



Tuesday, 12 November 1957,
 at 3.15 p.m.

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Chairman: Mr. Thanat KHOMAN (Thailand).

AGENDA ITEM 35

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (A/3601 and Corr.1 and Add.1, A/3602, A/3603, A/3604, A/3605, A/3606/Rev.1, A/3607, A/3608, A/3609, A/3647 and Corr.1, A/C.4/360, A/C.4/L.507) (*continued*):

- (a) Information on economic conditions;
- (b) Information on other conditions;
- (c) General questions relating to the transmission and examination of information (A/C.4/357/Rev.1, A/C.4/359 and Add.1);
- (d) Offers of study and training facilities under resolutions 845 (IX) of 22 November 1954 and 931 (X) of 8 November 1955 (A/3618) and Add.1);
- (e) Methods of reproducing summaries of information concerning Non-Self-Governing Territories: report of the Secretary-General (A/3619)

DRAFT REPORT OF THE FOURTH COMMITTEE (A/C.4/L.507)

1. Mrs. SKOTTSBERG-AHMAN (Sweden), Rapporteur, explained that the draft report (A/C.4/L.507) followed the order in which the different sub-headings of the item were listed on the agenda. Following the usual procedure, she had kept strictly to facts.

2. Mr. MUFTI (Syria) said there was a mistake in paragraph 13: his delegation had not abstained in the

vote on the draft resolution (A/C.4/L.497/Rev.2), it had voted for it.

3. The CHAIRMAN replied that the Syrian representative's observation would be taken into account.

4. Mr. NOGUEIRA (Portugal) and Mr. KELLY (Australia) said that they would like more time to study the draft report, and asked for a postponement of the discussion until the following day.

5. Mr. RYCKMANS (Belgium) recalled that the Committee had adopted a resolution requesting the opinion of the Sixth Committee on several points (A/C.4/L.501). If the Committee laid its report on agenda item 35 before the General Assembly immediately, the information submitted would be incomplete and the question would have to be reopened when the Sixth Committee had given its answers. He therefore proposed that the report should not be submitted to the General Assembly until the answers had been received.

6. Mr. BOZOVIC (Yugoslavia) disagreed with the Belgian delegation: the Fourth Committee would not necessarily have to submit the question to the General Assembly again when it received the opinion it had requested. In fact, it was not even certain that the Sixth Committee would give its opinion at the present session.

7. Mr. QUIROS (El Salvador) suggested a compromise solution: the Committee might consider the rest of the draft report immediately, leaving the resolution until later; in that case, there would be nothing to prevent it from submitting to the Assembly a partial report which could be completed in due course.

8. Mr. KANAKARATNE (Ceylon) said he was opposed to the Belgian proposal, if it involved postponing the examination of the whole report until the Sixth Committee had transmitted its reply. Such a procedure would give the wrong impression that the Committee was emphasizing the urgency of the reply and that might lead the Sixth Committee to make a hasty decision, whereas the Fourth Committee desired a carefully considered reply. Some of the questions in the report should be settled without delay.

9. Mr. CARPIO (Philippines) proposed that the vote on the Belgian proposal should be postponed until the next day.

10. Mr. RYCKMANS (Belgium) had no objection.

11. The CHAIRMAN suggested that the discussion of the draft report should also be postponed until the following day.

It was so decided.

Requests for hearings (*continued*)

REQUESTS CONCERNING AGENDA ITEM 13 (REPORT OF THE TRUSTEESHIP COUNCIL) (*continued*)

12. The CHAIRMAN informed the Committee that he had received a request for a hearing from the Confédération des syndicats indépendants du Cameroun and suggested that the text should be circulated in the usual way.

It was so decided.^{1/}

AGENDA ITEM 37

The future of Togoland under French administration: report of the Trusteeship Council (A/3676 and Corr. 1, A/3677, A/C.4/367, T/SR.841-847) (continued)

HEARING OF PETITIONERS (concluded)

At the invitation of the Chairman, Mr. Anani Ignacio Santos, representative of the Mouvement de la jeunesse togolaise (Juvento), Mr. Alexandre John Ohin and Mr. André Akakpo, representatives of the Mouvement populaire togolais, and Mr. Sylvanus Olympio, representative of the All-Ewe Conference, took places at the Committee table.

13. Mr. OLYMPIO (All-Ewe Conference) wished to recall the positive suggestions which he had made in his opening statement (696th meeting), because he felt it was necessary to do so after the remarks made by the French delegation at the previous meeting. Those remarks had been of a personal nature and alien to the discussion. The representative of France had said, for instance, that he was the brother-in-law of the Prime Minister of Togoland. In what way could that help the Committee? If the representative of France wanted to go into that sort of thing, he in turn could disclose a great many things about Mr. Ajavon, the reputation which he had acquired and the reasons for which he was known as "l'homme à abattre".

14. The French delegation had also implied that the sole motives of the petitioners were ambition and the desire to hold office. If the Committee wanted evidence of good faith, he was prepared to state before it that he would renounce all public offices.

15. Mr. Apedo-Amah had stated that the Territory had received grants in 1934, 1941, 1942 and 1947. He did not agree. The budget deficits which had occurred during the crisis year 1930 and the following years had been made good out of reserves built up in previous years. He had already given to the members of the United Nations Commission on Togoland under French Administration the official final budget statements for the period 1923 to 1954 and had a copy available for the members of the Committee.

16. He then recalled his party's suggestions for the next steps in the solution of the Togoland question. They were normal and logical; they conformed to the principles of the Charter and were supported by the observations and suggestions in chapter V of the report of the United Nations Commission on Togoland (A/3677). His party simply asked that the Togoland people should be allowed to work out their own destiny; it did not ask the United Nations to choose between the various alternatives but to create the conditions under which the people of Togoland could make their decision freely and democratically.

17. Those conditions would be created, firstly, by free and fair elections at the earliest possible date

under the supervision of the United Nations; secondly, by the working out by the new Assembly and a new Council of Ministers, of an amended Statute or an entirely new constitution, giving Togoland genuine self-government or independence or at least the right to independence; and, finally, by the termination of trusteeship, decided upon by the United Nations after studying the Togoland constitution. He hoped that in a year's time the representatives of Togoland and France would be able to place before the Committee a new statute or a new constitution which would provide convincing evidence that it was time to terminate the trusteeship.

18. Mr. OHIN (Mouvement populaire togolais) noted that, because he had stated that he had taken part in several meetings in the Territory, Mr. Apedo-Amah had concluded that he was contradicting himself and that there was no restriction on the holding of meetings. He pointed out that he had arrived in Togoland on 22 June 1957, in other words while the Commission was there. The presence of the Commission had created a sense of security in the country and opposition parties had actually organized several meetings. Moreover, that had been in Lomé and not in the north.

19. Mr. KOSCZIUSKO-MORIZET (France) said that if he had recalled Mr. Olympio's connexion with the Prime Minister of Togoland, it was because he wished to make it clear that it was a family quarrel and that there ought to be a reconciliation of the antagonists for the good of Togoland. He regretted that Mr. Olympio had made himself a party to the slanderous attacks on Mr. Ajavon in terms that came within the ordinary law and showed the methods used by the opposition against the legal and lawful Government of the country.

GENERAL DEBATE

20. The CHAIRMAN declared the general debate open.

21. Mr. OSMAN (Egypt) examined first the legal character of the Statute granted to Togoland under French administration. The question arose because the Statute had been the subject of various interpretations, concerning which the Commission sent to Togoland had expressed no opinion. The Egyptian delegation considered that, according to the Charter, Togoland under French administration had only one official status and that was the status of a Trust Territory. The only legal basis of the new Statute was the legislative and administrative power which the Trusteeship Agreement granted to the Administering Authority. In granting that Statute, the Administering Authority had merely carried out in a unilateral manner the obligation placed on it by the Charter and the Trusteeship Agreement to promote the development of the Togoland people by ensuring their participation in the administration of their Territory. There was no legal ground for claiming that the Statute was a bilateral agreement, since Togoland still lacked the competence to conclude an agreement which would have the effect of transferring a considerable part of its sovereignty, external as well as internal, and the power to conclude any agreement still belonged to the Administering Authority. To consider that Statute as a bilateral agreement would be equivalent to assuming that the Administering Authority was concluding an agreement with itself.

22. The claim that the Statute was a bilateral agreement had been advanced on the grounds that it guaran-

^{1/} The text of the communication was subsequently circulated as document A/C.4/355/Add.5.

teed that the Administering Authority would not take back the powers granted to the Togoland authorities. Such an argument showed the weakness of the thesis. It was by invoking the international control guaranteed to them by the Trusteeship Agreement that the Togoland authorities could, if necessary, protect themselves against a withdrawal of some of those powers.

23. At most, the Statute could be considered a practical arrangement, co-ordinating the exercise of the powers transferred and the exercise of the powers which the Administering Authority reserved provisionally for itself; and in that case, it was necessary to eliminate from the Statute all provisions the scope of which exceeded the actual transfer of powers and which would either prejudice the future of the country by making it follow a course of premature association or create a privileged position for the Administering Authority. If such a conception of the Statute were adopted, then article 1, as worded, was unacceptable. As long as the trusteeship was still in existence, the relations between Togoland and the French Republic were defined by Chapters XII and XIII of the Charter of the United Nations, by the Trusteeship Agreement and by the Statute, to the extent that the Statute respected the fundamental principles of the Trusteeship System.

24. He then raised the question whether the present Statute justified the termination of trusteeship. An affirmative answer could be given to that question only if that instrument were to transform Togoland into a separate political collectivity, completely self-governing or independent, which would take its place in the international community. The report of the United Nations Commission showed that such was by no means the case. In paragraph 466 of its report, the Commission spoke of a trend of events which made inevitable a broadening of the autonomy achieved by Togoland towards its full autonomy. The President of the Togoland Legislative Assembly had said before the Fourth Committee at its 694th meeting that the time had come to make the self-government of Togoland complete. The members of the opposition had given their own eloquent description of the course which Togoland would have to follow in order to achieve self-government. There was thus unanimity on the subject. In those circumstances, the United Nations could not agree to, or even consider, lifting the trusteeship; before that could happen, the Territory would have to arrive at a stage of development in which it was able to exercise the remainder of its sovereign rights.

25. Why was that development not taking place and why was the Administering Authority delaying a grant of full internal self-government to the Togoland people? The only legitimate obstacle which the Administering Authority could cite would be that the Togoland people were not yet capable of exercising the remaining powers. The excuse which it gave was that the United Nations must first relieve it of its trusteeship responsibilities. That excuse was not acceptable for there was no legal incompatibility between a continuation of trusteeship and the evolution of Togoland towards self-government, and it was possible that the Togoland people might desire, for a certain period, to exercise full self-government under the auspices of the Trusteeship System before becoming independent. Nor was there any practical obstacle to such a course, as was proved by the development of Somaliland under Italian administration. The solution which would be in

conformity with the Charter, with the aspirations of the Togoland people and with the maintenance of order in the Territory would be the one which the petitioners were demanding, i.e., the election of a Legislative Assembly by universal suffrage, under the supervision of the United Nations. Such an Assembly could give the country a body of law which would be purely Togolese in character and in keeping with real conditions in Togoland; it would provide a uniform judicial system, administered by the Togoland and rendering equal justice to all; and lastly, it would provide a truly Togolese administration which would ensure the functioning of the essential services of the State. Nothing would prevent the Legislative Assembly, as it carried out that task, from making use of the help of the Administering Authority and the technical services of the United Nations and the specialized agencies.

26. Lastly, it was doubtful whether certain provisions of the Statute were compatible with the fundamental principles of the Trusteeship System, such as the principle of respect for the distinct individuality of the Territory and the principle that the Administering Authority was not supposed to derive any advantages from the Territory, either for itself or its nationals, to the prejudice of the indigenous population. Article 3, for example, clearly contradicted those principles by compelling the Territory to participate in the functioning of the central organs of the Administering Authority. That provision infringed the international status of the Territory as a distinct entity and prejudged its future. It had been argued that the arrangement was purely provisional and was intended, not to prepare for the Territory's integration into the French Union, but to facilitate the political education of the Togoland élite. If that were so, would it not be simpler and more in accordance with the Charter and the Trusteeship System to institute a Togoland Legislative Assembly elected by universal suffrage?

27. Articles 23, 24 and 25 of the Statute, relating to Togoland citizenship, violated the principle under which the inhabitants of Trust Territories had a national status distinct from that of nationals of the Administering Authority. According to the first sentence of article 25, Togoland citizens had free access to public office and might vote and stand for election anywhere in the French Republic under the same conditions as French citizens. That could mean that the French Republic intended to make use of Togoland voters, elected representatives or officials in its own territory, whereas Togoland itself needed its nationals to constitute its own staff. The sole purpose of the text therefore was to justify the assimilation of Frenchmen and Togoland, as provided in the second sentence of the article. That assimilation would give the Administering Authority in the Territory a privileged position and was contrary to the principle of disinterestedness on the part of the Administering Authority and to Article 76 d of the Charter, according to which one of the objects of trusteeship was to ensure equal treatment in all matters for all Members of the United Nations and their nationals. Lastly, one of the prerogatives of the Togoland nation, when it became sovereign, should be the ability to determine, itself, the nature of Togoland citizenship, the rights and duties of that citizenship and the status of foreigners. For the present, the distinct national status of the Territory's inhabitants should be respected.

28. His delegation could not, therefore, approve the termination of trusteeship on the basis of the present Statute. It protested against the provisions of that Statute which were not consistent with the spirit and the fundamental principles of the Trusteeship System. It supported the Togoland people's request that they should be given an opportunity of electing a Legislative Assembly by universal suffrage under United Nations supervision, so that their country might have truly national institutions and that self-government and independence might become a tangible reality.

29. Mr. AGUERO (Chile) congratulated the United Nations Commission on the impartiality of its report. The observations it contained concerning the interpretation and application of the Statute augured well for a speedy and satisfactory solution of the matter. According to the report, Togoland authorities possessed most of the powers necessary for the exercise of internal sovereignty. The Statute was capable of evolution, and some responsibilities originally exercised by France had now been transferred to the local authorities. Moreover, irrespective of the provisions of the Statute, certain powers, including those relating to the maintenance of order, had been transferred to the Togoland authorities. His delegation considered that such reforms should be inscribed in the Statute, so that they might have the status which public law conferred on written documents. His delegation was convinced that the Togolization of the public services would be speedily completed and that the powers still exercised by the French authorities would be progressively transferred to the new Togoland Government.

30. The present Statute could not determine the final character of relations between France and Togoland. His delegation considered that the Togoland people should be invited to express their views on those relations by a referendum held on the basis of universal suffrage or through the medium of a Legislative Assembly elected in the same manner. Regarding the termination of trusteeship, the French Government might inform the United Nations, which was a party to

the Trusteeship Agreement, of its desire to end that Agreement following a referendum organized at the request of a legitimate Legislative Assembly and, if possible, under international supervision similar to that which had been applied for the plebiscite in Togoland under British administration.

31. Mr. CARREÑO MALLARINO (Colombia) recalled that in 1956 France had submitted a memorandum to the Trusteeship Council informing it of the elaboration of the Statute for Togoland and of its intention to submit that Statute to a referendum (T/1274/Rev.1). At its eighteenth session, the Trusteeship Council had refused to send observers to the referendum, in which the Togoland voters had been invited to choose between the adoption of the Statute and the termination of trusteeship on the one hand and the maintenance of trusteeship on the other. In a subsequent memorandum (T/1290) France had informed the United Nations of the results of the referendum, during which a substantial majority of the Togoland people had expressed themselves in favour of the adoption of the Statute and the termination of trusteeship. The General Assembly had then adopted resolution 1046 (XI), resolving to dispatch to Togoland a Commission to examine the situation resulting from the practical application of the new Statute and the conditions under which the Statute was being applied and recommending that the Legislative Assembly of the Territory should be constituted as soon as possible by election on the basis of universal suffrage.

32. His delegation considered that the status quo should be retained in Togoland for the time being and that the elections recommended in the General Assembly resolution should be held. It wanted the Togoland people to attain self-government as speedily as possible, but the termination of trusteeship should not give rise to the troubles which had so often been the price of an independence too hastily acquired; it hoped that Togoland would take the road of peaceful and profitable development.

The meeting rose at 4.55 p.m.