

Trust Territory. He recalled that one of the petitions dealt with by the Council at the present meeting emanated from an individual who had been expelled from a Trust Territory because he had acted as letter-writer on behalf of certain persons who had wished to address a petition to the Council. Nor was he convinced that the rules governing the acceptance of anonymous communications obtaining in the United States of America and other countries were as rigid as had been suggested. Law enforcement and detection agencies had been known to act on anonymous communications.

94. In his view, the petition from Mr. Ndababara constituted a petition under the Council's Rules of Procedure, and was neither scurrilous nor slanderous. He therefore proposed that the Council refer it back to the *Ad Hoc* Committee for normal consideration.

95. The PRESIDENT stressed that the only question before the Council was what instructions should be given to the *Ad Hoc* Committee concerning the anonymous petition at present under discussion.

96. Mr. RYCKMANS (Belgium) maintained that the present communication was not a petition. However, as it could be received under the Council's existing Rules of Procedure, he thought it might be useful, as a test case, for the Committee to consider it as though it were signed.

97. The PRESIDENT pointed out that that was precisely how the Philippines representative had suggested that the petition should be treated.

98. Mr. INGLÉS (Philippines) pointed out to the Belgian representative that any complaint constituted an implied petition for redress.

99. Mr. SAYRE (United States of America) moved that the Council decide that no further action was called for in connexion with the petition, which had already been examined by the *Ad Hoc* Committee on Petitions.

100. Mr. INGLÉS (Philippines) opposed the United States proposal on the grounds that the *Ad Hoc* Committee on Petitions had made no recommendation to the Council, but, on the contrary, had specifically asked the latter for a ruling as to whether a petition which was regarded as anonymous by the Administering Authority should be accepted and dealt with as if it were a signed petition.

101. Sir Alan BURNS (United Kingdom) supported the views of the United States representative. In his view, the whole question turned on the fact that the petition was anonymous. Moreover, it was the duty of the Trusteeship Council to assist the Administering Authority in its task of leading the people living under the trusteeship system towards self-government, by promoting their general development. Nothing could be more detrimental to their moral development than to encourage them to submit anonymous petitions, a cowardly practice which the Council should in no way condone.

The meeting rose at 6.20 p.m.

239th meeting

THIRTY-SEVENTH MEETING

*Held at the Palais des Nations, Geneva,
on Tuesday, 28 February 1950, at 2.30 p.m.*

President : Mr. Roger GARREAU.

Present : The representatives of the following countries : Argentina, Australia, Belgium, China, Dominican Republic, France, Iraq, New Zealand, Philippines, United Kingdom, United States of America.

71. Examination of annual reports on the administration of Trust Territories (resumed from the 36th meeting)

RUANDA-URUNDI, 1948 ; REPORT OF THE DRAFTING COMMITTEE ON ANNUAL REPORTS (T/L.31/Rev.1) (continued)

1. The PRESIDENT invited the Council to continue its examination of the report of the Drafting Committee on Annual Reports (T/L.31/Rev.1) containing the section relating to the annual report of the Administering Authority for the Trust Territory of Ruanda-Urundi for the year 1948¹ for inclusion in the report of the Council to the General Assembly covering its sixth and seventh sessions. He drew the attention of the Council to the changes which had been made in part III.

The Council accepted part III of the Drafting Committee's report.

2. The PRESIDENT recalled that in accordance with rule 60 of the Rules of Procedure the Council would have to vote on the Drafting Committee's report as a whole.

The Council adopted the Drafting Committee's report (T/L.31/Rev.1).

TANGANYIKA, 1948 ; REPORT OF THE DRAFTING COMMITTEE ON ANNUAL REPORTS (T/L.21, T/L.21/Add.1/Rev.1) (continued)

3. The PRESIDENT invited the Council to accept part III of the Drafting Committee's report containing the passage relating to the annual report of the Administering Authority for the Trust Territory of Tanganyika for the year 1948² for inclusion in the report of the Council to the General Assembly covering its sixth and seventh sessions.

The Council accepted part III of the Drafting Committee's report.

The Council adopted the Drafting Committee's report (T/L.21 and T/L.21/Add.1/Rev.1).

¹ See *Rapport soumis par le Gouvernement belge à l'Assemblée générale des Nations Unies au sujet de l'administration du Ruanda-Urundi pendant l'année 1948* : Bruxelles, 1949.

² See *Report by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to the General Assembly of the United Nations on the Administration of Tanganyika for the Year 1948* : His Majesty's Stationery Office, 1949, Colonial No. 242.

72. Examination of petitions
(resumed from the preceding meeting)

PETITION FROM MR. AUGUSTIN NDABABARA
CONCERNING THE TRUST TERRITORY
OF RUANDA-URUNDI (T/L.34 and T/PET.3/16)
(continued)

4. The PRESIDENT recalled that the Council had before it a proposal moved by the Philippines representative that the petition of Mr. Augustin Ndababara be returned to the *Ad Hoc* Committee for consideration. The United States representative, on the other hand, had pressed his view that no action should be taken in the case of anonymous petitions or similar communications.

5. Were the Council to adopt the proposal of the Philippines representative, it would place the *Ad Hoc* Committee in a difficult position because the petition related to the general situation in Ruanda-Urundi which the Committee would thus be obliged to examine although that was not one of its tasks. Such an examination could only be conducted by the Council itself or by a committee set up by it for that purpose.

6. Mr. SAYRE (United States of America), recalling the views he had expressed on the question of anonymous petitions, in connexion with that of Mr. Augustin Ndababara, moved the following draft resolution:

"The Trusteeship Council,

"Having before it the request of the Ad Hoc Committee on Petitions, contained in its second report (T/L.34, paragraph 37),

"Decides that the communication circulated as T/PET.3/16 being an anonymous communication, no action by the Council is called for."

7. Mr. INGLÉS (Philippines), opposing the draft resolution submitted by the United States representative, said that the Council was faced with two unrelated issues: first, whether it could accept anonymous and unsigned communications; secondly, what procedure it should adopt in the case of petitions which dealt with general questions, irrespective of whether they were signed or unsigned.

8. In his delegation's view, the Council must, in accordance with its rules of procedure, accept anonymous communications. He would recall that the Preparatory Commission³ of the United Nations had rejected a recommendation of the Executive Committee that the Trusteeship Council should refrain from admitting anonymous communications. That decision had been maintained by the Trusteeship Council at its first session.⁴ In his view, therefore, the issue did not arise. As he had indicated previously, the possibility of serious consequences arising from anonymous petitions of a slanderous and scurrilous character

had been anticipated by the adoption of the Belgian representative's proposal at the fourth session.⁵

9. With regard to the question of petitions which raised issues of a general nature, the Council had consistently taken the view that such petitions did not call for specific action since it considered such issues as a matter of course during its examination of the annual reports on the Trust Territories.

10. In view of the fact, however, that the Council had set up an *Ad Hoc* Committee on Petitions, it stood to reason that it ought to await the recommendations of that Committee before it took any decision on a petition. It was nevertheless open to the Council to ignore the *Ad Hoc* Committee and, as the United States representative had proposed, take its own decision.

11. Mr. MUÑOZ (Argentina) was unable to support the United States draft resolution on the ground that it generalized a specific question. Following informal consultations with the Philippines representative, they had decided to submit to the Council a joint draft resolution which provided an appropriate solution to the problem without in any way preventing the Council from taking in the future any decision it might think proper on anonymous petitions. The text of the joint draft resolution was as follows:

"The Trusteeship Council,

"Noting the report of the Ad Hoc Committee on Petitions (T/L.34) regarding the petition from Mr. Augustin Ndababara concerning the Trust Territory of Ruanda-Urundi (T/PET.3/16),

"Considering that this case independently from the anonymous character of the petition, does not call for any action at this time on the part of the Trusteeship Council,

"Decides that no action is called for at the present moment regarding the petition from Mr. Augustin Ndababara and that the general points raised in the petition will be taken up when the Trusteeship Council examines the next report on the Territory;

"Invites the Secretary-General to inform the Administering Authority and the petitioner, in the event that the latter should abandon his anonymous position, of this resolution in accordance with rule 93 of the Rules of Procedure of the Council."

12. Mr. RYCKMANS (Belgium) agreed with the Philippines representative that the Council was faced by two independent problems.

13. With regard to the first, his delegation maintained its position that an anonymous petition could not be classed as a petition and that the Council should therefore not concern itself with it as such. It was none the less a communication, which could and should be brought to the notice of members of the Council.

14. With regard to the second question, his delegation maintained that a petition of a general character was not a true petition, which, by definition, must seek

³ See *Summary Record of the United Nations Preparatory Commission, Committee 4, 6th meeting.*

⁴ See *Official Records of the Trusteeship Council, first session, 7th meeting.*

⁵ See *Official Records of the Trusteeship Council, fourth session, 6th meeting.*

redress for a personal or collective grievance. Where a communication informed the Council of matters with which it was called upon to deal by its terms of reference, such communication was entitled to the Council's attention in the same way as a traveller's account or a newspaper article concerning the Trust Territory.

15. His own supposition was that the signature "Augustin Ndababara" was a pseudonym, as it could be rendered by the words "I am an unfortunate person". The Council would make itself a laughing-stock if it adopted a resolution announcing that, in pursuance of the petition from, to phrase it differently, Mr. "Infelix", it invited the Administering Authority to reduce taxes and build hospitals in Ruanda-Urundi.

16. He admitted that his intention in proposing to return the petition to the *Ad Hoc* Committee had been to engineer a *reductio ad absurdum*, thus demonstrating that the Committee could not submit any recommendation to the Council on a petition of that character. The most that could be done was for the Council to note the points contained in Mr. Augustin Ndababara's communication, and to consider them when it considered the next annual report, on Ruanda-Urundi.

17. He had, however, been impressed by the United Kingdom representative's statement at the thirty-sixth meeting, stigmatizing the degrading and demoralizing practice of submitting anonymous petitions. He therefore asserted his determination not to abandon his objections in principle to anonymous petitions, even if only to cause a *reductio ad absurdum*, and declined to support an action by the Council which might encourage the inhabitants of the Trust Territories to engage in a degrading practice.

18. He would accordingly await a more suitable occasion for the *Ad Hoc* Committee to demonstrate the futility of treating communications of a general character as petitions. In the meantime, he would vote in favour of the United States proposal.

19. Mr. LIU (China) agreed with the Philippines representative's view that no issue arose in respect of anonymous petitions since it had been settled by previous decisions taken by the Council.

20. His delegation believed that anonymous petitions should be dealt with as if they were signed, on the ground that the general standards of education and civilization were lower in the Trust Territories than in the metropolitan countries. Notwithstanding the conscientious endeavours of Administering Authorities to ensure full freedom of speech, he feared that that principle might not be readily grasped by members of the indigenous population, who, he thought, resorted to anonymous petitions from pusillanimity rather than from unworthy ulterior motives. A great injustice would be done if the Trusteeship Council abandoned its practice of accepting anonymous petitions.

21. While prepared in principle to accept the joint Argentine-Philippines draft resolution, he was not sure whether the Council should override the *Ad Hoc*

Committee, and ignore its request for further instructions on the petition under discussion, since the Committee had asked for instructions on the procedure it should adopt in dealing with anonymous petitions and not on the substance of the petition in question. The Council should instruct the Committee to examine that petition, especially in view of the Committee's statement, in paragraph 37 of its report, that it had deferred action "until such instructions have been given".

22. The PRESIDENT pointed out that the question raised by the *Ad Hoc* Committee was of a general character: the Committee had asked the Council, not for instructions as to what action it should take on Mr. Ndababara's petition, but for instructions for dealing with anonymous petitions generally.

23. Mr. HOOD (Australia) agreed with the Chinese representative and the President that the United States draft resolution elevated a specific issue to the level of a general principle. Although a directive of principle had been asked for by the *Ad Hoc* Committee, the Council was in no way bound to deal with the problem in the manner in which that Committee had formulated it.

24. Whether it took a general or a specific decision, the Council must first devote attention to the correct interpretation of its rules of procedure. The joint draft resolution submitted by the Argentine and Philippines representatives referred to rule 93, the opening sentence of which read as follows: "The Secretary-General shall inform the Administering Authorities and the petitioners concerned of the actions taken by the Trusteeship Council on each petition...".

25. That provision was mandatory, and could not be interpreted as meaning that the Secretary-General should inform the Administering Authorities and/or the petitioners concerned. It was therefore conclusive that in approving its rules of procedure the Council had intended to examine only such petitions as were clearly identifiable, and clearly related to an individual, a group or an organization. Rule 93 could not be applied to a case where there was no identifiable petitioner. If rule 93 was inapplicable, it followed that the whole section of the rules of procedure devoted to petitions was also inapplicable in the case at issue.

26. Mr. LAURENTIE (France) said that it had not been denied during the discussion that freedom of the spoken and written word existed in the Trust Territories. Therefore, there could be no justification for anonymous petitions.

27. Replying to the Chinese representative, he observed that, while certain practices incompatible with the European moral code clearly existed in the African territories, the Trusteeship Council had never judged those practices by the moral code of the so-called backward peoples, but had invariably done so on the basis of the European moral code, as, for example, in the case of child marriage and polygamy. He saw no reason why the Council should depart from that policy in dealing with anonymous petitions which, since the existence of free speech in the Trust Terri-

ories had not been questioned, must be motivated by some other reason of a questionable moral nature. In addition, from his experience in Africa he was convinced that anonymous petitioners were aware of the impropriety of their action.

28. As to whether or not the Council's rules of procedure disallowed anonymous petitions, he considered that if they did not, then they were wrong. But in his own view they did.

29. Mr. KHALIDY (Iraq) expressed the opinion that the very fact that people in the Trust Territories sent in signed petitions provided proof of the existence of freedom of speech in those Territories, but emphasized that, in the East, various ways of indicating identity, such as seals and fingerprints, were used by illiterate people. It was possible, and indeed, probable, that an individual who submitted an unsigned petition did not know that he was required to sign it. He believed, therefore, that the Council should not close its door to honest and well-meaning persons, ignorant of procedure. Members of the Council had a sufficient sense of responsibility to be able to distinguish between slanderous or nonsensical and *bona fide* petitions. All that was needed was greater care in the examination of anonymous petitions. Indeed, the number of anonymous petitions so far received by the Council was so small that the adoption of a hard and fast rule was hardly called for.

30. In the present case, he would be prepared to support the Chinese representative's suggestion that the petition be returned to the *Ad Hoc* Committee or, alternatively, the Argentine-Philippines joint draft resolution.

31. The PRESIDENT, referring to the remarks of the Iraqi representative, recalled that two anonymous petitions (T/PET.3/6 and T/PET.3/7) had been handed to the Visiting Mission to East Africa and had been examined by the Council at its fourth session.⁶ Consideration of those petitions and also of other petitions dealing with questions of a general character had been deferred to the fifth session when the Visiting Mission report was to be examined. When Mr. Ndababara's petition had again been discussed at the fifth session⁷ the view had been put forward that it was a document of an informative character and not a petition. The Council had also adopted at its fourth session a Belgian proposal, referred to by the Philippines representative, recommending that anonymous communications sent in as petitions should not be circulated as unrestricted documents unless the Council decided otherwise.

32. Had the *Ad Hoc* Committee on Petitions recalled the precedents in question, it might have characterized the petition from Mr. Augustin Ndababara as an informative document for the use of Council members. But the *Ad Hoc* Committee had taken the particular case under discussion as a basis for a request to the

⁶ See *Official Records of the Trusteeship Council*, fourth session, 11th meeting.

⁷ See *Official Records of the Trusteeship Council*, fifth session, 5th meeting.

Council for general instructions as to how anonymous petitions should be dealt with.

33. As all members of the Council had fixed views on the subject, which had been discussed on several occasions, he wondered whether the Council, rather than take a decision of a final and general character, should not act in accordance with the existing precedents.

34. Mr. FRANCO Y FRANCO (Dominican Republic) stated with regard to the general character of the petition, and its anonymity, that, in his view, an anonymous petition was a special case and the criterion frequently upheld in the Council was that the latter was the sole judge of whether such a petition could be received. That criterion was based on the possibility of a lack of freedom in the Trust Territory concerned or on the inability of the petitioner to exercise his right of petition. But procedure based on such a criterion, however noble its aim, was vague, and had grave practical defects.

35. In international as well as private law a "petition" was a document whereby one or more persons submitted a request to a competent organ with a view to achieving a specific purpose. That definition presupposed that the petition emanated from one or more persons who were adequately identified, or at least identifiable. It answered not only the basic requirements of legal technique, but also the requirement that the organ which had to deal with the petition should know its author, in order that it might inform him of its findings. Rule 93 of the Council's rules of procedure provided for that consideration.

36. Moreover, rule 24 of the Rules of Procedure showed that all communications to the Council were not necessarily petitions. Since anonymous petitions were documents, the authors of which wished to divulge certain facts to the Council, they might be pettifogging or libellous; but they might also be inspired by a desire for justice. In the former case, they might be circulated to members of the Council individually for their consideration during the discussion on the report of the administering authority, and brought to the notice of members of visiting missions. At any rate, it would appear to be inadmissible to regard them as petitions proper, and to apply to them the relevant procedure. The second type, on the other hand, might be of some value.

37. With regard to petitions of a general character, he agreed with the Belgian representative that such petitions had the grave defect of not going into detail, so that consideration of them by the Council would entail re-opening the whole discussion on the annual report of the Administering Authority.

38. With regard to the draft resolution before the Council, he proposed that the words "as a petition" should be inserted at the end of the United States draft resolution. He further proposed that, with a view to achieving a compromise, the said draft resolution should be expanded by adding a sentence to the effect that the Secretariat should communicate the document

to the members of the Council for any purpose for which it might be required. Such a wording would cover the discussion of the draft report, the possible appointment of a visiting mission or any other type of inquiry. The addition of that sentence after the communication had already been circulated was calculated to bring out its importance, not as a petition, but as a document containing useful information.

39. He was prepared to support the United States draft resolution if it were so amended.

40. Mr. SAYRE (United States of America) was unable to pass formal judgment on the amendment proposed before seeing it in writing, but believed that the addition of a third paragraph to his draft resolution would be superfluous.

41. Mr. RYCKMANS (Belgium) thought that the aim of the representative of the Dominican Republic could be achieved by the addition of a sentence to the effect that the Council took note of the document for any appropriate purpose.

42. Mr. FRANCO Y FRANCO (Dominican Republic) pointed out to the United States representative that the petition from Mr. Augustin Ndababara had been circulated to members of the Council as a petition, but it could not be accepted as such. The Secretariat should now circulate it as a document for information, which was not the same thing. But if there were objections to his amendment, he would accept the suggestion made by the representative of Belgium.

43. Mr. SAYRE (United States of America) declared his readiness to meet the points raised by the representative of the Dominican Republic.

44. Mr. LIU (China), replying to the French representative, stated that whereas the latter had stressed the moral aspect of anonymous petitions, he (Mr. Liu) had based his argument on the fact that the persons who submitted such petitions might not have attained a reasonable standard of education.

45. He was bound to disagree with the Australian representative's interpretation of rule 93 of the Rules of Procedure. In his view, if there were no identifiable petitioners, the Secretary-General should confine himself to transmitting the relevant information to the Administering Authority concerned.

46. Mr. INGLÉS (Philippines) held that a single rule forming part of a set of rules could not be isolated from its context, and so interpreted as to conflict with the provisions of others of the rules. Rule 79, which prescribed the form of a written petition and which made no stipulation regarding a signature thereon, was relevant to the point at issue. He would recall that, at the third session, the French representative had submitted a proposal to the effect that anonymous petitions should not be accepted. The submission of such a proposal clearly bore witness to the fact that anonymous petitions were admissible under the existing Rules of Procedure.

47. In his view, the President's interpretation of the Council's usual practice was wholly correct, and the

joint draft resolution submitted by the Argentine representative and himself applied that practice without prejudicing the principle of the acceptance by the Council of anonymous petitions. The difference between the two draft resolutions now before the Council lay precisely in this, that the draft resolution submitted by the United States representative, as amended by the Dominican representative, laid down that the Council should take no action, solely because the petition was anonymous. The joint Argentine-Philippines draft resolution, on the other hand, embodied the principle that in any given case the Council's decision should be governed by the substance of the petition.

48. The PRESIDENT reminded the Council that no action had been taken on the two anonymous communications to which he had referred, because they had called for no action. The Council had examined them at its fourth session, together with signed communications of similar content. The examination of that group of petitions, which were in the nature of communications, had been deferred until the fifth session. At that session, the Council had taken action only in connexion with signed petitions. Both the penultimate and final paragraphs of the joint Argentine-Philippines draft resolution did, however, involve taking certain action, which would constitute a new procedure.

49. Mr. RYCKMANS (Belgium) declared that the legal explanation given by the representative of the Dominican Republic seemed to him so enlightening that there was nothing further to add on the subject. When he himself had expressed his opposition to the acceptance of anonymous petitions, the members of the Council representing non-administering Powers had seemed to be under the impression that he had been thereby seeking to be rid of embarrassing petitions. That, however, had never been his intention. The Dominican representative had made it clear that the anonymous petition before the Council called for no action on its part, but had added that the Council might take note of it for any appropriate purpose. That was precisely the legal attitude required. Anonymous communications, not being petitions, could not be treated as petitions, but might nevertheless be of some interest as communications.

50. He agreed with the Iraqi representative that, in dealing with anonymous petitions, reliance must be placed on the common sense of Council members. Some such petitions were worthy of the Council's full attention and would be taken into account when the Council came to examine the annual reports on the Territory to which they related.

51. It was impossible for all who had the work of the Council really at heart to consider that anonymous petitions would not have received due attention if the United States draft resolution as amended by the representative of the Dominican Republic were adopted. He himself would vote in favour of it.

52. Mr. KHALIDY (Iraq) said that there was no difference of substance between the two draft resolutions except in so far as the words "being an anonymous communication" in the United States draft resolution

were concerned. If those words were deleted, he believed all members of the Council could agree to the adoption of that draft resolution. The last paragraph of the joint draft resolution proposed by the representatives of Argentina and the Philippines invited the Secretary-General "to inform the Administering Authority and the petitioner, in the event that the latter should abandon his anonymous position . . .", which might give rise to some difficulty, because the Secretary-General might not be able to establish with certainty that a person who claimed to be responsible for the communication was in fact its author.

53. Mr. LIU (China) said that, like the representatives of the Philippines and Iraq he would not press the Council to return Mr. Ndababara's petitions to the Committee; he was prepared to vote in favour of the adoption of either the joint draft resolution proposed by the representatives of Argentina and the Philippines, or that proposed by the representatives of the United States of America provided the deletion proposed by the Iraqi representative and its consequent drafting changes were made.

54. The PRESIDENT asked the United States representative whether he was willing to agree to the deletion of the words "being an anonymous communication".

55. Mr. SAYRE (United States of America) said that the fundamental difference between the two draft resolutions lay precisely in the absence from one, and in the presence in the other, of the words in question. Ever since the Council's first session, the question of what treatment it should accord to anonymous communications had given rise to difficulties; he believed that the issue should be settled once and for all. The best way of doing so would be to add to the Council's Rules of Procedure a rule stipulating that no anonymous communication should be accepted as a petition by the Council, or examined by it. According to the laws of the United States of America, the United Kingdom, France and, indeed, of all countries with which he was familiar, no anonymous communication could be treated as a petition. The reason why he had not proposed such an amendment to the Rules of Procedure earlier was that one representative had requested him privately to defer doing so. For the same reason, he had, at the present meeting, confined himself to submitting a draft resolution applying exclusively to the anonymous communication contained in document T/PET.3/16. He could not accept the Iraqi amendment, because, if he did so, he would prejudice the position he wished to maintain with regard to all anonymous communications addressed to the Council. However, he would agree to the amendment proposed by the representative of the Dominican Republic, since it rendered his own draft resolution clearer.

56. Mr. RYCKMANS (Belgium) wondered whether the Iraqi representative would be prepared to accept a proposal to the effect that the petition called for no action by the Council. From the point of view of the Administering Authority concerned, such a solution

would be entirely satisfactory, since it would mean in effect that the petition would be consigned to the waste-paper basket.

57. Were he (the representative of Belgium) the representative of a non-administering Power, he would prefer the wording of the United States draft resolution as amended by the representative of the Dominican Republic, which in fact recognized that the document was a communication that any member of the Council would be entitled to take into account when the next annual report on Ruanda-Urundi was discussed. Such a formula would be most likely to meet the wishes of everyone.

58. The PRESIDENT put to the vote the Iraqi representative's amendment to delete the words "being an anonymous communication" from the joint draft resolution submitted by the delegations of the United States and the Dominican Republic.

The amendment was rejected by 6 votes to 4 with 1 abstention.

59. The PRESIDENT put to the vote the text of the United States draft resolution as amended by the representative of the Dominican Republic. It read as follows:

"The Trusteeship Council.

"Having before it the request of the Ad Hoc Committee on Petitions contained in its second report (T/L.34, paragraph 37),

"Decides that the communication circulated as T/PET.3/16, being an anonymous communication, calls for no action by the Council as a petition;

"Takes note of this communication for all useful purposes."

The draft resolution was adopted by 7 votes to 4.

The meeting was suspended at 4.45 p.m. and was resumed at 5.15 p.m.

73. Examination of the request by the General Secretary of the All-Ewe Conference for it to be granted a hearing

60. The PRESIDENT requested the Assistant Secretary-General to make an explanatory statement on the question before the Council.

61. Mr. Hoo (Assistant Secretary-General in charge of the Department of Trusteeship and Information from Non-Self-Governing Territories) said that the following letter, dated 18 December 1949, had been addressed to the Visiting Mission to Trust Territories in West Africa by the General Secretary of the All-Ewe Conference:

"I am directed by the All-Ewe Conference to express in writing its verbal request made at Lome, on 2 December last, through you to the Trusteeship Council to be granted the second time the privilege of oral statement of its case at the time when the Council will sit to hear the Visiting Mission's report on the Ewe unification problem and make its final recommendations.

" We feel sure that you have in your visit discovered for yourselves that the request for unification is, to the Ewes, a matter of the utmost importance and are confident that you will be able to convince the Council to grant us this privilege once again. "

62. In accordance with the Rules of Procedure, the Administering Authorities concerned had been asked whether they had any objection to a representative of the All-Ewe Conference being heard by the Trusteeship Council at the present session. The following letter dated 31 January 1950 had been received from Sir Alan Burns, the United Kingdom representative on the Council :

" In reply I have to inform you that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland have no objection to the request of the All-Ewe Conference to be granted the privilege of making a further oral statement at the sixth session of the Trusteeship Council in conformity with rule 80 of the Council's Rules of Procedure and in support of their previous petitions on the subject of Ewe unification, of which the Council is already seized. "

63. A letter to the same effect had been received from the French delegation. The time had therefore come for the Council to decide whether to grant the request, since it would take up the Ewe question on 28 March 1950 if it adhered to the present schedule. Should the request be granted, the Council should so inform the General Secretary of the All-Ewe Conference forthwith, so that its representative could arrive in Geneva in time.

64. Mr. KHALIDY (Iraq) said that it was eminently desirable that the Ewe people should send a representative to be present while the Visiting Mission's report (T/463) was under discussion, and he hoped that the request would be granted.

65. Mr. LAURENTIE (France) said that in his view it was incorrect to speak of granting a hearing to a representative of the All-Ewe Conference during the consideration of the Visiting Mission's report. It was possible under the Council's Rules of Procedure to invite a representative of the Ewes to the Council table to defend and explain more fully the grievances or arguments which had already been put forward by the All-Ewe Conference in various petitions to the Council, but that was a part of the procedure for dealing with petitions, not of that for examining Visiting Missions' reports. The two things should be kept separate. Subject to that reservation, the French delegation naturally had no objection to Mr. Amu, or any other person duly authorized by the All-Ewe Conference, appearing before the Council.

66. The PRESIDENT pointed out that the Council had once before, at its second session, granted the request of the All-Ewe Conference for a hearing.⁸ He could therefore invite Mr. Amu to come to Geneva and to appear before the Council on the date fixed for the consideration of the Visiting Mission's reports on the

two Togolands. The date indicated was of course purely approximate.

67. Sir Alan BURNS (United Kingdom) associated himself with the remarks made by the French representative. His Government would welcome the granting of a hearing to a representative of the All-Ewe Conference, to enable him to explain and elaborate orally the petition from the Ewe people.

68. Mr. INGLÉS (Philippines) said that there was no valid reason why the Council should not grant a petitioner a hearing during its consideration of the report of a Visiting Mission. On more than one occasion in the past the Council had deferred consideration of a petition until it had received the report of a Visiting Mission relating to the same Trust Territory. A petitioner granted a hearing by the Council should be allowed to make observations before the Council on passages in a Visiting Mission's report relating to his petition. He was in favour of granting the request of the All-Ewe Conference, and of permitting its representative to make any observations he wished, provided they were related to the subject matter of the petitions.

69. Mr. LAURENTIE (France) agreed with the Philippines representative that Mr. Amu might be heard without any restriction whatsoever, provided he confined himself to the questions dealt with in the petitions submitted by the All-Ewe Conference.

70. The PRESIDENT explained that Mr. Amu's request for a hearing was specifically related to the issue raised by the All-Ewe Conference with which the Council had already dealt and it was on that question that Mr. Amu would be invited to make a statement to the Council. Mr. Amu would be informed by the Secretariat that the Council was prepared to hear him, and of the approximate date on which the question dealt with in the petitions from the Ewes would be discussed.

The Council unanimously decided to grant a representative of the All-Ewe Conference a hearing during the present session on the subject of its petitions to the Council.

74. Political advancement in Trust Territories (General Assembly resolution 320 (IV) of 15 November 1949) : Petitions and Visiting Missions (General Assembly resolution 321 (IV) of 15 November 1949) : Economic advancement in Trust Territories (General Assembly resolution 322 (IV) of 15 November 1949) : Social advancement in Trust Territories (General Assembly resolution 323 (IV) of 15 November 1949) : Educational advancement in Trust Territories (General Assembly resolution 324 (IV) of 15 November 1949) (T/443 and T/L.7)

71. The PRESIDENT invited the Council to examine General Assembly resolutions 320, 321, 322, 323 and 324 adopted at its fourth session.

72. Mr. KHALIDY (Iraq) submitted to the Council a draft resolution (T/L.7) prepared jointly by himself

⁸ See document T/PV.29.

and the United States representative on the five General Assembly resolutions under discussion.

73. No one who had attended the meetings of the Fourth Committee at the fourth session of the General Assembly was likely to forget the tense atmosphere in which they had taken place. The consensus of opinion had been that the Administering Authorities should press forward with the political, economic, social and educational advancement of the Trust Territories. The concern then displayed had been provoked not by the fear that the Administering Authorities were failing to do all they might to promote such advancement, but by considerations of time. The view had been put forward that advancement in all those fields was not proving as rapid as it should be, and that the slow rate of progress was a sign of failure to carry out the principles of the trusteeship system and the Charter. It was in that atmosphere that the Committee had formulated the five General Assembly resolutions under discussion.

74. The United States and Iraqi delegations had endeavoured to formulate a draft resolution which, if adopted by the Council, would ensure that the latter would do all it could to implement those General Assembly resolutions by bringing them to the notice of the Administering Authorities concerned, with special emphasis on certain of their salient points, such as those relating to migrant labour and penal sanctions and the question of discriminatory laws and practices which were contrary to the principles of the Charter and trusteeship agreements. They had considered it eminently desirable that the Council should draw the attention of the International Labour Organisation to the General Assembly's interest as evinced in its resolution 323 (IV) in the problems of migrant labour and penal sanctions for breach of labour contracts by indigenous inhabitants and seek the Organisation's advice thereon. Paragraph 5 of the joint draft resolution, which related to the question of discriminatory laws and practices contrary to the principles of the Charter and trusteeship agreements, had in particular been drafted with a view to ensuring that all action taken by the Council or the Administering Authorities conformed completely to those principles. He and his co-sponsor would gladly agree to any amendments to the joint draft resolution capable of making it a more effective instrument for implementing the General Assembly resolutions in question and promoting the welfare of the peoples of Trust Territories.

75. Mr. INGLÉS (Philippines) said that for the first time in its history, it was proposed that the Council should despatch at one stroke five General Assembly resolutions relating to a variety of trusteeship questions. Although he appreciated the apparent desire of the authors of the joint draft resolution to save the Council's time, the Council should decide whether it would be proper to dispose of five separate items on its agenda by the adoption of one omnibus resolution.

76. If the Council adopted the words in paragraph 1 of the joint draft resolution "*Takes note of the recommendations of the General Assembly*", instead of resolv-

ing to implement those recommendations, it might be accused of a lack of respect for the General Assembly. He therefore proposed the substitution of the words "*Resolves to give effect to*" for the words "*Takes note of*" in the phrase quoted.

77. The Council should use more specific language than the ambiguous passage in paragraph 2 reading "steps have already been taken or are being taken by the Council to carry out the provisions of these recommendations". If such steps had in fact been taken, the Assembly should be informed what they were, and how and when they had been taken. The four General Assembly resolutions, on political, economic, social and educational advancement respectively, contained four separate recommendations, which requested the Council to include in each of its annual reports to the Assembly a special section on the implementation by the Administering Authority of the Council's recommendations relating to advancement in the field concerned. But there was no indication in the joint draft resolution before the Council of how it had complied, or intended to comply, with those recommendations, nor even a hint that it was prepared to do so in the case of resolution 322 (IV). Nor was there any reference to the Assembly's expression of concern in that resolution at the lack of budgetary autonomy in some Trust Territories and the lack of data which made it impossible for the Council to make a thorough examination of the financial situation of all Trust Territories. The joint draft resolution also failed to mention the points raised in paragraph 2 of General Assembly resolution 324 (IV) drawing the Council's attention to the necessity for requesting the Administering Authorities to study the possibility of including in school curricula instruction in United Nations affairs, the trusteeship system and the special status of Trust Territories, possibly with the help of the United Nations Educational, Scientific and Cultural Organization. It similarly ignored the hope expressed in paragraph 3 that, when preparing budgets for Trust Territories, Administering Authorities would pay special attention to the need for improving educational facilities, mention of which had also been omitted from the sections of the Council's report to the Assembly relating to the annual reports on Tanganyika and Ruanda-Urundi in 1948. The Council should advise the General Assembly of the steps it had taken, or intended to take, to comply with the latter's express wishes.

78. General Assembly resolution 323 (IV) contained a specific recommendation that "strong and effective measures" should be adopted "to abolish immediately the corporal punishment of whipping in Ruanda-Urundi". The relevant passage in the section on the annual report on Ruanda-Urundi appeared to be completely at variance with that recommendation.

79. General Assembly resolution 321 (IV) specifically required the Trusteeship Council to "direct visiting missions to report fully on the steps taken towards the realization of the objectives set forth in Article 76 b of the Charter, under the headings of political, economic, social and educational advancement, and in particular on the steps taken towards self-government or inde-

pendence". But when the Council had discussed the terms of reference for the Visiting Mission to Trust Territories in the Pacific, a concerted and successful effort had been made to eliminate from the Mission's terms of reference proper emphasis on the necessity for a full report on the steps taken towards self-government or independence. In view of that fact, the Council could not honestly report to the Assembly that it had already taken steps to carry out the latter's recommendations concerning Visiting Missions.

80. In fairness to the authors of the joint draft resolution at present before the Council, it should be pointed out that it had been circulated before the Council had adopted either the terms of reference for the Visiting Mission to Trust Territories in the Pacific or the recommendation concerning the possibility of abolishing whipping in Ruanda-Urundi. The Iraqi representative had subsequently admitted that the terms of reference adopted for the Visiting Mission were not strictly in accordance with the relevant recommendations of the General Assembly.

81. In general, therefore, it would be more correct for the Council to state that it had taken steps to carry out certain of the recommendations formulated by the General Assembly in the resolutions in question, than that it had already taken or was about to take steps to carry out all of them; he accordingly proposed that the words "some of" be inserted before the words "these recommendations" in paragraph 2 of the joint draft resolution.

82. On the subject of corporal punishment and whipping in Trust Territories, paragraph 2 of General Assembly resolution 323 (IV) was more specific than paragraph 3 of the joint draft resolution. While he would not object to the adoption by the Council of a general recommendation that corporal punishment should be abolished in all Trust Territories, that recommendation should stipulate that abolition should take place at once, and that the appropriate measures taken should be strong and effective. He therefore wished to propose that in paragraph 3 of the draft resolution the word "immediate" be inserted before the word "abolition", the words "strong and effective" before the word "programme", and that the words "as soon as possible" be deleted.

83. The Council could and should take more effective steps to implement the recommendation in paragraph 3 of General Assembly resolution 323 (IV), and to solve "in a broad and humanitarian spirit such social problems as migrant labour and penal sanctions for breach of labour contracts by the indigenous inhabitants of Trust Territories". The authors of the joint draft resolution had proposed that for the time being the Council should limit its action to asking the International Labour Organisation for advice on those problems. He hoped, on the contrary, that the Council would set up forthwith a committee to make a preliminary study of those problems, with the assistance of the International Labour Organisation, and to submit a report for the Council's consideration at its seventh session. The Council could not plead ignorance of

those problems, which had arisen at every session. It might also ask the Secretariat to bring together in one document all laws concerning migrant labour and labour contracts. Paragraph 4 of the joint draft resolution should be modified to provide for the establishment of the committee he had suggested, and for the issue of the necessary instructions to the Secretariat.

84. In paragraph 5 of the joint draft resolution, the main emphasis differed from that in paragraphs 4 and 5 of General Assembly resolution 323 (IV). Paragraph 5 of the joint draft resolution contained the words "Urges all Administering Authorities to take the necessary measures . . . to ensure that no discriminatory laws or practices contrary to the principles of the Charter and the Trusteeship Agreements shall exist in any Trust Territory", whereas paragraph 4 of the General Assembly resolution recommended "the abolition of discriminatory laws and practices contrary to the principles of the Charter and the Trusteeship Agreements, in all Trust Territories in which such laws and practices still exist". He therefore wished to propose the substitution of the words "Urges all Administering Authorities to take the necessary measures, with respect to paragraphs 4 and 5 of General Assembly resolution 323 (IV) for the abolition of discriminatory laws or practices contrary to the principles of the Charter and the trusteeship agreements in all Trust Territories in which they exist" for the words he had quoted from paragraph 5 of the draft resolution. In view of the directive contained in paragraph 5 of General Assembly resolution 323 (IV), the Council should also examine, or instruct a committee to examine, all laws, statutes and ordinances in force in Trust Territories, and the manner in which they were being applied, and should make positive recommendations to the Administering Authorities concerned with a view to abolishing all such discriminatory laws and practices. Perhaps the Secretariat already had some of the data required for such an examination, from sources other than the annual reports of the Administering Authorities. A committee such as he had suggested might begin examining that data as soon as possible, and the Administering Authorities should be asked to furnish any additional data required as quickly as could be reasonably expected. The work of the Council might be unduly retarded if, as the authors of the joint draft resolution proposed, the Administering Authorities were asked to include those data in their coming annual reports; the annual reports for 1949, which would be considered by the Council in 1951, were probably either completed or almost completed, and those for 1950 would not be considered by the Council until 1952. There was no valid reason why Administering Authorities should not submit the data required separately, and the Council should request them when doing so to state whether the ordinances or statutes in force were applied by the administrative or by the judicial authorities.

85. Mr. LAKING (New Zealand) suggested that discussion of the joint draft resolution should be deferred until the amendments moved by the Philippines representative had been circulated, since it was difficult to make useful observations on them in ignorance of their

exact wording and without the possibility of comparing them with that of the joint draft resolution.

86. Mr. LIU (China) and Mr. KHALIDY (Iraq) supported the New Zealand representative.

87. The PRESIDENT said that further discussion on the joint draft resolution might be deferred pending the circulation of the amendments to it moved by the Philippines representative.

It was so agreed.

75. Closing date of session

88. The PRESIDENT stressed the advisability of fixing the closing date of the session, to enable delegations to make their arrangements for returning to their respective countries. He thought the date might be fixed for 6 April.

89. Mr. FLETCHER-COOKE (United Kingdom) said that he could accept the President's suggestion, provided it were understood that the session should not end before the Council had concluded all business on the agenda relating to the Trust Territories in West Africa. His Government had arranged for three special representatives to come to Geneva to attend the present session, at which some hundreds of petitions relating to those Territories were due to be examined; progress on those petitions in the *Ad Hoc* Committee was very slow. His delegation was anxious that there should be no possibility of the sessions's being concluded before they had been dealt with.

90. The PRESIDENT doubted whether the Council would be able to consider all the petitions concerning Trust Territories in West Africa at the present session. Petitions were a problem which he had already discussed with the Secretariat, and he thought it might prove necessary for the *Ad Hoc* Committee to continue to meet in the interval between the sixth and seventh sessions of the Council. The *Ad Hoc* Committee might be requested to give priority to petitions from the four Trust Territories in West Africa; but even so it was very doubtful whether the Council could deal with them all during the present session, which, he might add, would have lasted nearly three months, if 6 April was adopted as the closing date. It could not be prolonged indefinitely. In his view, the growing number of petitions would finally force the Council to set up a standing committee to work throughout the year.

91. Mr. KHALIDY (Iraq) said that if the President's suggestion were adopted and the date fixed, there should be no question whatsoever of the Council's deciding, especially at the last moment, to prolong the session beyond that date. In view of the effort and cost involved in sending representatives to sessions of the Council, the latter should try to finish all the business on its agenda for the session by the date fixed.

92. If members of the Council were prepared to deal with the question of a draft Statute for Jerusalem as expeditiously as with other items on the agenda,

the present session could be concluded long before the date suggested by the President.

93. Mr. FLETCHER-COOKE (United Kingdom) pointed out that although a large number of petitions remained to be examined at the present session, it should not be forgotten that, by taking all the petitions relating to the Bugufi area as one group, the Council had disposed of them all in a single resolution. The remaining petitions fell into fairly well-defined groups. Since the Council would be in a better position to estimate how much more time was required to complete its agenda after three more meetings had been held on the preparation of the draft Statute for Jerusalem and after it had begun its examination of the annual report on the administration of the Trust Territory of the Cameroons under British administration for 1948, he hoped that the date beyond which the present session should not be prolonged would not be fixed until the following week. His main concern was that the Council should not split up its work on the West African Trust Territories between the sixth and the seventh session.

94. The PRESIDENT said he was quite ready to defer the fixing of a closing date for the session. The question might be taken up again the following week, and the Council could then agree on a final date when it had complete information as to the work which the *Ad Hoc* Committee on Petitions could undertake. He requested that Committee to speed up its work as much as possible, and to give priority to petitions from the four Trust Territories in West Africa. He hoped the Council would be able to examine all those petitions at the same time as the annual reports on the Territories concerned.

95. Mr. SAYRE (United States of America) said that, while he understood the arguments of the United Kingdom representative, he was in favour of the immediate acceptance of the date suggested by the President. The Council could conclude the examination of the annual reports and petitions relating to Trust Territories in West Africa on its agenda before 6 April 1950. There were a number of reasons why the closing date of the session should be fixed at once, one of the most important of which was that it would lend a sense of urgency to the Council's deliberations. Another was that the advent of Easter would cause a break of several days in the Council's work if the session was prolonged after 6 April. He hoped that the Council would adopt 31 March 1950 as a target date for the close of the session.

96. The PRESIDENT observed that the Council was not behind schedule. It had already done a considerable amount of work and should be able to finish by 31 March if all the members of the Council were prepared to do their utmost to speed up the discussions. Account must be taken of the credits allocated for the session which, under normal circumstances, could not be exceeded.

97. Mr. LIU (China) agreed to the date suggested by the President. Once it was fixed, there should be no question whatsoever of the session being prolonged beyond that date. To satisfy the United Kingdom

representative the Council could proceed more quickly than at present.

98. Mr. LAURENTIE (France) said he was opposed, in principle, to the Council's holding two meetings a day since that would merely result in longer interventions, which was precisely the cause of the present difficulty.

99. The PRESIDENT shared the opinion of the French representative, adding that the mornings must be reserved for the meetings of the Council's several committees. But if the Council fixed a closing date and thereafter found that discussions were proceeding too slowly, it would be forced to hold two meetings a day.

The meeting rose at 6.30 p.m.

240th meeting

THIRTY-EIGHTH MEETING

*Held at the Palais des Nations, Geneva,
on Wednesday, 1 March 1950, at 2.30 p.m.*

President : Mr. Roger GARREAU.

Present : The representatives of the following countries : Argentina, Australia, Belgium, China, Dominican Republic, France, Iraq, New Zealand, Philippines, United Kingdom, United States of America.

Observers from the following countries : Egypt, Israel, Hashemite Kingdom of the Jordan.

76. Closing date of session (*continued*)

1. Sir Alan BURNS (United Kingdom), expressing regret that he had not been present at the previous meeting when the question of fixing a date beyond which the session would not be prolonged had been discussed, said that he understood that the President had suggested that that date might be fixed at 6 April 1950. He was extremely anxious that all the questions on the Council's agenda relating to Trust Territories in West Africa should be dealt with at the present session, for it was important for the United Kingdom Government that the special representatives who were coming to Geneva to discuss the reports of those Territories should not be obliged to attend the seventh session of the Council in Lake Success as well. He hoped that the Council could complete its work by the date suggested by the President, but his misgiving as to its ability to do so had been heightened since he had learned that a representative of the All-Ewe Conference was, with the Council's permission, to make an oral statement relating to its petitions when they were discussed about 28 March 1950. He therefore urged that a decision on the final date be left open until the following week.

2. The PRESIDENT thought that the date on which Mr. Amu had been invited to appear before the Council, namely 28 March, was too late. A further telegram could be despatched to Mr. Amu requesting him to appear a week earlier. Otherwise, the Council's proceedings were likely to be retarded, and it might be impossible to complete the examination of the reports

on the four Trust Territories in West Africa before 6 April.

3. He recalled that the Council had agreed the previous day, at the request of the United Kingdom representative, not to take a final decision on the matter until the following week. At all events, the Council would have to complete the examination of the reports in question before the end of the session and would, if necessary, hold two or three meetings a day during the concluding week.

4. Sir Alan BURNS (United Kingdom) said that he was greatly obliged to the President for his explanation ; he would discuss with a member of the Secretariat the question of the date on which the representative of the All-Ewe Conference should be asked to be present to make his oral statement.

77. **Question of an international regime for the Jerusalem area and protection of the Holy Places (General Assembly resolution 303 (IV) of 9 December 1949) (T/118/Rev.2, T/423, T/L.26, T/L.32, T/L.35, T/L.36, T/L.37 and T/L.38) (resumed from the 35th meeting)**

STATEMENT BY THE REPRESENTATIVE OF THE ARMENIAN PATRIARCHATE OF JERUSALEM

5. The PRESIDENT announced that the representative of the Armenian Patriarchate of Jerusalem had asked the Council to permit him to make an oral statement at one of its meetings, to supplement the statement he had made at the twentieth meeting.

At the invitation of the President, Monsignor Tiran, representative of the Armenian Patriarchate of Jerusalem, took a seat at the Council table.

6. Monsignor TIRAN (representative of the Armenian Patriarchate of Jerusalem), thanking the Council for its consideration in granting him a second hearing, said that he wished to repeat that the Armenian Patriarchate of Jerusalem did not consider itself in a position to express any opinion on the political issues connected with the question of the internationalization of Jerusalem ; consequently, the remarks he was about to make on the preparation of the statute were based on the assumption that it would eventually be the document embodying the laws by which Jerusalem would be administered, if and when the City was internationalized in accordance with General Assembly resolution 303 (IV).

7. The main concern of the Patriarchate he represented regarding the Statute was the future status of the religious institutions and communities in the Holy City. The objectives of the General Assembly resolution, which expressed the desires and the interest of Christians, Moslems and Jews throughout the world as well as those in the City, could not be attained unless the religious institutions in Jerusalem were able to function fully and freely in the City as of right, and not by sufferance. The Holy Places could not be protected adequately for the spiritual benefit of men and women throughout the world and for that of the throngs of