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STANDING COMMITTEE ON PETITIONS

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-FOURTH MEETING

Held at Headquarters, New York,
on Thursday, 23 June 1955, at 10.15 a.m.

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Examination of petitions concerning the Trust Territory of Somaliland
under Italian administration (T/C.2/L.161) (continued)

PRESENT:

<u>Chairman:</u>	Mr. de CAMARET	France
<u>Members:</u>	Mr. HAMILTON	Australia
	Mr. JAIPAL	India
	Mr. TARAZI	Syria
	Mr. BENDRYSHEV	Union of Soviet Socialist Republics
	Mr. MULCAHY	United States of America
<u>Also present:</u>	Mr. SALAH	Egypt (United Nations Advisory Council for Somaliland)
	Mr. ZADOTTI	Special Representative of the Administering Authority for the Trust Territory of Somaliland under Italian Administration
<u>Secretariat:</u>	Mr. COTTRELL	Secretary of the Committee

EXAMINATION OF PETITIONS CONCERNING THE TRUST TERRITORY OF SOMALILAND UNDER ITALIAN ADMINISTRATION (T/C.2/L.161) (continued)

IV. Petition from Mr. Said Abd Mahmud (T/PET.11/518)

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) noted that the petitioner complained that he had been attempting for five years to obtain a job from the labour exchange in Mogadiscio and that he had received no reply. He asked whether that allegation was true.

Mr. ZADOTTI (Special Representative) explained that the petitioner had applied for employment with the police department. However a job with the police in Somaliland required certain qualifications which the petitioner did not possess. The District Commissioner of Mogadiscio had then offered several jobs to the petitioner, who had refused them all. The petitioner did not possess the necessary qualifications for any other posts. Furthermore, being the owner of 60 head of cattle, 50 camels and 80 goats, he was quite well-to-do.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked what daily wage had been offered to the petitioner in connexion with all those jobs and whether there was a legal minimum wage in Somaliland.

Mr. ZADOTTI (Special Representative) said that in view of his qualifications the petitioner could not hope to obtain employment except as a labourer. A labourer's wage varied according to the region and the work performed. Usually it was three to four shillings a day, which was generally sufficient to meet a wage-earner's needs.

Mr. HAMILTON (Australia) noted that while the petitioner complained that he had received no reply to his applications for work, the information furnished by the Special Representative made it clear that he had received at least one reply. The petitioner stated that he had reported every day at the labour

(Mr. Hamilton, Australia)

exchange, so that it was reasonable to suppose that he had received more than one oral reply. Furthermore, it was unlikely that the petitioner had applied for work every day for five years. Possibly he had requested employment other than that in which he was engaged. Unfortunately, he had neither the ability nor the qualifications needed for such jobs.

He accordingly proposed that the Council should refer the petitioner to the Administering Authority's observations and in particular point out that the District of Mogadiscio had several times offered him work as a labourer which he had consistently refused; if he possessed the necessary qualifications he should apprise the authorities of the fact.

Mr. BENDRYSHIN (Union of Soviet Socialist Republics) proposed that the Council should request the Administering Authority to help the petitioner to find a job.

Mr. MULCAHY (United States of America) pointed out that the petitioner's cattle, camels and goats represented a considerable fortune which enabled him to live in comfort.

The CHAIRMAN asked the Secretariat to take the views expressed into account when it drew up the draft resolution on the petition.

V. Petitions from Chief Simba Mcora and others (T/PFT.11/522 and 545)

Mr. TAPANI (Syria) said that the two petitions related to a matter with which the Trusteeship Council had already dealt at its twelfth session. At that time the Council had decided that they did not call for any recommendations on its part, and, as often happened in such cases, the Council had received further petitions. They should therefore be given particular attention.

He asked the Special Representative to describe the background of the case. He enquired whether the Italian firm had received the concessions before the

(Mr. Tarazi, Syria)

Second World War, whether the petitioners had cultivated the land in question during the military occupation of the Territory, whether they were cultivating it at the present time, and whether they paid any rent.

Mr. ZADOTTI (Special Representative) described the three decrees under which the land in question had been granted to Italian colonists. Two of the decrees had been enacted after the Second World War, but Italian colonists had been cultivating the land before the war; at that time they had followed the normal procedure and obtained temporary concessions with respect to the land, which was completely vacant. When United Kingdom forces occupied the Territory, the Italian colonists had been forced to leave the land, which had then been settled by Somalis. On their return, the Italian colonists had agreed to allow the Somali occupants to cultivate a part of their land. They had taken them into their service and had let them keep some land which they could cultivate to meet the needs of their families.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked whether the petitioners had cultivated the land in question during the Second World War.

Mr. ZADOTTI (Special Representative) replied in the affirmative.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked whether the petitioners could still cultivate the land now that the Italian colonists had returned.

Mr. ZADOTTI (Special Representative) said that the Italian colonists on their return had given such land as they did not cultivate themselves to the Somalis who had occupied it.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) said that it then followed that the petitioners had been expelled from the plots they had been farming. He drew the Committee's attention to Trusteeship Council resolution 698 (XII), whereby the Council noted in particular the statement by the Special Representative that it was the policy of the Administration that persons who had moved into conceded lands during the Second World War, and begun to cultivate them, should not be expelled from such lands so long as they continued to cultivate them. That was the Italian Administration's policy in 1953. However, the two petitions appeared to indicate that the Administration's policy in 1955 was quite different from what it had been two years before.

Mr. ZADOTTI (Special Representative) challenged that contention. The Administration had in all cases tried to provide land for those persons who at the end of the war had found themselves in the same position as the petitioners. In the case in question it had not wished to force the temporary occupants to settle on other land and had preferred to give them land within the concessions themselves.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) said that the Special Representative's last statement indicated that the Italian Administration had apparently changed its policy, because it no longer allowed indigenous persons who had moved into and begun to cultivate certain conceded lands during the Second World War to continue to cultivate them, contrary to the declaration made at the twelfth session of the Trusteeship Council.

He also pointed out that alienation of land was still in progress according to the authors of the first petition, and asked the Special Representative for his views on the matter.

Mr. ZADOTTI (Special Representative) declared categorically that since the entry into force of the Trusteeship Agreement, the Administering Authority had not alienated a single hectare of land in violation of its provisions.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) said that he would like to know whether the land in question had been cultivated by the petitioners during the war, and whether they had been removed from that land, and if so, why.

With respect to petition T/PET.11/545 he asked whether it was true that Mr. Simba Mcoma had been persecuted after sending petition T/PET.11/288, and that the salary he had received previously had been stopped.

Mr. ZADOTTI (Special Representative) said that the Administering Authority had never taken and never did take action against persons who sent petitions to the United Nations. If Mr. Simba Mcoma had not been re-elected chief by the members of his tribe in accordance with the normal procedure, the Administration would certainly have stopped paying him his chief's salary.

In reply to various questions from Mr. MULCAHY (United States of America), Mr. ZADOTTI (Special Representative) explained that the titular owners of the land were not a company, but three concessionaires. They had been cultivating the land, which they had cleared and prepared, since before the war, and they had continued to cultivate it after the war. They produced mainly cereals, but they had a few banana trees also. In that way, they provided a living for 150 persons and their families on their land.

Mr. MULCAHY (United States of America) asked whether the petitioners had been robbed and imprisoned, as they claimed, or in any way deprived of their civil rights.

Mr. ZADOTTI (Special Representative) said that no one in the Territory had ever been imprisoned except by order of the legal authorities.

Mr. JAIPAL (India) was sorry to note that, according to the petitioners, alienation of land was continuing. The Administering Authority's sole reply to that point was to refer to Trusteeship Council resolution 698 (XII), of which it mentioned only paragraph 5, to the effect that no recommendation by the Council was called for. If the Administering Authority referred to that resolution, that meant that it stood by its previous statements, of which the resolution took note. Indeed, the Indian delegation felt that there could be no question of going back on the policy which the Special Representative of the Administering Authority had outlined in 1953.

He would therefore like the Administering Authority to state categorically that the petitioners had not been deprived of any land. Secondly, he asked the Administering Authority to give renewed assurances that its policy was to protect the inhabitants of the Trust Territory against any illegal acts; the Council would thus be in a position to explain to the petitioners that they had nothing to fear. Finally, the Administering Authority should state that the reason Mr. Simba Mcoma's salary had been stopped was that he was no longer a chief; the Council would then be able to adopt an appropriate resolution.

Replying to the Indian representative's last remark, Mr. ZADOTTI (Special Representative) said he could only assure him that the freely elected chief of a tribe received a salary. In answer to his second remark, he said that the Administering Authority's policy was to protect all the inhabitants of the Trust Territory against any depredations of which they might be the victims.

Mr. HAMILTON (Australia) asked whether the Administration provided new land for those who had occupied land which did not belong to them during the Second World War.

Mr. ZADOTTI (Special Representative) said that the Administration had always been reluctant to transfer the inhabitants from one piece of land to another. Nevertheless, in some specific cases where it had seemed possible to give them land which they could cultivate under the same conditions, that land had been granted to them, with their consent.

Mr. HAMILTON (Australia) pointed out that the Special Representative's latest statement clarified and supplemented the statement reproduced in resolution 698 (XII): thus, in accordance with the general policy stated in that resolution, it could happen in exceptional cases that some Somalis might be transferred to other land, but only with the consent of the persons concerned.

Mr. JAIPAL (India) said he knew nothing of such a policy, which seemed to him altogether new and different from the one the Administering Authority had announced a few years before; that was, however, a general question which came within the competence of the Trusteeship Council. The Committee was merely trying to establish the facts. He asked whether Somalis who had occupied land had been deprived of it at the end of the war, whether they had been provided with other land and whether they had accepted it.

Mr. ZADOTTI (Special Representative) explained that it had often been possible to find new land, to the satisfaction of the interested parties. That procedure was not contrary to the general policy of the Administration, the aim of which was to give the inhabitants satisfaction. The Administration could not ignore the fact that some landowners had not only been cultivating their land for a long time but had been duly authorized to do so.

Mr. HAMILTON (Australia) asked whether it was true that no Somali had been deprived of land, unless he was not cultivating it or unless he had accepted some other solution.

Mr. ZADOTTI (Special Representative) said that was so.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked why, in that case, the petitioners had complained; the fact that they were protesting, meant that they had not accepted another solution.

Mr. ZADOTTI (Special Representative) said he was not in a position to give precise information on the particular case of the petitioners, but he could provide information later if the Committee so wished.

Mr. TARAZI (Syria) proposed that the consideration of the two petitions should be deferred until the Special Representative had answered the Indian representative's questions.

Mr. MULCAHY (United States of America) asked how long the titular owners had left the land vacant and whether the petitioners had submitted their case to the local legal or administrative courts.

Mr. ZADOTTI (Special Representative) explained that the titular owners had quitted their land in 1941, when they had been forced to leave the Territory, and that the land had remained vacant for some years. The petitioners had not submitted their case to the local courts.

Mr. MULCAHY (United States of America) thought that, in the circumstances, the Committee was once more in the position of a court of first instance.

Mr. JAIPAL (India) protested against that statement. In its resolution 698 (VII), the Trusteeship Council had stated that the petitioners would not be expelled from their lands; it was now clear from the petition and the Special Representative's statements that the Council had given false information. It was essential that the Council should know exactly what the situation now was.

The CHAIRMAN proposed that consideration of the petition should be deferred until the Special Representative could provide additional information.

It was so decided.

VI. Petition From Mr. Guled Garad Abdi and others (T/PET.11/528)

In answer to questions from Mr. TARAZI (Syria) and Mr. MULCAHY (United States of America), Mr. ZADOTTI (Special Representative) explained that the petitioners had had an opportunity of defending their case before the judge. They had been notified of the judgment on their case in the usual way. The judgment was dated 22 November 1954 and they would appear to have been informed of it before sending their petition, which the Advisory Council had received on 28 December 1954.

Mr. MULCAHY (United States of America) thought that, in the circumstances, the Committee need not continue its consideration of the petition.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked whether the petitioners had gone to Genale of their own free will or had been forced to go there.

Mr. ZADOTTI (Special Representative) said that they had been recruited in the usual way: the future employer applied to the tribal chief, who asked all the members of the tribe whether they were interested in the offer.

In answer to a question from Mr. MULCAHY (United States of America), Mr. ZADOTTI (Special Representative) said that there was no forced labour in Somaliland and that the Geneva Convention had already been in effect there well before the war.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) noted that, nevertheless, the petitioners had lost their land because they had gone away. He inquired what the situation now was.

Mr. ZADOTTI (Special Representative) said that they were living on tribal land, to which all the members of the tribe had the same right.

Mr. BENDRYSHEV (Special Representative) asked what rights the Abagibil tribe had over the property in dispute.

Mr. ZADOTTI (Special Representative) explained that it was a land dispute between two tribes and had been settled by the competent courts.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked whether the dispute was due to a shortage of land and whether the Administration had done anything to help the petitioners.

Mr. ZADOTTI (Special Representative) said that each tribe had an area of land, sufficient for its needs, and that, in the interest of public order, it was bound to remain on that land. The Administration could do nothing to change that custom, but it could endeavour to improve the economic position of the tribes by helping them to improve their dry farming methods, for instance.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) pointed out that the petitioners had complained to the United Nations that the situation threatened to become critical and might have unforeseeable consequences. He suggested that the Trusteeship Council should express the hope that the Administering Authority, by improving the economic situation, would take the necessary steps to remove the cause of those differences between the tribes.

In reply to a question by Mr. HAMILTON (Australia), Mr. ZADOTTI (Special Representative) said that the Garre tribe was in exactly the same position as the other tribes.

Mr. JAIPAL (India) asked how long the Abagibil tribe had been occupying the Garre lands and which of the two tribes was the larger.

Mr. ZADOTTI (Special Representative) replied that the land had been occupied for at least twelve years. The Abagibil tribe seemed to have more members, though it was difficult to form an estimate.

Mr. TARAZI (Syria) observed that hardly two months had passed between the decision of the court of Appeal and that of the court of appeal. He was surprised that the course of justice should have been so rapid, seeing that land disputes were usually very complicated and that Moslem law was extremely formalistic. He wondered whether the Egyptian representative could give any explanation on that point.

Mr. SALAH (Egypt), member of the United Nations Advisory Council for Somaliland under Italian Administration, did not wish to comment on the two legal decisions in question, but he agreed that, generally speaking, there was a problem. That was why the Advisory Council had recommended that the rules of procedure should be codified as quickly as possible.

Replying to Mr. ZADOTTI (Special Representative), Mr. TARAIZI (Syria) explained that he was not criticizing the two legal decisions in the matter under discussion; he had not seen the files and was not in a position to give an opinion. In the light of the Egyptian representative's remarks, however, he observed that he had good grounds for his surprise.

Mr. HAMILTON (Australia) agreed with the Syrian representative that there was no reason to criticize the courts' decision. He proposed that the Trusteeship Council should take note of the observations of the Administering Authority and the Special Representative and in particular of the facts (1) that the petitioners' move to Genale had not been associated with any form of compulsion; (2) that the case had been judged in the court of first instance in their presence; (3) that the judgment in favour of the Abagibil had been transmitted to the petitioners; (4) that the petitioners had appealed to the Cadi of Mogadiscio, who had upheld the first judgment; (5) that the second judgment had been communicated to the petitioners. In a second paragraph the Council could decide that no recommendation was called for in the matter. His proposal that the second paragraph should be abbreviated was made in order to avoid any further discussion.

In reply to a question by Mr. TARAIZI (Syria), Mr. ZADOTTI (Special Representative) explained that another course of action was still open to the petitioners; they could approach the Administrator.

Mr. TARAIZI (Syria) was surprised to hear that the Administrator had judicial powers.

Mr. ZADOTTI (Special Representative) explained that the Administrator did not give a decision on the substance of any such questions; he merely referred land disputes, if he thought proper, to another Cadi's court. Those were the only courts competent to decide such cases.

Mr. TARAIZI (Syria) proposed the Trusteeship Council should draw the petitioners' attention to the fact that they could exercise their right of appeal to the Administrator. The Council might also request the Administering Authority to ensure that legal provisions were applied by the courts on the basis of the principles of justice and equity.

Mr. HAMILTON (Australia) observed that that would imply a criticism of the courts' decisions in the matter in question. Furthermore, the Committee should not try to influence the Administrator.

The CHAIRMAN asked the Secretariat to bear in mind the suggestions that had been made.

VII. Petition from Mr. Ahmed Osman and others (T/PET.11/529)

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) wished to know why the Galjal tribe moved so often and whether it was short of water and grazing land.

Mr. ZADOTTI (Special Representative) replied that the petitioners were anxious to migrate towards the south so as to be nearer Mogadiscio, in order to be able to sell their produce more easily. Moreover, 1954 had been a dry year. The petitioners had probably wished to save their own water holes by invading the pastureland to the south of their own lands. The Administration was obliged, however, to make the tribes keep within the boundaries assigned to them.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked whether the Administration had taken any steps to improve the situation. It appeared to him that the Galjal were short of water and because of that they were obliged to cross the boundaries.

Mr. ZADOTTI (Special Representative) said that the Administration intended to sink 600 wells. It had already sunk about 130, forty-three of which were in the area in question. The Administration was doing all it could to help the tribes, including the Galjal.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked what was done with the fines inflicted as a punishment for invading neighbouring tribes' grazing land.

Mr. ZADOTTI (Special Representative) said that they were paid to the injured tribes.

Mr. MULCAHY (United States of America) pointed out that the petition was dated 29 December 1954 and that the matter had been settled on 19 January 1955.

In reply to a question by Mr. HAMILTON (Australia), Mr. ZADOTTI (Special Representative) said that the Galjal had been parties to the agreement of 1950 laying down the boundaries of the grazing lands.

Mr. HAMILTON (Australia), like the United States representative, observed that the matter had been settled. In his opinion the Trusteeship Council might draw the petitioners' attention to the observations of the Administering Authority and in particular to the statements that: (1) the Galjal had been parties to the agreement whereby the boundaries had been delimited and fines settled for damages; (2) the Galjal had now paid the penalty for their infraction and their camels had been returned; (3) the Administration's policy was to increase the number of wells and in its execution of that policy the needs of the Galjal tribe would certainly not be forgotten.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) thought the Council might express the hope that the Administering Authority would take the necessary steps to ensure that the Galjal had a sufficient supply of water. The lack of water seemed to be the root of the trouble.

Mr. JAIPAL (India) felt that the distribution of grazing land was also a source of conflict. He asked whether the Administration had taken any steps in that connexion.

Mr. ZADOTTI (Special Representative) stated that the Administration was giving continuous attention to that question. There was usually plenty of land but in the case in point the drought had upset everything and the Administration had been unable to put matters right. The Administering Authority always endeavoured to ensure that the tribes had sufficient land.

Mr. JAIPAL (India) thought the Council might also take note of that observation.

The CHAIRMAN asked the Secretariat to bear in mind the suggestions that had been made.

The meeting rose at 12.35 p.m.