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STANDING COMMITTEE ON PETITIONS

SUMMARY RECORD OF THE FOUR HUNDRED AND SEVENTY-FIFTH MEETING

Held at Headquarters, New York,
on Thursday, 27 February 1958, at 2.40 p.m.

CONTENTS

Examination of petitions concerning Tanganyika (T/C.2/L.335)
(continued)

PRESENT:

<u>Chairman:</u>	Mr. JAIPAL	India
<u>Members:</u>	Mr. YANG	China
	Mr. de CAMARET	France
	Mr. BENDRYSHEV	Union of Soviet Socialist Republics
	Mr. SMALLMAN	United Kingdom of Great Britain and Northern Ireland
<u>Also present:</u>	Mr. DAVIES	Special Representative of the Administering Authority for the Trust Territory of Tanganyika
<u>Secretariat:</u>	Mr. COTTRELL	Secretary of the Committee

EXAMINATION OF PETITIONS CONCERNING TANGANYIKA (T/C.2/L.335)(continued)

At the invitation of the Chairman, Mr. Davies, Special Representative of the Administering Authority for the Trust Territory of Tanganyika, took a place at the Committee table.

V. Petition from Augustino Lupindo (T/PET.2/216)(continued)

Mr. YANG (China) suggested that the petitioner's attention should be drawn to the fact that the Administering Authority was studying the means to allow the petitioner to continue his studies.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked why the Administering Authority "did not consider in all circumstances that this scholarship would be advantageous to the Territory" (T/CPS.2/41).

Mr. SMALIMAN (United Kingdom) referred to his statement at the preceding meeting and repeated that there were a number of factors to be taken into consideration in reaching any decision upon an application for a scholarship. For example, the applicant must have reached the required level of education and should be in a position to draw immediate benefit from his studies. Furthermore, the Administering Authority had a duty to ensure that he would be able to acquire knowledge and qualifications which would be useful to his Territory. One of the considerations to be taken into account where medical training was proposed, as it was in the instance under discussion, was that it would be neither to the student's nor to his country's advantage if he obtained a medical diploma which would not be recognized in the Territory and which would not allow him to practise medicine upon his return. There was also the consideration that it would be very difficult for the applicant to attend a university course in a foreign language. The Administering Authority must reserve to itself the right to decide, in consultation with the Government of the Territory concerned, whether a particular scholarship would be to the advantage of the student and the Territory, and the above were some of the considerations that had, no doubt, operated in the case in point.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked how the scholarship could fail to be to the advantage of the Territory, which lacked doctors, or of the petitioner, who was eager to become a doctor. He also

(Mr. Bendryshev, USSR)

pointed out that scholarships granted by the Government of the USSR covered, among other things, transport, clothing, maintenance, free rest stays in sanatoria and Russian language studies.

The CHAIRMAN believed that a law was usually adopted in the Territories after consultation with the medical profession specifying the degrees and diplomas that were required for the practice of medicine. The medical profession recognized certain university diplomas after studying the curriculum and the examinations of a particular institution of higher education. The Administering Authority had clearly not wanted to express any doubts regarding the level of the education given in the Soviet Union but had simply wished to state that it had not yet had a practical opportunity of forming an opinion regarding the medical studies pursued in that country. Mr. Jaipal asked if the holders of a Russian degree in general medicine were authorized to practise in the United Kingdom.

Mr. SMALLMAN (United Kingdom) was unable to give an immediate reply to that question; the procedure for the recognition of diplomas, however, was as had been described by the representative of India. Upon his return to the Territory the petitioner might well have encountered difficulties with regard to the recognition of his diplomas and it was clearly preferable for him to study in universities giving recognized diplomas.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked whether a person with medical training acquired abroad would have an opportunity take the examinations necessary to practise in the Territory.

Mr. SMALLMAN (United Kingdom) said that the matter was put incorrectly, for it was the Administering Authority's duty to make sure of the value of the diploma before allowing any student to sit for a qualifying examination.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) said that the present question was not one of the recognition of diplomas as between sovereign States, but rather of the need for educational facilities for the inhabitants of Trust Territories. The United Kingdom representative's arguments did not, therefore, seem convincing. The scholarship offered was clearly in the interests of both the petitioner and the Territory.

Mr. SMALLMAN (United Kingdom) recalled that the petitioner's education did not at present go beyond class X. He was at present increasing his knowledge so that he could later start higher studies. There were full facilities for such studies in Uganda, at Makerere College, or in the United Kingdom, where the majority of students from Tanganyika usually went for training.

The CHAIRMAN, speaking as the representative of India, said that he was pleased to learn that the petitioner was to have the opportunity of engaging in pre-medical studies which would allow him to continue in the work he had chosen. The Indian delegation had taken note of the Special Representative's statement and considered that the Committee should draw the petitioner's attention to it. He did not however believe that the reasons given by the Administering Authority for refusing the petitioner a passport were convincing as the petitioner's journey to the Soviet Union could not be contrary to the interests of the Territory and was in no way bound up with the future of Tanganyika. The Administering Authority must not lose sight of article 12 of the Trusteeship Agreement. The Indian delegation believed that the only valid reason was that the petitioner had not yet reached the required level of education and that his application was premature.

Mr. SMALLMAN (United Kingdom) noted the Indian representative's comments. He stated, however, that the Administering Authority's record on educational advancement bore out its claim that its policy was in full accord with article 12 of the Agreement.

The CHAIRMAN said that the Secretariat when drawing up the relevant draft resolution would take the suggestions made into account.

VI. Petition from Mr. Mistry Ranchhod Velji Rajyagor (T/PET.2/217)

Mr. YANG (China) said that he had great sympathy for the petitioner but did not see how the Trusteeship Council could help him. He was concerned about the future of the petitioner's children and did not understand why the petitioner had taken them away from the Mwanza school.

Mr. DAVIES (Special Representative) emphasized that the petitioner still refused to accept the school principal's generous offer to readmit the children to the school without charge.

The CHAIRMAN said that the petitioner had perhaps sent his children to Nairobi to put them into the care of other members of his family. At all events the petitioner's main concern did not seem to be the future of his children; he was more concerned about his land; he had become very distrustful as a result of his misfortunes and refused to listen to advice from anyone. When in Tanganyika with the Visiting Mission in 1954, Mr. Jaipal had heard that two lawyers had been prepared to take on the petitioner's case free of charge and that a large number of his grievances had seemed to be without foundation. In those circumstances the Indian representative suggested that the petitioner's attention should be drawn to the Administering Authority's observations.

In reply to questions from Mr. BENDRYSHEV (Union of Soviet Socialist Republics), Mr. DAVIES (Special Representative) said that prior to the events mentioned in the petition, the petitioner had been established in business at Mwanza. The sale of his land had, no doubt, been due to financial losses suffered by him in his business.

With regard to the petitioner's present financial position, the Special Representative understood that he was receiving assistance from the members of the community to which he belonged and that neither he nor his family was in danger of dying of hunger.

The CHAIRMAN said that in its draft the Secretariat would give the conclusions drawn from the suggestions made during the examination of the petition.

VII. Petitions from Mr. Lal Singh (T/PET.2/218)

The CHAIRMAN proposed that the Committee should study successively the three petitions received from Mr. Lal Singh.

1. Compensation in respect of service with the occupied Enemy Territory Administration

In reply to a question from the CHAIRMAN, Mr. DAVIES (Special Representative) said that if the OETA medical officer had considered that the petitioner's illnesses were not due to his sixteen months' service with that Administration, it was probably because they had been contracted before that period. In so far as malaria was concerned, Mr. Davies thought that malaria

(Mr. Davies, Special Representative)

might be as prevalent in those parts of the Territory where the petitioner had lived before his employment with the OETA as in the area where he had been employed by the OETA.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics) asked how it was possible to maintain that the petitioner's illness was not directly attributable to his service if he had been examined before joining the service and had been found fit, but after several years of service had been discharged on medical grounds.

Mr. DAVIES (Special Representative) said that it must be assumed that the OETA medical officer had had at his disposal all the information necessary to recommend the petitioner's discharge. He saw nothing inconsistent in the fact that, on the one hand, Mr. Lal Singh had been passed fit for service with the OETA and that, on the other hand, he was subsequently found to be suffering from certain ailments not attributable to his OETA service.

2. Compensation for loss of water-rights

In reply to questions from Mr. YANG (China), Mr. DAVIES (Special Representative) said that the petitioner, apart from having taken over the water-rights from the former occupant of his farm, had also been granted a further water-right in 1946 to obtain water by pumping and, additionally, in 1948, to divert water from the Soni River. The petitioner had not, however, taken advantage of those additional rights.

As far as the right to use the water from the existing furrow from 6 p.m. to 6 a.m. was concerned, the Special Representative said that the practice was very common in the mountain areas of Tanganyika.

Lastly, the inhabitants of the Territory were fully aware of the possibility of legal remedies open to them.

In reply to a question from the CHAIRMAN, Mr. DAVIES (Special Representative) said that between 6 o'clock in the evening and 6 o'clock in the morning the petitioner could either store the water from the furrow in reservoirs for use during the day, or else use it immediately to irrigate his crops during the night.

The CHAIRMAN suggested that the Committee should draw the petitioner's attention to the opportunities available to him for legal remedy.

3. Compensation in respect of mining operations

In reply to questions from the CHAIRMAN, Mr. DAVIES (Special Representative) said that by closing the Mkomasi gypsum-bearing area to prospectors the Government wished only to control the orderly development of the deposit. As the Administering Authority had stated in its written observations, the Governor's consent was required before claims could be pegged in any area closed to prospection; in practice such consent was never refused unless the application conflicted with the object or reason for which the area had been closed.

The Special Representative went on to point out that the petitioner had never requested authority to work the gypsum deposits, although it was always open to him to do so. At no time had registered claims covered the whole area of the known gypsiferous deposits.

The CHAIRMAN, speaking as representative of India suggested that the Committee should draw the petitioner's attention to the observations of the Administering Authority and in particular to the final remarks of the Special Representative.

Mr. YANG (China) supported that suggestion.

In reply to questions from Mr. BENDRYSHEV (Union of Soviet Socialist Republics), Mr. DAVIES (Special Representative) said that, under section 16 of the Mining Ordinance, the Government was not obliged to consult the local population before granting prospecting rights.

Mr. BENDRYSHEV (Union of Soviet Socialist Republics), noting that in the instance under consideration it was not simply a question of prospecting but also of operating mines, said that the local indigenous population had an absolute and exclusive right to the natural resources of the Territory.

Mr. DAVIES (Special Representative) said that nothing in the legislation of Tanganyika prevented Africans from engaging in mining operations, provided always that they complied with the law.

In reply to questions from the CHAIRMAN, Mr. DAVIES (Special Representative) said that Gypsun Products Limited had registered claims at Mkonasi in accordance with the law. The Tanganyika Department of Geological Survey provided technical advice and assistance, including metallurgical research assays and analyses.

The CHAIRMAN said that the Secretariat would prepare conclusions on the subject on the basis of the suggestions which had been made during the meeting.

The meeting rose at 4.20 p.m.