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STANDING COMMITTEE ON PETITIONS

First session

SUMMARY RECORD OF THE SIXTH MEETING

Held at Headquarters, New York
on Friday, 28 March 1952, at 10.30 a.m.

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<u>Chairmen:</u>	Mr. PEACHEY	Australia
<u>Members:</u>	Mr. YANG	China
	Mr. EQUIZABAL	El Salvador
	Mr. SCOTT	New Zealand
	Mr. SOLDATOV	Union of Soviet Socialist Republics
	Mr. CARGO	United States of America
<u>Also present:</u>	Mr. SCHEYVEN	Special representative of the Administering Authority for the Trust Territory of Ruanda-Urundi
	Mr. RYCKMANS	Belgium

Secretariat: Mr. AMMAR

Secretary of the Committee

EXAMINATION OF PETITIONS CONCERNING TANGANYIKA: DRAFT SECOND REPORT OF THE
STANDING COMMITTEE ON PETITIONS (T/C.2/L.8)

The CHAIRMAN said that he had asked the Special Representative of the Administering Authority for the Trust Territory of Tanganyika to participate in the discussion, but the latter had informed him that he had no observations to make.

Draft resolution I: petition from Mr. S.A. Athman (T/PET.2/100)

In reply to a comment by Mr. SCOTT (New Zealand) regarding paragraph 2 of the operative part of the draft resolution, the CHAIRMAN thought it would be better to maintain the word "further" before "action", because by drawing the petitioner's attention to the observations of the Administering Authority, the Council was taking an initial action.

Draft resolution I was adopted by 4 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution II: petition from Mr. Paul Wamba Kudililwa (T/PET.2/109)

As the Council had already discussed the matter dealt with in the petition on two previous occasions, Mr. CARGO (United States of America) suggested the addition of the words "Confirms its previous decisions and..." at the beginning of paragraph 1 of the operative part.

Draft resolution II as amended, was adopted by 4 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Mr. EQUIZABAL (El Salvador), after apologizing for his late arrival, said he had no comment to make on the first two draft resolutions.

/Draft

Draft resolution III: petition from the Waluguru of Kibungo-Matombo (T/PET.2/11)

Mr. YANG (China) pointed out that paragraph 2 of the operative part duplicated the third paragraph of the preamble and the CHAIRMAN accordingly proposed its deletion.

The proposal was adopted.

After a brief exchange of views, paragraph 3 of the operative part was redrafted as follows: "Expresses the hope that the proposal of the local administration will meet the wishes of the petitioners and requests the Administering Authority to inform the Council at its eleventh session of any further developments".

Draft resolution III as amended, was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution IV: petition from Mr. H. Galinos (T/PET.2/126)

Mr. SCOTT (New Zealand) suggested the addition of the word "further" before the word "action" in paragraph 2 of the operative part.

The suggestion was adopted.

Draft resolution IV as amended, was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution V: petition from Mr. J. A. Valiani (T/PET.2/129)

The CHAIRMAN said that following a remark made at a previous meeting, the Secretariat had verified the facts and had discovered that the petition had not been submitted directly to the Visiting Mission, but had been sent in by mail.

He suggested the addition of the word "further" in paragraph 2 of the operative part.

The suggestion was adopted.

Draft resolution V as amended, was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution VI: petition from Mr. Philip Mosesi (T/PET.2/133)

Draft resolution VI was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

/Draft

Draft resolution VII: petition from Messrs. Samvua Kamwe and Salim Losndilo
(T/PET.2/136)

Mr. CARGO (United States of America) noted that the subject matter had already been considered by the Council and therefore suggested the addition of the words "confirms its previous decision and..." at the beginning of paragraph 1 of the operative part.

The suggestion was adopted.

Draft resolution VII was adopted as amended by 5 votes to none,
with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution VIII: petition from the Shariff Is-Hak Arab community
(T/PET.2/139)

The CHAIRMAN called for a vote on alternative A and pointed out that if adopted, it would replace the first two paragraphs of alternative B.

Alternative A was rejected by 4 votes to 1, with 1 abstention.

Mr. CARGO (United States of America) explained that he had voted against alternative A because he did not believe any racial discrimination was involved.

Mr. YANG (China) had abstained in the vote because he felt that Ordinance 39 a to some extent met the wishes of the petitioners.

The CHAIRMAN called for a vote on alternative B.

Alternative B was adopted by 5 votes to 1. Draft resolution VIII
was adopted.

The corresponding part of the report was adopted.

Draft resolution IX: petition from Mr. and Mrs. Sem Nicodemus (T/PET.2/141)

The CHAIRMAN suggested the addition of the word "further" in paragraph 2 of the operative part.

The suggestion was adopted.

/Mr. CARGO

Mr. CARGO (United States of America) proposed the addition of a few words at the end of the third paragraph of the preamble to indicate that if the scheme were successful, it might provide the means of assisting the petitioners and other interested cattle owners in the improvement of their stock.

Draft resolution IX, thus amended, was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution X: petition from Mr. Petro Ndarboi (T/PET.2/145)

The CHAIRMAN called for a vote on alternative A and said that if adopted, it would replace the first two paragraphs of alternative B.

Alternative A was rejected by 4 votes to 1, with 1 abstention.

Mr. CARGO (United States of America) had voted against alternative A, first because he did not consider it possible to adopt inflexible principles of land alienation in a territory like Tanganyika, and secondly, because it was clear from the Administering Authority's observations that the petitioner was really not in need.

Mr. YANG (China) shared the view of the United States representative. He had abstained from voting because it was not for the Committee on Petitions to take decisions on a matter within the province of the Committee on Rural Economic Development of the Trust Territories.

The CHAIRMAN put to the vote alternative B.

Alternative B was adopted by 5 votes to 1. Draft resolution X was adopted.

The corresponding part of the report was adopted.

The CHAIRMAN noted that resolution III was the only one requesting the Administering Authority to furnish specific information. He therefore suggested that paragraph 3 of the introduction to the draft second report

/should be

should be completed by a statement that the Committee recommended the Council to decide that there was no need for specific information on the action taken on resolutions I to X inclusive (excluding resolution III).

Mr. SCLDATOV (Union of Soviet Socialist Republics) asked the Committee to add a paragraph to the introduction of the report, as was the usual practice, showing the reasons why the USSR delegation had voted against the report as a whole. He suggested the following text: "The USSR delegation voted against the report of the Standing Committee on Petitions because the Committee had rejected the USSR proposals for the protection of the rights and interests of the indigenous population and had adopted decisions which did not propose any measures likely to solve the difficulties of the petitioners."

After a remark by Mr. SCOTT (New Zealand) the CHAIRMAN suggested that the Committee should ask the Secretariat to draft the paragraph which the USSR representative wished to add.

The suggestion was adopted.

Mr. YANG (China) asked whether, if objections to one or two of the draft resolutions were made in the form of a statement, that statement automatically applied to all the resolutions or to the report as a whole and whether it should be inserted in the introduction or left in the part of the report dealing with action taken by the Committee.

The CHAIRMAN replied that it would be easier for the Committee to answer those questions and, specifically, to decide where the USSR representative's statement should appear when it had before it the text drafted by the Secretariat.

He added that the Committee would vote on the second report as a whole when it had received that text.

EXAMINATION OF PETITIONS CONCERNING RUANDA-URUNDI: DRAFT THIRD REPORT OF THE STANDING COMMITTEE ON PETITIONS (T/C.2/L.9)

At the invitation of the Chairman, Mr. SCHEYVEN (Special Representative and Mr. RYCKMANS (Belgium) took places at the Committee table.

/Draft resolution I

Draft resolution I: petition from Mr. Chaka Selemani (T/PET.3/40, T/PET.3/40/Add.1, T/PET.3/40/Add.2, T/PET.3/40/Add.3)

Mr. CARGO (United States of America) suggested the addition of the phrase "and to expedite the obtaining of necessary expert advice".

The suggestion was adopted.

After a remark by Mr. SCOTT (New Zealand) on the interpretation of the words "to a minimum" in paragraph 3 of the operative part, Mr. RYCKMANS (Belgium) proposed to replace them by "to what was absolutely essential".

The proposal was adopted.

In reply to a question from Mr. YANG (China), the CHAIRMAN said it was unnecessary to state that the Council was acting under rule 81 of the rules of procedure in paragraph 2 of the operative part; it could refer the petitioner to the rule, if necessary.

The draft resolution was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution II: petition from Mr. Bigiraneza (T/PET.3/41)

Mr. SCOTT (New Zealand) proposed the addition of the word "further" before "action" in paragraph 2 of the operative part.

The proposal was adopted.

The draft resolution was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution III: petition from ex-Chief Ntunguka (T/PET.3/42, T/PET.3/42/Add.1)

Mr. YANG (China) proposed that the English text of paragraph 2 of the operative part should be drafted as follows: "so far as the disputes which come within the competence of the courts of the Territory are concerned".

The proposal was adopted.

The draft resolution was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

/Draft

Draft resolution IV: petition from Mr. Joseph Marie Ngwela (T/PET.3/43,
T/PET.3/43/Add.1)

Mr. SCOTT (New Zealand) suggested that the words "on appeal" should replace "against an appeal" in the English text of part (1) of sub-paragraph (a) of the third paragraph of the preamble.

The suggestion was adopted.

Mr. CARGO (United States of America) pointed out that the petitioner was in the same category as the author of the petition considered in resolution I, Mr. Chaka Selemani, as he had also undergone a long period of detention, the investigation having been prolonged by the slowness with which expert advice was obtained. He therefore wished to replace part (2) of sub-paragraph (a) of the operative part by paragraph 3 of the operative part of draft resolution I as amended: "(The Trusteeship Council) expresses the hope that the Administering Authority will take all appropriate action to limit the duration of detention pending trial to what was absolutely essential and to expedite the obtaining of the necessary expert advice".

The proposal was adopted.

The CHAIRMAN pointed out that the text of sub-paragraph (b) of the preamble and that of paragraph 27, both of which concerned the situation of mulattoes in Ruanda-Urundi, were incomplete, the Special Representative having said that he would give some information on the subject.

Mr. SCHEYVEN (Special Representative) explained that in Ruanda-Urundi mulattoes who were born of a regular union acquired the legal status of their father. If they were born outside such a union, they had the legal status of their mother and did not acquire the legal status of their father until he had been able to recognize them. Mulatto children born of an adulterous union could never be recognized.

There had always been administrative instructions enjoining the Administration to give its attention to the education of mulatto children. The only action open to the Administration in most cases, however, was to give advice, especially when the mulatto child had been brought up by an indigenous inhabitant to whom custom gave certain rights over the child.

/By virtue

By virtue of the Decree of 5 July 1948, a natural child could claim an annual sum for its upkeep and education up to the age of 18 years from the person who had had relations with its mother during the legal period of conception. Whatever the nationality of the defendant, action could be instituted along those lines. The same decree provided for cases in which investigation of paternity was authorized.

There were educational establishments in Ruanda-Urundi to which mulatto children who were not recognized were admitted.

Mulatto children who had been recognized or adopted were admitted to European schools upon the decision of a provincial committee.

There were cases of mulatto children who had been neither recognized nor legally adopted but who were receiving a European education being allowed the educational advantages granted to European children.

Upon the suggestion of Mr. CARGO (United States of America), the CHAIRMAN asked the Secretariat to redraft sub-paragraph (b) of the third paragraph of the preamble in the form of a brief summary of the Special Representative's verbal statement; the Secretariat would also complete the text of the operative part of the draft resolution by a statement to the effect that with regard to the situation of mulattoes in Ruanda-Urundi the Trusteeship Council drew the attention of the petitioner to the observations of the Administering Authority and informed him that the question of the situation of mulattoes in Ruanda-Urundi would be examined by the Trusteeship Council at its future sessions, in connexion with the annual examination of conditions in the Territory.

The corresponding part of the report would consequently need similar modification.

Draft resolution V: petition from Mr. C. d'Adesky (T/PET.3/45)

The CHAIRMAN pointed out that there were two alternative versions of the draft resolution, one proposed by the Union of Soviet Socialist Republics and the other by the United States of America and New Zealand.

Mr. CARGO (United States of America) proposed that the following words should be added to paragraph 1 of alternative B: "and in particular to the statement that the construction of a mental hospital at Usumbura will begin in 1952 and is scheduled to be completed in 1954".

The proposal was adopted.

/Mr. SCOTT

Mr. SCOTT (New Zealand) proposed that the words "so far as concerns the petitioner's application to the Great Lakes Mines" in paragraph 4 of Alternative B should be replaced by the following: "as far as the petitioner's application to the Great Lakes Mines is concerned".

The proposal was adopted.

The CHAIRMAN put alternative A to the vote, explaining that if it was adopted it would replace the first four paragraphs of Alternative B.

Alternative A was rejected by 4 votes to 1, with 1 abstention.

Alternative B was adopted by 5 votes to 1; the draft resolution was adopted.

The corresponding part of the report was adopted.

Draft resolution VI: petition from Mr. Kabondo (T/PET.3/46)

Mr. SCOTT (New Zealand) wondered whether it was not superfluous to inform the petitioner that he could, if he so desired, submit his case to the local tribunals, since he had already engaged the services of a lawyer. He therefore proposed that paragraph 2 of the operative part of the draft resolution should be deleted and replaced by a statement to the effect that the Council had decided that no further action by the Council was called for on the petition, the petition did in fact fall clearly under rule 81 of the rules of procedure.

Mr. CARGO (United States of America) accepted the idea put forward by the New Zealand representative but proposed that the text should be rather more explicit and might run as follows: "The Trusteeship Council decides that in view of the fact that the petitioner may avail himself of the local courts and that he is aware of that possibility, no further action by the Council is called for on the petition".

The proposal was adopted.

The draft resolution, as amended, was adopted by 5 votes to none, with 1 abstention.

The corresponding part of the report was adopted.

Draft resolution VII: petition from Mr. Jean Kangabo (T/PET.3/47)

After a brief exchange of views, it was decided that the word "monitors" in the English text of the resolution should be replaced by the French word "moniteurs".

Mr. CARGO (United States of America) proposed that the opening words of paragraph 1 of alternative B should be amended to read: "Recommends that the Administering Authority re-examine the position of...".

The proposal was adopted.

The CHAIRMAN put to the vote alternative A, explaining that if it was adopted, it would replace the first three paragraphs of alternative B.

Alternative A was rejected by 4 votes to 1, with 1 abstention.

Mr. CARGO (United States of America) explained that he had voted against alternative A because he thought that any accusation of racial discrimination should be preceded by an extremely thorough investigation, and because he was convinced that the difference between the salaries of European teachers and indigenous monitors was based on a number of considerations other than racial prejudice, for example, the ability and professional training required of European teachers and the fact that they had to leave their own country to perform their duties.

The CHAIRMAN put to the vote alternative B, as amended by the United States representative.

Alternative B, as amended, was adopted by 5 votes to none, with 1 abstention. Draft resolution VII was adopted.

Mr. SELDATOV (Union of Soviet Socialist Republics) requested that the words "and would abstain" should be added at the end of paragraph 43 in the part of the report relating to the petition in question.

The proposal was adopted.

Subject to that modification, the corresponding part of the report was adopted.

Draft resolution VIII: petition from Mr. Petro Bikirobe (T/PET.3/49)

In reply to Mr. CARGO (United States of America), who asked the Belgian representative whether he had any comments to make on that petition, Mr. RYCKMANS (Belgium) stated that he had known the petitioner's father, Joseph Bikirobe, personally; he had been an ardent Christian and there was
/absolutely

absolutely no basis, therefore, for alleging, as did his son, that he had been condemned to three years of imprisonment for refusing to be baptised. Proceedings had, in fact, been taken against Joseph Bikirobe following a complaint against him by the members of his tribe who had accused him of having levied on each of them a special tax from the proceeds of which he had bought himself a motorcycle. It was on that charge that Joseph Bikirobe had been condemned to three years' imprisonment. He had, moreover, escaped at a later date and had taken refuge in Tanganyika.

On the proposal of Mr. CARGO (United States of America), the CHAIRMAN requested the Secretariat to include a summary of the Belgian representative's statement in the part of the report relating to the petition in question.

He put the draft resolution to the vote.

Draft resolution VII was adopted by 5 votes to none, with 1 abstention.

Subject to the insertion of a summary of the additional comments of the Administering Authority, the corresponding part of the report was adopted.

Draft resolution IX: petition from Mr. Jean Sebekuavu (T/PET.3/52)

Mr. SCHEYVEN (Special Representative) announced that he had just received a telegram from Usumbura stating that the sentence pronounced against the petitioner had been set aside in the appeal. The petitioner had been charged with theft, forgery and embezzlement. He had been sentenced to eighteen months' imprisonment for theft and acquitted on the other charges. As a result of that decision, the petitioner had been released.

The CHAIRMAN proposed that the last sentence of paragraph 52 of the report should be replaced by the statement just made by the Special Representative.

Mr. CARGO (United States of America) proposed that the Secretariat should also be requested to redraft sub-paragraph (a) of third paragraph of the preamble of the resolution in the light of that statement.

/He further

He further proposed that the words "res judicata" in the English text should be replaced by an expression which would be more easily understood by the petitioner.

Mr. SOLDATOV (Union of Soviet Socialist Republics) noted that the English text of the alternative proposed by him was not identical in paragraph 54 of the report and in the draft resolution. He requested that the draft resolution should reproduce the language used in paragraph 54.

The CHAIRMAN proposed that the Secretariat should be requested to amend draft resolution IX in the light of the comments that had been made and that the Committee should defer the vote on the draft resolution to the following meeting.

The proposal was adopted.

Draft resolution X: Petition from Mme. Madeleine Cebengwe (T/PET.3/54)

Mr. SCOTT (New Zealand) noted that the words "notamment pour incompétence" had been omitted from the English text of sub-paragraph (a) of the third paragraph of the preamble. He therefore proposed that the following words "inter alia on the grounds of incompetence" should be added after the words "sub-chief Harushumwami".

The proposal was adopted.

In reply to a question by Mr. SCOTT (New Zealand), Mr. SCHEYVEN (Special Representative) explained that the removal of a sub-chief from office was a matter for the Mwami to decide; his decision was subject to approval by the Resident. Any sub-chief removed from office in that manner was entitled to appeal to the Vice Governor-General against the decision. In the case of the petitioner, both the Mwami of Urundi and the Resident of the Territory had been informed of the case as a matter of routine, so that it was not quite accurate to say, as was said in sub-paragraph (a), that the petitioner might "submit his case to the Mwami of Urundi, the Resident of Urundi or the Vice Governor-General".

/Mr. SCOTT

Mr. SCOTT (New Zealand) proposed that, that being so, the second part of the sub-paragraph should be deleted. He felt that the petitioner was aware of the fact that if he was not satisfied with the decision reached by the Mwami and the Resident of Urundi he could appeal against it to the Vice Governor-General.

The proposal was adopted.

Draft resolution X, as amended, was adopted by 5 votes to none, with 1 abstention.

The CHAIRMAN requested the Secretariat to make the corresponding changes in paragraph 59 of the report, in consultation with the representatives of Belgium.

Subject to that modification, the corresponding part of the report was adopted.

Mr. SOLDATOV (Union of Soviet Socialist Republics) requested the insertion, after paragraph 3 of the report, of a paragraph explaining why the USSR delegation intended to vote against the Committee's third report as a whole.

The CHAIRMAN stated that the Secretariat would prepare a draft text along the lines indicated by the USSR representative and he proposed that the vote on the report as a whole should be postponed till the following meeting.

The proposal was adopted.

The meeting rose at 12.50 p.m.