT: On this occasion, I would, as President, recall briefly the sequence of events which led to the convening of the present special session of the Council. Approximately a year ago, the Government of France defined, in its Decree of 24 August 1956, a new political Statute for the Trust Territory of Togoland under French administration. This Statute was examined by the Trusteeship Council at its sixth special session and, then, by the General Assembly at its eleventh session.

As a result of these processes, the General Assembly, in its resolution 1046 (XI) of 23 January 1957, considered with satisfaction that:

"the extent of powers transferred to the Territory of Togoland under French administration by the Administering Authority in consequence of the new political Statute of the Territory represents a very significant step in the achievement of the objectives of Article 76 of the Charter and of the Trusteeship Agreement;"

In the same resolution, the General Assembly resolved:

"to dispatch to Togoland under French administration a Commission of six members, to be appointed on the basis of equitable geographical distribution by the President of the General Assembly, in order to examine in the light of the discussions in the Fourth Committee, the entire situation in the Territory resulting from the practical application of the new Statute and the conditions under which the Statute is being applied, and to submit a report thereon, with its observations and suggestions, to the Trusteeship Council for its consideration;"

And, finally, the General Assembly requested the Trusteeship Council:

"to study the question, taking into account the report of the Commission, and to transmit the results of its study to the General Assembly at its twelfth session."

The Commission -- and may I now ask the permission of the Council to recapitulate slightly -- which was composed of the representatives of Canada, Denmark, Guatemala, Liberia, Philippines and Yugoslavia, visited the Territory from 30 May until 30 June last. Before and after the visit, the Commission also held numerous consultations with representatives of the French Government in Paris and the Commission, of course, submitted its report eventually to the Council on 6 August.

The question of the future of the Territory of Togoland under French administration was actually placed on the agenda of the twentieth session of the Trusteeship Council; but because the Commission's report was not available at the time, the Council then decided to convene the present special session to deal with it.

(The President)

Before we take up the agenda for today's meeting, I should like to place on record, on behalf of the Council, our notice of the fact and our regret that Mr. Robert Bargues, who has represented France in this Council for the past three years, is no longer with us. During the period that Mr. Bargues was here, we all came to appreciate his kindness, integrity and statesmanship. His departure is indeed a loss to the Council. I am sure that the Council wishes me to convey, through the representative of France now here, its expression of friendship and its gratitude for the work which Mr. Bargues carried out with us.

I turn now to the pleasant duty of welcoming among us Mr. Bargues' successor, Mr. Jacques Kosciusko-Morizet. Mr. Kosciusko-Morizet, I understand, occupied many important positions in various departments of the administration of the French Government before being appointed representative of his country on this Council. His previous services included the post of Assistant-Director in the office of the then President of the Constituent Assembly of France, Mr. Vincent Auriol. Subsequently he served in the same capacity under Mr. Léon Blum. He was then appointed Director of the Office of the President of the Republic, a post which he occupied throughout the seven-year term of Mr. Vincent Auriol as Chief of State of the French Republic. Latterly, Mr. Kosciusko-Morizet has served as Director of the Office of the Minister of State. Many of us had the pleasure of meeting him during the last session of the General Assembly when he was a member of the French delegation in the Fourth Committee. I welcome him on behalf of the Council; we look forward to his collaboration and assistance.

ADOPTION OF THE AGENDA (T/1337)

The agenda was adopted.

THE FUTURE OF TOGOLAND UNDER FRENCH ADMINISTRATION: REPORT OF THE UNITED NATIONS COMMISSION ON TOGOLAND UNDER FRENCH ADMINISTRATION (T/1336 and Corr.1, 1336/Add.1 and Corr.1, 1336/Add.2) [General Assembly resolution 1046 (XI)]

The PRESIDENT: At this point, I should like to recall that at the nineteenth session of the Council, after the Council had examined the annual report on the administration of the Trust Territory of Togoland under French administration for the year 1955, it decided to undertake a more detailed examination of the political advancement of the Territory when it received the report of the Commission appointed under General Assembly resolution 1046 (XI) and to report thereon to the General Assembly in the report to be submitted to the Assembly at its twelfth session according to the same resolution. In the light of this, I would suggest that the examination of the political advancement of Togoland under French administration referred to in this resolution can well be undertaken in the framework of item 2 of the provisional agenda.

In order to expedite the work of the Council, I think we may proceed immediately to the consideration of the question of the future of Togoland under French administration. In this respect, the Council has before it General Assembly resolution 1046 (XI) and the report of the United Nations Commission on Togoland.

The Council might first wish to hear the Chairman of the Commission, Mr. Charles King of Liberia, who will introduce the report. After that the Council may agree to hear the representative of France as the Administering Authority concerned.

At the invitation of the President, Mr. King (Liberia), Chairman of the United Nations Commission on Togoland under French Administration, took a place at the Trusteeship Council table.

Mr. KING (Chairman of the United Nations Commission on Togoland under French Administration): I felt that as a matter of courtesy I should appear before you today to present to this Council the report of the Commission on Togoland under French administration over which I had the honour

(Mr. King, Liberia)

to preside. Unlike the three Missions dispatched to that Territory by the Council itself, the Commission was established by the General Assembly and was composed of members only one of whom is represented in the Council. Its terms of reference require it to study the entire situation resulting from the practical application of the new Statute of Togoland and the conditions under which it is being applied. In carrying out its terms of reference, the Commission spent a full month in the Territory, travelled very extensively, carried out a strenuous programme and had wide contacts with the people and its leaders. The Commission gathered a great deal of material on subjects within its terms of reference, and this material has been reproduced in some detail in its report.

I may mention in passing that the Commission received also a number of communications on matters outside its terms of reference. It transmitted these to the Secretary-General to be dealt with according to the rules of procedure of the Trusteeship Council.

The Commission has, particularly in Chapter V of its report, set forth its own observations and suggestions. I do not feel, however, that it is appropriate for me, either as a member of the Commission or as its Chairman, to add to the material which must be studied by the Council, by giving an interpretation of what appears in the report. The factual material is, I trust, accurate and complete. The observations of the Commission, taken as a whole, do, I believe, give a comprehensive and unambiguous view of the present situation, and one which received the unanimous approval of the members of the Commission. The suggestions put forward in the report do not, however, constitute by themselves a full and immediate solution to the problem of the future of the Territory, but I hope that they will offer useful guidance to the Trusteeship Council and the General Assembly as well as to the Administering Authority, in agreement with which the problem must be solved, and to the people of Togoland whose wishes must, at the appropriate time, be the necessary basis of any solution.

(Mr. King, Liberia)

Finally, I may state that it was impossible for the members of the Commission to carry out such an intensive study of the situation in Togoland without acquiring a high degree of sympathetic interest in the future progress of its inhabitants. The Togolanders are a hospitable and attractive people, and take a keen interest in the political life of their country. It is to be hoped that all parties will find a basis for collaboration within the large degree of autonomy which the country now possesses in furthering its development, not only in the constitutional field, but in all other fields as well.

Before closing my remarks, I wish to avail myself of this opportunity to pay tribute to the members of the Secretariat who were assigned to serve with the Commission. With unfailing devotion to their work, efficiency in planning and co-ordinating the Commission's programme, skill in handling delicate situations, objectivity and impartiality, they rendered invaluable assistance to the Commission in the useful and successful performance of its task.

The PRESIDENT: On behalf of the Council I thank Ambassador King for his introduction of the report of the Commission.

Mr. KOSCIUSKO-MORIZET (France) (interpretation from French): May I first of all thank the President very sincerely for his words of welcome which have touched me deeply. I am grateful also to all my colleagues in this Council for having shown me sympathy and I wish to thank the members of the Secretariat who have been very kind to me since my arrival here.

The Council will perhaps recall that I was the assistant of two great statesmen, President Léon Blum and President Vincent Auriol. They have inspired me with an ardent faith in the ideal of the United Nations, as expressed in the spirit and letter of the Charter of San Francisco, and with a passionate desire to work for peace in justice and freedom for all peoples and all men. For two years I have also been privileged to be the assistant of a great African, a great statesman, Mr. Houphouët-Boigny, Mayor of Abidjan, Chairman of the Grand Conseil of French West Africa and Minister of State in the Government of the French Republic. He has taught me to understand better, to love more deeply and also to serve better Africa, whose peoples today freely determine their destiny on a basis of equality, but also in full brotherly friendship with France. As a result, I am prepared for the work of the Trusteeship Council. I shall give my best to this work, as was done by Mr. Bargues, my predecessor, to whom I shall transmit your friendly message and who will be deeply moved by it.

(Mr. Kosciusko-Morizet, France)

At the outset I wish to show my fellow members of the Council that they may count on my desire to co-operate confidently and loyally. I am called upon to speak for the first time before you today and, in doing so, I have to deal with a most important question. I do not wish, therefore, to delay further the statement you are expecting from the representative of France.

The members of the Council will no doubt still recall the special session of the Trusteeship Council, convoked scarcely a year ago-- in July 1956-- to examine the question of the future of Togoland.

Mention of that date is not unwarranted: not to awaken memories that might be differently considered, but to stress the vital importance of events which occurred later in Togoland, then under French Administration.

A brief backward glance, therefore, will not be out of order. After having defined the outline of the new Statute, in co-operation with elected Togolese, the French Government on 30 July declared its intention to consult the people regarding that Statute. By a decree of 24 August the Statute was promulgated and entered into force immediately. On 24 October an impartially organized referendum-- outside of any local political contingencies-- was held throughout the Territory, by direct, universal, adult suffrage. In the whole Territory, 71 per cent of the registered voters were in favour of the Statute; only 5 per cent were in favour of continuation of the Trusteeship System. With the exception of two circonscriptions, Lomé and Palimé, more than 50 per cent of the registered electors all over the Territory voted in favour of the Statute and the wind-up of the Trusteeship System; and in the two zones mentioned, the number of votes in favour of the Statute was far higher than that of the partisans of a continuation of the Trusteeship System.

After considering the entire problem, the General Assembly, on 23 January 1957, decided in concord with the French Government, and at the invitation of the Government of the Autonomous Republic of Togoland itself, to send a six-man committee to the Territory to study the newly-created situation and to weigh the request that the Trusteeship System be terminated.

A vital event then took place: the six-man United Nations Commission went to the Autonomous Republic of Togoland, was received by the Government of the new Republic, and was able to watch this Government exercising its functions and responsibilities.

(Mr. Kosciusko-Morizet, France)

The terms of reference of the Commission, as set forth in resolution 1046 of 23 January 1957, were primarily to examine -- in the light of the debates held in the Fourth Committee -- the over-all situation in the Territory of the Autonomous Republic of Togoland, in the light of the practical implementation of the new Statute, and also to see the conditions under which this Statute was being applied.

The Commission proceeded with its examination. It noted the extent of the autonomy enjoyed from then on by the Republic of Togoland.

According to its own words, "the Statute has been interpreted in a broad manner...some of the competences specifically reserved to the French authorities have been much attenuated through interpretation." (T/1336, para. 459).

And the Commission adds, "the Statute, which represents a very significant step in the achievement of the objectives of Article 76 of the Charter...has been broadly interpreted and liberally applied, and...in consequence Togoland possesses a large measure of internal autonomy..." (T/1336, para. 466).

Therefore, the Commission not only noted that the new Statute was being truly applied, but also in a liberal way, and adds that "As a result of that broad interpretation and liberal application, amendments to the Statute have been adopted" (T/1336, para. 466).

The Statute, the existence of which the General Assembly had already noted with satisfaction, has therefore on a number of points been already surpassed. The Council will doubtless be aware that, despite many of the fears harboured by certain Member States on this point, the French Government has gone beyond the reforms which it announced to the Council approximately a year ago, in July 1956.

The Council will no doubt have taken note of the fact that a spokesman for a non-governmental party stated orally that "the Statute, if properly applied, would represent a major political advancement." (T/1336, para. 414). The French Government is most pleased by the clear-cut conclusions arrived at by the Commission on this point. Not only has the Statute been correctly interpreted, but in a wide and liberal sense, and has already been considerably improved.

A number of services have already been transferred and among them, quite long ago, the police. As the Commission stresses, "the maintenance of internal law and order is now within the competence of the Togoland Government". (T/1336, para. 460).

Furthermore, a systematic policy of "Togolization" of the officers is under way. On this matter the Commission "was informed of the laudable plans of the Togoland Government for placing Togoland in high posts in the civil service", as well as "the plans of the French Government substantially to increase the number of Africans in the services of the French Republic". (T/1336, para. 461).

In examining the method of the establishment of new institutions, the Commission stressed the negotiated character of the Statute. In fact, if the apparent procedure seems to invest it with the character of a "granted Charter", the actual procedure followed was bilateral and essentially contractual. The Statute was not imposed. It is the result of free discussion, at different levels, between Togolese representatives -- acting under the surveillance of their constituents and the Government of the French Republic. The result was then adopted and approved by the population by majority vote, and under circumstances that can leave no room for doubt.

This free discussion, which in its first stage was held in the French Parliament where the Togolese representatives were able to make a decisive contribution, then continued at the local level in the Togolese Assembly. The debates at this level have not yet ended.

Although its terms of reference were mainly political, the Commission also went into the situation as a whole and considered the economic, social and educational aspects. In the field of the economic implications of the new statute, the Commission specifically noted the importance of the plans for hydroelectric equipment, and especially the large dam for hydroelectric purposes on the Mono River, as well as "the commendable scheme by which several thousand Cabrais from the over-populated Lama-Kara District are being settled under carefully controlled conditions in the hitherto sparsely populated region of East Mono" (T/1336, paras. 373-4).

Throughout this entire document it is obvious that the Commission bore in mind the existence and the authority of the Government of the Autonomous Republic. It found in the Territory "a highly developed political consciousness and a lively interest in the political future of the Territory" and noted the existence of "well-organized political parties, with active local branches" (T/1336, para. 472). All this redounds to the honour of the Togolese Government and the democratic system it has tried to establish.

In paragraph 478 of its report the Commission "was pleased to note the eagerness with which Togoland youth takes advantage of educational facilities available in the Territory, a factor which augurs well for the continued progress of self-government in Togoland". These are the words of the United Nations Commission -- not of the Government of France.

In paragraph 479 it is noted that "the Togoland Government appears to have matters well in hand" in the different fields falling within its competence, and in paragraph 480 the Commission refers to "the excellent working and social relationships existing between the French and Togolandiers" and to "the ease and courtesy of social contacts, which is remarkable and reflects credit on both sides".

The report does not merely confine itself to stressing the extremely positive side of the new Statute as applied at present; the Commission felt that certain improvements could still be made and clarifications introduced. The Commission's report finally noted the profoundly democratic bases of the new institutions, and has suggested that certain provisions will further strengthen their solidity.

Some objections were raised -- and no doubt they will be repeated -- based on the fact that the present Assembly was elected in 1955 by restricted vote, by an electorate of less than half the present number, and that its tenure lasts until 1960, although article 6 of the present Statute provides for an Assembly elected by universal adult suffrage. But it must be borne in mind that the Statute is an indivisible whole, and that its article 40 formally provides for a continuation in office until 1960 of the Territorial Assembly which has now become the Legislative Assembly.

The French Government has already made known its views on this question at great length, and I shall now recall them.

According to the very provisions of the Statute itself, the Assembly elected in 1955 will continue in office until 1960. This Statute was approved by a referendum held on the basis of universal direct suffrage of adults, both male and female. The present Assembly, therefore, has been approved by plebiscite; by popular consultation and universal suffrage, as recommended in General Assembly resolution 1046 (XI), under satisfactory technical conditions, and with the prescribed majority.

Be that as it may, the French Government cannot but stress the fact that this matter of the organization of elections falls within the competence of the Togolese bodies, and their findings and responsibilities in the matter cannot be disassociated from the general responsibilities entrusted to them.

Therefore, in due course and in accordance with the appropriate procedure, the French Government will support the position that the Togolese Government may freely adopt in this matter.

Although granting that "the Statute confers upon the Togoland authorities a large number of competences previously exercised by the French authorities" (T/1336, para. 455), the Commission has suggested certain amendments to the Statute. Many of these are but clarifications.

As far as its remaining competence permits, and on the initiative of the Government of the Autonomous Republic of Togoland itself, the French Government would consider favourably the possibility of leading this Territory towards a further and important forward step.

The understanding way in which the French Government spent almost a year in examining the requests for amendments of the Statute is a guarantee for the future.

Noting the substantial changes introduced into the Statute as adopted in October 1955, the Commission felt that it had not been mistaken in its view. The amended Statute was substantially improved again on 22 March 1957.

Other amendments are being considered in the light of the termination of the Trusteeship System.

In three fields, decisive transfers of power will take place: in the field of civil liberties, in the field of justice, and in the field of constitutional review.

With the termination of the Trusteeship System, the last obstacle to the full exercise of complete autonomy will have disappeared, and then the Legislative Assembly will be invested with the power to legislate in a field which, thereafter, will be within its sole competence: that of civil liberties. This right will be recognized with no limitation but that of the high moral standard which the Togolese Government has established as a goal, since, in accordance with article 10, Togolese laws must be in conformity with the principles set forth in the Universal Declaration of Human Rights, the preamble to the French Constitution, and international treaties and conventions.

This independence of the judiciary is ever one of the formal principles of our public law, and is guaranteed by the fundamental regulations covering the separation of powers. However, while being pleased to stress the absolute independence of the French magistrature, the Government of the Autonomous Republic of Togoland has pointed out that the absence of a specifically and uniquely Togolese type of justice might appear to some as a restriction placed on its autonomy.

This was justified by the guarantees inherent in the independence of the judicial system from all other powers in France and as it had obtained in Togoland, which permitted the belief that justice might function as a common interest service. However, while recognizing the weight of this reasoning, the Togolese authorities feared that certain persons might not fully appreciate it and might suspect a hidden purpose behind this interpretation was to restore a control over local life which had been abolished in law but not in fact.

Although this approach to the situation was understood to be a purely psychological and therefore subjective one, the arguments led the French Government to reconsider its position on the point, and the wording of articles 26 and 27 has therefore been amended with a view to setting up a specifically Togolese judiciary system.

Undoubtedly this may lead to new expenditures under the Togolese budget which will have to cover the cost of these services, but such an outlay will surely be compensated by the fact that no misinterpretation will be possible.

Thus, together with the other powers, a specifically Togolese judiciary will exist in the Territory in the same way as it does in France itself. This extension to the Togolese level of the principle of the separation of powers -- introduced in France a mere one hundred and fifty years ago -- will be a powerful guarantee of law for the citizens.

Furthermore, ever mindful of maintaining the right of appeal of the citizens, and fully within the framework of the common ideals set forth in article 1 of the Statute, the Togolese Government has agreed that the judgements of Togolese courts can be referred, through normal appeal channels, to the final resort of arbitration by an independent and equitable body, acting free from local quarrels. The Council of State and the "Cour de Cassation", whose independence, as is known, constitutes a full guarantee to citizens, which will have vested in it the character and functions of a Supreme Court for Togolese courts as for French ones.

It has been deemed legitimate to allow the Togolese people and its Government to decide alone on the form of its domestic political organization. This, incidentally, has always been the view of the French Government. Therefore, full freedom and complete latitude will be given the Togolese bodies to set up for themselves their constitutional rules, that is, for example, length of tenure of Assemblies, procedure of investiture, governmental organization, and so forth.

These final transfers of responsibility had been considered for quite some time, and the French Government decided not to carry them out before because, as the Trusteeship System had not been terminated, it was concerned with the responsibility of facing its obligations in their entirety, as an Administering Authority.

Other changes may still be brought about.

The Government of Togoland will also take an active part in the future in the assignment and nomination of general co-ordination officials, by means of joint resolutions. Finally, other modifications of detail will clarify and specify some points of the Statute, especially in regard to the maintenance of public order.

However, all these modifications will only come into force upon the termination of the Trusteeship System.

Thus, in declaring the termination of the Trusteeship System, the United Nations will confirm the Togolese Republic's full freedom to administer itself in the future.

Its Statute will not, however, be definitively crystallized in the future. On the contrary, what has been granted has been achieved. The provisions of the Statute will be a safeguard against any possible backward step.

It is impossible at the moment to foresee the type and form of future relationships between the Governments of France and of the Togolese Republic after the termination of the Trusteeship System. What does matter is that we know that constant chances exist for the revision of the Statute, that a revision procedure has been established whereby the sole initiative is up to the Togolese bodies, and that it will be precise, bilateral and essentially contractual.

In this constant progression towards a better future, the autonomous Republic of Togoland cannot delay its pace. Its Statute, conceived in accordance with the best traditions of French revolutionary liberalism -- of which a number of States in the world are the embodiment and living witnesses -- is the surest guarantee.

The French Government finds no difficulty in solemnly reaffirming, in accord with the Commission, that the present Statute is not the final stage of relations between France and Togoland, which are still evolving.

Thank you, Mr. President. I shall be grateful to you if you will kindly call upon Mr. Apedo-Amah, the representative of the Government of Togoland.

At the invitation of the President, Mr. Apedo-Amah (France) took a place at the Council table.

Mr. APEDO-AMAH (France) (interpretation from French): Last January, on behalf of the Government of the Togolese Republic, I had the honour to invite the United Nations to send a Commission to Togoland, to see for itself the conditions under which the Togolese Statute was being applied and the way in which the new institutions of the Autonomous Republic of Togoland functioned.

(Mr. Apedo-Amah)

Today it is my pleasant duty to transmit to the United Nations the thanks of my Government for having accepted that invitation.

The Government and people of Togoland have been privileged to welcome this Commission that remained in our country for about one month. We were particularly happy and proud that the Chairman of that Commission was the representative of Liberia, that is to say, the representative of Africa.

During the stay of this information Commission in our country, the Government and the different Togolese authorities stinted no efforts in their desire to allow the Commission to have the most complete picture of the results of the application of the Statute permitting them thus to give the fullest possible report to the United Nations.

We were very conscious of the appreciation that the Commission voiced on this matter through its Chairman, as well as of the warm thanks it expressed for the hospitality offered by our young Republic, despite our meagre means and our lack of experience.

We had hoped that the Commission -- our guests -- would enjoy the best possible conditions for working, gathering information, travel and sojourn, and are happy at the measure in which we were successful.

The Commission's report notes that the Statute confers on the Togolese authorities many of the powers heretofore exercised by the French administrators. The Togolese Government was a party to the negotiations that led to the drawing up of the original Statute and its subsequent amendments. As a member of that Government, I feel that it may be useful for me to give to the Trusteeship Council some further explanations on the matter.

The powers enjoyed by the Togolese authorities are many and varied. On the constitutional level, first, the Togolese authorities were on an equal footing with the French in the preparation of the Statute and in its revision. Henceforth they have priority and even exclusivity regarding the legal procedure inherent in any modification of the Statute, since the inception of any official act of revision must be the expression of a vœu (wish) or a vote in the Legislative Assembly. I must point out that there is nothing that can limit

the initiative of the Assembly in this field. On the contrary, when preliminary negotiations are begun on amendments between the Togolese and French Governments, the drafts that may emerge -- and that can only be referred to the Assembly by the Togolese Government -- have no binding force for that Assembly, since it can adopt them, reject them or amend them, and no amendments can come into force without its vote thereon.

So not only must the Legislative Assembly of Togoland discuss all amendments to the Statute but also the drafts proposed for discussion in the Assembly are, in fact, the result of negotiations and preliminary consultations between the Togolese and the French authorities.

Thus the original Statute, which had been the result of preliminary negotiations between the elected Togolese and the French Government, was in July 1956 submitted to the Togolese Assembly, which considerably modified it before allowing it to become the Statute of Togoland.

Thus, too, the amendments confirmed by the decree of 22 March 1957 were prepared following governmental consultations which took place at Lomé and Paris before being put up for discussion in the Assembly.

The drafts proposed for discussion in the Legislative Assembly were most often considerably modified by it and these changes introduced in the original drafts by the Assembly were thereupon confirmed by the French Government. I must take this opportunity of stressing the French Government's full understanding of our desire for development.

(Mr. Apedo-Amah)

It is, therefore, out of the question to say that the Statute of Togoland is a unilateral document granting Togoland new rules: in fact as well as in law, it is a bilateral instrument that cannot be amended without the consent of the Togolese authorities and which has permitted these authorities to contribute amendments and considerable additions to it. It will continue to be so in the future.

Certain other subjects, which traditionally belong in the constitutional field, fall exclusively within the competence of the Togolese authorities. This is the case, for example, of the right of dissolution. The Statute limits itself to providing that the Prime Minister can dissolve the Legislative Assembly provided certain conditions laid down in Togolese law are fulfilled. This law came into force last June.

All matters pertaining to the electoral system are also fully and completely within the competence of the Togolese authorities -- nominally within the competence of the Legislative Assembly.

In the legislative field, the competence of the Togolese authorities is absolutely general.

As the Commission's report states, the Togolese Legislature is competent to deal with all matters pertaining to the Autonomous Republic of Togoland, that is to say, all Togolese affairs, with the exception of those expressly reserved by the Statute for the central bodies of the French Republic. However, since the Statute only enumerates the fields of competence limitatively reserved to the French Republic, some readers may be led to the mistaken belief that the transfer of powers to the Togolese authorities refers only to such powers as are of slight importance.

Given these circumstances, I feel it incumbent upon me, therefore, to present certain explanations to the Council on these transfers of power.

(Mr. Apedo-Amah)

The Togolese Legislative body enjoys competence, in fact as well as in law, in the following fields, which are not exhaustive of the matters that can be dealt with by this body:

Political and administrative organization of the Togolese Republic: structure of the Ministries, organization and functioning of regions, municipalities and other local communities, Togolese judicial system, officials, maintenance of domestic public order, and protection of the enjoyment of civil liberties such as information, press and radio;

Financial affairs: budgets, loans, taxes, customs, public lands;

Economic affairs: plans of development and investments, agriculture, animal husbandry, trade and industry, transport, postal affairs and telecommunications;

Social affairs: social security, application of the Labour Code, social assistance and benefits, health and hygiene, education, youth matters;

Private law: status of persons and assets except in matters concerning French citizens, trade legislation, fiscal legislation.

These powers are only delimited by the requirement of respecting a certain number of philosophic and juridical principles and the supremacy of treaties and international conventions: The Rights of Man and the Citizen, as set forth in the Universal Declaration and the Preamble to the French Constitution; the Statute of the Autonomous Republic, that is to say, to constitutional laws and norms higher than the Togolese laws.

As can be seen, therefore, these are not limitations unique in the case of the Autonomous Republic of Togoland but, rather, principles affirmed and consequential limitations generally accepted by modern democratic States which, nevertheless, permit them fully to live up to their obligations towards other States, as well as towards their own citizens.

This last point must be borne in mind when we speak of civil liberties in Togoland, which is a problem that I shall refer to again in due course. Other matters, however, are reserved and fall within the competence of the French Legislature -- few in number, they must, nevertheless, be interpreted limitatively, and it must be remembered that elected Togolese representatives take part in the preparation of legislation on such matters.

(Mr. Apedo-Amah)

The Commission's report notes also that some matters do not fall within the competence of the Assembly but, in this case, it is a question of delegation of powers made by Togolese legislation to another Togolese power -- the executive. Therefore, this division is an act of internal sovereignty.

The Togolese Government is a truly executive power. Ministers are not merely high officials placed at the head of a service; besides their technical, financial or administrative attributes -- to which the report refers -- they have political attributes while at the head of each Ministry, the actions of which they direct and control within the general framework of the Government.

The Togolese Government debates all political matters concerning the Autonomous Republic of Togoland, and this is done at bi-weekly meetings of the Cabinet Council and at weekly meetings of the Ministers' Council. For example, it will examine matters dealing with the relations between the Autonomous Republic of Togoland and the French Republic, or else, measures of a general nature concerning the orientation of domestic policy.

It might be useful to stress that the Togolese public services -- primarily responsible for the application of laws enacted by the Legislative Assembly -- are also competent to deal with the application of different laws in reserved matters, to the exclusion of French services. The Commission was able to note this, especially in respect of foreign trade.

Finally, the Togolese Government, responsible for the maintenance of public order, in principle is competent to deal with matters pertaining to the application of the Penal Code in the Territory of the Autonomous Republic.

The Commission noted that the Statute had been interpreted in a wide sense and applied in a liberal spirit.

Besides the different facts brought out by the Commission in its reports, there are other important ones that might be mentioned. The machinery for legislative control, reserved by the Statute for French application -- be it while the Trusteeship System obtains, or be it after its termination -- has never, so far, had to be put into play.

Neither the French Minister for Overseas Affairs, nor the High Commissioner, have used the right of veto granted them by the Statute as long as the Trusteeship System has been in existence. Nor has the High Commissioner exercised his right, regarding Togolese laws, of requesting a second discussion and appeal in accordance with articles 11 and 12 of the Statute. The existence of this power of appeal

(Mr. Apedo-Amah)

led the Commission to seek out the guarantees against violations of the Statute. This problem must be examined from two different angles: guarantees enjoyed by the Togolese citizens, and guarantees enjoyed by the Togolese authorities themselves. The citizens of Togoland enjoy all the guarantees that French law offers, adapting it to the requirements of the Autonomous Republic of Togoland. The Togolese can contest all acts of the Togolese Government, be they acts of regulation, or individual decisions. It is interesting to note that, on this point, acts which some citizens or parties have labelled arbitrary have never been brought before the competent authorities by the impugnors. In Togoland, as is the case in many countries, there is no appeal against the law.

There are a number of guarantees which will benefit the authorities of Togoland and the Commission mentioned them repeatedly in the report. I do believe that it would be useful to summarize them and try to present them as a whole for the Council to realize the binding character of the Statute on the French authorities.

Juridically speaking, any acts of the French authorities, dealing with regulations, contrary to the provisions of the Statute, can be appealed against to the Council of State, on grounds of violation of the Statute.

There is no jurisdictional appeal against French laws. Though it is true that in theory such a recourse against laws that go counter to the Statute does not exist, we must point out -- as did the Togolese Government in its reply to the Commissioner's questionnaire -- that the intervention of a French law in any matter not within the competence of the French Republic, in contravention, therefore, of the Statute, would not in any way stop the Togolese Legislative Assembly from intervening in the matter in accordance with article 6 of the Statute.

(Mr. Apedo-Amah)

But this is really a hypothetical case since no French law is applicable in Togoland unless it is promulgated by the High Commissioner who consults the Togolese Government on the matter and seeks its agreement. The fact that elected Togolese representatives sit in the French Assembly ensures a sure and efficient way of opposing the passing of any legislation that might be deemed contrary to the Statute, or even inappropriate.

This, then, would be the reason -- if justification were needed -- for the presence of elected Togolese representatives in the French Assembly which has, already in the past, proved its usefulness. In point of fact, it was not the French Government's draft that served as a legislative basis for the Statute which was really based on an amendment submitted by one of the Togolese Senators, Dr. Ajavon.

(Mr. Apedo-Amah)

This problem of the guarantees must not blind anyone to the number and importance of the practical problems which, through the transfer of powers by the Statute, the Government of Togoland will have to solve.

The Commission's report mentions some of them, but Togoland will be confronted with all the varied problems that beset under-developed countries in their endeavours to become up-to-date States. Whether it be basic equipment for transport or communications or agricultural equipment required for building dams or the training of agricultural workers, or whether it be for the industrialization of Togoland and the training of the workers, or the basic education and education of adults, all these, and perhaps many other problems, will have to be examined and solved. But these are far from easy problems and they cannot be expected to be solved in the immediate future.

Those who have been concerned with the development of under-developed areas anywhere in the world are fully aware of the tremendous difficulties inherent in such an evolution.

The Statute, therefore, could hardly regulate in advance problems which have only now come within the sole competence of the Togolese authorities, and it is proof of the good quality of the Statute that it leaves to the Togolese themselves the responsibility for organizing matters as, for example, the local administration of their country.

The Government and Legislative Assembly of Togoland are committed to the solution of these different problems since they took over the functions of the French authorities. But it would hardly be fair to reproach them with having the social structure or the economic framework of an under-developed country, the improvement of which requires long-range plans. The Togolese Government with French financial support is now making these plans and efforts.

In order to ensure that the evolution of the social structure of Togoland evolves successfully, the Togolese officials elected by tribal or rural communities must be given the training and means necessary for the accomplishment of the most varied tasks -- more complex in fact than those which they were traditionally called upon to fulfil.

(Mr. Apedo-Amah)

On this specific point, I should like to correct a mistake that might arise in the minds of the members of the Trusteeship Council from a reading of the report. I have already reiterated here that the Traditional and Customary Chiefs were not, heretofore, nominated by the Administering Authority nor are they nominated now by the Togolese governmental authorities. Their nominations are made in accordance with customary laws, and in the majority of cases carried out by Customary Assemblies of the groups concerned. The Government only recognizes and confirms these nominations, and neither the initiative nor the responsibility lies on the shoulders of the Government.

How otherwise could we explain the fact that some Traditional Chiefs have openly declared their opposition and hostility to the policy followed by the Togolese Government? Is it not the case that the first delegation that the Commission received upon its arrival in Lomé was composed of Traditional Chiefs belonging to the opposition party?

It is the opposition between rival clans or between brother-enemies in the tribal groups that pushes the adversaries -- as the Commission pointed out in regard to the cercle of Depango -- to seek the support of one political party or another. Those who have not been designated as Chiefs quite naturally turn to the opposition parties, not for ideological reasons, but in order to find some revenge for their private rivalries.

The Traditional Chiefs are both the representatives of the local communities and their leaders. Their importance must not be underestimated in Togoland any more than in any other African country. The traditional institutions of our country have to be made to evolve and must not be destroyed since that could lead to anarchy and disorder, and certainly we should be reproached were we to allow that. We are as democratic as anyone but we are also Togolese and this character makes us want to give our country institutions in harmony with its traditions and needs.

Certain events and certain statements reported by the Commission might lead to the belief that civil liberties do not really exist in Togoland. But such freedom does exist in Togoland, not only because it is guaranteed by the Statute of the Autonomous Republic of Togoland, but more especially because the

(Mr. Apedo-Amah)

legislative powers and the executive powers of Togoland want Togoland citizens to enjoy all freedoms, of which the freedom to govern themselves is the principal one.

The Commission was charged with the task of finding out for itself what was happening in Togoland after the application of the Statute, and it was able to visit all localities, and in almost all these places, to hear representatives of the opposition parties as well as those of the majority parties. The Commission was well able to see that these parties, including the opposition, were entirely free to associate. The Commission was well able to see that the opposition parties published even more newspapers than the majority parties.

The Commission was well able to see that representatives of the opposition parties were present at all official functions and receptions organized by the Togolese Government. The Commission was well able to see that trade union rights exist in Togoland, and the Commission was itself present during a forty-eight-hour strike organized for its benefit by one of the trade unions of Togoland.

It is, therefore, difficult to believe from all this that freedom does not exist in Togoland, but it is easy to see that all the incidents that occurred in Togoland during the Mission's stay were provoked by Chiefs or members of the opposition parties.

In fact, the entire matter occurred as though the arrival of a United Nations Commission had been taken by certain people as an excuse to increase their influence inordinately; to create disorder and agitation is still the best way of being noticed.

The Togolese Government is responsible for the maintenance of public order and it prefers to take preventive measures whenever possible to avoid violent disorders rather than to permit the occurrence of serious incidents that will have to be repressed and that might call for the disbanding of this or that political organization. So far, the measures taken have prevented matters from going so far.

The Togolese Government is proud of the fact that it can state that no political party has had to be legally outlawed from political life in the territory of the Togolese Republic. If, therefore, since 1951 the opposition parties have abstained from all participation in the numerous preparatory

electoral consultations, we must point out, first, that they themselves decided to abstain and their abstention cannot be used to discredit the Government; secondly, that these consultations resulted in endorsement of our candidates and programmes by 71 to 80 per cent of the electoral body; and thirdly, that the deliberate abstention of the opposition was only a way to hide their loss of popular appeal, a loss which dates from the political reorganization of the Parti Togolais du Progrès and the Union des chefs et des populations du Nord abusively counting, for their own benefit, the persons who abstained -- who are basically a minority.

The additional efforts made at present to cast doubts on the clearly expressed and repeated will of the Togolese people regarding its political officials, by deliberately juggling minority abstentions, is a practice that must be strongly denounced.

Freedom exists equally for all Togolese citizens. It is up to them to make the best use possible of it, to help in the development and progress of our country which cannot be achieved without the full participation of all its sons.

We are extremely concerned with safeguarding democratic freedom and therefore do not wish to have a single party system set up. On the contrary, we want all political parties, all sectors of opinion which respect institutional regulations to participate in the new political life of Togoland.

The Prime Minister has repeatedly invited the representatives of the opposition parties to take part in the Government, especially when he first set up the Togolese Government and again on the arrival of the United Nations Commission. Not only did they turn a deaf ear to him, but they even refused and, furthermore, by inciting to violence and insults, they went further and tried to discredit the Togolese Government and even the Autonomous Republic itself.

However, we do not believe that our hopes will ever be frustrated. We believe that the opposition will abandon its policy of abstention in the future, that it will give up its sterile obstructionism and will make a move towards the reconciliation of the aims of all Togolese, participating in the elections which will take place to renew the Assembly at a date which events may permit us to decide upon and which may well be before that normally set for renewal of the Assembly.

The second point that is important in this evolution of our country is relations between France and Togoland. We have often stated, and the French Government has as often repeated, that the provisions of the Statute can be improved, which is the way to progress. Gradually, as we acquire experience, new transfers of power will take place and the Togolese authorities will themselves be able to amend the institutional regulations concerning them.

(Mr. Apedo-Amah)

We are happy at the development of negotiations now taking place, and at the changes agreed to by agreement between the French and Togolese authorities.

In his opening statement the permanent representative of France made mention of these negotiations and it is for the Council to weigh at their true worth the changes that have been made. The enforcement of these reforms will give full value to the principles which underlie the Statute and will permit its full implementation, whether it be in regard to relations between the French Republic and that of Togoland, or whether it be in regard to the holding of new elections on the basis of universal suffrage, or whether it deal with the termination of the Trusteeship System.

The transfers thus effected of residual French powers to the Togolese authorities would be devoid of true significance and worth if the Trusteeship System were still to obtain.

I am of the opinion that the stay in Togoland of the United Nations Commission will fully clear up the facts surrounding the Statute and will permit the United Nations this year to take a decision which it believed to be premature last year.

The PRESIDENT: If there are no observations at this point, I would propose that the Council resume its meetings on Monday, both morning and afternoon if necessary. I have no doubt that at that stage the representative of France will be able to assist the Council with any questions put by members in relation to the statements and the report which are now before the Council.

We could also on Monday, procedure permitting, open the general discussion which members may wish to undertake on the report of the Special Commission.

The Council therefore is now adjourned until Monday at 10.30 a.m.

The meeting rose at 11.50 a.m.

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Press Release PM/3411
12 September 1957

STATEMENT BY JACQUES KOSCIUSKO-MORIZET, REPRESENTATIVE OF FRANCE
ON THE TRUSTEESHIP COUNCIL, AT ITS SPECIAL SESSION ON 12 SEPTEMBER 1957

The Members of the Council will no doubt still recall the Special Session of the Trusteeship Council, convoked scarcely a year ago -- in July 1956 -- to examine the question of the future of Togo.

Mention of that date is not unwarranted: not to awaken memories that might be differently considered, but to stress the vital importance of events which occurred later in Togo, then under French Administration.

A brief backward glance, therefore, will not be out of order. After having defined the outline of the new Statute, in cooperation with elected Togolese, the French Government on the 30th. July, declared its intention to consult the people regarding that Statute. By a decree of the 24th. of August, the Statute was promulgated and entered into force immediately. On the 24th. of October, an impartially organised referendum -- outside of any local political contingencies -- was held in the entirety of the territory, with direct, universal, adult suffrage. In the whole territory, 71% of the registered voters, were in favor of the Statute; only 5% were in favor of a continuance of the Trusteeship System. With the exception of two "circonscriptions" (Lomé and Palimé), more than 50% of the registered electors all over the territory voted in favor of the Statute and the wind-up of the Trusteeship System; and in the two zones mentioned, the number of votes in favor of the Statute was far higher than that of the partisans of a continuation of the Trusteeship system.

After considering the entire problem, the General Assembly, on the 23rd of January 1957, decided in concord with the French Government, and at the invitation of the Government of the Autonomous Republic of Togo itself, to send a six-man committee to the Territory to study the newly-created situation, and to weigh the request that the Trusteeship System be terminated.

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A vital event then took place: the six-man United Nations Commission went to the Autonomous Republic of Togo, was received by the Government of the new Republic, and was able to watch this government exercising its functions, and responsibilities.

The terms of reference of the Commission, as set forth in Resolution 1046 of the 23rd of January 1957, were, primarily, to examine -- in the light of the debates held in the Fourth Committee -- the over-all situation in the territory of the Autonomous Republic of Togo, as a function of the practical implementation of the new Statute, and also to see the conditions under which this Statute was being applied.

The Commission proceeded with its examination.

It was able fully to appreciate the amplitude of the autonomy enjoyed from then on by the Republic of Togo.

According to its own words (459): "The Statute has been interpreted in a wide sense. Certain matters expressly reserved to the French authorities have been considerably attenuated by means of the way the Statute has been interpreted."

And the Commission adds (466): "The Statute which is a very important step towards the fulfillment of the goals and aims set forth in article 76 of the Charter... has been interpreted in a wide sense and applied in a liberal way...and therefore, Togo possesses an ample measure of internal autonomy."

Therefore, the Commission did not only note that the new Statute was being truly applied, but also in "a liberal way," and adds "Thanks to that wide interpretation and liberal application, amendments to the Statute have been adopted." (466)

The Statute, the existence of which the General Assembly had already noted with satisfaction, has therefore on a number of points been already surpassed. The Council will doubtless be aware that, despite many of the fears harbored by certain member states on this point, the French Government has gone beyond the reforms which it announced to the Council approximately a year ago, in July 1956.

The Council will no doubt have taken note of the fact that a spokesman for a non-governmental party stated orally that (414) "were the Statute to be correctly put into force, it would represent great political advancement." The French Government is most pleased by the clear-cut conclusions arrived at by the Commission on this point. Not only has the Statute been correctly interpreted, but in a wide and liberal sense, and has already been considerably improved.

A number of services have already been transferred, and among them, and at quite a long-past date, the police. As the Commission stresses (460) "the maintenance of law and order is incumbent upon the Togolese Government." Furthermore, a systematic

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policy of "Togolization" of the officers is under way. On this matter, The Commission has noted (461) "with pleasure the felicitous plans of the Togolese Government to appeal to the Togolese to fill the high positions in the Public Services," as well as "the plans prepared by the French Government to increase the number of Africans in the Services of the French Republic."

In dealing with the modalities of the establishment of new institutions, the Commission stressed the negotiated character of the Statute. In fact, if the apparent procedure seems to invest it with the character of a "granted Charter," the true procedure followed was bilateral and essentially contractual. The Statute was not imposed. It is the result of a free discussion, at different levels, between Togolese representatives -- acting under the surveillance of their constituents, and the Government of the French Republic; the result was then adopted and approved by the population by majority voice, and under circumstances that can leave no room for doubt.

This free discussion, which in its first stage was held in the French Parliament where the Togolese Representatives were able to bring a decisive contribution, then continued at the local level in the Togolese Assembly. The debates then started. have not yet ended.

Although its terms of reference were mainly political, the Commission also went into the situation as a whole and considered the economic, social and educational aspects. In the field of the economic implications of the new statute, the Commission specifically noted (373) the importance of the plans for hydroelectric equipment, and especially, the "important plan for the hydroelectric dam on the Mono River," as well as (374) "the praiseworthy program which will permit the settlement of thousands of Cabrais -- at présent living in the over-populated circle of Lama Kara, -- in the under-populated area of the East Mono region, under carefully studied conditions."

In the course of this entire document, it is obvious that the Commission bore very much in mind the existence and authority of the Government of the Autonomous Republic. It found (472) "a very alive political conscience in the territory, and an active interest in the political future of the territory. There are well-organized political parties with active local sections." All this redounds to the honor of the Togolese Government and the democratic system it has tried to establish.

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In paragraph 478 the Commission noted "not without satisfaction, the eagerness with which the Togolese youth took full advantage of the scholastic facilities available in the territory. This is a good omen for the autonomy of Togo." And it is not the French Government speaking, but the United Nations Commission.

Finally, noting (479) that "the Togolese Government is entirely master of the situation in the different fields falling within its competence," the Commission also notes "the excellent cooperation and the intensity of the social relations existing between French and Togolese, as well as the ease and courtesy of the social contacts." "This," says the Commission's report, "is remarkable, and has earned praise for both parties."

The report does not only confine itself to stressing the extremely positive side of the new Statute as applied at present; the Commission felt that certain improvements could still be made and clarifications introduced. The Commission's report finally noted the profoundly democratic bases of the new institutions, and has suggested that certain provisions will strengthen their solidity still more.

There were some objections raised -- and no doubt they will be reiterated, based on the fact that the present Assembly was elected in 1955, by restricted vote, by an electorate of less than half the present number, and that its tenure lasts until 1960, though article 6 of the present Statute provides for an Assembly elected by universal adult suffrage. But it must be borne in mind that the Statute is an indivisible whole, and that its article 40 formally provides for a continuation in office until 1960 of the Territorial Assembly, now become Legislative Assembly.

The French Government has already made known its views on this question at great length, and will recall them.

According to the very provisions of the Statute itself, the Assembly elected in 1955 will continue in office until 1960. This Statute was approved by a referendum held on universal, direct suffrage of adults, both male and female. The present Assembly, therefore, has been approved, by plebiscite, by the popular consultation and universal suffrage, referred to in resolution 1046 of the General Assembly, held under satisfactory technical conditions and which resulted in the prescribed majority.

Be that as it may, the French Government cannot but stress the fact that this matter of the organization of elections falls within the competence of the Togolese

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bodies, and their findings and responsibilities in the matter cannot be disassociated from the general responsibilities entrusted to them.

Therefore, in due course and according to appropriate usage, the French Government will support the position that the Togolese Government may freely adopt in this matter.

Although granting that "the Statute confers on the Togolese authorities, many of the powers previously vested in the French authorities," the Commission has suggested certain amendments to the Statute. Many of these are but clarifications.

As far as its remaining competence permits, and on the initiative of the Government of the Autonomous Republic of Togo itself, the French Government would consider favorably the possibility of leading this territory to make a further and important forward step.

The understanding way in which the French Government spent almost a year examining the requests for amendments of the Statute is a guarantee for the future.

The Commission was not mistaken on this point -- the substantial changes introduced into the Statute as it had been adopted in October 1955 were noted. The amended Statute was substantially improved again on the 22nd of March 1957.

Other amendments are being considered in the light of the termination of the Trusteeship System.

In three fields, decisive transfers of power will be brought about:

- in the field of public liberties,
- in the field of justice, and
- in the field of the constitutional review.

With the termination of the Trusteeship System, the last obstacle to the full exercise of complete autonomy will have disappeared, and then the Legislative Assembly will be invested with the power to legislate in a field which, thereafter, will be of its sole competence: that of public liberties. This right will be recognized with no other limitation but that of the high moral obligations which the Togolese Government has set up for itself as a goal, since, in accordance with article 10, Togolese laws must respect the principles set forth in the Universal Declaration of Human Rights, the preamble of the French Constitution and International Treaties and Conventions.

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The independence of the judiciary is ever one of the formal principles of our public law, and is guaranteed by the fundamental regulations covering the separation of powers. However, while being pleased to stress the absolute independence of the French Magistrature, the Government of the Autonomous Republic of Togo has pointed out that the absence of a specifically and uniquely Togolese type of justice might appear to some as a restriction placed on its autonomy.

The position was justified by the guarantees specifically contained in the independence from all other powers of the judicial system in France and as it had obtained in Togo, which permitted the idea of envisaging justice functioning as a common interest service. However, while recognising the weight of this reasoning, the Togolese authorities feared that certain local parties might not fully appreciate them and suspect a hidden motive behind this interpretation permitting a return to a trusteeship which, while abolished in law, might still exist in fact.

Although this approach to the situation was understood to be a purely psychological and therefore subjective one, the arguments led the French Government to reconsider its position on the point, and the wording of articles 26 and 27 is therefore to be amended so as to lead to the setting up of a specifically Togolese justice.

Undoubtedly this may well lead to new expenditures for the Togolese budget which will have to cope with the expenses of these services, but such an outlay will surely be compensated for by the fact that no room for misinterpretation will exist.

Thus, together with the other powers, a specifically Togolese judiciary will exist in the territory in the same way as it does in France itself. This extension to the Togolese level of the principle of the separation of powers -- introduced in France a mere one hundred and fifty years ago -- will be a powerful guarantee of law for the citizens.

Furthermore, ever mindful of maintaining the right of appeal of the citizens, and fully within the framework of the common ideals set forth in article 1 of the Statute, the Togolese Government has agreed that the judgments of Togolese courts can be referred, through normal appeal channels, to the final resort of arbitration by an independent and equitable body, acting free from local quarrels: the Council

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of State and the "Cour de Cassation," whose independence, as is known, constitutes a full guarantee to citizens, which will have vested in it the character and functions of a Supreme Court for Togolese jurisdictions as for French ones.

It has been deemed legitimate to allow the Togolese people and its government to decide alone on the form of its domestic political organization. This, incidentally, has always been the view of the French Government. Therefore, full freedom and complete latitude will be given the Togolese bodies to set up for themselves their domestic constitutional rules (that is, for example, length of tenure of Assemblies, procedure of investiture, governmental organization, etc.).

These final transfers of responsibilities had been considered for quite some time, and if the French Government had decided not to have carried them out before, it was because the trusteeship system, not having terminated, it was concerned with the responsibility of facing its obligations in their entirety, as an administering authority.

Other changes may still be brought about.

The Government of Togo will also take an active part in the future in the assignment and nomination of general coordination officials, by means of joint resolutions. Finally, other modifications of detail will clarify and specify some points of the Statute, especially in regard to the maintenance of public order.

However, all these modifications will only come into force upon the termination of the Trusteeship system.

Thus, in declaring the termination of the Trusteeship system, the United Nations will confirm the Togolese Republic's full freedom to administer itself in the future.

Its Statute will not, however, be definitively crystallised in the future -- on the contrary: what has been granted, has been achieved; the provisions of the Statute will be a safeguard against any possible backward step.

It is impossible at the moment to foresee the type and form of future relationships between the Governments of France and of the Togolese Republic, after termination of the Trusteeship. What does matter is that we know that constant chances exist for the revision of the Statute, that a revision procedure has been

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established whereby the sole initiative is up to the Togolese Bodies; and that it will be precise, bilateral and essentially contractual.

In this constant progression towards a better future, the Autonomous Republic of Togo cannot delay its pace. Its Statute, conceived along the lines of the purest traditions of French revolutionary liberalism -- of which a number of States in the world are the embodiment and living witnesses -- is the surest guarantee.

The French Government finds no difficulty in solemnly reaffirming -- in concord with the Commission -- that the present Statute is not the final stage of relations between France and Togo, which are still evolutionary.

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Trusteeship Council
Seventh Special Session
1st Meeting (AM)
(French Togoland)

Press Release TR/1319

12 ~~13~~ September 1957

TRUSTEESHIP COUNCIL - TAKE 1

The Trusteeship Council this morning opened its seventh special session to consider the future of French Togoland, a trust territory in west Africa administered by France.

The meeting was opened at 10:45 a.m. by JOHN D.L. HOOD (Australia), current President of the Council.

Before the Council was a 163-page report, plus two annexes, of a United Nations Commission which studied the situation in Togoland at first hand in June. The report, published on 21 August, was formally presented to the Council today by the Commission's Chairman, Charles T.O. King of Liberia.

The six-member Commission, composed of Canada, Denmark, Guatemala, Liberia, the Philippines and Yugoslavia, was established by the last General Assembly. It was asked to study the application of a new political statute in Togoland and the conditions under which the statute was being applied.

In brief, the Commission found that a large measure of internal autonomy is now enjoyed by French Togoland under the new statute introduced in August 1956. While France still possesses important reserved powers, the Commission states, a "trend of events" has been set in motion which makes inevitable a progressive transfer of additional power to the Togoland authorities. In the Commission's view, the people of Togoland should "at an appropriate time" be consulted, under conditions agreed to by the United Nations, as to the further status of the territory.

(A press summary of the Commission's report is given in Press Release TR/1318. The Commission's report is given in Doc.T/1336 and Adds.1 and 2).

The Council is to report on its study of the question to the 12th session of the Assembly opening at UN Headquarters next Tuesday, 17 September.

France proposed to the last Assembly the termination of the trusteeship in Togoland. It explained that it did so on the ground that, in its belief, the new statute satisfies both the provisions of the trusteeship system and the wish of the majority of the Togolese population, as expressed in a referendum organized by France in October 1956. France subsequently decided, at least for the time being, not to press its proposal and instead invited a UN mission to go to Togoland.

Introducing the report, MR. KING emphasized that the suggestions put forward by the Commission "do not constitute by themselves a full and immediate solution to the
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problem of the future of the territory." He thought the suggestions "offer useful guidance" to the Council and the Assembly, "as well as to the administering authority in agreement with which the problem must be solved, and to the people of Togoland whose wishes must, at the appropriate time, be the necessary basis for any solution."

(The text of Mr. King's statement is given in Press Release PM/3412.)

(END OF TAKE 1)

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Trusteeship Council
Seventh Special Session
1st Meeting (AM)
(French Togoland)

Press Release TR/1319
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TRUSTEESHIP COUNCIL -- TAKE 2

The Council then heard an opening statement by JACQUES KOSCZIUSKO-MORIZET (France).

After briefly tracing the background that led to the sending of the Commission, Mr. KOSCZIUSKO-MORIZET noted that the Commission "was able fully to appreciate the amplitude of the autonomy" enjoyed by "the Republic of Togoland" since the introduction of the new statute in August 1956. The Commission, he said, noted that the statute had been applied in a "liberal way" and that "amendments to the statute have been adopted."

Thus, he said, "despite many of the fears harbored by certain member states on this point, the French Government has gone beyond the reforms which it announced to the Council approximately a year ago, in July 1956."

As the Commission had also noted, the French representative said, the statute was not imposed. It was the result of free discussion between Togolese representatives and the government of the French Republic; the results "were then adopted and approved by the population by majority voice and under circumstances that can leave no room for doubt."

The Commission's report, Mr. KOSCZIUSKO-MORIZET said, not only stressed the "extremely positive side of the new statute as applied at present;" it felt that "certain improvements could still be made and clarifications introduced."

The Commission's report, he went on, "noted the profoundly democratic bases of the new institutions, and has suggested that certain provisions will strengthen their solidarity still more."

"As far as its remaining competence permits, and on the initiative of the Government of the Autonomous Republic of Togo itself, the French Government would consider favorably the possibility of leading the territory to make a further and important forward step," he declared. "The understanding way in which the French Government spent almost a year examining the requests for amendments of the statute are a guarantee for the future," he added.

(more)

Trusteeship Council
TAKE 2

Press Release TR/1319
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Besides the "substantial changes" and amendments already made to the statute, he said, "other amendments are being considered in the light of the termination of the trusteeship system" in Togoland. He stated that "decisive transfers of power will be brought about" in three fields -- public liberties, justice and constitutional review.

"With the termination of the trusteeship system," Mr. KOSCZIUSKO-MORIZET declared, "the last obstacle to the full exercise of complete autonomy will have disappeared . . ."

He added that, in declaring the termination of the trusteeship in Togoland, "the United Nations will confirm the Togolese Republic's full freedom to administer itself in the future."

He continued: ". . . We know that constant chances exist for the revision of the statute, that a revision procedure has been established whereby the sole initiative is up to the Togolese bodies, and that it will be precise, bilateral and essentially contractual. In this constant progression toward a better future, the Autonomous Republic of Togo cannot delay its pace."

The French Government, Mr. KOSCZIUSKO-MORIZET said, "finds no difficulty in solemnly reaffirming . . . that the present statute is not the final stage of relations between France and Togo, which are still evolutionary."

(The text of Mr. Kosczinsko-Morizet's statement is given in Press Release TR/3411.)

(END OF TAKE 2)

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Trusteeship Council
Seventh Special Session
1st Meeting (AM)
(French Togoland)

Press Release TR/1319
12 September 1957

TRUSTEESHIP COUNCIL -- TAKE 3

GEORGES APEDO-AMAH, speaking as a member of the French delegation and as the representative of the Togoland Government, emphasized that on the constitutional level "the Togolese authorities were on an equal footing with the French in the preparation of the statute and its revision." He added that "henceforth they have priority and even exclusivity regarding the legal procedure inherent in any modification of the statute..." Thus, the statute "is a bilateral instrument" in fact as well as in law.

Commenting on the Commission's report, he noted that the Togolese legislature -- as stated in the report -- "is competent to deal with all matters pertaining to the Autonomous Republic of Togo, that is to say, all Togolese affairs, with the exception of those expressly reserved by the statute for the central bodies of the French Republic."

He explained that the presence of elected Togolese representatives to the French Assembly, "which had already in the past proved its usefulness," was a proposal, later incorporated in the statute, not of the French Government but of a Togolese Senator.

Togoland would be confronted with "all the varied problems that beset underdeveloped countries in their endeavors to become up-to-date states," continued Mr. APEDO-AMAH. The Government and Legislative Assembly of Togoland "are committed to the solution of the different problems since they took over the functions of the French authorities," he added. With French financial support, the Togolese Government was now making plans and exerting efforts.

Taking up other points mentioned in the Commission's report, Mr. APEDO-AMAH insisted that public freedom "does exist" in Togoland. The Commission had witnessed for itself, he said, that political parties, including the opposition, were entirely free to associate. "All the incidents that occurred in Togo during the stay of the mission were provoked by chiefs or members of the opposition parties" in an apparent attempt to attract notice, he alleged.

(more)

The Togolese Government, which was responsible for the maintenance of public order, he went on, "prefers to take preventive measures when ever possible to avoid violent disorders..." The government was proud to be able to state that "no political party has had to be legally outlawed..."

The Togolese Prime Minister, he added, "has repeatedly invited the representatives of the opposition to take part in the government," just when he set up the Togolese Government last year, and again on the arrival of the UN mission. However, they not only refused, but by inciting to violence, "tried to discredit the Togolese Government and even the Autonomous Republic itself." Nevertheless, he believed that the opposition "will give up its sterile obstructionism and will make a move toward the reconciliation of aims of all Togolese..."

"Gradually, as we acquire experience," he said, "new transfers of competence will take place and the Togolese authorities will themselves be able to modify the institutional regulations concerning them." However, he added, "the transfers thus effected of the residual French competence to the Togolese authorities would be devoid of true significance and worth, if the trusteeship system were still to obtain" in Togoland. He hoped that the Commission's visit to Togoland "will fully clear up for all the facts surrounding the statute and will permit the United Nations this year to take a decision which it believed to be premature last year."

There being no other speakers today, the Council will resume the discussion of the question at 10:30 a.m. on Monday, 16 September.

(END OF TAKE 3 AND PRESS RELEASE TR/1319.)