



TRUSTEESHIP COUNCIL
Twenty-seventh Session
OFFICIAL RECORDS

Wednesday, 5 July 1961,
 at 10.50 a.m.

NEW YORK

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President: U TIN MAUNG (Burma).

Present:

The representatives of the following States: Australia, Belgium, Bolivia, Burma, China, France, India, 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; United Nations Educational, Scientific and Cultural Organization.

Examination of conditions in the Trust Territory of Ruanda-Urundi (continued):

- (i) Annual report of the Administering Authority for the year 1959 (T/1552, T/1572; T/L.1013);
- (ii) Petitions and communications raising general questions (T/PET.3/L.40-45, L.46 and Add.1, L.47-53, L.54 and Add.1, L.55-122; T/COM.3/L.39-52)

[Agenda items 4 (a) and 5]

1. Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) gave further particulars with regard to a question asked by the USSR representative at the previous meeting: all the petitions and communications concerning Ruanda-Urundi which had been classified and circulated up to the end of April 1961 were listed in sections A, B and C of the annex to the Council's agenda (T/1559/Add.1). Since then seven further petitions (T/PET.3/L.133/Add.1, T/PET.3/L.136, T/PET.3/L.118-122) and three communications (T/COM.3/L.50-52) had been circulated, all in English and French with the exception of petition T/PET.3/L.120, which had been circulated in French, the original language; the English translation would be issued shortly.

2. No communications concerning Ruanda-Urundi or any other Trust Territory were awaiting classification and circulation.

At the invitation of the President, Mr. Coppens, special representative of the Administering Authority for the Trust Territory of Ruanda-Urundi, took a place at the Council table.

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

3. Mr. SALAMANCA (Bolivia) said that his delegation was anxious to know what steps had been taken by the Administering Authority to implement General Assembly resolution 1606 (XV), which related to land tenure and agrarian reform in Ruanda-Urundi. In particular he asked whether the Administering Authority, in compliance with operative paragraph 1 of the resolution, had requested the United Nations and the specialized agencies to dispatch an expert mission to study the problem of land tenure and land utilization in Ruanda-Urundi.

4. Mr. CLAEYS BOUUAERT (Belgium) explained that the customary law with regard to land in Ruanda-Urundi had come into being as a result of two main political, economic and social trends. Firstly, there was the custom generally known as "ubukonde", which still survived in the west and north-west of Burundi. That term applied to the rights of the chiefs of those clans which had originally cleared the land. The chiefs of certain Hutu clans had acquired land rights, either because they had been the first occupants or by purchase from the pygmies. Since the number of Hutu families had considerably increased since that time, the "ubukonde" land was more frequently let to tenants than occupied by the direct descendants of the original clans. The problem was becoming more complicated every year as a result of the increase in the population. It was necessary to reach an equitable definition of the respective rights of the tenants and the landowners and sometimes to settle conflicts between those whose rights were based on "ubukonde" law and those whose claims were based on the land laws subsequently introduced into the country by the Tutsi.

5. Tutsi custom was the second origin of land rights, and the more important since, except in a small part of the Territory, it had superseded the earlier usage. Tutsi law was the extension to the land of the principle of the supremacy of the cattle-owners and of the omnipotence of the King, to whom all the land and the herds belonged in the last analysis. Pages 105 to 108 of the annual report of the Administering Authority ^{1/} gave more ample information on the point.

6. Under constant pressure from the Belgian Administration ever since the era of the Mandate, Tutsi law

^{1/} Rapport soumis par le Gouvernement belge à l'Assemblée générale des Nations Unies au sujet de l'administration du Ruanda-Urundi pendant l'année 1959 (Brussels, Imprimerie Fr. Van Muysewinkel, 1960). Transmitted to members of the Trusteeship Council by a note of the Secretary-General (T/1552).

had gradually changed and the rights of the Hutu farmers over their land had been secured.

7. With reference to General Assembly resolution 1606 (XV), he said that the Belgian Government was most anxious to contribute to a fair and orderly adjustment of land rights and to that end to benefit by the co-operation of the specialized agencies. It was, however, obvious that certain political questions must be settled before a group of experts could usefully take up the study of problems of land tenure and land utilization. The resolution itself specified that the study should be carried out in co-operation with the local authorities; hence the local authorities must first be set up and their authority must be established. Moreover, it would be difficult for an expert mission to do useful work at a time when two other missions, accompanied by a large number of Secretariat officials, were in the Territory and were monopolizing the attention of the indigenous inhabitants and of the Administration in connexion with the solution of entirely different problems. It was for that reason that the Belgian Government had not yet requested the United Nations to dispatch the mission referred to in operative paragraph 1 of the resolution. It would do so as soon as circumstances were propitious.

8. Mr. SALAMANCA (Bolivia) said that he was unable to understand how the resolution could be implemented. According to the representative of the Administering Authority, the technical assistance programme could not be started until the local authorities had been set up. In his view, however, the Administering Authority was under an obligation to promote economic and social development of the Territory while respecting its particular circumstances. It was for the Administering Authority to take action to abolish the feudal system which existed in the Territory. The resolution did not state that the study of land tenure and agrarian reform should precede the constitution of the Government. The intention of the resolution had been to request the Administering Authority to study the problem, together with the United Nations, and to find technical means of solving it. In his opinion it was not necessary to have the agreement of the political authorities in Ruanda-Urundi before undertaking such a purely technical study.

9. Mr. CLAEYS BOUUAERT (Belgium) replied that there would be two stages: a preliminary stage of study and later the stage of carrying out the experts' recommendations. He had already explained that even at the preliminary stage, since the study would have to be made in co-operation with the local authorities, certain prior political decisions would have to be taken. As matters stood at present, an expert mission arriving in the Territory would not obtain the co-operation it needed, since the attention of all those whose co-operation it should have been concentrated on the examination and solution of political problems. There was no doubt that at a later date an expert mission would be able to be of great service to the Territory.

10. The second stage, that of putting the expert mission's conclusions into effect, would be a matter for the representative authorities of independent Ruanda-Urundi.

11. It would be unwise to jeopardize the results of the proposed study by undertaking the examination of the question at a time when conditions were unfavourable. The problems of land tenure were long-term

problems. The expert mission would certainly have the opportunity to do useful work both before and after the achievement of self-government by Ruanda-Urundi.

12. Mr. SALAMANCA (Bolivia) said that if there were resistance in the Territory to the implementation of the General Assembly resolution, the resolution would lose its value. He felt sure that the General Assembly had expected the Administering Authority to take immediate action. He asked when the Administering Authority considered that it would be possible to implement the resolution.

13. Mr. CLAEYS BOUUAERT (Belgium) said he had not intended to give the impression that there would be any resistance in the Territory to the arrival of the expert mission. His concern was simply that the mission should undertake its work at the most favourable time. While it was impossible to name an exact date, he thought that that time would come shortly after the establishment of indigenous local governments.

14. Mr. SALAMANCA (Bolivia) said that if the problem of land reform were left open until the political constitution of the Territory had been established, the Territory would be deprived of the co-operation of the Trusteeship Council and the General Assembly, as also of that of the Administering Authority. In his view the problem of agrarian reform should be settled before the achievement of independence. The majority of petitioners at the fifteenth session of the General Assembly had stressed the crucial importance of the question. It was to be hoped that the Administering Authority would use its influence to obtain a settlement in good time.

15. Mr. OBEREMKO (Union of Soviet Socialist Republics), referring to operative paragraph 6 of General Assembly resolution 1605 (XV), asked when the legislative elections were to be held.

16. Mr. CLAEYS BOUUAERT (Belgium) said that the matter was being studied jointly by the Administering Authority and the United Nations Commission for Ruanda-Urundi. As far as he was aware no date for the elections had yet been fixed.

17. Mr. OBEREMKO (Union of Soviet Socialist Republics) asked what steps the Administering Authority had taken to implement operative paragraph 4 of the resolution, which stated that broad-based caretaker governments should be constituted immediately in both parts of the Trust Territory.

18. Mr. CLAEYS BOUUAERT (Belgium) said that the Administering Authority had invited the various political parties to meet to consider the implementation of that paragraph. Meetings had been held and he thought were still continuing. It had always been the intention of the Administering Authority to establish provisional governments on as broad a basis as possible. The fact that such efforts had not been successful, at least in Rwanda, was due to the uncompromising attitude of certain parties, which preferred to remain in opposition rather than to co-operate in a government of union. The Administering Authority could not force the parties to agree.

19. Mr. OBEREMKO (Union of Soviet Socialist Republics) said that it was still not clear whether the Administering Authority had taken any steps to implement paragraph 4 of the resolution.

20. Mr. CLAEYS BOUUAERT (Belgium) replied that the Administering Authority had taken immediate and positive steps to comply with the wishes expressed by the General Assembly in paragraph 4 of the resolution. Those steps had consisted in bringing together the representatives of the various parties, explaining the situation to them and requesting them to proceed to the constitution of broad-based caretaker governments. At the stage which had been reached, when the Territory was rapidly approaching independence, it was not for the Administering Authority to impose a government of its choice on the indigenous inhabitants.

21. Mr. OBEREMKO (Union of Soviet Socialist Republics) observed that puppet governments had already been set up in the Territory, as various petitioners had informed the General Assembly. There was no question now of imposing anything on the indigenous population but rather of implementing the General Assembly resolution, the object of which was to eliminate the puppet governments set up by the Administering Authority.

22. His delegation wished to know whether broad-based caretaker governments had been set up; if so, he would like to have particulars of the relevant decrees.

23. Mr. CLAEYS BOUUAERT (Belgium) formally denied the USSR representative's assertion that the Administering Authority had set up puppet governments. The provisional Governments in Ruanda-Urundi had been established, not by the Administering Authority but by the elected bodies which represented the people of the Territory. Those Governments had appeared before the provisional Legislative Assemblies and had obtained votes of confidence. They had not been, nor would any future government be, set up by a decree of the Administering Authority.

24. Mr. OBEREMKO (Union of Soviet Socialist Republics) pointed out that the texts of the legislative orders setting up the provisional Governments were annexed to the interim report of the United Nations Commission for Ruanda-Urundi (A/4706/Add.1).

25. He asked whether any legislative measures had been taken by the Administering Authority to broaden the Governments, in accordance with the General Assembly resolution.

26. Mr. CLAEYS BOUUAERT (Belgium) reiterated that the Governments of Rwanda and Burundi had not been set up by a decree of the Administering Authority. The Administering Authority had no intention of promulgating decrees setting up governments of its choice.

27. Mr. OBEREMKO (Union of Soviet Socialist Republics) said that he would make his comments on the point at the appropriate time. For the time being he would merely state that the Administering Authority had taken no steps to implement the General Assembly resolution.

28. He asked whether the Administering Authority had implemented paragraph 14 of General Assembly resolution 1605 (XV), which called upon it to rescind Legislative Order No. 221/296.

29. Mr. CLAEYS BOUUAERT (Belgium) emphasized that it was not correct to say that the Administering Authority had done nothing to implement paragraph 4 of the General Assembly resolution. He had informed the Trusteeship Council, at its 1160th meeting, of all

the steps taken by the Administering Authority in that respect.

30. With regard to paragraph 14 of the resolution, he had explained to the Fourth Committee that it was impossible simply to rescind Legislative Order No. 221/296, since to do so would deprive the Administering Authority of all its rights under the Trusteeship Agreement and would be inconsistent with operative paragraph 3 of the resolution.

31. A legislative order which would supersede Order No. 221/296 and would comply with the wishes of the General Assembly had been drafted and was being discussed by the Administering Authority and the United Nations Commission in the Territory.

32. Mr. OBEREMKO (Union of Soviet Socialist Republics) said that he utterly disagreed with the Belgian representative's interpretation of General Assembly resolution 1605 (XV). There was no contradiction between operative paragraphs 3 and 14 since they dealt with two completely different topics: the former called upon the Administering Authority, and the latter requested it to rescind Legislative Order No. 221/296, which gave it dictatorial powers at variance with the Trusteeship Agreement. He would like to know whether Belgium intended to rescind that Order in its entirety or whether some of its provisions would be embodied in a new order.

33. Mr. CLAEYS BOUUAERT (Belgium) replied that Legislative Order 221/296 of 25 October 1960 had been based on the Administering Authority's rights and powers under the Charter and the Trusteeship Agreement. Although a decision to rescind it had now been taken, some of its provisions would have to be embodied in a new text which, while meeting the wishes expressed in operative paragraph 14 of General Assembly resolution 1605 (XV), would allow the Administration to retain the powers it required in order to carry out the task entrusted to it under the Trusteeship Agreement.

34. Mr. OBEREMKO (Union of Soviet Socialist Republics) said that he was surprised to hear the Belgian representative assert that the Legislative Order of 25 October 1960 had been based on the powers and responsibilities conferred upon the Administering Authority under the Charter and the Trusteeship Agreement. The absolute majority of the members of the General Assembly who had called upon the Administering Authority to rescind that Legislative Order obviously did not share that view. The General Assembly having taken that decision, he was entitled to ask what steps had been taken to rescind the Order.

35. Mr. CLAEYS BOUUAERT (Belgium) said that the legislative action taken by the Administering Authority to maintain law and order in the Territory was based on articles 4 and 5 of the Trusteeship Agreement. The reason why the steps now envisaged by the Administering Authority had not yet been made public was that discussions were still in progress with the United Nations Commission in the Trust Territory; their effect would be to reinforce the guarantees of public freedom and the safeguards against arbitrary arrest and exile.

36. Mr. OBEREMKO (Union of Soviet Socialist Republics) asked what steps had been taken by the Administering Authority to ensure freedom of action for all political parties in the Trust Territory. He would

like to know whether parties such as the Union nationale ruandaise (UNAR) enjoyed freedom of action and whether the UNAR leaders were now in the Trust Territory or in exile.

37. Mr. CLAEYS BOUUAERT (Belgium) replied that all political parties, including UNAR, enjoyed complete freedom of action in the Trust Territory. The Administering Authority had never taken any steps directed against the activity of any political party or parties. The reason why members of certain parties had chosen to go abroad was that they wished to escape proceedings under the Penal Code.

38. Mr. OBEREMKO (Union of Soviet Socialist Republics) expressed surprise at the Belgian representative's reply. He asked where Mr. Rwagasana was and what criminal charges were pending against him and other UNAR leaders.

39. Mr. CLAEYS BOUUAERT (Belgium) replied that he could give the Council no information about Mr. Rwagasana's present whereabouts. He did not know the nature of the charges, if any, pending against him.

40. In reply to a further question from Mr. OBEREMKO (Union of Soviet Socialist Republics), Mr. COPPENS (Special Representative) said that he could not give the Council any additional information on the subject of Mr. Rwagasana.

41. Mr. OBEREMKO (Union of Soviet Socialist Republics) asked the Belgian representative how many persons had been released under the Ordinance of 31 May 1961 and how many were still in prison. Since the General Assembly had resolved that the implementation of all the amnesty measures was to be completed not later than two months before the national elections, he felt that the Administering Authority should already be in possession of exact figures.

42. Mr. CLAEYS BOUUAERT (Belgium) replied that the Belgian Political Amnesty Commission consisting of Belgian judges had examined the cases of approximately 1,500 persons and had found that some 1,300 of them came within the scope of the Order of 31 May 1961; steps were being taken to release such of them as were in prison and to withdraw proceedings against those who were in hiding or abroad. Lists of persons in the two categories were published at regular intervals. There remained some 132 cases of persons accused of particularly serious crimes such as murder, torture or arson resulting in death. Those cases which did not come under the amnesty Ordinance were being examined by the United Nations Special Commission. It was the intention of the Administering Authority, after it had heard the Commission's views, to grant a pardon on an individual basis to the persons concerned, in so far as that was compatible with the maintenance of law and order.

43. Mr. OBEREMKO (Union of Soviet Socialist Republics) pointed out that the Ordinance of 31 May 1961 was not a measure of full and unconditional amnesty such as had been requested by the General Assembly.

44. Furthermore, he found it hard to reconcile the Administering Authority's statement in the Fourth Committee that there were only a few cases of persons guilty of very grave crimes with the information now given by the Belgian representative that there were some 132 such cases. He would like to know when they

would be considered by the Special Commission established under the terms of operative paragraph 9 (b) of General Assembly resolution 1605 (XV).

45. Mr. CLAEYS BOUUAERT (Belgium) stressed that the measures enacted by the Administering Authority did indeed represent a complete amnesty in that they applied to all political offences, as well as to ordinary law offences where the motives and aims had been political in character. It was only certain very serious crimes that were not covered by the amnesty. Moreover, it was an unconditional amnesty, for no political or administrative conditions were being imposed on the beneficiaries. The authorities had, indeed, gone so far as to suspend for one year the enforcement of any imprisonment orders arising out of civil proceedings. The amnesty measures went into effect as soon as the Belgian Commission completed the study of each case. Some 154 cases, which had been classified as very serious, were being examined by the United Nations Special Commission.

46. Mr. OBEREMKO (Union of Soviet Socialist Republics) said that he had been baffled by the conflicting figures quoted by the Belgian representative. He would therefore like him to provide the Council at its following meeting with information indicating how many persons had been imprisoned, how many were in exile, how many had been released under the amnesty Ordinance and how many cases had not yet been reviewed by the Belgian Commission. He also wished to know how many of the cases reviewed by that Commission did not come under the amnesty Ordinance and how many had been referred to the United Nations Special Commission.

47. With regard to operative paragraph 15 of General Assembly resolution 1605 (XV), he asked what steps had already been taken by the Administering Authority and what, if any, were contemplated in order to ensure the unity of the Trust Territory and the establishment of a single independent State of Ruanda-Urundi.

48. Mr. CLAEYS BOUUAERT (Belgium) said that the Administering Authority fully shared the view that the future of Ruanda-Urundi would be more secure if the important and close links between the two States ("pays") were preserved. As he had already said, however, both in the Fourth Committee and at earlier sessions of the Trusteeship Council, such a union should be based on the freely expressed wishes of the people.

49. Mr. OBEREMKO (Union of Soviet Socialist Republics) said that he would draw the necessary conclusions from the Belgian representative's failure to supply a definite answer to his question. In the meantime, he would draw his attention to the fact that his Government had issued a number of decrees establishing separate provisional Governments in both Rwanda and Burundi. It was to be regretted that the Administering Authority had failed to implement the General Assembly's recommendation immediately, by enacting appropriate legislation, and that it was now trying to gloss over that failure.

50. Mr. CLAEYS BOUUAERT (Belgium) remarked that legislation enacted by the Administering Authority provided the framework for provisional Governments which emanated from the people themselves. The recognition of the composition of such provisional Governments was a purely administrative measure and was not a legislative enactment.

51. Mr. RASGOTRA (India) asked the Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories whether the Council would be given any information concerning the report to the effect that the Administering Authority had approached the Secretary-General with a request for technical or financial assistance, including the dispatch of a technical team to the Trust Territory. In 1960 no information had been given either on the composition of the team or on its operations, the scope of its work or

the kind of assistance, if any, furnished by United Nations sources, including those at the Secretary-General's disposal.

52. Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) said that he would give the Council information on the subject at a later meeting.

The meeting rose at 12.25 p.m.