



TRUSTEESHIP COUNCIL

Sixth Special Session

OFFICIAL RECORDS

747th Meeting

Wednesday, 12 December 1956,

at 10.45 a.m.

NEW YORK

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President: Mr. Rafik ASHA (Syria).

Present:

The representatives of the following States: Australia, Belgium, Burma, China, France, Guatemala, Haiti, India, Italy, 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 specialized agency: United Nations Educational, Scientific and Cultural Organization.

The future of the Trust Territory of Togoland under French administration (T/1290, T/1291, T/1292) (continued)

[Agenda item 2]

1. Mr. BARGUES (France) introduced to the Council Mr. Apedo-Amah, Minister of Finance of the Autonomous Republic of Togoland, and Mr. Périer de Féral, Referendum Administrator in Togoland, who had come to the meeting as members of the French delegation in order to make statements to the Council and to answer any questions which members of the Council might wish to put to them.

2. Mr. APEDO-AMAH (France) observed that it was logical that the respective problems of the two Trust Territories of Togoland should be solved in the same manner. In view of the importance attached in the United Nations Charter to the self-determination of peoples and the primacy assigned in the Trusteeship Agreements to the freely expressed opinion of the inhabitants, it had been necessary, when the peoples of the two Trust Territories had attained political maturity, to give them an opportunity of deciding their own future.

3. After reviewing the action which the United Nations had taken upon the results of the plebiscite held in Togoland under British administration, he proceeded to outline the main landmarks in the advancement of Togoland under French administration. When the French civil administration had been established, in 1920, the indigenous inhabitants had for the first time been brought into official consultative status with the Governor of the Colony. Councils of Notables, made up entirely of Togoland and concerned with regional affairs, had been set up in 1921 and had later begun sending delegations to the annual Economic and Financial Council meeting at Lomé. The establishment of municipal commissions had followed.

4. The aspirations of the Togoland for representation in the French Parliament, self-government and the

replacement of advisory by deliberative organs had been formulated at a conference convened by the Commissioner of the Republic in May 1945, and the gradual fulfilment of those aspirations had begun the following year. Togoland had been allotted seats in the French legislature; a local assembly, with some advisory and some deliberative powers, and *conseils de circonscription* and *conseils de communes mixtes* had been established. In 1951, in response to the Togoland Deputy's request for a statute of self-government for Togoland under French administration, a bill had been introduced into the French National Assembly which, after thorough processing, had become the Act of 16 April 1955; that measure had established the Government Council—a ministerial cabinet in embryo—and extended the powers of the Territorial Assembly and the *conseils de circonscription*. The Togoland representatives had participated at all stages of the bill and the result of the Act had been accepted in Togoland as a step towards the final goal.

5. By the efforts of the Togoland representatives in the French legislature, and in response to the wishes of the Territorial Assembly, France had enacted Decree No. 56-847 of 24 August 1956 setting forth the Statute of Togoland. That Statute, under which Togoland became an autonomous republic, had been arrived at after long, frank discussions held with the French Government in an atmosphere of understanding and friendship and after the original French bill had been drastically amended by the Territorial Assembly. He drew the Council's attention to article 38, which provided for the evolution of the Statute, and to the French representative's statement at the Council's 739th meeting, held during the eighteenth session, that the adoption by the people of Togoland of the autonomous status offered to them would not close the door to other solutions, and that, in the French Government's view, the status offered to the Togoland would not necessarily freeze the political development of Togoland at a fixed and final stage.

6. The main objective of trusteeship had been attained, and the Trusteeship Agreement should accordingly be terminated.

7. The Government of the Autonomous Republic of Togoland, which he represented, interpreted the Trusteeship Council's refusal, by an equally divided vote, to send observers to the referendum in Togoland under French administration¹ as confirming that the presence of United Nations observers was purely optional. There was nothing in the Charter or the Trusteeship Agreement to contradict that view. The Council's decision had also constituted tacit recognition that popular consultations could be carried out properly even in the absence of United Nations observers, and the Council would undoubtedly recognize that its confidence in the Administering Authority had not been misplaced.

8. He reviewed the results of the referendum as set

¹ See *Official Records of the Trusteeship Council, Eighteenth Session, 744th meeting.*

forth in chapter IX of the Referendum Administrator's report (T/1292). The 17.27 per cent of the holders of voters' cards who had abstained from voting consisted of people prevented from casting their votes by sickness or travel, together with those who had abstained at the behest of certain political parties. The exercise of the franchise was a duty as well as a right, but the parties in question had made a practice of abstaining at elections for a reason which the following figures clearly demonstrated. In 1946, with an electorate of 8,000, the parties concerned had elected one Deputy to the French National Assembly and had won almost every seat in the local Assembly; in 1951, with an electorate of 50,000, they had lost their seat in the National Assembly; in 1952 they had lost their representation in other metropolitan French organs and three-quarters of their seats in the local Assembly. In 1955, when the electorate had grown to 190,000, they had resorted to abstention in order to be able to maintain, without having had to put it to the test, that they were in the majority.

9. The Council would note that the majority obtained in the referendum in Togoland under French administration—93.37 per cent of the votes cast—was strikingly greater than the majority obtained in the plebiscite held in Togoland under British administration: 58 per cent of the votes cast. In the light of the results, the Legislative Assembly had unanimously requested the French Government to approach the United Nations with a view to terminating the trusteeship, which had, in that Assembly's estimation ceased to exist on 28 October 1956 with the closing of the referendum operations.

10. France, after bearing responsibility for Togoland's development for forty years, had completed its task by agreeing to the termination of the trusteeship, and it now asked the Trusteeship Council to acknowledge that its ward had come of age. The Autonomous Republic of Togoland approached the Council in full confidence that its new status would be recognized and its prerogatives assured. It was inconceivable that the Trusteeship Council, whose function was to foster the emancipation of the Trust Territories, would refuse to comply with the provisions of the Charter, for there was nothing better that it could offer the Autonomous Republic of Togoland.

11. In conclusion, he extended to the President and members of the Council the respectful and cordial greetings of the Prime Minister of the Autonomous Republic and thanked the Council for the courteous attention with which it had listened to his statement.

12. Mr. PERIER DE FERAL (France), speaking as Referendum Administrator, said that Decree No. 56-848 of 24 August 1956, specifying the date and procedure of the referendum, had been designed to ensure that the conduct of the referendum would be completely independent of the local Administration and strictly impartial. Under article 3 of that Decree the Referendum Administrator had been appointed by an Order of the Minister for Overseas France, not on any political or personal recommendation but upon the recommendation of the Conseil d'Etat, a judicial organ whose independence was safeguarded by unalterable statutory provisions.

13. He had decided to employ as his assistants in carrying out the referendum officials of the Ministry for Overseas France and members of the judiciary who had never held office in Togoland. The work had

been of two kinds: firstly the preparation, organization and conduct of the referendum, which had been carried out by the officials, and secondly the supervision of those operations by observers, i.e., the magistrates. His staff—thirty-two in all—had performed their functions correctly.

14. His first task had been to ensure that the Togoland-ers were informed about the proposed new Statute and understood the importance of the referendum and the significance of the questions they were to be asked. As the Council would see from the instructions he had issued on the subject (T/1292, chap. I), he had been at pains to avoid engaging in positive propaganda for either of the referendum alternatives, and from the information which had reached him about the work of his staff it was evident that they had discharged their publicity duties as objectively as he could have wished. A large number of copies of the Statute had been circulated and the Togoland-ers had fully grasped the nature of the alternatives presented to them.

15. He had hoped that all the political parties would participate in the referendum and thus help, by their campaigning, to acquaint the electorate with the issues involved. It was regrettable that some of the parties had abstained from participating in the referendum, for he had promised to co-operate with them in every way.

16. As was stated in his report, the number of registered voters in the Territory had risen from 8,000 in 1948 to 437,459 on 12 October 1956. That was a very rapid increase and he was convinced that the last figure represented virtually all the persons of voting age who could in practice be enrolled in a country where the registration of births, deaths and marriages had been introduced only recently and where some of the population did not wish to reveal their existence because they would then be liable to a personal tax. The number of registered voters represented 75.8 per cent of the potential electorate, though in reality the ratio was even higher if the number of persons normally ineligible to vote, such as the mentally incapacitated, those in prison or away from home and those who could not satisfy the requirement of six months' residence in a particular commune was deducted from the potential electorate. On the whole, he thought it was fair to say that suffrage in the Territory was genuinely universal.

17. Moreover, the Decree under which the referendum had been held provided for a revision of the electoral lists, prescribing that any person whose name had been omitted could request its inclusion on the list and any registered voter could request the entry of any name omitted or the removal of any name entered. He had endeavoured to make the special revision procedure fully effective by giving it the widest possible publicity and to that end he had requested the entire Press of Togoland to publish a notice explaining the procedure. Unfortunately, the opposition Press had not co-operated with him but he had nevertheless succeeded in giving wide publicity to the notice, as was evidenced by the fact that many requests for new inscriptions had been received and the number of registered voters had risen to 438,436 by the day of the referendum.

18. The Decree organizing the referendum had provided that the political parties should participate in the issue of voters' cards and in the polling committees. Although several political parties had refused to participate, he had been able to remedy that deficiency by appointing as his representatives men whose qualifica-

tions and standing were such as to ensure the impartiality of the committees. He did not wish to conceal the fact that there had been some mistakes in the distribution of voters' cards and in a few cases duplicate cards had been issued. Most of them had, however, been withdrawn later by the polling committees.

19. The maintenance of order during the referendum had been the responsibility of the High Commissioner. In order to avoid any appearance of intimidation, no policemen had been placed in the polling stations. They had, however, been stationed nearby, ready to answer any call the chairmen of the polling committees might make upon them. As a result, the referendum had taken place in an atmosphere of complete calm.

20. Mention had been made of the fact that the frontier had been closed during the referendum. That was the usual practice during such votes; for instance, the authorities in Togoland under British administration had closed the frontier during the plebiscite held in that Territory. Arrangements had been made, however, to ensure that no eligible voter would thereby be excluded from the referendum, and that anyone possessing a voter's card would be allowed to enter the Territory.

21. Of the 338,781 persons who had voted in the referendum, 313,458 had voted for the Statute of Togoland and the termination of the trusteeship. Of the 22,320 opposing ballots, 18,000 had been cast in the district of Dapango and were due largely to the personal rivalry between certain local chiefs and the delegates representing the district in the Legislative Assembly.

22. In considering the number of abstentions and estimating the strength of the opposition, it should be borne in mind that a certain proportion of the electorate in every country habitually abstained in elections. In Togoland under British administration the usual proportion of abstentions was about 17 per cent of the electorate; in Togoland under French administration it was usually about 20 per cent. Even putting the proportion of habitual abstentions in the referendum as low as 15 per cent, and attributing all other abstentions to the influence of the opposition parties, the total number of votes cast against the new Statute of Togoland could still be reckoned as no more than 30,000. Hence it was clear that, even granting the possibility of errors or fraudulent ballots, the few thousand votes involved could not materially alter the total results of the referendum. Those results showed clearly that the great majority of the population was in favour of the new Statute and the termination of trusteeship.

23. The PRESIDENT invited the members of the Council to put questions to the French delegation.

24. Mr. THORP (New Zealand), referring to article 11 of the Statute of Togoland, said he assumed that if the Legislative Assembly found after review that its decision was unchanged, the law would be promulgated at the expiration of ten days. He asked what the procedure would be if the Assembly should decide that the reasons given by the High Commissioner justified amendment of the law.

25. Mr. BARGUES (France) observed that the Statute of Togoland, having been drafted by French lawyers with the assistance of Togolandians who had received a legal training in France, was naturally modelled on the French Constitution. The powers of the High Commissioner more or less corresponded to those of the President of the French Republic. An Act adopted by the French National Assembly was applic-

able only after promulgation by the President of the Republic; the President could ask the National Assembly to review its decision and the Assembly was obliged to comply with that request. If the Togoland Legislative Assembly considered the High Commissioner's arguments to be valid the text of the bill would be amended and the amended text would be promulgated. If the Assembly did not accept the amendment proposed by the High Commissioner the law would be passed as originally drafted and the High Commissioner could not refuse to promulgate it.

26. Mr. THORP (New Zealand) asked for further information concerning the functions of the High Commissioner under article 16 of the Statute. Since the Prime Minister and the Ministers were responsible to the Legislative Assembly he assumed that the High Commissioner did not participate in decisions which involved their responsibility to that organ.

27. MR. BARGUES (France) replied that the High Commissioner presided over the meetings and could take part in discussions, make suggestions or offer advice, but he was not entitled to vote.

28. MR. THORP (New Zealand) reserved the right to ask further questions when he had had time to study the report of the Referendum Administrator.

29. Mr. SEARS (United States of America) recalled that at the previous meeting the French representative had referred to the request of the French Government that the General Assembly should terminate the Trusteeship Agreement (T/1290) and had stated that the Administering Authority would also be obliged to terminate the controls it exercised in accordance with part X of the Statute of the Autonomous Republic of Togoland. Referring to article 39 of the Statute, he asked whether part of the Trusteeship Agreement was about to be suspended regardless of what action was taken by the General Assembly.

30. Mr. BARGUES (France) explained that since the Autonomous Republic of Togoland now exercised powers that had previously appertained to the Administering Authority France would no longer be in a position to fulfil its former obligations towards the United Nations under the International Trusteeship System. Some transitional provisions had been necessary to cover the interim period so as to enable the Administering Authority to discharge all its obligations until the Autonomous Republic of Togoland had actually come into being.

31. Mr. SEARS (United States of America) said he assumed that article 39 would remain in force until there was complete agreement between the General Assembly and the French Government concerning the termination of the Trusteeship Agreement.

32. He asked whether it was the view of the Administering Authority that the new Statute gave the Territory full self-government immediately or whether it provided for such full self-government only at a later date.

33. Mr. BARGUES (France) said that with the termination of the provisional trusteeship Togoland would become fully self-governing. Obviously self-government could be freely and fully exercised only when France no longer had any powers or obligations under the Trusteeship Agreement. After the termination of the transitional provisions France would exercise the powers defined in article 26 of the Statute. It would

therefore be in a position to report to the United Nations concerning the external affairs of Togoland, matters relating to currency and foreign exchange and the other questions enumerated in article 26, but it would not be in a position to supply information with regard to the health services, education or agriculture in Togoland if the Government of the Autonomous Republic of Togoland did not wish to supply such information.

34. Mr. SEARS (United States of America) asked whether, if the General Assembly were to agree to terminate the Trusteeship Agreement immediately, the French Government would consider that the Republic of Togoland was fully self-governing within the meaning of Article 76 b of the Charter.

35. Mr. BARGUES (France) replied in the affirmative.

36. Mr. LOOMES (Australia) said that he had not had time to study the report of the Referendum Administrator and would reserve the right, if necessary, to put further questions later. In the meantime, however, he would ask two questions concerning the powers of the Togoland Legislative Assembly in relation to the powers of the central organs of the French Republic.

37. Firstly, he wondered whether the powers of the French Republic under article 26 were concurrent with the powers to be exercised by the Togoland Assembly or whether they were exclusive.

38. Mr. BARGUES (France) replied that the general provisions concerning external affairs and defence, the currency and foreign exchange system and the other matters enumerated in article 26 would depend on laws to be adopted by the French Parliament. That

was why, at the express request of the representatives of Togoland, the Territory would continue to be represented in the French Parliament under the new Statute. The Togoland representatives had participated in the drafting of the Statute and had taken part in the voting on the *loi-cadre* of 23 June 1956. They would continue to vote in the French Parliament on general provisions which were applicable to Togoland under the terms of the Statute. It was equally essential that Togoland should be represented in the Assembly of the French Union, which dealt with all the problems that concerned the countries and the territories in the French Union. It was for that reason that such totally independent countries as Laos and Cambodia had representatives in the Assembly of the French Union.

39. Mr. LOOMES (Australia), drawing attention to article 37 of the Statute, asked whether it was intended that all the services referred to in article 27 would eventually be placed in the hands of the Togoland officials.

40. Mr. BARGUES (France) replied in the affirmative. The services enumerated in article 27 were services of the French Republic and were financed from the French budget; hence they would normally be in the hands of French officials. The French and Togoland Governments had, however, considered that Togoland should be associated in the management of those services and the Statute therefore provided for the participation of Togoland officials. That could only be done by agreement between the French Republic and the Autonomous Republic of Togoland and that was why specific provisions had been made to that effect.

The meeting rose at 12.30 p.m.