



TRUSTEESHIP COUNCIL

Twenty-fourth Session

OFFICIAL RECORDS

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President: Mr. Max H. DORSINVILLE (Haiti).

Present:

The representatives of the following States: Australia, Belgium, Burma, China, France, Haiti, India, Italy, New Zealand, Paraguay, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

The representatives of the following specialized agencies: International Labour Organisation; Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization.

Examination of conditions in the Trust Territory of Somaliland under Italian administration (continued):

- (i) Annual report of the Administering Authority for the year 1958 (T/1454, T/1471 and Add.1, T/1475, T/1476, T/1477, T/L.921);
- (ii) Petitions and communications raising general questions (T/COM.11/L.309 to 329, T/PET.GEN/L.2, T/PET.GEN/L.3, T/PET.11/L.28, T/PET.11/L.29 and Add.1, T/PET.11/L.30-41);
- (iii) Report of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration (T/1444)

[Agenda items 3 (f), 4 and 15]

At the invitation of the President, Mr. de Holte Castello (Colombia) and Mr. Baradi (Philippines), representatives of States members of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration, and Mr. Gasbarri, special representative of the Administering Authority for the Trust Territory, took places at the Council table.

1. Mr. de HOLTE CASTELLO (Colombia), member of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration, pointed out that in accordance with the Trusteeship

Agreement it was the duty of the Advisory Council to express its views on the Italian Government's plan for the transfer of powers. He accordingly requested that the Trusteeship Council should defer consideration of that point until it had heard those views which the Advisory Council would be able to give at a later meeting.

2. The PRESIDENT said that he thought the Council would indeed wish to hear the Advisory Council's views before discussing the matter.

3. Mr. BARADI (Philippines), Chairman of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration, explained that the Advisory Council would not be able to submit its observations until it had received certain clarifications which it expected the Administering Authority to provide very shortly.

QUESTIONS CONCERNING THE TRUST TERRITORY AND REPLIES OF THE REPRESENTATIVE AND SPECIAL REPRESENTATIVE OF THE ADMINISTERING AUTHORITY (continued)

Political advancement (continued)

4. Mr. EL-ZAYAT (United Arab Republic), referring to the supplementary information on the administration of Somaliland<sup>1/</sup>, asked in what way the new Maritime Code of Somaliland differed from other maritime codes, particularly the Italian Maritime Code.

5. Mr. GASBARRI (Special Representative) said that the sole difference was that only vessels of Italian nationality could be registered under the Italian Code whereas the Somali Code stipulated no condition of nationality, the only requirement being the payment of a fee, which varied according to the tonnage of the vessels in question. The legislators had thought that that would encourage the influx of foreign capital into Somaliland.

6. Mr. EL-ZAYAT (United Arab Republic) noted that the innovation of the "flag of convenience", which was not in conformity with either the general principles given in the Convention on the High Seas, adopted at Geneva in 1958 by the United Nations Conference on the Law of the Sea, or the positive law of the Administering Authority, was explained by the economic advantages which it would bring to the new State. He asked if it was still intended that the Press law which had been hastily drawn up during the previous year in order to meet the requirements of a particular situation should be completed and put into force before the termination of the Trusteeship Agreement.

<sup>1/</sup> Renseignements supplémentaires au rapport 1958 sur l'administration de tutelle de la Somalie concernant la période 1er janvier-31 mai 1959, Ministry of Foreign Affairs (Rome, Istituto Poligrafico dello Stato P. V., 1959). Transmitted to members of the Trusteeship Council by a note of the Secretary-General (T/1471/Add.1).

7. Mr. BASBARRI (Special Representative) replied in the affirmative but said that he was not in a position to give any further details.
8. Mr. EL-ZAYAT (United Arab Republic) said that he had wanted to be assured that during the last year of the trusteeship period the Administering Authority intended to ensure that fundamental laws in conformity with the United Nations Charter and the Universal Declaration of Human Rights would be put into effect.
9. U TIN MAUNG (Burma), taking up first the question of the general elections which had been held in Somaliland in March 1959, recalled that certain political parties had submitted to the United Nations Visiting Mission to Trust Territories in East Africa, 1957, a request that the United Nations should send observers to ensure the fair conduct of the elections (T/1344, para. 25). At the twenty-second session of the Council (929th meeting) the Burmese delegation had suggested the possibility of entrusting that supervisory task to the Advisory Council. He would like to know whether those suggestions had been taken into consideration by the Administering Authority or the Somali Government.
10. Mr. GASBARRI (Special Representative) replied that the question had been raised by some deputies in the Legislative Assembly but that it had not been the subject of a general discussion nor had it been put to the vote.
11. Mr. de HOLTE CASTELLO (Colombia) recalled that, as the Chairman of the Advisory Council himself had said, the Council had no authorization to supervise the elections.
12. U TIN MAUNG (Burma) noted that, according to the documents before the Council, the opposition parties had requested the Administering Authority and the Somali Government to extend by five days the time-limit for the presentation of lists of candidates but the Government had granted an extension of only three days. When a further extension had been requested the Advisory Council had suggested an additional five days, taking into account the distances and problems of communication involved, but the request had not been granted.
13. Mr. GASBARRI (Special Representative) explained that the Government had granted an initial extension of three days and six hours. When that extension had expired the opposition leaders had appealed to the Advisory Council to obtain a further extension of five days; until that time, however, their request had been for a twenty-five day extension. The Government had not found it possible to grant the new request for an extension, the first extension having already constituted a derogation of the law. It might perhaps have done so if those making the request had not waited until the last moment to ask for the extension.
14. U TIN MAUNG (Burma) asked whether the Administering Authority had contemplated making any changes in the electoral law with a view to ensuring wider participation by the inhabitants in future elections.
15. Mr. GASBARRI (Special Representative) said that it would be necessary first of all to take a census. He recalled some of the information he had given at the preceding meeting with regard to prospective changes in the electoral law.
16. U TIN MAUNG (Burma), referring to the question of municipal elections, asked whether women had stood for election at any place other than Mogadiscio. He would also like to know what categories of public servants were barred from standing for election in municipal bodies.
17. Mr. GASBARRI (Special Representative) replied to the first question in the negative but said that at Mogadiscio three parties had submitted lists which had included women. Magistrates, members of the armed forces, prefects, district commissioners and officials of regional, district and municipal bodies were not eligible for election as municipal councillors.
18. U TIN MAUNG (Burma) asked if the Administering Authority contemplated enacting, before the termination of the Trusteeship Agreement, the basic codes which had not yet the force of law.
19. Mr. GASBARRI (Special Representative) recalled that the Maritime Code and the Labour Code had already entered into force. As far as the civil and penal codes and the codes of civil and criminal procedure were concerned, the special committees to which they had been entrusted were hard at work upon them. He hoped that they could be enacted before the end of the period of trusteeship.
20. U TIN MAUNG (Burma), referring to paragraph 110 of the report of the Advisory Council (T/1444) asked if the rules of procedure of the Legislative Assembly stipulated the cases in which the Assembly must vote by secret ballot.
21. Mr. GASBARRI (Special Representative) explained that that question was covered by article 12 of Ordinance No. 2 of 5 January 1956: votes were normally taken by roll-call or by standing vote unless otherwise stipulated by law or unless one fifth of the members of the Assembly requested a secret vote.
22. Mr. JHA (India) said that he was anxious that Somaliland should possess all the necessary institutions when it acceded to independence in 1960. He asked why it was that the Political Committee had not yet begun to examine the draft Somali constitution which the Technical Committee had completed on 1 November 1958.
23. Mr. GASBARRI (Special Representative) said that, while the Technical Committee had been able to complete its task in one year, the Political Committee, which had had a great deal of work to do in connexion with the municipal elections, the general elections and the establishment of a new Legislative Assembly and a new Government, had not been able to advance so rapidly and that it was only now that it had sufficient time to devote to so important a question as that of the preparation of a constitution.
24. Mr. JHA (India) said he took it that consideration of the draft constitution would henceforward have priority in the Political Committee.
25. He asked if representatives of the opposition political parties sat on the Technical Committee. Pointing out that there was a large number of Italian members, he asked what their qualifications and functions were and whether they took part in all the Committee's decisions.
26. Mr. GASBARRI (Special Representative) said that the membership of the Technical Committee was as

follows: ten Italians (two professors from the Higher Institute for Law Economics and at Mogadiscio, three judges of the Court of Justice, the judge of the Court of Appeal, the Public Prosecutor, the Auditor-General, the State Attorney and the Chief of the Cabinet), ten Somalis (the Chief of the Cadis, two Cadis and seven Government officials), and two experts, appointed by the Advisory Council at Mogadiscio.

27. Mr. JHA (India) asked how the political parties were organized and, more particularly, how they maintained contact with the people in rural areas.

28. Mr. GASBARRI (Special Representative) said that the headquarters of all political parties were at Mogadiscio. Each party had a central committee and, in rural areas, local committees with which contact was maintained in the normal way, by post, by road and by camel.

29. Mr. JHA (India) asked what was the smallest unit of administration in rural areas.

30. Mr. GASBARRI (Special Representative) replied that the Territory was divided into six regions, each of which was headed by a prefect or governor and was in turn divided into districts and sub-districts. Page 153 of the annual report<sup>2/</sup> showed the area and population of each administrative unit. The population figures were estimates made in 1953. Contacts with the people from the towns and villages were frequent and easy, but it was far more difficult to establish contact with the nomads.

31. Mr. JHA (India) asked to what extent nomadism effectively impeded the taking of a census and the preparation of electoral registers. It was vital to a State on the verge of attaining its independence to carry out both those operations, which were not entirely unrelated, because its future political and economic life depended on them. He asked what was the percentage of the nomadic population in relation to the settled population and whether it was not possible for the local authorities to draw up lists of the nomadic population in the areas concerned with the help of tribal leaders.

32. Mr. GASBARRI (Special Representative) said that the figure of 42.9 per cent given under the heading "pasteurs" on page 154 of the annual report represented the nomadic population which had no farm or fixed abode. The semi-nomadic population of the Upper Giuba, which represented 28.1 per cent of the total population, lived on their own farms but left them twice a year to go to the Scebeli River. Those figures were taken from the 1953 estimates. Since 1953 a well-drilling programme had been instituted to encourage the settlement of the nomadic population. That objective had been achieved in the case of at least 10 per cent of the nomads and new villages had sprung up.

33. He agreed that no significant political, economic or social progress could be achieved without a census. Under Act No. 6 of 30 September 1956, census operations had been undertaken, which had proceeded satisfactorily in three regions, but in the Migiurtinia, Mudugh and Lower Giuba regions where the percentage

<sup>2/</sup> Rapport du Gouvernement italien à l'Assemblée générale des Nations Unies sur l'administration de tutelle de la Somalie, 1958, Ministry of Foreign Affairs (Rome, Istituto Poligrafico dello Stato P. V., 1959). Transmitted to members of the Trusteeship Council by a note of the Secretary-General (T/1471).

of the nomadic population was the highest, the results had proved unreliable. The municipal and general elections had made it impossible to resume the operations earlier according to modern methods, but the Government intended to complete them.

34. Mr. JHA (India) asked for information regarding the composition of the Political Committee after the recent general elections which had revealed a change in the orientation of the political parties.

35. Mr. GASBARRI (Special Representative) said that no change had so far been made in the membership of the Political Committee. There was, however, a larger number of ministers and under-secretaries. The political parties were not at present directly represented in the Political Committee, but its membership included the leaders and secretaries of all the parliamentary groups, including the opposition. There were three parliamentary groups: the Somali Youth League, the Liberal Somali Youth Party and the Hisbia Dastouri Mustaquil (Independent Constitutional Somali Party).

36. Mr. JHA (India) pointed out that some political parties were not represented in the Legislative Assembly, while others had only limited representation.

37. The Political Committee was being called upon to establish the constitutional and democratic bases of the future independent State and was in fact discharging the functions of a constituent assembly, for the draft constitution which it would submit to the Assembly would probably be adopted without any major change. If the Committee was to produce a text acceptable not only to the present Legislative Assembly but also to future Assemblies, its membership must include representatives of all political groups. He asked if the Administering Authority would be prepared to broaden the composition of the Political Committee in order to make it fully representative and to ensure that the future constitution would meet the wishes of the greatest possible number of the inhabitants.

38. Mr. GASBARRI (Special Representative) explained that only the leaders and secretaries of the political parties represented in the Legislative Assembly could be members of the Political Committee.

39. He thought that the Administration might be prepared to increase the number of members of the Political Committee, but that the question would have to be discussed with the Somali Government, the Legislative Assembly and all those concerned.

40. Mr. JHA (India) noted that in many respects the Electoral Law differed from the normal pattern of such laws in most democratic countries. He asked what procedure had been followed in drafting the Law and, in particular, whether the electoral laws of countries which had recently acceded to independence had been taken as a model. He also wished to know whether the political parties had been consulted.

41. Mr. GASBARRI (Special Representative) said that large numbers of electoral laws, particularly those of neighbouring countries and territories, had been studied and that the question as a whole had been discussed with representatives of all schools of political thought. Representatives of the opposition parties had been able to express their views during the discussion of the draft electoral law in the Legislative

Assembly. Any unusual features of the Law were due to the fact that it had not been possible to take a complete census in the Territory.

42. Mr. JHA (India) said he was glad to hear that the opposition political parties had been able to express their views. In view, however, of the unusual nature of some of the provisions of the Electoral Law, he thought it might be advisable to review the electoral procedure before the Territory acceded to independence, if that was possible.

43. He noted that under article 34 of the Law, electoral campaigning might begin thirty days before the date of the elections. He asked whether that meant that all electoral propaganda was forbidden more than thirty days before the date of the elections and whether there were any particular reasons for such a limitation.

44. Mr. GASBARRI (Special Representative) said that the Indian representative had correctly interpreted that provision, which had so far given rise to no objections. The same time-limit had been fixed for the electoral experiment in 1956.

45. Mr. JHA (India) observed that articles 34 and 35 of the Electoral Law placed restrictions on the exercise of civic rights. For instance, not more than two public meetings could be held on any one day in the same district. He asked the special representative for further information on the subject.

46. Mr. GASBARRI (Special Representative) replied that the restriction applied not to the district in the territorial sense of the term but to each locality, town or village. That provision had been adopted after lengthy discussions and had been based on experience of local conditions.

47. Mr. JHA (India) asked how the chairmen of polling offices, who seemed to have wide discretionary powers, were appointed.

48. Mr. GASBARRI (Special Representative) replied that they were selected from respected and well-known Somali citizens.

49. Mr. JHA (India) asked whether the Administration had ever considered the preparation of an electoral register. Would it not be possible to institute in the Territory, with the help of the local officers and perhaps of the tribal authorities, a system of voluntary registration of voters in combination with a system of registration by local officers?

50. Mr. GASBARRI (Special Representative) replied that the best solution would be to take a census and the Administration intended to do so as soon as possible.

51. Mr. JHA (India) wished to know to what extent the incidents of February 1958 had affected the participation in the elections of the Great Somalia League and the Somali National Union, whose branches had been closed by order of the Administration. The petitioners who had been heard by the Council had alleged that drastic action had been taken against the leaders of those parties in order to cripple their electoral activities. Could the special representative give any further information on that point?

52. Mr. GASBARRI (Special Representative) replied that the judicial authorities were investigating the incidents of February 1958. With regard to the allega-

tions made by the petitioners, he would refer the representative of India to the statement made on that subject at the previous meeting by the representative of Italy to the effect that both Mr. Vitelli and he would comment at a later date on the statements of the petitioners.

The meeting was suspended at 4.35 p.m. and resumed at 5.00 p.m.

53. Mr. JHA (India) noted that in paragraph 27 of its report, the Advisory Council stated that the census operations had been interrupted during the municipal and general elections in order not to cause further unrest among the electors. Could the special representative comment on that statement?

54. Mr. GASBARRI (Special Representative) said that the census operations had begun in January 1957, but had had to be discontinued because the Government had found that the figures for three of the six regions were unreliable. The Government had intended to resume the census in compliance with the recommendation made by the Trusteeship Council at its twenty-second session (A/3822, Vol. I, p. 38) but had thought it better to wait until the general and municipal elections were over, not so much to avoid increasing unrest, as because the census operations would have added to the inconvenience caused to the people by the elections.

55. Mr. JHA (India) noted that in paragraph 97 of its report the Advisory Council referred to a draft law, approved by the Legislative Assembly, which granted the Government extraordinary powers in the field of public security. The leaders of the opposition parties and the Advisory Council had objected to that draft law. Moreover, as the Advisory Council stated in paragraph 102 of its report, it had not been approved by the Administrator. The petitioners who had been granted hearings by the Council had, however, asserted that the law was in force. Could the special representative clarify that point?

56. Mr. GASBARRI (Special Representative) replied that the law had never come into force, because it had not been approved by the Administrator and had not, therefore, been promulgated.

57. Mr. JHA (India) asked the special representative whether, in the circumstances, the action taken against the leaders of some political parties had been under the ordinary criminal law and not under the law granting extraordinary powers to the Government.

58. Mr. GASBARRI (Special Representative) replied that was so.

59. Mr. JHA (India) noted that, according to the information supplied to the Trusteeship Council by the Administering Authority, of the total of ninety seats in the Legislative Assembly, the Somali Youth League had won eighty-three, the Hisbia Dastouri Mustaqbil five and the Liberal Somali Youth Party two. The President of the Hisbia Dastouri Mustaqbil had informed the Trusteeship Council (1014th meeting) that his Party had not participated in the elections and that the five persons elected on his Party's ticket were at that time no longer members of the Party. Could the special representative comment on that statement?

60. Mr. GASBARRI (Special Representative) said that he would prefer to do so later.

61. Mr. JHA (India) asked the special representative what measures had been taken by the Administration to prevent voters in the six districts where there had been no elections from going to vote elsewhere.

62. Mr. GASBARRI (Special Representative) replied that the best safeguard against illegal voting had been the presence at the polling stations of representatives of all parties, who were personally acquainted with most of the voters. The Ministry of Internal Affairs had also installed police checking posts, which had checked the identity of voters throughout the voting period, on the main roads.

63. Mr. JHA (India) asked the special representative how many voters had been allocated to each polling station. Had there been any allegations of impersonation or double voting?

64. Mr. GASBARRI (Special Representative) replied that the maximum number of voters for each polling station in the municipal elections had been 500 in municipalities with a population of up to 8,000 inhabitants and 400 in municipalities with 3,000 inhabitants or less. In the general elections, the maximum for each polling station had been 2,500. The only case of illegal voting discovered had been in the district of Lugh Ferrandi.

65. Mr. JHA (India) noted that the population of the Territory was about 1,300,000. If the proportion of adults was estimated at about 50 per cent, the number of voters in the Territory should be a little over 600,000. Even assuming a turnout as high as 80 per cent at the polls, the total number of voters in the Territory as a whole should not be more than 480,000. Elections had been held in only eleven of the thirty districts in the Territory, but the number of persons voting had been 313,753, which appeared, to say the least, rather unlikely. The situation reported in the districts of Villabruzzi and Uanle Uen seemed particularly disquieting, as the number of persons voting in those districts had been 67,000 and 25,000, respectively, whereas their population was 48,000 and 18,000 respectively. Could the special representative throw some light on those figures?

66. Mr. GASBARRI (Special Representative) replied that the situation in Villabruzzi and Uanle Uen to which the representative of India had referred was the subject of an investigation, which would take some time to complete. With regard to the number of persons voting in the eleven districts in which elections had taken place, it should not be forgotten that those districts were the most heavily populated.

67. Mr. JHA (India) asked the special representative whether he could tell the Council what progress had been made by the Somali Government in the execution of its programme to strengthen and develop the local government organs already in existence and to extend their powers and functions.

68. Mr. GASBARRI (Special Representative) recalled that in 1957 the Prime Minister of Somaliland had informed the Visiting Mission that he was considering the development of regional councils, but that the matter should be approached with caution (T/1344, para. 57). The purpose of the Government with regard to district councils was to develop them and to extend their powers. They were at present merely consultative bodies.

69. Mr. JHA (India) noted that in its report the Advisory Council had stated that its formal contacts with the members of the Somali Government and the Legislative Assembly had been frequent and made in a spirit of co-operation. Were those contacts made directly or through the Administrator?

70. Mr. GASBARRI (Special Representative) believed he could say that the contacts were direct and that the Administrator did not act as an intermediary between the Advisory Council and the members of the Somali Government and the Legislative Assembly.

71. Mr. JHA (India) asked the special representative whether there had been any repetition of the border incidents, to which the Council's attention had already been drawn.

72. Mr. GASBARRI (Special Representative) replied that there had been no further incidents in 1958, although some incidents had occurred on the Administrative Line in January 1958.

73. Mr. JHA (India) thanked the special representative. He reserved the right to ask further questions in connexion with the transfer of powers and the termination of trusteeship.

74. Mr. JEAN-LOUIS (Haiti), referring to a statement by the Administrator to the effect that the inhabitants of the Territory should be proud of their tribal traditions and that the Somali Government intended to perpetuate them, asked the special representative whether he could give the Council his opinion on the political influence of tribal traditions in Somaliland. Moreover, the petitioners whom the Council had heard had spoken of their dream of a "Great Somalia". Could the special representative say whether that aspiration was wide-spread both in the Territory and in British and French Somaliland and whether it was shared by the Somali Government?

75. Mr. GASBARRI (Special Representative) did not have the text of the statement mentioned. As soon as he obtained a copy, he would reply to the question. With regard to the Haitian representative's second question, he could of course speak only of what was happening in Somaliland under Italian administration. The Somali people undoubtedly cherished the idea of a Great Somalia and that idea was shared by the Somali Government.

The meeting rose at 5.55 p.m.