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Chairman: Mr. Rodolfo MUNOZ (Argentina).

Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government: report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) (*continued*)

[Item 36]*

1. The CHAIRMAN recalled that, at the 279th meeting, it had been decided that he, as Chairman, should propose a list of ten members for the new *Ad Hoc* Committee provided for in the draft resolution adopted at the 278th meeting. He therefore proposed the following States as members of the Committee: Australia, Belgium, Burma, Cuba, Guatemala, Iraq, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela.

2. Mr. PEON DEL VALLE (Mexico) reserved his delegation's right to raise the question of the duration of the Committee's term of office—which should be one year—and of its composition, at a plenary meeting of the General Assembly.

The Chairman's proposal was adopted by 39 votes to none, with 6 abstentions.

3. The CHAIRMAN said that he would have preferred the membership of the *Ad Hoc* Committee to be decided by elections, in conformity with the procedure which usually governed the nomination of members of subsidiary organs of the General Assembly. As, however, that procedure was not quite suitable on the present occasion, he thought that it was better to continue the Committee as previously constituted, with one exception. Although, as Chairman, he had no opinion on the substance of the question, he thought that it was for the Fourth Committee itself, rather than for the Chairman, to decide whether the subsidiary organs

whose establishment it recommended should consist of an equal number of representatives of administering Powers and non-administering Powers.

Report of the Trusteeship Council (A/2150 and Add.1) (*continued*)

[Item 12]*

PARTICIPATION OF THE INDIGENOUS INHABITANTS OF THE TRUST TERRITORIES IN THE GOVERNMENT OF THOSE TERRITORIES AND IN THE WORK OF THE TRUSTEESHIP COUNCIL (A/C.4/L.249/Rev.1, A/C.4/L.250)

4. Mr. FORSYTH (Australia) deeply regretted the submission of the draft resolution by the delegations of Bolivia, Brazil, Burma, Ecuador, Egypt, El Salvador, Guatemala, Indonesia, Syria, Yemen and Yugoslavia, which was contained in document A/C.4/L.249/Rev.1. That text was absurd, presumptuous and unconstitutional. Furthermore, it would compel the Fourth Committee to waste valuable time considering a question which had been the subject of extensive debates during the tenth and eleventh sessions of the Trusteeship Council, while certain aspects of it had already been studied by the Committee itself. In order to protect the reputation of the United Nations and the basic objectives of the Trusteeship System, the draft resolution should be studied and then destroyed.

5. The question now being considered by the Fourth Committee was based on resolution 554 (VI) of the General Assembly. But, in the first place, the words "indigenous inhabitants" did not appear in the operative part of that resolution, which confined itself to inviting the Trusteeship Council to examine the possibility of associating the inhabitants of the Trust Territories more closely in its work and to report the results of its examination to the General Assembly.

6. Under Article 86 of the Charter, the Trusteeship Council was to consist of States Members of the

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

United Nations; under Article 87, its function was to consider the annual reports submitted by the Administering Authorities, to accept and examine petitions, to provide for periodic visits to the Trust Territories and to take any other actions in conformity with the terms of the Trusteeship Agreements. Article 91 provided that the Council might avail itself of the assistance of the Economic and Social Council and of the specialized agencies. Furthermore, rule 18 of the rules of procedure of the Council provided that each representative might be accompanied by such alternates and advisers as he might require and rule 74 provided that the Administering Authority should be entitled to designate and to have present a special representative who should be well informed on the Territory involved. It appeared clearly from those provisions that the Administering Authority was entirely at liberty to appoint the members of its delegation.

7. Furthermore, it was not for the United Nations or the Trusteeship Council or even the specialized agencies to control the relations of the Trust Territories with international bodies. Those relations were included in the function of government, which, under the Charter and the Trusteeship Agreements, was the exclusive responsibility of the Administering Authorities. Some Trust Territories were associate members of certain specialized agencies because the Administering Authorities concerned had themselves proposed that they should be admitted as such. The Administering Authorities could not, therefore, be asked in that connexion to go beyond the provisions of the Trusteeship Agreements. The Agreements laid down no restrictions as to the composition of the delegations of the Administering Authorities. Nor did the Charter, which confined itself to stating that each member of the Council should designate "one specially qualified person" to represent it therein. Those basic instruments therefore contained no provision which would justify insistence that the indigenous inhabitants should participate directly in the work of the Council, except in the manner provided for in connexion with the examination of petitions or visits to Trust Territories. No provision existed which would authorize the Trusteeship Council to make recommendations to the Administering Authorities concerning the composition of their delegations. The Council could make suggestions, but there was no provision in the Agreements concluded obliging the Administering Authorities to accept them.

8. To a certain extent the rules for the examination of petitions and for visiting missions enabled the indigenous inhabitants to be associated in the Council's work. That association could not, however, be considered as participation in the Council's internal work and could not, therefore, be invoked as a precedent. There was thus no provision in the Charter, in the Trusteeship Agreements or the rules of procedure of the Council requiring the Administering Authorities to do more than take suggestions into consideration.

9. General Assembly resolution 554 (VI) stated a new idea. The intention had been to base it on the Secretary-General's memorandum of points for consideration in the development of a twenty-year programme for achieving peace through the United Nations (A/1304); nothing indicated that the Trusteeship Council was to adopt new methods of work. Resolution 554 (VI) referred to a resolution on the par-

ticipation of Non-Self-Governing Territories in the work of the Committee on Information from Non-Self-Governing Territories (resolution 566 (VI)). But no analogy could possibly be drawn between that Committee and the Trusteeship Council. The Council was one of the principal organs of the United Nations and its composition and terms of reference were established by the Charter, while the Committee was a subsidiary organ with no supervisory powers.

10. Resolution 554 (VI) referred to the fact that certain specialized agencies or regional commissions had made special provision in their constitutions permitting the admission of Non-Self-Governing or Trust Territories as "associate members", but it was the territories which had been so admitted, not their inhabitants. It also asserted that direct association of the indigenous inhabitants of the Trust Territories in the work of the United Nations and the specialized agencies was an effective measure of promoting their progress towards a position of equality with the Member States of the United Nations. That statement was not peremptory, and the example of the specialized agencies was not entirely valid, because the functions of the specialized agencies were different from those of the United Nations. Paragraph 3 of the operative part of the Assembly resolution referred not to "indigenous inhabitants", but only to "inhabitants" of the Trust Territories.

11. The sponsors of the draft resolution had perhaps not realized that the association of the Trust Territories with the work of the United Nations was already part and parcel of the Trusteeship System, through the representation of the Territories by the Administering Authorities. If the Council wished to request the Administering Authorities to study the possibility of arranging for the representation of the indigenous inhabitants on the Council, it might do so; it had in fact already done so. But it could not address a recommendation to them on the subject. It was the Administering Authorities, and not private individuals or groups of private individuals, who were responsible for the conduct of affairs in the Trust Territories. The Administering Authorities acted as representatives of the population as a whole, and it was for them to decide how the population was to be represented. They assumed all the functions of government under the Trusteeship Agreements; the Council's functions were purely supervisory. There were no provisions which could be invoked to recommend a change in the structure of the Trusteeship Council or to influence the choice of representatives of a Member State in the United Nations.

12. Resolution 466 (XI) of the Trusteeship Council had been acceptable to a majority of the representatives of the Administering Authorities because, while expressing the hope that the Administering Authorities would find it appropriate to associate suitably qualified indigenous inhabitants of the Trust Territories in the work of the Council, it had left to those Authorities the task of deciding what form the association should take. Furthermore, the resolution paid due regard to Article 86 of the Charter, fixing the composition of the Council, and recognized that each Member State had the unrestricted right to determine the composition of its delegation. He wished to emphasize the fact that that right belonged to all Member States without

exception. The Council's resolution also expressed the opinion that the objectives of the Trusteeship System could best be realized by the inclusion of indigenous inhabitants of the Trust Territories in the delegations of the Administering Authorities. The Council's resolution therefore remained within constitutional limits. It established a moral obligation, but did not provide for indirect methods of amending the Charter. It would allow the achievement of the legitimate and practical purposes embodied in the expressed wishes of the General Assembly, and the Assembly should accept it.

13. That did not appear to have been the opinion of the sponsors of the joint draft resolution before the Committee. None of them was an experienced member of the Trusteeship Council. More than one of them represented a country which had never had a general election, a country governed by a dictatorship, or a country in which the communist faith enjoyed a wide measure of support. More than one of them represented a country which had just achieved its independence. Did such countries really think that they could instruct France, the United Kingdom, Belgium and the United States in regard to human rights, parliamentary practice, liberalism or methods of teaching self-government? They should remember also that Australia and New Zealand had been among the first to adopt such methods as the secret ballot and universal suffrage.

14. The eleven-Power draft resolution omitted any reference to Article 86 of the Charter. It did not take into account the principle that every Member State had the unrestricted right to determine the composition of its delegation. That was a very serious question which might have grave repercussions for all Member States of the United Nations. He wondered whether the governments of Afghanistan, the Philippines or Bolivia, for example, would be willing to let United Nations bodies select representatives of any group of their populations or any organization in their territories for the purpose of direct participation in the work of such organs.

15. The third paragraph of the preamble to the joint draft resolution was not dangerous, but it was pointless, as it set forth an idea which everybody had accepted. The fourth paragraph stated that certain wishes expressed by the General Assembly had not yet been met. The Council had been invited by the Assembly to study the question and to make a report. The Council had done its work reasonably, in the belief that a reasonable request had been made to it.

16. Paragraph 1 of the operative part stated that the objects of General Assembly resolution 554 (VI) would be better achieved through the active participation of members of the indigenous population of the Trust Territories in the government of those Territories and in the work of the Trusteeship Council. In that connexion, it should be recalled that the Administering Authorities were trying to increase the participation of the indigenous population in the government. The indigenous population could learn much more by participating in the management of its own affairs than by participating in the work of the Trusteeship Council, which had no administrative functions. Participation in the Council's work would not help train the members of the indigenous population to manage their own affairs, and would further require of them qualifications and

experience which they would doubtless acquire; but they would acquire it not in the Council, but by taking part in the government of their Territories.

17. Paragraph 2 of the operative part implied that the Trusteeship Council could associate the indigenous inhabitants directly in its work. It was true that Article 87 of the Charter provided that the Council could take other measures than those necessary for the examination of petitions or for periodic visits to the Territories, but it specified that such measures must be in conformity with the terms of the Trusteeship Agreements. The authors of the draft resolution could certainly find no provisions in the Trusteeship Agreements to justify their proposals. Adoption of their draft resolution could only harm the Trusteeship Council, the application of the Trusteeship System and, consequently, the interests of the peoples of the Trust Territories. It failed to take into account the fundamental fact that, in virtue of international treaties and with the approval of the United Nations, certain States had pledged themselves to discharge the sacred trust of administering certain Territories.

18. Regardless of the outcome of the discussion, no provision of any resolution which might ultimately be adopted could restrict the absolute right of governments to select their representatives to international conferences or on international bodies. In the view of the Australian Government, that was a basic principle. The Administering Authority had the right to take the decisions it considered appropriate respecting its representation in the Trusteeship Council. The Australian delegation therefore firmly opposed the suggestion that the Trusteeship Council should select indigenous inhabitants to participate in the examination of the annual reports on Trust Territories. On behalf of his Government, he was making a formal and complete reservation on that point.

19. There were many who criticized the actions of the Trusteeship Council and of the Administering Authorities without any clear notion of the measures being taken in the Trust Territories. They were too busy to read the reports of the Trusteeship Council or its visiting missions in their entirety, and it was easier for them to discuss machinery. The Trusteeship Council's work did not always give full satisfaction to the Fourth Committee not perhaps because of its methods of work, but because of the very nature of the facts. Facts did not always fit theory.

20. Mr. Forsyth took the matter very seriously because it involved the effective operation of the Trusteeship System. If the draft resolution were adopted, it could not possibly be taken into account. Moreover, it was so framed that it could not be amended to make it acceptable. For its part, the Australian delegation could not support it and considered that the authors should withdraw it. As Vice-President of the Trusteeship Council, he would be prepared to propose that the Trusteeship Council's resolution should be approved if the President did not himself make that proposal.

21. Mr. MENDOZA (Guatemala) protested against the discourtesy shown by the Australian representative in attacking the authors of the joint draft resolution.

22. Mr. CALERO RODRIGUES (Brazil), Mr. ARAOZ (Bolivia), Mr. EGUIZABAL (El Salvador),

Mr. PONCE YEPEZ (Ecuador) and Mr. BOZOVIC (Yugoslavia) joined in that protest.

23. Mr. RYCKMANS (Belgium) said that the joint draft resolution appeared unnecessary as the Fourth Committee, a higher authority than the Trusteeship Council, had adopted the practice of inviting indigenous persons to take part in its debates without even troubling to verify their representative nature.

24. Leaving aside practical considerations, he pointed out that, from the strictly constitutional point of view, Chapter XIII of the Charter provided that only States were members of the Trusteeship Council. Italy had been permitted to take part in the Council's work, without right to vote, only in its capacity as a sovereign State. The Trusteeship Council's functions were enumerated in sub-paragraphs a, b and c of Article 87, and sub-paragraph d stipulated that the Assembly and the Council could take other actions only in conformity with the terms of the Trusteeship Agreements. Mr. Ryckmans then reviewed the provisions of articles 3, 16 and 18 of the Trusteeship Agreement for the Territory of Ruanda-Urundi. The General Assembly could alter the manner in which the Trust Territories were represented in the Trusteeship Council only by revising the Charter or the Trusteeship Agreements in accordance with the prescribed procedure.

25. He associated himself with the Australian representative's remarks regarding the dangers to all Member States, to the operation of the Trusteeship System and to the United Nations itself which would be incurred by adopting the draft resolution. On behalf of his Government, he said that if the Assembly were to adopt the draft resolution, which was clearly contrary to the Charter and to the Trusteeship Agreement for the Territory of Ruanda-Urundi, the Belgian Government would consider it null and void.

26. Mr. PIGNON (France) noted that the draft resolution was an innovation with respect both to the provisions of the Charter and to those of the Trusteeship Agreements. The French delegation could not agree to such a departure from the procedure laid down by the Charter.

27. Moreover, it might be interesting to find out from the authors of the draft how, in their view, the Trusteeship Council could carry out the task assigned to it by their proposal. If the authors of the draft were to reflect, in all good faith, on the difficulties which were bound to arise if their proposal was given effect, they would undoubtedly withdraw it.

28. Mr. EGUIZABAL (El Salvador) said that the authors of the draft resolution had felt that, in view of the basic objectives of the Trusteeship System enumerated in Article 76 of the Charter, it was absolutely essential for the indigenous inhabitants of Trust Territories to enjoy every possible opportunity of increasing their ability to take over the management of the public affairs of their Territories when the time came. Their participation in the Trusteeship Council's work would be an excellent way to give them the necessary training.

29. In its resolution 554 (VI), for which El Salvador had voted at the sixth session, the General Assembly had considered that the direct association of the indigenous inhabitants of the Trust Territories in the

work of the United Nations and of the specialized agencies was an effective measure of promoting the progress of the indigenous inhabitants of the Territories towards a position of equality with Member States of the United Nations. It had accordingly invited the Trusteeship Council to examine the possibility of associating the inhabitants of the Trust Territories more closely in its work and to report the results of its examination of the problem to the General Assembly at its seventh regular session.

30. For its part, the Trusteeship Council had adopted at its eleventh session resolution 466 (XI), in which it had merely expressed the hope that the Administering Authorities would find it appropriate to associate suitably qualified indigenous inhabitants of the Trust Territories in the work of the Trusteeship Council as part of their delegations or in any other manner which they deemed desirable.

31. The authors of the draft resolution before the Committee considered the Trusteeship Council's resolution quite inadequate because resolution 554 (VI) of the General Assembly did not confine itself to advocating the participation of the indigenous inhabitants in the Trusteeship Council's work as members of the delegations of the Administering Authorities. Actually that procedure had been followed in certain cases, although it had not prevented the General Assembly from stating in resolution 554 (VI) that it was desirable to associate the inhabitants of the Trust Territories more closely in the Trusteeship Council's work. It might therefore be said that resolution 466 (XI) of the Trusteeship Council fell short of the essential measures to ensure the effective participation of the interested parties in the Council's work.

32. Yet such participation would have substantial advantages, inasmuch as it would enable the Trusteeship Council to obtain valuable information on conditions in the Trust Territories from the people directly concerned. Moreover, the primary objective of General Assembly resolution 554 (VI) had been to enable the indigenous inhabitants of the Trust Territories to communicate their views to the Council, independently of the opinion of the Administering Authorities.

33. He pointed out that the delegation of El Salvador had voted against resolution 466 (XI) in the Trusteeship Council.¹ It had been adopted on the recommendation of a six-member committee established at the suggestion of El Salvador.

34. He asked the Committee to refer to the record of its 237th meeting, held during the sixth session of the Assembly. During the consideration of a joint draft resolution on the same subject submitted by Cuba, Egypt, Ecuador and India (A/C.4/L.175), the Cuban representative had said that provision should be made for the participation of associate members in the Trusteeship Council's work and that the explicit provisions of Article 76 b of the Charter argued in favour of such participation, especially since the rules of procedure of the Trusteeship Council authorized the Administering Authorities to appoint special representatives to take part in the Council's deliberation without the right to vote. He had added that it would

¹ See *Official Records of the Trusteeship Council, Eleventh Session*, 454th meeting.

not be the first time that the United Nations had recognized the principle of the participation of associate members, and he had cited the example of some regional economic commissions and specialized agencies. Furthermore, the Cuban representative had said that the associate members of the Trusteeship Council should enjoy the same status as special representatives and be considered their counterpart. They should be able to express opinions during the examination of the annual reports on the Territory which they represented, except in discussion directed to specific conclusions concerning that Territory. He had felt that a single representative for each Territory would be sufficient and that the representative should be appointed by an electoral college or similar body, and he had referred in particular to the case of the African members of the Tanganyika Legislative Council. The Indian representative had put forward similar arguments.

35. At the same meeting of the Fourth Committee, the Belgian and the United Kingdom representatives had opposed the draft resolution. The Belgian representative had considered that there was a basic difference between the regional economic commissions and the specialized agencies, on the one hand, and the Trusteeship Council on the other. The United Kingdom representative had pointed out that in accounting for their actions the Administering Authorities were entitled to enlist the help of special representatives, who, as and when the Territories developed, might be chosen from among the indigenous inhabitants or might call upon them for assistance. He had further noted that the idea behind the joint draft resolution was rather to associate in the Council's work persons holding opinions which differed from those of the Administering Authority, although the inhabitants of the Trust Territory were already able to express their views through the right of petition and the visiting missions.

36. In spite of all those objections the draft in question, as amended by Denmark and Norway, had been finally adopted by 33 votes to 4, with 4 abstentions.

37. At the Trusteeship Council's tenth session, 389th meeting, the representative of France had said that it was impossible to compare the Trusteeship Council with regional economic commissions or specialized agencies, since the latter were not political bodies, and that the provisions of General Assembly resolution 554 (VI) were incompatible with the terms of the Charter. He had added that the provisions of the resolution were in fact the result of a misunderstanding of one of the most important principles of public and international law: peoples or territories could not have any representation other than that which was exercised by the authorities constitutionally vested with that power. Finally, he had said that some would like to regard the Trusteeship Council as a tribunal; that was, in fact, contrary to the letter and spirit of the Charter.

38. At the same meeting of the Council the representative of Australia had also raised objections to General Assembly resolution 554 (VI). Indeed, he had just repeated that the Administering Authorities exercised their authority under the Trusteeship Agreements and that neither the provisions of the Charter nor those Agreements provided for the participation of the inhabitants of the Trust Territories in the Council's work;

and he had added that there was no mention of such a possibility in the rules of procedure.

39. In spite of the Administering Authorities' objections, however, the indigenous inhabitants of the Trust Territories should be allowed to participate in the consideration of the Administering Authorities' annual reports in the Council. The representatives of the indigenous populations would be regarded as the counterpart of the Administering Authorities' special representatives, but would not participate in the Council's work as representatives of the Territories concerned. Indeed, the draft resolution before the Committee restricted itself to recommending that the Trusteeship Council should invite one qualified member of the indigenous population of each Territory to take part in the examination of the annual report of the Administering Authority. Thus the persons concerned would be gaining valuable experience and preparing themselves for important posts in the Territory's administrative services. It should not be forgotten that one of the basic objectives of the Trusteeship System was to promote the progressive development of the indigenous inhabitants towards self-government or independence.

40. It was essential that representatives of the indigenous populations should be enabled to make their views known to the Trusteeship Council; the principles of public and international law, which had been invoked by the representative of France, did not apply to the case in hand, since it would be the representatives of the indigenous inhabitants, and not of the Trust Territories, who would be associated in the Council's work.

41. The draft resolution should not, therefore, give rise to any anxiety. It in no way infringed the functions and responsibilities of the Administering Authorities, and it gave the indigenous inhabitants an opportunity of a hearing.

42. It was true, as the Administering Authorities had pointed out, that the methods to be used to achieve the purposes of the Trusteeship System had been specified in the Charter; but there was nothing in the Charter to prevent the Trusteeship Council from working out a procedure whereby the objectives of the Charter could be effectively attained.

43. Moreover, the participation of the indigenous inhabitants in the Council's work would not transform that body into a tribunal. The Trusteeship Council and its subsidiary organs had often heard representatives of the indigenous populations, but that had in no way affected their essentially political character.

44. The procedure to be followed in selecting qualified members of the indigenous population to take part in the Council's work was very simple. The Trusteeship Council would draw up a list of the most suitable persons from the leading political parties and from indigenous cultural, social or economic organizations on the basis of the reports from the Administering Authorities, visiting missions or other United Nations bodies. It would then merely have to select from the list, at the beginning of each session, the person it considered most suitable.

45. Adoption of the draft resolution would greatly contribute towards the realization of the purposes of

the Charter, to which all of the Members of the United Nations had subscribed.

46. Mr. KHALIDY (Iraq) noted that there were two equally understandable and legitimate tendencies in the Fourth Committee: one was to associate the indigenous inhabitants as closely as possible in the Trusteeship Council's work; the other to abide strictly by the letter and the spirit of the Trusteeship Agreements.

47. Fearing that disagreement between the colonial and the other Powers might undermine the Charter, the founders of the Organization had agreed at San Francisco to a compromise which had resulted in the Trusteeship System and which explained its very special character. It was to be hoped that its more serious imperfections might, some day, be removed, but it was impossible not to abide by the existing provisions of the Charter.

48. He wondered how the draft resolution under discussion could be applied in practice. There was more than one party in most of the Trust Territories. The Trusteeship Council could hardly invite a representative of one party to participate in its work without also inviting representatives of the other parties. Thus the indigenous inhabitants of a given Trust Territory might be represented in the Trusteeship Council by several persons, some of them opposing and others perhaps favouring the Administering Authority's policy. Moreover, it was never difficult for the Administering Authority to set up political parties favourable to its policies.

49. Paragraph 2 of the operative part of the draft resolution was very vague; the meaning of the words "the leading political parties" was not clear. The fact that a party had plenty of money available and was able to engage in noisy propaganda did not in any way mean that it had the true interests of the popula-

tion at heart. It was also not clear how the Trusteeship Council would set about selecting the "qualified member" mentioned at the beginning of the paragraph. In point of fact, the Administering Authority would have to be approached, as the Trusteeship Council could not possibly know enough about the political life of the various Territories to be able to make such a selection in full knowledge of the facts.

50. The draft resolution could not lead to any practical result. It would meet with uncompromising opposition from the Administering Authorities in the Trusteeship Council and would have no effect on the established practice of hearing petitioners in the Fourth Committee.

51. The sponsors of the draft resolution might perhaps be able to express their thoughts more effectively by proposing, for example, that the General Assembly should invite the Administering Authorities to include qualified representatives of certain indigenous groups in their delegations during the examination of the annual reports.

DRAFT RESOLUTION CONCERNING THE REPORT OF THE TRUSTEESHIP COUNCIL (A/C.4/L.251)

52. The CHAIRMAN invited the representative of Argentina to present his delegation's draft resolution.

53. Mr. LESCURE (Argentina) explained that the purpose of the draft resolution submitted by his delegation (A/C.4/L.251), which merely took note of the report of the Trusteeship Council (A/2150 and Add.1) was, first, to indicate that the report had been considered and discussed by the Committee; secondly, to ensure conformity with a procedure adopted at previous sessions; and finally, to pay a tribute to one of the principal organs of the United Nations.

The meeting rose at 1.25 p.m.