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STANDING COMMITTEE ON PETITIONS
SUMMARY RECORD OF THE FOUR HUNDRED AND TWENTY-SECOND MEETING

Held at Headquarters, New York,
on Monday, 25 March 1957, at 10.40 a.m.

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(T/C.2/L.282)

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PRESENT:

Chairman:

U PAW HTIN

Burma

Members:

Mr. SMOLDEREN

Belgium

Mr. YANG

China

Mr. DOISE

France

Mr. BENDRYSHEV

Union of Soviet Socialist
Republics

Mr. TODMAN

United States of America

Secretariat:

Mr. MASHLER

Secretary of the Committee

EXAMINATION OF PETITIONS CONCERNING TOGOLAND UNDER FRENCH ADMINISTRATION
(T/C.2/L.282)

Mr. DOISE (France) said that the Administering Authority had not been able to send a special representative for the Trust Territory of Togoland and that he himself would try to answer the Committee's questions satisfactorily. He had spent many years in the Trust Territory and had been there as recently as December 1956.

The Committee should bear in mind, however, that although the Territory was still under trusteeship, it was now an autonomous republic with its own responsible Government. Neither the representative of France nor a Special Representative could enter into matters which were the sole responsibility of the Prime Minister of the Government of Togoland, nor could they assume any obligations in those matters.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) pointed out that France maintained all the obligations as the Administering Authority of that Trust Territory, and that the question of the reforms introduced in Togoland under French Administration was yet to be considered by the Council. He regretted that there was no special representative from the Territory, but agreed to consider petitions from Togoland under French Administration with the help of the French representative; that was possible under the rules of procedure and with the understanding that the representative of France was familiar with the complaints of the petitioners. He asked what the procedure was for arresting and imprisoning members of the Territorial Assembly or municipal councils, and whether the consent of those bodies was required for such action.

Mr. DOISE (France) explained that at the time of the arrests to which the petitioner referred the Territorial Assembly had had no legislative powers and its members no parliamentary immunity. Since the Territory had become an autonomous republic, however, the Assembly was master of its own rules of procedure which provided immunity for its members.

In reply to another question from Mr. BENDRYSHEV (Union of Soviet Socialist Republics), Mr. DOISE (France) said that Order No. 951-49/A.P.A. of 2 December 1949, which set forth the regulations relating to indigenous authorities, was still in force.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked how the Administration justified the closing of schools and dispensaries, as the petitioner alleged had been done in some villages.

Mr. DOISE (France) replied that while he had no specific information regarding the alleged charges and did not consider the charges relevant to the petitioner's principal complaint, he could assure the USSR representative that it was not the practice of the Administering Authority to close dispensaries for the kind of reasons as those alleged by the petitioner.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) referred to the letter dated January 19, 1953, addressed to the Governor of the Colonies and to the Commissioner of the Republic in Togoland, from a group of Chiefs who had decided to leave the Territory for fear of reprisals. He asked whether they were still outside Togoland under French administration and whether the Administration had anything definite against them.

Mr. DOISE (France) said that the Administration had no objection to the return of the Chiefs who had left their villages. The events referred to in the petition had occurred years earlier and had no relevance to the principal complaint; the petitioner had obviously collected a series of old complaints already disposed of by the Committee and the Council and annexed them to his petition to make it more impressive.

In reply to another question from Mr. BENDRYSHEV (Union of Soviet Socialist Republics) concerning the alleged beating of the petitioner's father and several other people, Mr. DOISE (France) referred the Committee to the Special Representative's reply when the petition had been considered at the previous session (T/C.2/SR.380).

Mr. YANG (China) pointed out that the petition added no new facts to the earlier petition: the main complaint continued to be the petitioner's removal as Chief of the village and Trusteeship Council resolution 1635 (XVIII) had already dealt adequately with that point. He inquired, however, whether any action had been taken by the local authorities to prevent the petitioner's return to his village and whether the deposition of a Chief by the people of the village would have to be recognized by the Administering Authority.

Mr. DOISE (France) assured the Committee that the authorities had done nothing to prevent the petitioner's return to his village or to restrict his movements. He had been removed as Chief by the people who had elected him. Just as his election in 1944 had been recognized by the local authorities, so had they recognized his removal from office.

Mr. YANG (China) suggested that in its draft resolution the Committee should draw attention to the replies of the French representative and to the observations of the Administering Authority.

The CHAIRMAN, speaking as the representative of Burma, asked whether the Chief had been deposed because he had been involved in a criminal case or because he had deserted his office, and whether there was any precedent for deposing a Chief on the latter grounds.

Mr. DOISE (France) said that the petitioner had been removed from office by the inhabitants because he had left the village to live at Lomé and because he had sold too much of the collective land belonging to the village to outsiders. It was a fairly common occurrence for Chiefs to leave their villages for long periods and there were a number of precedents for their deposition by their people on those grounds. The Chief was expected to defend the interests of his people, and if through negligence, weakness or any other fault he failed in that task, the people felt justified in deposing him. In any case, the administration only ratified their decisions.

Mr. SMOLDEREN (Belgium) agreed with the representative of China that the petition introduced no new factors. He endorsed the Chinese suggestion regarding the draft resolution but thought that a reference to Trusteeship Council resolution 1635 (XVIII) might be added, together with a statement that, since no new factor had been introduced, the Administering Authority reaffirmed its earlier observations.

It was so decided.

II. Petitions from Chief Christian A.F. Gbadegbe VII (T/PET.7/495) and from Chief Christian A.F. Gbadebge VII and notables of Amou-Oblo Village (T/PET.7/496)

The CHAIRMAN, speaking as the representative of Burma, noted that according to the Administering Authority's observations the petitioner had a bad criminal record. In view of Order No. 951-49/A.P.A. of 2 December 1949, which permitted the dismissal of a customary Chief sentenced to a criminal penalty, it

(The Chairman)

was surprising that he had not been replaced as Chief of the Village Amou-Oblo until 1953 and then only for desertion of the village. He wondered whether the representative of France could clarify that matter.

Mr. DOISE (France) observed that a fairly lengthy period of time, extending as far back as 1922, was involved and that the petitioner's periods of unlawful activities appeared to have alternated with his periods of chieftainship of the Village of Amou-Oblo. It was for the villagers themselves to elect or depose their Chief, in accordance with customary law. The Administering Authority's power was limited to the granting or withholding of recognition of the Chief chosen by the people. Order No. 951-49/A.P.A. of 2 December 1949 should not be interpreted too strictly: the subject was a complicated one and there were two separate aspects, the relationship of village populations to their Chiefs, and the relationship of the Chiefs to the Administering Authority. The Administering Authority could suspend its recognition of a customary Chief convicted of a criminal offence; the administration of the chieftom being then provisionally assured according to customary law. In the present instance, the people of the Village of Amou-Oblo had deposed Chief Gbadegbe for desertion and the Administering Authority had recognized the deposition, bearing in mind the ex-Chief's criminal record.

The CHAIRMAN, speaking as the representative of Burma, asked whether customary law permitted the re-election as Chief of a man with a criminal record, and whether in the present instance the Administering Authority had approved the re-election of Chief Gbadegbe in spite of his criminal record.

Mr. DOISE (France) said that, it was possible, under customary law, for a person with a criminal record to be elected Chief if Article 8 of the Order of 2 December 1949 obliged the Administering Authority to recognize as Chief the person chosen by the village, Article 11 authorized the Administering Authority not to recognize him.

In reply to a question from Mr. SMOLDEREN (Belgium), Mr. DOISE (France) said that the Comité de l'Unite Togolaise had existed as a political organization since April 1946.

Mr. SMOLDEREN (Belgium) observed that since the petitioner had been involved in court cases long before that date it was clear that his troubles were not entirely due to his membership of the CUT, as he claimed.

(Mr. Smolderen, Belgium)

He noted that the petitioner had appeared before the court on 6 April 1949 for usurpation of titles and functions and had been sentenced. Since he had been deposed as Chief long before then, he wondered what the titles and functions in question were and how the reference, in paragraph 5 of the summary, to the announcement of the Chief's deposition and replacement on 21 February 1953 was to be explained.

Mr. DOISE (France) answered the representative of Belgium that the petitioner had been deposed as Chief of the Village of Amou-Oblo in 1946.

Mr. SMOLDEREN (Belgium) noted the petitioner's statement that he had been told he was no longer free to live at Amou-Oblo as the village Chief; he wondered whether local banishment could be enforced in the Territory.

Mr. DOISE (France) said that there had been no question of banishment in the case in question and so far as he knew the petitioner was still living at Amou-Oblo, as a private individual.

Mr. SMOLDEREN (Belgium) noted the various accusations made by the notables against Torvy, the new Chief, and wondered whether there was any police record against him or whether the accusations had been prompted purely by malice.

Mr. DOISE (France) said that Chief Torvy had never, to the Administering Authority's knowledge, been the subject of a court decision and the accusations were all false.

Mr. TODMAN (United States of America) asked whether the new Chief would still be able to serve in that capacity if the people had elected him, even if it were known that he had a criminal record.

Mr. DOISE (France) said that in that case the Administering Authority's decision to grant or to withhold its recognition of his election would to some extent depend on the nature and date of the offence of which he should have been convicted.

Mr. TODMAN (United States of America) noted that the petitioner had, on his own admission, been deposed on 4 October 1946 and had gone into voluntary exile for twenty-one months, after which he had apparently returned to the village.

(Mr. Todman, United States)

In 1949 he had been sentenced for usurpation of titles and functions which presumably, he had exercised in the interim. The petitioner claimed, however, that the village had re-elected him Chief in 1949. He wondered if that was so and, if not, who had filled the office of Chief of the Village of Amou-Oblo between 1949 and 1953, when the appointment of the new Chief had been announced.

Mr. DOISE (France) stressed that the petitioner had been deposed as Chief in 1946. His claim that he had been re-elected in 1949 was not in accordance with the facts. He regretted that he could not say who had exercised the office of Chief of the village between 1949 and 1953.

Mr. TODMAN (United States of America) asked whether the petitioner was free to live at Amou-Oblo, not as the village Chief, but as a private individual.

Mr. DOISE (France) confirmed that he was entirely free to live in the village as a private individual. The Administering Authority would not, however, again recognize him as Chief.

Mr. TODMAN (United States of America) wondered why there had been so long a delay in the announcement of the petitioner's deposition and replacement.

Mr. DOISE (France) explained that there had been no delay in the announcement of the deposition.

Mr. TODMAN (United States of America) said that he understood that the petitioner, having been deposed in 1946, had returned and assumed power in 1948, had been tried and sentenced for usurpation of functions in 1949 and had not since been elected Chief but that he was nevertheless free to continue to live in the village.

Mr. DOISE (France) confirmed that interpretation of the facts.

Mr. TODMAN (United States of America) suggested that the draft resolution on the petition should set forth the facts of the case as just confirmed by the French representative.

Mr. YANG (China), referring to paragraph 7 of the summary, asked whether it was the normal procedure for a person under sentence to be detained in prison pending the outcome of an appeal.

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Mr. DOISE (France) said that if the appellant was at liberty at the time of lodging an appeal he remained free, but if he appealed whilst held in custody he was kept in prison.

In reply to a further question from Mr. YANG (China), Mr. DOISE (France) said that there was no reason at all why the Chief of the Village of Amou-Oblo should attempt to dethrone the Chief of the neighbouring village, as the petition alleged; he had no authority in that village and no power over its Chief. Underlying the accusation there was, no doubt, one of the interminable land disputes which were frequent among contiguous villages. The investigation carried out in the region after the receipt of the petition had shown that the other serious accusations made against Chief Torvy were entirely without foundation.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) recalled the petitioner's statement that the villagers had fetched him from Lomé in 1948, escorted him home and proclaimed him Chief. He would like to know whether there had in fact been an election of a Chief in 1948 and if so who had been elected.

Mr. DOISE (France) could not say with any certainty how the office of Chief had been filled between 1946 and 1953. He was sure, however, that whatever the petitioner's own impression about the situation might be, he had not been officially Chief after 4 October 1946.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) pointed out that it was still not clear whether the people of the village had elected a new Chief between the date of the deposition of the petitioner and the date when Chief Torvy had assumed office.

Moreover, he would welcome some clarification regarding the action taken on the petitioner's appeal to the court at Abidjan. The appeal had been made in 1953, yet up to September 1955, the date of the petition, the petitioner had not been notified of the result. Furthermore, he had been forced to serve his full sentence in the intervening period.

Mr. DOISE (France) regretted that he had no information on that subject. It was clear, however, that at the time the petitioner had appealed against his sentence he had no longer been Chief.

The CHAIRMAN suggested that the French representative might ask his Government for additional information on the matter.

In reply to further questions from Mr. BENDRYSHEV (Union of Soviet Socialist Republics), Mr. DOISE (France) pointed out that the petitioner's son might have been expelled from school because he was over age; his expulsion had certainly not been for political reasons.

The Société Indigène de Prévoyance was a farmers' co-operative especially concerned with the distribution of seed and the marketing of produce; all the farmers of the region could become members. The petitioner's complaint against it was vague: it was possible that he had ordered an implement which could not be obtained immediately or had to be ordered in France. His deposit had certainly not been returned for the reason alleged.

Mr. SMOLDEREN (Belgium) regretted that the examination of certain petitions had been deferred as the Committee was endeavouring to overcome the considerable delay that it had encountered in its work.

The meeting rose at 12.35 p.m.