

FOURTH COMMITTEE

SUB-COMMITTEE 1: TRUSTEESHIP

SUMMARY RECORD OF THE THIRTY-THIRD MEETING

Lake Success, New York

Thursday, 16 October 1947, at 11:00 a.m.

Chairman: Mr. Awni KHALIDY (Iraq)Rapporteur: Mr. SISSOKO (France)

CONTINUATION OF CONSIDERATION OF THE PROPOSED TRUSTEESHIP AGREEMENT FOR THE MANDATED TERRITORY OF NAURU, SUBMITTED BY THE GOVERNMENT OF AUSTRALIA, NEW ZEALAND AND THE UNITED KINGDOM (documents A/402, A/C.4/101, A/C.4/102 A/C.4/SC.1/111, A/C.4/SC.1/111/Corr.1 and A/C.4/SC.1/112).

The CHAIRMAN invited comments on Article 7 of the draft agreement and observed that the Sub-Committee had still to consider the modifications proposed by the representatives of China and of the Soviet Union as well as an additional article proposed by the representative of China.

Mr. EVATT (Australia) said that after consultation with the delegations of New Zealand and the United Kingdom which had jointly presented the draft Trusteeship Agreement for Nauru he was prepared to add at the beginning of Article 7 the following words: "In order to discharge its duties under Article 84 of the Charter and Article 4 of the present agreement..." This formula would cover the point raised by the representative of China at the previous meeting.

Mr. CHENG (China) observed that in view of the modification proposed by the representative of Australia he would not press his proposed modification to Article 7.

The CHAIRMAN announced that before putting the new text of Article 7 with the Australian modification as accepted by the Chinese delegation to the vote, he would put to the vote the suggested revised text of Article 7 proposed by the representative of the Soviet Union.

Mr. STEIN (Union of Soviet Socialist Republics) pointed out that in his view the revision of Article 7 proposed by the representative of Australia did

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not add anything new, although at the same time it was useful. The representative of Australia had declared that the revised modification of Article 7 proposed by the Soviet Union was unacceptable. Although he did not insist on a vote being taken, he would like to know the opinion of the Sub-Committee on the revised modification.

Mr. RIBNIKAR (Yugoslavia) said that although it was very significant and characteristic that a majority could always be found in the Fourth Committee for the view that the Trusteeship System was better than the colonial system, yet no majority could be obtained for improving the texts of the draft agreements. He noted that there was a general desire to see the Trusteeship System extended, but at the same time no effort had been made to increase the effectiveness of the Trusteeship System itself which was dependent mostly on the provisions of the agreement. He wondered if that was not designed to hide an intention, namely, merely to change the name of the colonial system. He asked the Sub-Committee to approve the proposed modification of the Soviet Union as proof of a desire to improve the Trusteeship System which marked a considerable advance over the colonial system.

Mr. SISOOKO (France) denied that any superiority could be attributed to the Trusteeship System over the colonial system. He cited the examples of the French territories which had joined the French union as "departments", and said that in the present French colonial system there was no such exploitation in favour of the metropolitan country as was assumed by the opponents of the colonial system. The colonial system in its old connotation no longer existed. Colonization was a historical fact and pointed to development ultimately leading to autonomy.

The CHAIRMAN appealed to the members of the Sub-Committee to confine their comments to the proposed Soviet Union modification to Article 7.

Mr. EVATT (Australia) said that his delegation had not found it possible to accept the modification proposed by the Soviet Union because it was limited to two objectives: local defence and the maintenance of law and order. The Charter imposed on the administering authority the duty of ensuring that the Territory would play its role in the maintenance of international peace and security. Reference to that duty should be made in the Trusteeship Agreement.

Mr. STEIN (Union of Soviet Socialist Republics) said that his delegation did not wish it to be assumed that they denied the existence of obligations on the part of the administering authorities concerning the role of Trust Territories in the maintenance of international peace and security. What he intended to point out was the difference between normal military measures and strategic measures falling within the provisions of Article 83 of the Charter.

Article 7 of the draft Agreement in its present form was unacceptable to the delegation of the Soviet Union because it would amount to eliminating the difference between the Trust Territory and the territory of the metropolitan power. His proposed modification aimed at making that difference very clear and was, moreover, identical to the amendments that the Soviet Union delegation had proposed last year with regard to similar articles in the other agreements. The text of Article 7 was a deviation from the provision of the Charter and he would vote against it, although he had nothing in particular against the Chinese amendment.

Mr. SAYRE (United States of America) moved that the debate be closed.

Mr. NORIEGA (Mexico) stated that the approval of Article 7 as amended by the Australian delegation should not be interpreted as a recognition that the Trust Territories formed part of the metropolitan territories.

A vote was taken on the proposed modification of the Soviet Union to Article 7 of the draft Trusteeship Agreement.

The modification was rejected by six votes to two, with four abstentions.

Mr. CHENG (China) stated that he would vote in favour of Article 7, as revised by the representative of Australia, because it had been explained that Nauru was a non-strategic territory and because Mr. Evatt had taken into account the point he had raised at the previous meeting.

Mr. STEIN (Union of Soviet Socialist Republics) announced that he would vote against the revised text since the Chinese suggestion, although somewhat clarifying Article 7, did not solve the problem raised by his two proposed modifications, both of which had been rejected.

A vote was taken on Article 7, as revised by the delegation of Australia.

The article was approved by nine votes to two, with one abstention.

Mr. EVATT (Australia) stated that in response to the request of the representative of India for clarification of Article 4 and the additional article proposed by the representative of China, he would like a statement of the Australian delegation to be included in the Minutes of the Sub-Committee. He observed that in the interest of the Nauruans, the administering authority had to institute special controls which might discriminate against all non-Nauruans in favour of the indigenous people.

Mr. CHENG (China) expressed satisfaction at the decision of the representative of Australia to include in the official records of the Sub-Committee a statement which endorsed and clarified the modification which he had proposed. He suggested however that the statement, in order to provide adequately for his modification, should also include the text of that modification.

/Mr. EVATT

Mr. EVATT (Australia) agreed with the representative of China and thought that his proposed modification might be attached as a foot-note to the Australian statement. He requested that the following statement be included in the Minutes of the Sub-Committee:

"In reply to questions raised by the delegations of India and China, the Australian delegation affirms that Article 76 (d) of the Charter is accepted by the delegations of Australia, New Zealand and the United Kingdom as a binding obligation in relation to the Trusteeship agreement for Nauru, it being also noted that in accordance with the terms of Article 76 (d) the welfare of the inhabitants of Nauru is the paramount consideration and obligation.

"The Administration does not discriminate between the nationals of States Members of the United Nations in regard to the matters referred to in document A/C.4/SC.1/111.*

"It is the intention of the Administering Authority to continue to conduct the Administration accordingly.

"It is recognized that in the paramount interests of the Native inhabitants the Administering Authority is obliged to maintain appropriate controls and restrictions on non-Nauruan residents of Nauru."

Mr. STEIN (Union of Soviet Socialist Republics) said that he could not understand the point of the Sub-Committee's discussion. He felt that the last paragraph of the Australian statement which was intended to meet the point raised by the representative of China, was, in fact, contrary to the proposal made by that delegation.

Mr. CHENG (China) considered the statement made by the representative of Australia satisfactory because the discriminatory measures which it envisaged would apply equally to all non-Nauruan residents in Nauru.

* The matters referred to were contained in the following modification proposed by the delegation of China:

2. Add the following article:

"The Administering Authority shall secure to all nationals of States Members of the United Nations the same rights as are enjoyed in the territory by their own nationals in respect of entry into, travel and residence in the territory, the protection afforded to their person and property, the acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with local law."

/Raja Sir Maharaj SINGH

Raja Sir Maharaj SINGH (India) wished to be assured that the last paragraph of the Australian statement was intended to refer to all non-Nauruans. He proposed that the addition of the words "without any discrimination in respect to race" might remove all doubts.

Mr. EVATT (Australia) explained that the text made it clear that all members of the United Nations and their nationals would be entitled to equal treatment. He observed that the protection of the interests of the indigenous peoples included the preservation of tribal life and that measures which might be taken to secure that end would affect all non-Nauruans without any discrimination. The text of the statement was self-explanatory and he did not consider essential the addition proposed by the representative of India.

Mr. NORIEGA (Mexico) proposed the addition of a phrase which would ensure that the controls and restrictions which the administering authority might institute would in no way be derogatory or prejudicial to non-Nauruans.

Mr. EVATT (Australia) preferred to leave the text of the statement unaltered but was prepared to consider modifications which might be submitted when the proposed agreement came before the Fourth Committee for consideration. He observed that the restrictions envisaged by the administering authority would discriminate in favour of the Nauruans but against all non-Nauruans without any distinction.

Mr. STEIN (Union of Soviet Socialist Republics) wondered whether the Sub-Committee was following the correct procedure. The modification proposed by the representative of China had either to be withdrawn or voted upon. The Committee had done neither, but had proceeded to discuss a unilateral declaration which the Australian delegation had asked should be inserted in the Minutes of the Sub-Committee.

The modification proposed by the representative of China was in conformity with the provisions of the Charter, and for that reason, the Metropolitan powers had not been able to demand its rejection; but an attempt was being made to by-pass it by inserting a statement in the official records instead of adopting the modification proposed.

Mr. NORIEGA (Mexico) remarked that the statement which the representative of Australia had proposed for insertion in the official records would be useful for the interpretation of the agreement in the future.

Mr. CHENG (China) stated that he did not intend to withdraw the modification which he had proposed but would not insist on a vote being taken on it because the representative of Australia had agreed to attach the

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modification as a footnote to the Australian statement.

The CHAIRMAN wondered how the Committee would interpret the decision of the representative of China. He felt that the motion had either to be withdrawn or voted upon.

Mr. STEIN (Union of Soviet Socialist Republics) suggested that the situation created by the decision taken by the representative of China might be interpreted to mean that the representative of China had withdrawn his modification on the condition that it would be set forth in the official records as part of the Australian declaration.

Mr. CHENG (China) accepted the interpretations of the Chairman and the representative of the Soviet Union.

The Trusteeship Agreement for Nauru (document A/402) including Article 7 as modified was approved by nine votes to two, with one abstention.

The meeting rose at 1:10 p.m.
