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OFFICIAL RECORDS

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President: Mr. Leslie Knox MUNRO (New Zealand).

Present:

The representatives of the following States members of the Trusteeship Council: Australia, Belgium, China, El Salvador, France, Haiti, India, New Zealand, Syria, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

The representative of the following State non-member of the Trusteeship Council: Italy.

Participation of the indigenous inhabitants of the Trust Territories in the government of those Territories and in the work of the Trusteeship Council: report of the Committee on Participation of Indigenous Inhabitants in the work of the Trusteeship Council (T/L.447, T/L.458)

[Agenda item 9]

1. Mr. ASHA (Syria) pointed out that in some Trust Territories the public had already begun to take an interest in its future, in the nature and powers of political institutions, the organs of government and the type of economic and social legislation and directives which should be applied. That interest could not fail to spread to other Territories. The General Assembly, in adopting its resolutions 554 (VI) and 653 (VII) on participation of the indigenous inhabitants in the government of the Trust Territories and in the work of the Trusteeship Council, had apparently taken the view that a knowledge of public opinion in the Territories in question was not only an essential factor in their proper administration but also indispensable to the effective supervision of that administration by the United Nations.

2. To some extent the participation was already a fact, for the delegations of some Administering Authorities included indigenous inhabitants as advisers or special representatives. But for that very reason those indigenous inhabitants, in common with their colleagues in the delegations, could only represent their delegations' official viewpoint. Furthermore, the African members of the French delegation, for example, had also been very active in their own country's political life and had made no attempt to disguise the fact. In the Fourth Committee they had at times spoken not only for France but also for their political parties.

3. Such participation was not the only form of participation contemplated by the General Assembly. While it was clear that to seat at the Council table, independently of the Administering Authorities, representatives of various shades of public opinion in the Trust Territories would soon give rise to serious constitutional problems—indeed the Charter itself, in laying down the composition of the Trusteeship Council, had made no provision expressly allowing for such participation—it was also true that the Charter recognized in Article 76 b that the freely expressed wishes of the peoples concerned were an essential feature of their political, economic, social and cultural advancement. It was an untenable argument to say that no effort to ascertain the wishes of a Territory's population should be made until it was on the verge of self-government or independence; the population's wishes were continuously and closely bound up with the development of public opinion. Neither the Administering Authorities nor the United Nations in its supervisory capacity could disregard public opinion. That had been the United Nations Preparatory Commission's interpretation when it had drafted rule 61 of the provisional rules of procedure of the Trusteeship Council. Not all the arrangements provided for in that rule were applicable at the moment, nor did he think that the Council as a whole would be likely to approve the consultation procedure proposed by the Preparatory Commission, although certain features of that procedure were present in the Council's own methods. The basic principle of that provisional rule was still, however, embodied in the Charter.

4. Accordingly, like the Administering Authorities and the General Assembly, the Council was under a duty to learn what were the freely expressed wishes of the peoples in order to take them into account when examining conditions in the Trust Territories. To a certain extent, the practical means for that purpose were already in existence; they needed only to be adapted to the advance of public opinion in the Territories.

5. First, there were the visiting missions. They had already demonstrated their usefulness, and the Council should instruct them to pay special attention to the opinions expressed by different population groups on matters concerning their development. The visiting missions should not be content with listening to the opinions expressed to them spontaneously by particular individuals, but should take the initiative to the fullest extent permitted by the stage of development the population had reached.

6. Secondly, there was the right of petition; that was a potential, and even already an actual, method of ensuring the participation of the inhabitants in the work of the Council. Many of the petitions addressed to the Council stated the views of political parties, local organizations or important segments of the population on questions of general interest to the Territory as a whole. To develop that means the Council needed only to work out a procedure for bringing petitions of that

type before it in a more systematic manner and taking them into account specifically in drawing up its conclusions concerning a particular Territory. Further, instead of petitioning the Council when they saw fit, the populations might be encouraged to submit regular statements of their views on matters of common concern. In that way, just as it received regular annual reports from the Administering Authorities, the Council would receive statements from the populations of the Trust Territories.

7. Those were the ideas underlying the Syrian delegation's draft resolution (T/L.458). Under that resolution, the Council would request the Administering Authorities to make copies of their annual reports promptly available, as soon as they were published, to the recognized political parties and representative organs in the Territories, local councils and other indigenous authorities, and to encourage them to study and comment on the reports. The visiting missions might supervise the application of the recommendation and report to the Council how far the Administering Authorities were helping the population to comply with it. Lastly, as the Trust Territories progressed towards self-government, the Council might consider establishing direct relations with qualified representatives of public opinion or asking them to appear before it, as a means of learning their views on specific matters. The only real innovation, in fact, would be that the Council itself would take the initiative.

8. He realized, of course, that not all Trust Territories were at the same stage of development. Hence there was no question of a wholesale and immediate application to every Territory of the methods he had outlined. However, so far as such Territories as Togoland, the Camerouns and Western Samoa were concerned, it was plain that the Council would very soon have to consult public opinion if it was to discharge its duties properly. The measures described in the Syrian proposal could be applied progressively as the situation in each Territory developed.

9. Mr. EGUIZABAL (El Salvador), as Chairman of the Committee on Participation of Indigenous Inhabitants, stated that the members of the Committee had made every effort to reach agreement on measures likely to be acceptable to a greater majority of delegations. Unfortunately, as could be seen from its report (T/L.447) the Committee had been unable, despite all its efforts, to work out a specific solution genuinely in keeping with the objectives of General Assembly resolutions 554 (VI) and 653 (VII) and Trusteeship Council resolution 466 (XI). Despite that partial failure, the Committee could make a substantial claim to have clarified many aspects of the idea of participation of the indigenous inhabitants in the work of the Trusteeship Council.

10. At the Committee's second meeting, he had briefly reviewed all the resolutions and debates on the question at the sixth and seventh sessions of the General Assembly and the tenth, eleventh and twelfth sessions of the Trusteeship Council. The Committee had been happy to note that France and the United States already included indigenous representatives in their delegations and that the United Kingdom intended to follow that example in due course. It had nevertheless felt that that aspect of participation was very different from the form of participation contemplated in the resolutions in question.

11. At its third meeting, the Committee had decided to ask the Legal Department of the United Nations what opinions, if any, had been expressed on the question by jurists of international standing. The questions, which the Syrian representative had drafted, had read: (a) Could Article 76 b of the Charter be interpreted to include the participation of indigenous inhabitants in the work of the Trusteeship Council? (b) Would such participation constitute dual representation, incompatible with Article 86 of the Charter? (c) Would a recommendation by the Trusteeship Council for such participation be covered by the words "other actions" referred to in Article 87 d of the Charter? The Legal Department had replied that no opinion had been expressed on the question and, at the Committee's fourth meeting, the Syrian representative had made certain suggestions which had since been embodied in the draft resolution before the Council (T/L.458).

12. At the Committee's fifth meeting it had seemed, after a detailed examination of the Syrian proposals, that the Committee agreed that very delicate constitutional questions would arise if the indigenous inhabitants were represented on the Council, especially because the Council's composition was expressly laid down by the Charter, and because certain members were at variance with the Syrian representative's views and did not interpret resolutions 554 (VI) and 653 (VII) as implying that the only means of ensuring participation was to provide for the permanent representation of the indigenous inhabitants on the Trusteeship Council. It had seemed, on the other hand, that the Committee had come fairly near to agreement on the means of developing the existing forms of indigenous participation in the Council's work, namely, the visiting missions and the right of petition. Opinions had differed sharply, however, on the principles expressed in operative paragraph 3 of the Syrian draft. Those differences had made any compromise impossible. In the circumstances, the draft had not been submitted for the Committee's approval and the Syrian representative had reserved his right to resubmit the proposal to the Council.

13. Speaking in his capacity as representative of El Salvador, he recalled that his delegation had submitted to the Committee a draft resolution on the question at the Council's eleventh session¹. The draft had not been adopted. His delegation, together with ten others, had then submitted a draft resolution (A/C.4/L.249) to the Fourth Committee at the seventh session, which had suffered the same fate. At the Committee's last meeting, he had confined himself to supporting the Syrian proposals, which were somewhat less far-reaching than the earlier Salvadorian draft resolution. He had no doubt that the Council would reach constructive agreement; if certain provisions of the Charter were not very clear, the reason was that its authors had expected the Trusteeship Council to play its part as a guide and to strive for the development and improvement of the International Trusteeship System. It would even seem that the authors of the relevant chapters of the Charter had deliberately stated only the principles of the Trusteeship System. That was probably the implication behind the statement of the Chairman of the Drafting Sub-Committee of Committee II/4 at the San Francisco Conference that the success of the Trusteeship System would depend on the dynamism with which those prin-

¹ See T/L.317, par. 6.

principles were applied, and on the sincerity of the efforts made to assist the advancement of millions of men, women and children not yet represented on international bodies.

14. Sir Alan BURNS (United Kingdom) said that his delegation had taken part in the Committee's work with the sincere desire of finding a universally acceptable solution. The four members of the Committee had submitted suggestions for reaching a compromise, but had not been able to agree on a recommendation concerning the participation of indigenous inhabitants in the Trusteeship Council's work. Consequently, the Syrian representative had reserved the right to submit to the Council the proposal which he had made in Committee.

15. The United Kingdom's position had been repeatedly stated in the Council and in the General Assembly. Since no new element had supervened, that basic attitude remained unchanged. He would consequently confine himself to two comments on the tenor of the Syrian draft resolution. In the first place, it was undesirable and even illogical for the preamble to refer to the terms of rule 61 of the provisional rules of procedure proposed by the Preparatory Commission of the United Nations, since that clause had not been adopted by the Trusteeship Council. Secondly, his delegation was unable to accept operative paragraph 3.

16. Mr. McKAY (United States of America) said his delegation had explained its attitude before in the Council and in the General Assembly. The Charter had laid down the procedure whereby the indigenous inhabitants of Trust Territories might make themselves heard, especially through visiting missions and petitions. Subsequently, the Trusteeship Council and the General Assembly had decided to allow certain petitioners to appear in person, and several had already been heard. The Administering Authorities, of whom the United States was one, had, for their part, attached representatives of the indigenous inhabitants to their delegations. However, neither the Charter nor the Trusteeship Agreements — which were treaties and had to be respected as such by the contracting parties — provided for the form of participation of the indigenous inhabitants which was contemplated in paragraph 3 of the Syrian draft resolution. The provisions of that paragraph were fundamentally unacceptable, and his delegation would consequently be constrained to vote against the draft resolution.

17. He wished to congratulate the Syrian delegation for its sincere and praiseworthy effort to reconcile the General Assembly's wishes and the legal and constitutional aspects of the problem.

18. Mr. PIGNON (France) said that, although the Syrian proposal called for several reservations, he had listened with pleasure and interest to the analysis of the question presented by the Syrian representative, who was to be congratulated for a perfect example of the manner in which the Trusteeship Council should approach all its problems if truly useful and constructive work was to be achieved.

19. His delegation conceded that it was meeting the General Assembly's wishes only in part by including representatives of the indigenous inhabitants among its members; but that in itself constituted very substantial progress, since it was incontestable that the direct participation of those indigenous inhabitants in the Trusteeship Council's work contributed to their political

education. Opinions might differ concerning the means employed for ensuring indigenous participation, but it had to be admitted that the Administering Authorities showed constant and general concern for the interests of the inhabitants of the Trust Territories.

20. He had not yet received his Government's instructions on the Syrian draft resolutions, but he could already make certain comments. First, it was wrong to refer in the preamble to a clause which the Trusteeship Council had not agreed to incorporate in its rules of procedure. Secondly, it was dangerous to attempt to instruct each visiting mission "to undertake popular consultations in whatever forms it may deem appropriate"; quite apart from the obvious constitutional difficulties, it was certain that the members of the visiting missions, regardless of their attitude, would be very liable to become the object of a variety of criticism in the Council, and especially in the Fourth Committee. Thirdly, the annual reports of the Administering Authorities were public documents, fairly widely circulated in the Trust Territories, and, while his delegation saw no objection whatsoever to such documents being made even more widely available, it would be improper to encourage the inhabitants to apply their critical faculties to documents which were largely objective and consisted mainly of statistics, accompanied by brief comments in reply to the Questionnaire. Finally, as the United Kingdom and United States representatives had already stressed, operative paragraph 3 was fundamentally unacceptable.

21. Mr. SCOTT (New Zealand) hoped that the Syrian representative would give some explanations so that his delegation might more accurately judge the various suggestions made in the draft resolution.

22. The Syrian representative was no doubt aware that the Trusteeship Council had at its first session, and after very careful study, rejected rule 61 of the provisional rules of procedure adopted by the Preparatory Commission of the United Nations, considering that its provisions were not in conformity with the terms of the Charter.

23. In connexion with sub-paragraph 1 (a) of the draft resolution, he wondered what was to be understood by the reference to "popular consultations": who was to decide whether a question was sufficiently important to warrant sounding public opinion and how was the visiting mission to take such soundings?

24. With reference to paragraph 2, he asked what constituted public opinion in the Trust Territory and what petitions fell within the category described in sub-paragraph (a). Who would be called upon to settle such questions in cases of dispute?

25. In connexion with paragraph 3, he wondered whether some examples could be given of "appropriate representatives of public opinion".

26. Mr. FORSYTH (Australia) recalled that the Council and the Fourth Committee had already studied at great length the question of the participation of the indigenous inhabitants of the Trust Territories in the work of the Council. The Australian delegation had clearly defined its position. Nothing in the Charter, the Trusteeship Agreements or the rules of procedure of the Trusteeship Council permitted the latter to bring pressure to bear on the Administering Authorities in the matter of the composition of their delegations; each Administering Authority was entirely free to decide the matter as it saw fit.

27. The Syrian delegation had recognized that fact but sought to reconcile it with the wishes of the General Assembly by proposing, in paragraph 3 of its draft resolution, that the Trusteeship Council should "communicate with appropriate representatives of public opinion" in the Trust Territories and "invite such spokesmen to appear in person before it". The proposal was wholly unwarranted and Australia could not accept it.

28. Like the representative of France, he admired the spirit in which the draft resolution had been prepared and he paid a tribute to the representative of Syria for the courteous manner in which he had presented his proposal. The proposal itself, however, was based on a faulty conception of the Trusteeship System: its author had overlooked the fact that Article 76 of the Charter simply set forth the objectives to be achieved, and he had confused the separate roles of the Administering Authorities and the Trusteeship Council. The task of the Administering Authorities was to achieve those objectives, while the Trusteeship Council's role was to supervise their performance of that task.

29. The Trusteeship Agreements clearly showed that the Administering Authorities alone had full power to administer the Trust Territories. The Administering Authorities had agreed to co-operate with the Council in the performance of its task, but no instrument provided that the Council would impose its co-operation upon the Administering Authorities in the performance of their task. That distinction was fundamental and necessary to the smooth functioning of the Trusteeship System. It had been clearly understood at the first session, as was shown by the fact that rule 61 of the provisional rules of procedure adopted by the Preparatory Commission had been rejected precisely because it confused the respective responsibilities of the Council and the Administering Authorities and because its terms were incompatible with the provisions of the Charter concerning the Trusteeship System.

30. Turning to the Syrian draft resolution, he said that the "popular consultations" referred to in subparagraph 1 (a) were a matter of administration and not of supervision. Similarly the terms of subparagraph 2 (c), which required the visiting missions to encourage a measure of political activity in the Trust Territories, were incompatible with the supervisory role of the Council. Further, under the terms of paragraph 3 the Trusteeship Council could by-pass the Administering Authorities and "in cases of urgency" exercise administrative functions — functions entirely unconnected with its proper task of supervision. The paragraph implied an unwarranted interference by the Council in the activities appropriate to the Administering Authority.

31. The Charter and the Trusteeship Agreements were treaties which must be respected by all the contracting parties. The Syrian draft resolution paid insufficient regard to the rights accorded to the Administering Authorities under those treaties and could therefore be considered a violation of the latter. The attempt to substitute the Trusteeship Council for the Administering Authority in certain cases jeopardized the Trusteeship System, was not in the interests of the indigenous populations of the Trust Territories, and was therefore contrary to the intentions of Article 76. The Syrian delegation was undoubtedly well-intentioned, but the measures it proposed were unacceptable.

32. Mr. TSARAPKIN (Union of Soviet Socialist Republics) considered the objections raised by the various speakers to the Syrian draft resolution.

33. The Australian representative held the view that the measures proposed in that text amounted to interference by the Trusteeship Council in the administration of the Trust Territories, maintaining that the United Nations should confine itself to exercising supervision. That theory, however, was not in conformity with the Charter: Article 81 provided that the Trust Territories might be administered by one or more States or by the Organization itself. Furthermore, Article 75 of the Charter provided that the Trusteeship System was to be established under the authority of the United Nations, and not under its supervision. The Australian representative's interpretation of the Trusteeship System was therefore different from that stated in the Charter, and his objections to the Syrian draft resolution had no foundation.

34. The United Kingdom representative had said that he had tried to make concessions in order to find a formula acceptable to all, but that he had been unable to accept the Syrian draft resolution because of its underlying principles. But the draft resolution before the Council implied no principle contrary to the provisions of the Charter. The Charter did not forbid the Trusteeship Council to inquire into the views of petitioners and of the inhabitants of Trust Territories in general. Moreover, the General Assembly had adopted, by a large majority, a special resolution on the question of the participation of indigenous inhabitants in the work of the Trusteeship Council. It was difficult to believe that all those who had voted for that resolution had misinterpreted the intentions of the Charter with regard to the Trusteeship System.

35. Other representatives had claimed that the Syrian proposal might undermine the right of the Administering Authorities to determine the composition of their delegations to the Trusteeship Council as they saw fit. But it was not suggested that the Administering Authorities should be told what persons to include in their delegations; it was simply felt to be desirable that the Council should be able to hear the views of some indigenous inhabitants, who would sit with the representatives of the various Administering Authorities but would not necessarily have any direct connexion with the Administration. Those persons could present the views of the peoples of the Trust Territories to the Council, a task which would accord fully with the intentions of the Charter and the Trusteeship Agreements, since they specifically required the Administering Authorities to safeguard the interests of the indigenous inhabitants. Thus the arguments adduced against the adoption of the Syrian draft resolution did not hold water.

36. In resolution 554 (VI), the General Assembly had stated that the direct association of the indigenous inhabitants of the Trust Territories in the work of the United Nations was an effective measure of promoting the progress of the inhabitants of those Territories. Paragraph 3 of the operative part of that resolution invited the 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 that problem to the General Assembly. However, the countries responsible for leading the Trust Territories towards self-government and independence had endeavoured to thwart any practical attempt to achieve that aim. Furthermore, in resolution

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653 (VII), the General Assembly had 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 delegation or in some other manner. It was hard to understand, therefore, why the representatives of the Administering Authorities sitting on the Trusteeship Council had expressed such strong objection to the Syrian draft resolution.

37. The Soviet Union delegation considered that the measures suggested in the draft resolution did not go far enough. It had its good points, however, particularly in providing for an increase in the sources of information available to the Council. Obviously, no conclusions could be reached on the basis of a single opinion. In any event, all the provisions of the Syrian draft resolution were reasonable and acceptable. The Soviet Union delegation would therefore vote for it since it represented a first step towards wider participation by the indigenous inhabitants in the Trusteeship Council's work.

38. Lastly, it should be noted that the principle underlying the Australian representative's statement was contrary to the Charter. No clear demarcation in fact existed between the functions assumed respectively by the United Nations and the Administering Authorities. The Trusteeship Council had delegated its powers to certain countries, but that did not mean that the role of the United Nations was thereby reduced to that of a mere observer.

39. Mr. ASHA (Syria) wished to hear the opinions of other representatives on the draft resolution he had submitted to the Council.

40. Mr. FORSYTH (Australia) said that the Soviet Union representative seemed to have misinterpreted his remarks concerning the Trusteeship Council's role. The Council of course had a great responsibility, but the taking of practical measures concerning the administration of the Territories was outside its sphere.

41. It was true that Article 81 of the Charter provided that the United Nations could itself act as an Administering Authority. But had the Organization decided to assume those functions, it would have had to delegate its powers to an organ with special responsibility for administering a Territory. A clear distinction would have had to be made between the administrative powers conferred upon that organ and the supervisory functions of the United Nations. The latter designated the Administering Authority, but it had never called upon the Trusteeship Council to act in that capacity; it had in all cases entrusted the task to one or more States.

42. Lastly, Article 87 of the Charter made it clear that the Trusteeship Council, under the authority of the General Assembly, exercised merely supervisory powers in the Trust Territories.

43. Mr. SINGH (India) asked that further discussion on the participation of the indigenous inhabitants in the work of the Trusteeship Council should be postponed until the following day so as to enable delegations to study the Syrian draft resolution in detail.

44. Mr. EGUIZABAL (El Salvador) supported the Indian proposal.

45. The CHAIRMAN announced that further discussion on the participation of the indigenous inhabitants in the work of the Trusteeship Council was postponed until the following morning.

46. Mr. ASHA (Syria) submitted his delegation's draft resolution (T/L.446). At the Council's 488th meeting, when he had first made his suggestion, he had thought it would be unnecessary to submit a formal resolution, since he believed that suggestion would be acceptable to all delegations. It was common knowledge that the special representatives, when making their preliminary statements in the Trusteeship Council, sometimes mentioned matters which did not appear in the annual reports. In those circumstances it was difficult for members of the Council, in the short time available, to analyse facts which had not previously been brought to their knowledge.

47. He would willingly take into account any difficulties the Administering Authorities might have in achieving the aim set forth in his draft.

48. Sir Alan BURNS (United Kingdom) was favourably disposed towards draft resolution T/L.446. The special representatives of the Territories under British administration had always endeavoured to keep the Council fully informed about those Territories. There was no doubt, however, that the publication of a further document would raise questions of an administrative nature and, in any event, nothing could be done before the Council's next session.

49. He therefore proposed that consideration of the Syrian proposal should be postponed until the Council's next session.

50. Mr. PIGNON (France) fully shared the views of the United Kingdom representative. There was no reason in principle why the Council should not adopt the Syrian proposal if the French Government, after consultation with the High Commissioner in the Cameroons and the Commissioner of the Republic in Togoland, thought it could be implemented. Nevertheless, the wiser course would be to examine the question at the next session.

51. Mr. McKAY (United States of America) also considered that the Syrian proposal would render the Council's work more effective. However, in view of the technical difficulties which would inevitably be raised, he would be grateful if the proposal could be examined at the next session in order to give his Government time to study it.

52. The special representatives of the Administering Authorities also experienced difficulty in answering questions put to them by members of the Council. Delegations might therefore submit written questions in advance, which would allow the special representatives to have all the facts at their disposal when they replied.

53. Mr. SINGH (India) supported the Syrian draft resolution, since the difficulties which would confront the Administering Authorities in issuing a supplementary document some time before the Council's meeting were not insurmountable. It would, however, be appropriate to postpone examination of the draft until the next session.

54. He also supported the United States proposal that written questions should be submitted in advance to the special representatives.

55. In replying to questions put to them, some representatives of the Administering Authorities merely

referred to statements which they had made previously. That habit was especially disconcerting to members of the Council who were newcomers.

56. Mr. EGUIZABAL (El Salvador) said that he endorsed the Syrian proposal and shared the Indian representative's views.

57. The CHAIRMAN said he considered that the adjournment had been moved.

58. Mr. ASHA (Syria) said that there was no need to put a motion of that nature to the vote: he had already intimated his readiness to take into account any wishes expressed by members of the Council regarding the implementation of his proposal. He there-

fore accepted the suggestion that the Council should not study his proposal until its next session.

59. He also supported the United States proposal concerning questions put by members of the Council to the special representatives.

60. Mr. SCHEYVEN (Belgium) said that he objected most strongly to the Syrian proposal inviting the Administering Authorities to submit written statements to the Council approximately one month in advance of each session.

61. The CHAIRMAN noted that statement and said that, if there were no objections, he would postpone consideration of the Syrian draft resolution till the next session of the Council.

The meeting rose at 12.45 p.m.