



TRUSTEESHIP COUNCIL

Seventh Special Session

OFFICIAL RECORDS

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President: Mr. John D. L. HOOD (Australia).

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: International Labour Organisation.

The future of Togoland under French administration: report of the United Nations Commission on Togoland under French Administration (General Assembly resolution 1046 (XI)) (T/1336 and Corr.1, Add.1, Add.1/Corr.1 and Add.2, T/L.808) (continued)

[Agenda item 2]

1. Mr. ZADOTTI (Italy) said that in its appraisal of the situation and its views on the United States draft resolution (T/L.808) his delegation would be guided by the three principles which it saw as the essence of the Trusteeship System and the only criteria for assessing the situation in a Trust Territory, namely, the responsibility and actions of the Administering Authority, the wishes of the population concerned, and the supervisory functions of the United Nations.
2. The documentation before the Council showed clearly that the Administering Authority had carried out its obligations most satisfactorily. Togoland under French administration was now enjoying a very large measure of autonomy, thanks to the Statute, which had been applied in a liberal way. What remained to be seen was how that autonomy could be enhanced in the future.
3. The Statute had been prepared in consultation with the representatives of the Togoland people and later approved by a general referendum conducted on the basis of universal suffrage. Furthermore, the initiative for future amendments to the Statute rested with the Togoland authorities. It was true that the final decision must be made by the French Government, but that was unavoidable as long as the Trusteeship Agreement was in operation: France and only France was now responsible to the United Nations and the French Government was therefore bound to retain certain powers, which could be surrendered only with the termination of the Trusteeship Agreement.

4. The Territory had reached a stage at which no further reforms could be introduced without a reconsideration of the responsibility devolving on the Administering Authority by virtue of the Trusteeship Agreement. In discharging its supervisory responsibilities, the United Nations must decide not only if further reforms were necessary but on what conditions such reforms were possible. The views of the Administering Authority and the people of Togoland on that point were known; it now lay with the United Nations to express its opinion. The draft resolution clearly defined the situation in the Territory and put the question to the United Nations for its decision. His delegation would therefore support it.

5. Mr. LOBANOV (Union of Soviet Socialist Republics) said that attempts had been made to concentrate the Council's attention on those remarks in the Commission's report (T/1336 and Corr.1, Add.1, Add.1/Corr.1 and Add.2) relating to the so-called broad interpretation and liberal application of the Statute. It was quite clear, however, that the Statute could not be considered an alternative to self-government or independence; even on the most liberal interpretation the Commission had seen it as only the beginning of "a trend of events ... which [made] inevitable a further broadening of the degree of autonomy achieved by Togoland towards its full autonomy" (para. 466). Thus the Commission confirmed the arguments which had persuaded the French delegation, at the eleventh session of the General Assembly, to withdraw its request for the immediate termination of the Trusteeship Agreement on the basis of the new Statute.

6. The report clearly indicated the many restrictions on the autonomy enjoyed by Togoland. Article 26 of the Statute, in particular, proved conclusively that there were no grounds whatever for terminating the Trusteeship Agreement on the basis of the existing situation: the reserved powers related not only to such matters as external affairs, defence, currency and the foreign exchange system, but also to the penal code, the criminal investigation code, the commercial code and administrative tribunals, the organization of justice, the system of public freedoms, the educational curricula and the labour code.

7. The French Government's statement at the 841st meeting that a further extension of the powers of the Togoland Government was under consideration would be of greater significance were it not for the proviso that the changes under discussion would be introduced only after the Trusteeship Agreement had been terminated. The French Government would appear to be putting the cart before the horse, for it was clear from the principles underlying the International Trusteeship System that a Territory must first attain independence or self-government and that only then could the Trusteeship Agreement come to an end. He hoped that the Administering Authority would review its position in that respect and negotiate and carry out

the further transfer of power to the Togoland Government within the framework of the Trusteeship Agreement.

8. The report raised a number of other important questions, first and foremost among which was the political tension prevailing in the Territory. The Commission rightly linked that tension to another important issue, namely, the need for immediate elections to the representative organs in Togoland on the basis of universal adult suffrage. The Council could not turn a blind eye to the Commission's conclusions in that respect. Such measures were defined in the Trusteeship Agreement; they could not be made conditional on requirements outside the Trusteeship Agreement, but ought, rather, to be adopted as part of the trusteeship programme.

9. The United States draft resolution was based on a one-sided and tendentious interpretation of the Commission's report and it was at variance with certain of the Commission's basic conclusions. Whereas the Commission had seen the new Statute as but a first step in the Territory's advancement to autonomy, the draft resolution aimed at bringing about the termination of the Trusteeship Agreement before the objectives of the Trusteeship System had been achieved. The statements made by various representatives in the Council made it clear that the vague wording of the draft resolution was, in fact, intended to prejudge the termination of the Trusteeship Agreement. In his view, as matters stood at present that would be contrary to the Charter; his delegation would therefore vote against the draft resolution.

10. Mr. THORP (New Zealand) said that the Commission's finding that the Administering Authority and the Government of Togoland had broadly interpreted and liberally applied the Statute did but fulfil the Council's expectations, based on its long association with the problems of the Territory and the French Government's handling of those problems.

11. He was ready to support the conclusion in paragraph 4 of the United States draft resolution. The General Assembly would expect to consider the future of Togoland under French administration, to give the Administering Authority and the Togoland Government the fullest opportunity to inform it of their views and proposals, and to seek a solution mutually satisfactory to the parties concerned. The draft resolution would bring the views of the Trusteeship Council to the Fourth Committee. As was only proper, it left the door completely open and would not prejudge any further discussion of the suggestions made by the Commission or by the French Government. Furthermore, the draft resolution conveyed information on the timing of new elections to the Legislative Assembly, a matter to which General Assembly resolution 1046 (XI) had attached considerable importance.

12. The Council's main responsibility was to further the hopes and aspirations of the people of Togoland, a purpose that was achieved by the draft resolution. Those hopes had been sustained by the Assembly's action in sending a Commission to the Territory and it would be most unfortunate if it were not now possible to achieve a large measure of agreement on transmitting the report to the General Assembly, whose forthcoming deliberations would be the focus of attention in Togoland. The Council should bear in mind that

General Assembly resolution 1046 (XI) had been conceived in a spirit of compromise and conciliation, in the best traditions of the United Nations. The Commission had acted in that spirit and the Council, in turn, should now respect it.

13. Mr. ROLZ BENNETT (Guatemala) said that the views of his delegation with regard to the political developments in Togoland during the past year had been presented at the nineteenth session of the Council (793rd meeting) and in the Fourth Committee (597th meeting) during the eleventh session of the General Assembly. He wished now merely to supplement his previous statements, in the light of the report of the Commission on Togoland and the statements of the representatives of the Governments of France and Togoland.

14. The Commission's report was objective in its presentation of facts and legal material and in its analysis; the Commission's suggestions were clear and unequivocal. It was noteworthy that the report had been adopted unanimously. His delegation was particularly pleased to see that the Commission's observations and suggestions coincided almost completely with the views expressed by his delegation at recent sessions of the Trusteeship Council and the General Assembly.

15. The Commission had spent approximately five weeks in the Territory, during which it had held many interviews with the Prime Minister, members of the Cabinet, members of the Legislative Assembly and other officials of the Togoland Government, and with the French High Commissioner; it had heard all those groups and associations which had expressed a desire to be heard, had attended the political meetings to which it had been invited and had travelled extensively throughout the Territory, establishing contact everywhere with the authorities and the people. It could therefore be assumed that the facts, observations and suggestions presented in the report were based both on voluminous documentation and on what the Commission itself had seen and heard in the Territory.

16. The Commission's main task, implicitly at least, had been to ascertain on the spot whether the Territory had in fact attained the objectives of the Trusteeship System by virtue of the enactment and implementation of the new Statute. The Commission's first group of observations and suggestions referred to the Statute and its application and could be summarized as follows. Firstly, the Togoland authorities exercised a large number of competences previously exercised by the French authorities; the Statute represented a very significant step in the achievement of the objectives of the Trusteeship System; it had been broadly interpreted and liberally applied and in consequence Togoland possessed a large measure of internal autonomy or self-government. Secondly, Togoland's autonomy was still subject to important restrictions by virtue of the fact that certain specific powers were still reserved to the central organs of the Administering Authority; in the Commission's view there was little doubt that the degree of autonomy already enjoyed must be further expanded until full autonomy was achieved; it considered that through the co-operation of all interested parties that would be attained through the progressive transfer of more of the powers not yet within the competence of the Government of Togoland. Thirdly, the agreement reached between the French and Togoland Governments with regard to the role of

the High Commissioner in the maintenance of public order should be embodied in the Statute itself; the Commission further suggested that the service of co-ordination should be transferred to the Togoland Government. Fourthly, the majority of the services of the ministries were still directed by European officials; the Togoland Government, however, had plans for placing Togoland in high posts in the civil service and for training Togoland for the various branches of administration. Fifthly, the Commission considered that the presence of the armed forces and gendarmerie under French control was a substantial potential limitation on the autonomy enjoyed by Togoland and it suggested that a provision requiring agreement between France and Togoland on the strength of those forces should be inserted in the Statute; such agreement appeared in practice to exist but it had no legal status. In brief, the Commission considered that the Statute constituted a step towards the objectives of the Trusteeship System but that it did not yet mark their achievement. A trend of events had been set in motion which made inevitable the final achievement of full self-government or independence.

17. It was to be noted from the Commission's second group of observations and suggestions that in their interpretations of the Statute the French and Togoland Governments differed with regard to the question whether Togoland could be considered an Associated State of the French Union under the terms of article 60 of the French Constitution. Throughout the debate on the Statute his delegation had expressed its concern lest the relations between the Administering Authority and the Togoland Government, amongst them the arrangement whereby some of the highest officials of the latter shared in the exercise of French sovereignty, might lead to the integration of the Territory into the French Republic or the French Union. His delegation could not and did not wish to contribute to the irrevocable determination of the future of any people, convinced as it was that communities not yet enjoying the complete exercise of their sovereignty inevitably aspired to independence or at least to a full measure of self-government. It was his firm conviction that the principles of the Charter should be applied to all such peoples so that future generations might not claim that the United Nations had neglected its sacred duty and that it had not safeguarded their inherent right to self-government and independence.

18. The implementation of the provision for holding elections on the basis of universal adult suffrage might go far to remove the political tension referred to in paragraphs 472 and 473 of the report. In that connexion it should be noted that Togoland was the only one of the Territories affected by the loi-cadre of 23 June 1956 in which such elections had not yet been held. That was true of both the Legislative Assembly and the municipal bodies; it might well be objected, therefore, that they did not actually and effectively represent present public opinion in Togoland. His delegation had, indeed, expressed the hope during previous discussions of the matter that such elections would be held before the Commission's arrival in the Territory. Now that the Commission itself had recommended the holding of elections and the representative of the Autonomous Republic of Togoland had stated at the 841st meeting that his Government was contemplating that step, it was to be hoped that a new and truly representative

Legislative Assembly would be brought into being in the near future.

19. The Commission's remarks on political freedoms were particularly important in relation to the question whether adequate provision would be made for the free expression of political opinion and the holding of meetings in all parts of the Territory, as also for the fair registration of the electorate, so that when elections were held their results could be interpreted as the true expression of the will of the majority. It was also not clear whether minority representation would be taken into account in the legislative provisions concerning elections; his delegation would appreciate further information from the Administering Authority in that regard.

20. If the Commission felt that the objectives of Article 76 of the Charter had not yet been attained in Togoland, it was logical for it to state - as it did in its suggestion in paragraph 482 of chapter V of the report - that when that goal was eventually reached the people of the Territory should be consulted with regard to their wishes for the future of their country. The General Assembly, as one of the parties to the Trusteeship Agreement, must give its consent to the manner in which such a consultation should be carried out, as well as participate in all stages of such consultation. That would be important to both Togoland and international public opinion.

21. The Guatemalan delegation had been pleased to note from the statement made by the representative of France at the 841st meeting that the Administering Authority contemplated the transfer of powers in three major fields, a development which would contribute to the achievement in the Territory of the objectives of the Trusteeship System in the future. Nevertheless, the statement that those and other changes could come about only after termination of the Trusteeship Agreement would seem to lead to an impasse, for before any such decision was taken certain members of the Council, including his own delegation, and presumably the General Assembly, would wish to consider whether the transfer of powers actually constituted achievement of the objectives of the Charter. That problem, however, was one which it should be possible to overcome without undue difficulty. The statement by the representative of the Togoland Government that it hoped elections could be held before 1960 was encouraging.

22. The draft resolution submitted by the United States delegation referred specifically to some of the Commission's suggestions but omitted others to which certain members of the Council attached great importance. His delegation would not therefore be able to vote in favour of it in its present form. He hoped, however, that it could be amended along the lines of certain comments which he would present later when its text was discussed in detail.

23. U THAN HLA (Burma) said that the Commission was to be congratulated on its report, which threw considerable light on the progress of Togoland towards the achievement of the objectives of the Trusteeship System. In particular, his delegation derived satisfaction from the Commission's observations that the Statute was being interpreted in a broad and liberal manner, that the Togoland ministries exercised a wide range of functions, that the Cabinet as a whole was

endeavouring to formulate broad policies for dealing with the problems which were within its competence and that the Legislative Assembly was exercising legislative powers with regard to the affairs proper to Togoland.

24. Nevertheless, substantial restrictions on the Territory's autonomy still existed. Firstly, while it was true that the Decree of 22 March 1957 had broadened the powers of the Togoland Government the powers reserved to the French Government were still considerable. Secondly, the presence of armed forces and gendarmerie under French control had the effect of limiting the Territory's autonomy. Thirdly, the fact that the French Government had the right to accept or reject any wish that might be expressed by the Legislative Assembly for the modification of the Statute meant that the people and Government of Togoland were not empowered to make their own decisions concerning their internal political organization or the nature of their association with France. His delegation felt, too, that the European officials who were in charge of many of the ministries should act in an advisory rather than an executive capacity until such time as Togoland was prepared to assume the full responsibilities of those posts. Similarly, his delegation supported the Commission's suggestion that the service of co-ordination and the civil service should be transferred to the Government of Togoland.

25. As far as the Legislative Assembly was concerned, it was important that new elections on the basis of universal adult suffrage should be held as soon as possible. Such a step would not only serve to implement the provisions of article 6 of the Statute but would also give expression to one of the fundamental principles of democracy. Furthermore, it would remove what the Commission considered to be one of the causes of dissatisfaction among the opposition parties and might thereby contribute to the easing of tension and the creation of a more favourable political atmosphere.

26. He hoped that the French Government would give the next session of the Council detailed written observations on the many points covered in the Commission's report. While the report left no doubt that important progress had been made towards the achievement of the objectives of Article 76 of the Charter, there was still much to be done before the Territory could be said to enjoy all the attributes of self-government. The French representative himself had said that the Statute did not represent the final stage of the relations between France and Togoland, which were still in the process of evolution. Until that evolution had been completed there could be no question of terminating the Trusteeship Agreement.

27. Sir Andrew COHEN (United Kingdom) said that the Commission's report contained a detailed analysis of the various constitutional and other problems which affected the solution of the question; that it gave the views of all concerned in great detail; and that it included concrete recommendations which should form a valuable basis for discussion by the United Nations.

28. In his valuable statement at the 841st meeting, the French representative had referred to the matter of future changes in the relationship between France and Togoland. Some delegations seemed to feel that such changes must of necessity be brought about before termination of the Trusteeship Agreement, whereas the

French Government's position was that the continuation of trusteeship was in itself the primary obstacle to the introduction of such changes. Since those changes related to the responsibilities of France as the Administering Authority it seemed to him that they must inevitably await termination of the Trusteeship Agreement. In any case, the important thing was to consider the two questions in relation to each other and he saw no reason why the United Nations should not take into account the changes which the French Government envisaged when considering the matter.

29. With regard to the mild expressions of concern voiced by certain delegations about the political tension which was said to exist in some areas, he would say that while violence and disturbance was to be deplored it must be recognized that a certain amount of liveliness and excitement in political discussion was an inevitable part of the democratic process in any free country.

30. His delegation would support the United States draft resolution, which it felt merited the support of all the members of the Council. He did not think that it required amendment in any way. Nearly every representative had spoken in the sense of paragraphs 1, 2 and 3. With regard to paragraph 4, he considered a general reference to the report as a whole to be more appropriate than an attempt to go into details concerning its various parts. In the last part of the paragraph, the word "action" and the words "a satisfactory solution in accordance with the Charter and the Trusteeship Agreement", were particularly appropriate. There was undoubtedly a question to be solved. A substantial majority had voted in favour of the termination of the trusteeship. Although the General Assembly had decided that further investigation was necessary, that vote was something substantial which required the United Nations to find a solution to various problems and to take action on them.

31. With regard to paragraph 5, since representatives from all parts of the Trusteeship Council were constantly speaking in favour of the principle of the early attainment of the objectives of the Trusteeship System, every member must surely support that paragraph as a general proposition, even the Soviet Union. The important phrase was "an appropriate procedure". The draft resolution left it to the General Assembly to determine what the appropriate procedure would be; no doubt there would be different views on the subject but he did not see how there could be any doubt that the General Assembly should set in motion an appropriate procedure.

32. It appeared to his delegation that in connexion with the subject under discussion there was no need for the members of the Council to divide themselves into Administering Authorities and non-administering Powers. It was the earnest hope of the United Kingdom delegation that that dividing line would disappear as far as possible in the deliberations of the Council. The draft resolution probably represented the highest common measure of likely agreement and he hoped the Trusteeship Council would be able to vote for it unanimously. He appealed in particular to the representative of Guatemala to accept the draft as the best that could be agreed upon.

33. Mr. KELLY (Australia) said that, although in some respects inconclusive, the report was objective and

comprehensive and was a document of great significance not only to the people of Togoland but to all the States Members of the United Nations.

34. Certain forms of international, or supranational, relations, if freely entered into, need not involve any lessening of the capacity of nations for self-government and might on occasion constitute expressions of real independence reflecting the ideals of the Charter. That principle seemed to be implicit, and indeed explicit, in the report of the Commission on Togoland. Clearly it prohibited any Administering Authority from placing any restriction on the right of the people to determine their own political regime and their own political future, and the Council was indebted to the representative of France for the assurance he had given on that point.

35. Equally that principle prohibited any Powers in the Council from placing restrictions on the right of the people of Togoland to attain self-government and independence, whether they did so in association with the French Union or with other States or without any form of association whatsoever. The Charter imposed a solemn obligation on Member States not to fetter the freely expressed wishes of the people of Togoland, whose aspirations alone could properly shape their future.

36. The USSR representative had adopted a unilateral and tendentious approach to the interpretation of Article 76 of the Charter and to the question of the political evolution of Togoland's people. The representative of Guatemala, on the other hand, had affirmed that his delegation did not wish to determine in advance the future of any people. The Australian delegation entirely concurred in that view and would therefore support the United States draft resolution.

37. Mr. JAIPAL (India) said that he would like an explanation of certain points in the draft resolution which appeared to him a little ambiguous.

38. He was not clear about the meaning of the phrase "liberally applying the Statute" in paragraph 2. If, as he supposed, it meant that the application of the Statute was in a liberal spirit, the word "broadly" should be sufficient.

39. With regard to paragraph 4, he would like to know where the intention of the Togoland Government to hold new elections before 1960 on the basis of direct universal suffrage for a new Legislative Assembly had been expressed and whether it was an unconditional declaration of intention. Furthermore, he would like to know who were the "other authorities" referred to in

the same paragraph. Unless they were external to the United Nations there was no need to refer to them, since they would obviously form part of the General Assembly. Article 85 of the Charter made it clear that the General Assembly was the only authority which exercised the functions of the United Nations with regard to the trusteeship agreements. The words in question therefore seemed to be redundant, or at any rate misleading. He would also like an explanation of the use of the word "solution" in the same paragraph, since it implied that there was a problem or dispute, which as far as he was aware was not the case.

40. Referring to paragraph 5, he asked whether the expression "in order to set in motion an appropriate procedure" was intended to suggest that the General Assembly should, in consultation with the Administering Authority, draw up a detailed plan for the attainment of the various stages on the road towards the final objective of self-government or independence.

41. Mr. SEARS (United States of America) explained that the sentence concerning the intention of the Togoland Government to hold a new election before 1960 had been inserted in view of the statement made at the 841st meeting by the representative of that Government.

42. The phrase "and the other authorities" in paragraph 4 referred to the authorities of the Togoland Government. His delegation did not regard the phrase as essential and would be willing to omit it if the Council so desired.

43. With regard to paragraph 5, the United States delegation felt that in view of the state of affairs prevailing in Africa the earliest possible attainment of the final objective of the Trusteeship System would be a stabilizing influence. It would therefore be reluctant to delete the relevant phrase from the draft resolution.

44. Mr. MUFTI (Syria) pointed out that there was a discrepancy between paragraph 4 of the draft resolution and the statement made at the 841st meeting by the representative of the Government of Togoland, who had said that the elections for the new Legislative Assembly would take place "at a date which events may permit us to decide upon" (T/PV.841, p.39).

45. The PRESIDENT requested the members of the Council to reserve specific comments on proposed amendments to the draft resolution until after the conclusion of the general debate.

The meeting rose at 12.45 p.m.