UNITED NATIONS

TRUSTEESHIP COUNCIL

Distr.
LIMITED

T/L.791
5 July 1957

ORIGINAL: ENGLISH

Twentieth session
Agenda item 5

PETITIONS CONCERNING THE TRUST TERRITORY OF TANGANYIKA

198th Report of the Standing Committee on Petitions

Chairman: Mr. L. SMOLDEREN (Belgium)

Table of Contents

Section	Petition from:	Symbol in T/PET.2/... Series	Page
I.	Tanganyika African National Union	198 and Add.1 and 2	3
II.	Dr. Heinz Langguth on behalf of Mr. Tom Adalbert von Prince	199 and Add.1 and 2	8
	Messrs. Bertram von Lekow and Tom Adalbert von Prince	200 and Add.1-3	8
III.	Dr. Heinz Langguth on behalf of Mr. Carl von Gebhardt	201 and Add.1	15
IV.	Dr. Heinz Langguth on behalf of Mr. Walter Kahle	208 and Add.1	18
V.	Mr. Juma Karata	202 and Add.1	24
VI.	Mr. M.V. Bhardwa	203	26
VII.	Mr. Abdallah Saidi	204	28
VIII.	Mr. Julius Mwasanyagi	205	31
IX.	Mr. Julius Mwasanyagi	206	34
X.	Mr. M.S. Ramadharri	207	37
XI.	Tanganyika Federation of Labour	T/COM.2/L.37	39
XII.	Messrs. S.M. Humbara and I.A. Mponji	209	42
XIII.	Tanganyika African National Union, Bukoba Branch	210	44
XIV.	International League for the Rights of Man . . .	211	48
	Draft Resolutions proposed by the Committee . . .		Annex

1. At its 448th, 449th, 450th, 451st, 452nd, 453rd and 458th meetings on 20, 24, 25 and 26 June and 5 July 1957, the Standing Committee on Petitions, composed of the representatives of Belgium, China, France, Guatemala, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland examined the petitions concerning the Trust Territory of Tanganyika which are listed in the preceding table of contents.

2. Mr. J. Fletcher-Cooke participated in the examination as the Special Representative of the Administering Authority concerned.

3. The Standing Committee submits herewith to the Council its report on these petitions and recommends, in accordance with rule 90, paragraph 6, of the Council's rules of procedure, that the Council decide that no special information is required concerning the action taken on resolutions 1-XIV.

I. Petitions from the Tanganyika African National Union (T/PET.2/198 and Add.1 and 2)

1. In a telegram addressed to the United Nations on 28 October 1955, the signatory, Mr. Julius K. Nyerere, President of the Tanganyika African National Union, states that the Annual Delegates Conference of the Union unanimously passed a resolution opposing the ordinance to amend the Penal Code. The reasons for their opposition were that because of the racial harmony in the Territory it was feared that the proposed amendment would curtail the freedom of speech and of the Press. The Section of the Ordinance to which particular reference is made, is section 63 B the text of which reads as follows:

"Raising discontent and ill-will purposes

63B - (1) Any person who prints, publishes, or to any assembly makes any statement likely to raise discontent amongst any of the inhabitants of the Territory or to promote feelings of ill-will between different classes or communities of persons of the Territory, is guilty of a misdemeanour and is liable to imprisonment for twelve months:

Provided that no person shall be guilty of an offence under the provisions of this section if such statement was printed, published or made solely for any one or more of the following purposes, the proof whereof shall lie upon him, that is to say:

(a) to show that Her Majesty has been misled or mistaken in any of her measures; or

(b) to point out errors or defects in the government or the policies thereof or constitution of the Territory as by law established, or any legislation or in the administration of justice with a view to the remedying of such errors or defects; or

(c) to persuade any inhabitants of the Territory to attempt to procure by lawful means the alteration of any matter in the Territory; or

(d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce discontent amongst any of the inhabitants of the Territory or feelings of ill-will and enmity between different classes or communities or persons of the Territory.

(2) For the purposes of this section an assembly means a gathering of seven or more persons.

(3) A person shall not be prosecuted for any offence under this section without the written consent of the Attorney-General.".

2. In its observations (T/OBS.2/28) the Administering Authority states that the petition refers to section 6 of the Penal Code (Amendment) Ordinance, 1955 which became law on 10 November 1955. A copy of the Ordinance is given. Section 6 of the Ordinance concerns two provisions, one 63 A, relating to the offence of incitement to violence and the other, 63 B, to the offence of "raising discontent and ill-will for unlawful purposes". The latter provision is already covered to a substantial extent by the existing sections 55 and 56 of the Penal Code, which deal with the offence of sedition. But, it had become apparent that to classify as "sedition" such comparatively minor offences as now fall within the new section, was to vest them with undue importance. Further, it seemed desirable to widen the scope of the provision so as to deter an irresponsible individual, from addressing an assembly with wilful disregard as to what unlawful consequences may result. Opportunity was, therefore, taken when amending the Code, to include the provision in question with certain other provisions concerning the disturbance of the peace.

3. As was pointed out however in the debate in the Legislature, the critics of this provision appeared to have overlooked not only the safeguards provided by the new Section 63 B(3) whereby prosection for the offence could only be instituted with the written consent of the Attorney General and by the attitude of the Courts to trivial or ill-founded prosecutions, but also by the four provisos under the new Section 63B(1) which are the key to the section and which together form a completely adequate and comprehensive guarantee for the freedom of opinion and expression (except where the right of freedom of speech is misused for promoting discontent for unlawful purposes). This was fully appreciated not only by the members of the Legislature, including the critics of the measure, who gave it their support with only one dissenting voice, but also by the Press which would be the first to suffer from and protest against any curtailment of the freedom of speech.

4. In conclusion, the Administering Authority notes that the signatory to the petition, Mr. Nyerere, seems himself to have had second thoughts since not only did he cease to attack the Bill after the debate in the Legislature, which he and many other members of the Tanganyika African National Union attended, but on the day after the enactment of the Ordinance,i.e. on 11 November 1955, he was reported in the Press to have informed a public meeting that the Ordinance had been misunderstood and would in fact help the Union.

5. However, on 31 January 1956, the Acting Organizing Secretary-General of the Tanganyika African National Union, Mr. Zuberi M.M. Mtemvu, addressed a letter to the Secretary of State for the Colonies, with copy to the United Nations (T/PET.2/198/Add.1), stating that the Union and people generally are greatly perturbed by the new law. The signatory states that the Union had asked the Governor to delete the section of the Ordinance or at least to postpone passing the Ordinance until the members of the Legislative Council had explained the section to their constituents and had received the necessary mandate from the people. A copy of the Union's letter to the Governor, dated 1 November 1955 is attached. The signatory goes on to state that the articulate public is known to be opposed to the law and he asks the Colonial Secretary to persuade the Tanganyika Government to repeal the law, or at least to ascertain whether the public is opposed to it or not.

6. On receiving a copy of the Administering Authority's observations on his original petition, Mr. Julius Nyerere, in a letter dated 20 June 1956 (T/PET.2/198/Add.2), denies that he changed his mind about the bill, as alleged in paragraph 4 above. At a meeting, he attacked the bill and explained in full his objections to it. He admits that he made some remarks to the effect that the bill would be useful to the T.A.N.U. but says that they were made in a joking mood and that to surmise therefrom that he had ceased to attack the bill was a most irresponsible deduction. He goes on to repeat the objections which are contained in his letter of 31 January 1956 to the Secretary of State for the Colonies (see T/PET.2/198/Add.1).

7. In its observations (T/OBS.2/28/Add.1, section (a)) on T/PET.2/198/Add.1 the Administering Authority states that the provisions of Section 63 B of the Penal Code as contained in the Penal Code (Amendment) Ordinance, 1955 were fully explained in its observations on the earlier petition T/PET.2/198 from the Tanganyika African National Union, see paragraphs 2 and 3 above.

/...

8. As was then pointed out, it was considered necessary to frame provisions so as to deter an irresponsible individual from addressing an assembly with wilful disregard as to what unlawful consequences might ensue. It is considered that this provides an adequate answer to points (a) and (b) made in the Addendum.

9. The implication that the Bill departs from the recognized principle of the presumption of innocence until guilt is proved is unfounded. Under the section it is necessary for the prosecution to establish that the actions concerned are likely to promote discontent or ill-will. While it is true that the burden of proving any statement was made or published solely for legitimate purposes is on the accused this is not contrary to generally accepted principles but in fact is in accordance with the principles enshrined in section 105 of the Indian Evidence Act as applied to the Territory and amended by section 8 of the Indian Acts (Application) Order which reads as follows:

> "(1) When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any exception or exemption from or qualification to, the operation of the law creating the offence with which he is charged and the burden of proving any fact especially within the knowledge of such person is upon him:
>
> Provided that such burden shall be deemed to be discharged if the court is satisfied by evidence given by the prosecution, whether in cross-examination or otherwise, that such circumstances or facts exist; and
>
> Provided further that the person accused shall be entitled to be acquitted of the offence with which he is charged if the court is satisfied that the evidence given by either the prosecution or the defence creates a reasonable doubt as to the guilt of the accused person in respect of that offence.
>
> (2) Nothing in this section shall -
>
> (a) prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions or intentions which are legally necessary to constitute the offence with which the person accused is charged; or
>
> (b) impose on the prosecution the burden of proving that the circumstances of facts described in sub-section (1) do not exist; or
>
> (c) affect the burden placed upon an accused person to prove a defence of intoxication or insanity".

10. In its observations on T/PET.2/198/Add.2 (T/OBS.2/28/Add.1, section (b)) the Administering Authority states that the fourth paragraph of its observations on the original petition from the Tanganyika African National Union was based on an address made by the signatory to the original petition to a general meeting of the Tanganyika African National Union held on 11 November 1955. The statement (made in the course of the address referred to) that the measure would be of assistance to the Union was accepted at its face value. The Government, while repudiating any suggestion of irresponsibility, is prepared to accept that in fact the petitioner had no second thoughts about the Bill.

11. The petition was examined and discussed at the 448th, 449th and 458th meetings of the Standing Committee (documents T/C.2/SR.448, 449 and 458).

12. The draft resolution considered by the Committee at its 458th meeting contained the following paragraphs:

> "Considering that the changes introduced into the Penal Code on 10 November 1955, in particular sections 63A and B and 89A, constitute a threat to freedom of speech, freedom of assembly and freedom of expression of the inhabitants of the Territory and are not based on the principle of the presumption of innocence of the accused but lay the burden of proof on the accused so that he has to establish his innocence;
>
> . . . . .
>
> "3. Recommends to the Administering Authority to take measures in order to repeal these provisions of the Penal Code (Amendment) Ordinance 1955, namely sections 63A and B, and 89A; so as to ensure the full respect for fundamental Human Rights for the inhabitants of Tanganyika in accordance with the provisions of the Charter of the United Nations and the terms of the Trusteeship Agreement."

Each of these paragraphs was rejected by 4 votes to 2.

13. At its 458th meeting, the Committee approved by 4 votes to 1, with 1 abstention, draft resolution I, annexed to the present report, which it recommends that the Council adopt.

II. Petition from Dr. Heinz Langguth on behalf of Mr. Tom Adalbert von Prince (T/PET.2/199 and Add.1 and 2) and Messrs. Bertram von Lekow and Tom Adalbert von Prince (T/PET.2/200 and Add.1, 2 and 3)

1. In a letter dated 23 December 1955 (T/PET.2/199), Dr. Heinz Langguth stated that Mr. Tom Adalbert von Prince, a Danzig national residing in Tanganyika, was wrongfully interned at the outbreak of the Second World War, that his assets were wrongfully seized and that he was wrongfully deported in January 1940. He requests that directions be given to the Tanganyika Government that Mr. Tom Adalbert von Prince be given full compensation for all damages suffered by him in these three matters, and that a committee of experts be appointed to compute the measure of the damages.

2. Regarding the past history of Mr. Tom Adalbert von Prince, it is stated that he was born in Tanganyika and is today a British subject. In 1924 he emigrated from the Free City of Danzig to Tanganyika as a Danzig national and lived there from 1924 to 1939. At the outbreak of the Second World War on 3 September 1939, he was placed in an internment camp at Dar es Salaam and his assets were seized and became vested in the Custodian of Enemy Property as from 3 September 1939. In 1940 he was deported to Germany. Subsequently, in accordance with the "Law for the Settlement of Questions of Nationality" dated 22 February 1955, enacted in the Federal Republic of Germany by which all Danzig nationals of German stock acquire German nationality retroactively as from 1 September 1939 unless they expressly renounce it, Mr. Tom Adalbert von Prince renounced German nationality and was issued a certificate of renunciation to the effect that he did not acquire German nationality following the incorporation of the Free City of Danzig into the German Reich on 1 September 1939.

3. It is further stated that on 7 March, 24 March and 22 April 1954 Mr. von Prince submitted an application and supplementary applications to the Member for Lands and Mines for the restoration to him of his property and assets seized by the Custodian of Enemy Property at the outbreak of the Second World War in September 1939 and for compensation and that by letter of 9 January 1954 the Member for Lands and Mines replied that directions had been given for the release of his assets. Mr. von Prince believed, however, that he was entitled to far greater payment than that received. An itemized list of claims for compensation and restitution include a share of 50 per cent in the Longuza Estates, Ltd., Tanga District Plot No. 210; the Kwata Sisal Estate in the Kosogwe District, including

/...

buildings, machines and other equipment; all property located at Kiuhuhwi Saw Mills near the railway station of Kiuhuhwi, Tanga District which are said to have been leased by the petitioner and which includes lumber of all descriptions, barracks, stores, furniture and household goods, three passenger cars and one lorry; all funds credited with the Consolidated Sisal Estates at the Bombuera Sisal Estate and Ngomeni Sisal Estate; and claims which are registered in the Office of the Custodian of Enemy Property.

4. In support of his claim, the petitioner attaches seven annexes to his petition.

5. In its observations on this petition (T/OBS.2/31, section A), the Administering Authority states that Mr. von Prince was arrested immediately on the outbreak of the 1939-1945 war on account of his notorious Nazi associations and strongly anti-British views, and the Governor of Tanganyika had no hesitation whatever in including him among those deported to Germany early in 1940. His claims to Danzig nationality, which his affidavit states he made orally (though no trace can be found in the records, nor any proof that he made them in writing), could not at the time be entertained by reason of the fact that the Free City of Danzig had, ostensibly with the concurrence of its own legislature, been incorporated in the German Reich. No more would, of course, have been heard of such claims on the part of Mr. von Prince, who himself requested to be repatriated to Germany, had the result of the war been different.

6. Under no circumstances, therefore, does the Administering Authority admit to any liability for the arrest and deportation of von Prince.

7. With regard to the question of property, it has already been pointed out in the Administering Authority's observations on the Werner case (T/OBS.2/24) that, when at the end of the war arrangements were made for the disposal of enemy property, full legal provision was included to allow the refund of any sum standing to their credit, after the sale of assets, to any persons able to prove to the satisfaction of the Custodian of Enemy Property a legal "non-enemy" status. In the case of von Prince, apart from the property held jointly with von Lekow and dealt with in the second petition, over £2,750 was thus refunded in accordance with the law, after deducting all debts and other expenses and no further sum is due nor can be claimed.

8. In a letter dated 22 December 1955 (T/PET.2/200), Dr. Heinz Langguth states that the Longuza Sisal and Cocca Estate Company established in 1938 by

Mr. Bertram von Lekow and Mr. Tom Adalbert von Prince was wrongfully seized upon the outbreak of the Second World War and liquidated in 1950 under the German Property (Disposal) Ordinance, 1948 (Section 24). Mr. Bertram von Lekow was however a Danish national until 1939 and is today a British subject and Mr. Tom Adalbert von Prince was a national of the Free City of Danzig which nationality he acquired by the coming into force of the Treaty of Versailles on 10 January 1920.

9. It is further stated that Mr. Bertram von Lekow, upon the seizure of the estate, received the proceeds of the liquidation as also did his son, Mr. Egon von Lekow, who between them owned 50 per cent of the shares in the Company.

Mr. Tom Adalbert von Prince on 15 March 1955 submitted an application to the Member for Lands and Mines at Dar es Salaam for the restoration to him of his property and assets and for compensation. Supplementary applications thereto were submitted on 31 March and 22 April 1955 which it is claimed showed that he possessed German nationality neither on 3 September 1939 nor later, but was a Danzig national only. The Government of Tanganyika by letter dated 9 June 1955 agreed to release the net proceeds of the realization of the property of Mr. Tom Adalbert von Prince which also included the shares of the Longuza Sisal and Cocoa Estate Company. The liquidation proceeds paid out to the partners, however, were so small, it is asserted, as to bear no comparison to the damages which the partners suffered by the seizure and liquidation of the Company.

10. It is therefore requested that directions be given to the Government of Tanganyika that Messrs. Bertram von Lekow and Tom Adalbert von Prince be given full compensation for all damages suffered by them in respect of their seizure and liquidation of the Sisal and Cocoa Estate Company and that a committee of experts be appointed to compute the amount of damages due.

11. In support of this claim, the petitioner attaches sixteen annexes to his petition.

12. In its observations on this petition (T/OBS.2/31, section A), with regard to the joint property, the Longuza Sisal and Cocoa Estates Co. Ltd., the Administering Authority states that this was in fact a German Company by virtue of being declared such in the First Schedule of Cap. 258 of the Laws, and there could therefore be no doubt that its assets were vested at law in the Custodian of Enemy Property. On

being disposed of by the latter, a sum of no less than £10,976 was paid to each of the two petitioners in accordance with the law and no further sum is due nor can be claimed. Any suggestion that the sum is inadequate or that von Prince and von Lekow can be considered other than extremely fortunate to have been granted this payment, can be adjudged from the following facts:

Price for which estate was purchased by Petitioners	£3,100
Amount invested by von Prince when the estate was formed into a Company	325
Amount similarly invested by von Lekow	75
Actual area under cultivation 3.9.1939	54 acres
Total income of estate 1940-1949	$1,132

13. In addenda, dated 5 January and 14 February 1956 (T/PET.2/199/Add.1 and T/PET.2/200/Add.1), to the two main petitions, Dr. Langguth submits memoranda purporting to be expert opinion on the damages suffered by Mr. von Prince in connexion with the Kwata Estate and by Messrs. von Lekow and von Prince as partners in the Longuza Sisal and Cocoa Estate Co., due to these properties having been seized at the outbreak of World War II.

14. The author of this opinion is a Mr. Paul Matthiesen, who was a permanent resident of the Territory from 1930-40. Mr. Matthiesen encloses a plan for the development of the two Estates over the years 1939-45 based on the capital available to the owners and on 1939 prices and arrives at the conclusion that the lost increased value due to the fact that the planned cultivation could not be carried out amounted, in the case of the Kwata Estate to Sh.40,700 and that the lost profit, before deduction of personal taxes, amounted to Sh.1,112,872, and in the case of the Longuza Sisal and Cocoa Estate Co. to Sh.1,020,487.50 and that the lost profit, before deduction of personal taxes amounted to Sh.8,974,140.50.

15. In its observations (T/OBS.2/31, Section B) on these two addenda, the Administering Authority states that the figures provided are quite irrelevant since as has been pointed out in the observations on the main petitions, the valuation, sale and payment of proceeds of the two estates and other property of the petitioners were carried out according to the provisions of the law, and no further claim can in fact now be made under the law.

/...

16. The Administering Authority adds, however, that it is of interest to note how very far from the true facts are the figures quoted. For instance, in the case of the Kwata Estate (T/PET.2/199/Add.1) the following quotation from the Custodian's records dated 8 November 1939, is relevant:

> Kwata Estate (E.P. plot 237, L.O. No. 643): 70 hectares.
>
> There is no sisal of any value on this estate which is derelict. There is a small area of young chillie plants which is overgrown and I propose to allow a native to cut these in return for keeping the small area weeded.

It is further noted that the buildings and equipment consisted of two Africa-type huts, one wattle and thatch open "banda" (shed), one small oil engine and two home made raspadors. The equipment was sold by auction for Shs.1,409.04. The land remained unoccupied during the war but a tenant was found from 1 November 1946 to 31 December 1947, at a rental of £50 per annum. The property was valued in July 1950 at £260 and disposed of at this figure: the net proceeds were paid to Mr. von Prince. In the case of the Longuza Sisal and Cocoa Estate (T/PET.2/200/Add.1) facts are given in paragraph 5 above.

17. In another addendum to the second petition (T/PET.2/200/Add.2) dated 14 March 1957, the petitioner submits one six-page and another ten-page memorandum, purporting to be expert opinions on the damages suffered by the owners of the Longuza Sisal and Cocoa Estates Co., Ltd., due to its having been seized at the outbreak of World War II.

18. The author of these opinions, Mr. Paul Matthiesen, encloses a plan for the development of the plantations cultures of the Company over the years 1939-45, based on the capital available to the owners and on 1939 prices and arrives at the conclusion that the lost increased value due to the fact that the planned cultivation could not be carried out amounted to Sh.4,431,607.50 and that the lost profit, before deduction of personal taxes amounted to Sh.12,123,298. It appears from the present opinion, which apparently supersedes that mentioned in T/PET.2/200/Add.1, that it covers, in addition to sisal and pepper cultivations, the development of orange groves as well.

19. In further addenda to these two main petitions (T/PET.2/199/Add.2 and T/PET.2/200/Add.3), dated 15 March 1957, the petitioner sends in detailed comments in refutation of the observations of the Administering Authority as reproduced above in paragraphs 9 to 16.

20. The petition was examined and discussed at the 449th and 458th meetings of the Standing Committee (documents T/C.2/SR.449 and 458).

21. The Special Representative stated that the three further addenda to petitions submitted to the Trusteeship Council, to which addenda have already once been made, are in the nature of rejoinders to the Observations of the Administering Authority, and appear to constitute a further attempt by the petitioner to use the Council as a court of law in a matter in which no recourse was had to the Tanganyika courts when the opportunity to do so was open to him. In the opinion of the Administering Authority the addenda add no material fact to the original petitions and fail to meet the points made in the previous observations.

22. In the addendum to the petition T/PET.2/199, the petitioner first tries to show that Mr. von Prince was neither a member nor sympathizer of the Nazi party. This is entirely at variance with the Tanganyika Government's records and is in any case largely based on alleged actions and experiences of Mr. von Prince subsequent to his repatriation to Germany (for which he himself applied), and which are therefore irrelevant. The next two points refer to the alleged illegality under international law of the seizure of Mr. von Prince's property at the outbreak of war. On these the Administering Authority has nothing to add to its previous observations (paragraphs 1 and 2, T/OBS.2/31 of 16 May 1956) and the earlier comments of its Special Representative (page 3, T/C.2/SR.336 of 27 March 1956). After the war when Mr. von Prince's status as a Danzig citizen was finally established, the proceeds of his assets were restored to him under the provisions of the laws of Tanganyika and no action was taken by the petitioner or his client within the period laid down in the law to call to question in the Courts the very substantial sums so paid. The final submission made in the addendum as to the amount of damages claimed by the petitioner is therefore irrelevant, as already pointed out (Part B, T/OBS.2/31), as well as being completely out of proportion to the actual value of the property.

23. This last observation disposes also of the even more fantastic and entirely hypothetical calculations contained in Addendum 2 to the petition on behalf of Mr. von Prince and Mr. von Lekow jointly (T/PET.2/200). Reference has already been made in the observations on the similar calculations contained in an addendum to the petition on behalf of Mr. Walter Kahle (T/PET.2/208) to the singular lack of qualifications possessed by their author, Mr. Paul Matthiesen.

24. On addendum 3 to the joint petition (T/PET.2/200) there is little to be added to previous observations, since the addendum is no more than a reiteration of the argument that as the Danish and Danzig national status of Mr. von Lekow and Mr. von Prince respectively was subsequently proved, the seizure of their property was unlawful and they are entitled to more than the proceeds of the sale of that property awarded them by the Tanganyika Government. This argument is once again rejected by the Administering Authority which maintains that the taking over of the property at the beginning of the war was fully justified, that the proper legal remedies open if this was disputed were ignored both at the time of seizure and after the war, and that no account could possibly be taken of the hypothetic value of assets which, as shown in previous observations, bears no relation to their actual value. It is perhaps worth noting that the petitioner has throughout his submissions failed to produce any evidence to show that his clients had the financial resources or ability to develop the properties to any better effect than was done under the bona fide and conscientious management, subject to the great difficulties imposed by wartime conditions, of the Custodian of Enemy Property.

25. At its 458th meeting, the Committee approved by 3 votes to none, with 3 abstentions, draft resolution II, annexed to the present report, which it recommends that the Council adopt.

III. Petition from Dr. Heinz Langguth on behalf of Mr. Carl von Gebhardt (T/PET.2/201 and Add.1)

1. In a letter dated 17 December 1955 (T/PET.2/201), Dr. Heinz Langguth states that Mr. Carl von Gebhardt, a Danzig national residing in Tanganyika, was interned from 3 September 1939 to 26 October 1939 and from April 1940 to 12 April 1947 and requests that directions be given to the Tanganyika Government that he be given full compensation for all damages suffered by him in respect of his wrongful internment.

2. Mr. von Gebhardt it is stated acquired Danzig nationality on 7 September 1923 thereby losing his former German nationality and received a passport as a national of the Free City of Danzig which was prolonged and renewed on 26 June 1933. He remained a Danzig national since at the outbreak of the Second World War his residence was in Tanganyika or Southern Rhodesia and he was therefore unaffected by the laws of National-Socialist Germany with regard to the annexation of the Free City of Danzig and the Collective naturalization of the inhabitants at the outbreak of the Second World War.

3. It is further stated that Mr. von Gebhardt had never relinquished his Danzig nationality and had never accepted German nationality. He states that Mr. von Gebhardt had neither been a member of the Nazi party nor accepted its favours and did in fact suffer as a consequence of his anti-Nazi attitude economic disadvantages. It is agreed that the measures taken by the Administering Authority against Mr. von Gebhardt were based on the assumption that he was a German national by virtue of his birth in Germany which, the petitioner argues, is fallacious since the applicant's status was changed by the act of naturalization. Consequently it is argued, the act of internment and subsequent confiscation of property was illegal and contrary to the provisions of the Mandate which entitled the applicant to the protection of his person and his property.

4. It is further stated that in June 1955 Mr. von Gebhardt submitted an application to the Governor of Tanganyika requesting full compensation by the Tanganyika Government for his internment on the grounds that he was a Danzig and not a German national and that in reply the Member for Lands and Mines in a letter dated 30 July 1955 stated that it could accept no liability to pay compensation for Mr. von Gebhardt's internment during the war but that it was prepared to admit that he had previously made representations about his Danzig nationality. The

petitioner's land was returned to him by the Tanganyika Authorities who informed him that his claims for payment could not be met as Mr. von Gebhardt's estate was insolvent and that the Tanganyika Government could not accept liability to pay compensation for his internment during the war.

5. In support of his claim, the petitioner attaches eleven annexes to his petition.

6. In its observations (T/OBS.2/30) the Administering Authority stated that the petition concerns a claim for compensation for wrongful internment by the Tanganyika Government during the 1939-1945 war, which claim has already been made to that Government, at a date more than ten years after the conclusion of the war, and rejected.

7. The Administering Authority points out that the petitioner admits that he was German born. In Tanganyika he behaved and was regarded as a German. Even if cognizance had been taken of his possession of a Danzig passport, the fact was that the Free City of Danzig had at the time of his internment been incorporated de facto in the German Reich, and there could be no foreknowledge of its destiny or the choice of future nationality, collectively or individually, by its subjects. In conditions of war-time emergency, no account could possibly be taken of any de jure claim that might afterwards be advanced on the part of any of its citizens to be regarded as other than German nationals. Apart from the formal claim referred to in the foregoing paragraph, the earliest record that can be traced of any attempt on the part of the petitioner to make representations in writing based on Danzig nationality is contained in a letter dated 27 August 1949, although there is an oblique reference to citizenship in representations made by a third party on the petitioner's behalf in a letter dated 12 October 1947, addressed to a private organization, which was referred to the Administering Authority and reached the Territorial Government early in 1948, considerably more than two years after the end of the war.

8. In these circumstances the Administering Authority cannot, and does not, admit any liability for the petitioner's internment.

9. The Administering Authority states that it should be noted, however, that after the war, when the disposal of enemy property seized during hostilities was under consideration, legal provision was made for the restoration of assets or the amount realized from the disposal of assets to any person able to prove to the

/...

satisfaction of the Custodian of Enemy Property his legal right to be treated as other than an enemy subject. (In this connexion attention is drawn to the case of Otto Werner, Deceased, and the Administering Authority's observations thereon, (T/OBS.2/24)). The possible claims of the present petitioner were considered under these provisions, but as his estate was insolvent, no payment was due, and he was so informed.

10. In an addendum to this petition, dated 15 March 1957 (T/PET.2/201/Add.1), Dr Langguth sends in a number of detailed comments on the observations of the Administering Authority as reproduced above in paragraphs 6-9.

11. The petition was examined and discussed at the 449th and 458th meetings of the Standing Committee (documents T/C.2/SR.449 and 458).

12. The Special Representative stated that the addendum to the original petition disputes the conclusion reached in the observations of the Administering Authority (T/OBS.2/30 of 30 April 1956) that, in the circumstances of Mr. von Gebhardt's internment, the Administering Authority cannot and does not admit any liability. References are made to annexures "D", "E", "F", "G" and "H" to the original petition (by which is presumably meant annexures Nos. 4-8) as showing that the Administering Authority was wrong in stating that no trace could be found of any representations in writing prior to an oblique reference dated 12 October 1947. In fact an examination of these annexures confirms that they do not show this. It is true that annexures 5 and 6 show that at the time of Mr. von Gebhardt's internment the officers concerned were aware that he held a Danzig passport, but as was made clear in previous observations on this and similar petitions, Danzig was at the time de facto incorporated in the German Reich, with the alleged support of the majority of its inhabitants. The only other point of interest is that annexure No. 6 shows that Mr. von Gebhardt had actually fought in Tanganyika for the German forces against the forces of the Administering Authority during the 1914-18 war.

13. The Administering Authority, therefore, maintains its view that Mr. von Gebhardt's internment was fully justified in the circumstances and that there can be no question whatever of compensation.

14. At its 458th meeting, the Committee approved by 3 votes to none, with 3 abstentions, draft resolution III, annexed to the present report, which it recommends that the Council adopt.

/...

IV. Petition from Dr. Heinz Langguth on behalf of Mr. Walter Kahle (T/PET.2/208 and Add.1)

1. In a letter dated 29 October 1956 (T/PET.2/208), Dr. Heinz Langguth, Barrister-at-law, in Hamburg, Germany, presents this petition on behalf of Mr. Kahle.

2. The petitioner states that in 1952 Mr. Kahle had filed an application through his legal adviser with the Custodian of Enemy Property in Tanganyika for the restoration of his property and assets which had been seized by that Government at the outbreak of the Second World War. In September 1952 he was informed by the Custodian that directions had been given for the release of the assets. The petitioner feels, however, that he is entitled to a far greater payment than he received and to damages for wrongful siezure of his property.

3. According to the petitioner the property was seized on the assumption that Mr. Kahle was at the time a German national. This he disputes, for although as the son of German parents he was formerly a German subject, he was born at Chiapas, Mexico on 29 September 1900 and "according to the law that rules Mexico since 1933 he passes for a native Mexican". Furthermore, he became a Mexican subject by naturalization in 1928 and his certificate of Mexican nationality dated 21 January 1935 is attached to his petition. It is also stated that an official document of the German authorities according to which the petitioner requested and received his release from German nationality effective from 8 September 1933 could not be obtained because the records were destroyed during the war. However, a certificate, dated 24 April 1956, from the German authorities at Hanover attests to the petitioner's claim. At the outbreak of the war he was in Holland but left that country for Portugal on 23 April 1940 shortly before Holland was occupied by Germany on 10 May 1940. Hence, the petitioner claims that at no time after the outbreak of the war did he possess German nationality nor did he reside in enemy territory, and he adds that the Custodian of Enemy Property was fully informed of these facts.

4. The petitioner then states that soon after the outbreak of the Second World War, the police of Mbeya were informed by the competent authorities at Dar es Salaam that the petitioner was to be considered a German national. A Mrs. Ruth Eckhardt, said to have resided at the Mbeya hospital, thereupon went to the District Office

at Mbeya and submitted affidavits to the contrary, pointing out at the same time that the petitioner would claim damages if his property were seized or taken away from him. Further documentary evidence attesting to the petitioner's Mexican nationality were submitted to the Mbeya authorities in October 1939 by Mr. N.F. How-Brone, Barrister-at-law at Mbeya.

5. The matter was then referred to London and on 28 December 1939, the petitioner, who was at the time residing in Amsterdam, Netherlands, was requested by the British Consulate General there to furnish further information in this matter, which he did on 3 January 1940. He was subsequently informed that the matter had been referred to the Foreign Office in London which in turn referred the files to the Colonial Office. The petitioner's solicitors in London, Messrs. Bull and Bull received a communication from the latter on 8 February 1940 which stated that the Governor of Tanganyika would be prepared to consider the possibility of arranging for the release of Mr. Kahle's property upon receipt of satisfactory documentary evidence that he no longer possessed German nationality. Following the submission of this evidence, the Colonial Office informed the petitioner's solicitors on 27 March 1940 that the Custodian of Enemy Property had been requested to undertake the immediate return of his property. Subsequently the property was released on 31 August 1940, whereupon the petitioner entrusted a Dutch national, Mr. Roelof Murris, with the management of his estate. However, Mr. Murris was arrested on 29 July 1940 and deported from the Territory on 27 November of that year for the duration of the war, on account of which the management plan made by the petitioner could not be put into operation. Thereafter, the petitioner's property reverted to the Custodian of Enemy Property who replied to an inquiry made by Mr. Murris in November 1951 that "the former assets of Walter Kahle in This Territory became vested in this Department on the outbreak of the war in accordance with the terms of local trading with the enemy legislation. They have subsequently been dealt with under the provisions of the German Property (Disposal) Ordinance, pursuant whereto the proceeds of disposal are held accountable to Reparations".

6. In 1952, the sum of Sh.248,919.31 was paid to the petitioner's solicitors and further payment of Shs.16,808/- representing interest was made on 15 June 1955. These payments, according to the petitioner, bear no comparison to the value of

the former assets, the profits lost and the damage incurred by the petitioner as a result of the seizure, which Mr. Langguth describes at some length as having been unlawful. It is requested that in view of the facts presented, directions be given to the Government of Tanganyika that the petitioner be given full compensation for all damages suffered by him in respect of the unlawful seizure of his property and that a committee of experts be appointed to compute the measure of damages.

7. In its observations on this petition (T/OBS.2/35), the Administering Authority recalls the petitioner's request that full compensation should be paid to Mr. Walter Kahle for all damages suffered by him in respect of the seizure of his property and assets in Tanganyika during the last war and their disposal by the Custodian of Enemy Property. The claim for damages is based on the argument that the seizure was unlawful because Mr. Kahle was not an enemy national, and that the amount resulting from the disposal of his property and assets together with interest thereon (which it is admitted was refunded to him in two instalments in 1952 and 1955) was wholly inadequate. It may be observed that the amounts of these instalments are inaccurately quoted, the actual sums being Shs.249,069/51 and Shs.16,476/75, though this does not materially affect the issue.

8. The Administering Authority agrees that Mr. Kahle's status as a Mexican national has been established and it is for this reason that the Governor directed that the net proceeds of the disposal of his assets should be refunded to him. The Administering Authority does not, however, in any way agree with the allegation that the seizure and disposal of those assets was unlawful. The facts are as follows: Mr. Kahle, who was born of German parents, was last in Tanganyika and in personal control of his assets in 1937, his associates at the time being Germans of well-known Nazi sympathies. From 1937 to 1939 he left his affairs in the hands of a Mr. Doelger, a German national who fled to Portuguese territory on the declaration of war. The Custodian of Enemy Property thereupon took possession of Mr. Kahle's property in the reasonable belief that he was an enemy subject. It should be explained that Mr. Kahle's own movements during this period were substantially as stated in the petition except for the fact that it was on the grounds that he wished to visit Germany to see his parents that on 25 July 1939, he applied for and obtained a transit visa for the United Kingdom

from the British Consular authorities in Mexico. There was therefore at the time of the initial seizure of his property reason for believing that Kahle was, or had recently been, in Germany.

9. It being established, however, to the satisfaction of the Custodian that Kahle was not in Germany and was technically a Mexican citizen, the property was released in 1940 and Kahle appointed Mr. Murris, a Dutch national, as his agent in Tanganyika. Mr. Murris was arrested and deported under the Defence Regulations in July 1940. Contrary to what is stated in the petition, Kahle's property was then managed for him until 1944 by Mr. Bayldon, a British national.

10. But by 1944 it had come to the Custodian's notice that Kahle had been gazetted in the United Kingdom as an enemy (United Kingdom statutory list issued by the Board of Trade and applied to Tanganyika by General Notice of 18 June 1942); and that despite Kahle's Mexican nationality the Mexican Government had declared him an enemy and taken over his property in Mexico. Moreover, there were reasons for believing that the beneficial ownership of some at least of Kahle's property (although it was registered in his name) might really belong to his father, a German national and resident in Germany. Indeed after the war a considerable correspondence on the point ensued with Kahle's London solicitors but it was finally agreed that as Kahle's father had died in 1944 and the full facts could never be established, the assets could properly be released to Kahle himself.

11. Possession of Kahle's property was accordingly resumed by the Custodian in August 1944 until the property was finally disposed of in 1952 under the provisions of the German Property (Disposal) Ordinance (Cap. 258 of the Laws of Tanganyika). Application was made in July 1952 by Kahle's solicitors for the return of their client's property and, as stated above, the net proceeds from the disposal of the property were paid through Kahle's solicitors in September 1952 and completed by the payment of interest on 15 June 1955.

12. The actions of the Custodian of Enemy Property and the Tanganyika Government in relation to the seizure and disposal of Kahle's assets were thus done in good faith and within the provisions of the relevant laws, and the Administering Authority repudiates any suggestion that they were unlawful. With regard to the claim in the petition that the amount paid to Kahle in restitution of his assets was incorrect and insufficient, it need only be pointed out that it was open to him or his agents up to, but not after, 20 May 1955, to seek legal remedy through

/

the Courts under the provisions of the Enemy Property (Final Disposal) Ordinance 1954. No advantage, however, was taken of this provision, nor is there any justification, in the opinion of the Administering Authority, for the petitioner's subsequent complaint to the Trusteeship Council and attempt to use the Council as a court of law.

13. In an addendum dated 14 March 1957 (T/PET.2/208/Add.1), the petitioner submits a nine-page memorandum purporting to be an expert opinion on the damages suffered by the owner of the Kiswere Sisal Estate and the Lutwati Coffee Estate, Mr. W. Kahle, due to their having been seized at the outbreak of the Second World War.

14. The author of this opinion is a Mr. Paul Matthiesen who was a permanent resident of the Territory from 1930-1940. Mr. Matthiesen encloses a plan for the development of the Estates over the years 1939-1952 based on the capital available to the owners and on 1939 prices and arrives at the conclusion that the lost increased value due to the fact that the planned cultivation could not be carried out amounted to Sh.11,084,958 and that the lost profit, before deduction of personal taxes, amounted to Sh.44,335,647.64.

15. In its observations on this addendum (T/OBS.2/35/Add.1), the Administering Authority notes that it expands a point made in paragraph 6 of the original petition (T/PET.2/208) in which it was alleged that the payments made to the petitioner under the German Property (Disposal) Ordinance of Tanganyika bore no comparison to the value of the former assets of the petitioner, of the profits lost and of the damage incurred by him as a result of the seizure of his assets. Evidence is adduced based on the opinion of a Mr. Paul Matthiesen, who it is implied is an expert on such matters, that the value referred to above was approximately 220 times the amount refunded to the petitioner.

16. The manifest absurdity of this claim in the light of the facts given in the Administering Authority's observations on the original petition as to the disposal of the petitioner's former assets, makes it, in the Administering Authority's opinion, scarcely worth the serious consideration of the Council. In any case the argument that the amount paid to the petitioner was incorrect and insufficient has been disposed of in paragraph 6 of the Observations on the original petition.

/...

17. It may, however, be of interest to the Council to note that the records in the possession of the Tanganyika Government give the following information about Mr. Paul Matthiesen, on the basis of whose opinion this addendum has been submitted: he was a German contractor of the Tanga District who appears to have specialized in the timber and logging business; on 17 November 1939, he declared himself to be a member of the Nazi party (date of joining subsequently confirmed as 1 June 1933) and applied to be repatriated to Germany. He left for Germany on 16 January 1940. He thus had no experience whatever of the difficulties and economics of estate management during the war years.

18. The petition was examined and discussed at the 450th and 458th meetings of the Standing Committee (documents T/C.2/SR.450 and 458).

19. At its 458th meeting, the Committee approved by 3 votes to none with 3 abstentions draft resolution IV, annexed to the present report, which it recommends that the Council adopt.

V. Petitions from Mr. Juma Karata (T/PET.2/202 and Add.1)

1. By letter dated 2 February 1956, the petitioner appeals against the judgements of the Native Court of Bazo, Vuga; of the Native Court of Appeal of the Lushoto District and of the Subordinate Court of Lushoto. He states that in the present political situation in the Usumbura Chiefdom, it is impossible for one's case to be properly adjudicated, more especially if the case is between a member of the ruling class and a subject. The petitioner's case is between himself and the "Kitara" (the Chief and Council).

2. The petitioner states that his case, which concerns the ownership of three pieces of land, was brought before the Native Court of Bazo, Vuga, in March 1950 when judgement was given in favour of the "Kitara". At that time, the petitioner was fined 50 shillings for contempt of court. He appealed to the Native Appeal Court of Lushoto which upheld the judgement against him of the lower Court. He then took his case to the Subordinate Court of Lushoto, which similarly upheld the judgement against him.

3. In its observations (T/OBS.2/32, section 1) the Administering Authority states that the case was disposed of in the Local Courts of Lushoto District in the Tanga Province according to the Law well over five years before the date of the petition. At the original hearing before the Vuga B. Court, and on appeal to the Vuga Appeal Court of Lushoto District, the petitioner's claim was rejected and he was further ordered to pay a fine of fifty shillings for contempt of court.

4. The case came before the District Commissioner's Local Appeal Court on 7 October 1950, and, in view of the fact that one of the parties was in effect the Local Authority in the area, was given a most careful hearing. The order regarding the payment of a fine was quashed as being irrelevant to the issue and ultra vires, but the judgement of the lower courts regarding the ownership of the land was upheld. The petitioner was given the statutory one month in which to appeal, but did not do so until thirteen days after the expiry of the time for appeal. He claimed that the delay was due to illness, but it was recorded that he had not been ill at the time of the hearing before the District Commissioner, nor when he applied for permission to appeal out of time, nor was there any evidence that he had in fact been ill during the interval. In these circumstances the Provincial Commissioner, after carefully studying the records of the lower courts, refused leave to appeal out of time, under the provisions of Section 36 of the Native Courts Ordinance, Cap. 73 of the Laws.

5. The present petition sets out no new grounds for varying the judgements given in the Courts or for action to be taken to re-open a case which has been given in all its stages very full and careful consideration. It is in effect an attempt to solicit the aid of the Trusteeship Council in disputing the lawful judgement of the properly constituted Courts.

6. It is suggested that as the subject matter of this petition was dealt with in the competent courts of the Territory nearly six years ago, no recommendation by the Council is called for.

7. In a subsequent communication (T/PET.2/202/Add.1) dated 12 May 1956, the petitioner submits a list of personal property, valued by him at 10,725 and a half shillings, which he states he lost when his shamba and houses were confiscated. He also states that one of his wives and a week-old baby were driven outside into heavy rain and that subsequently the baby died.

8. In its observations (T/OBS.2/32/Add.1), the Administering Authority states that careful investigation has failed to produce any evidence to show that the petitioner suffered the loss of any property as the result of the judgement of the court referred to in the observations on the original petition. There were two houses on the parcel of land which was the subject of dispute, and the petitioner was ordered by the Court to remove these two houses, which were of the normal traditional type. It is probable that these houses are the two referred to in the present petition.

9. It is to be noted that although the case in question was disposed of in 1950, the petitioner has never previously made any representations regarding the loss of property.

10. The petitions were examined and discussed at the 450th and 458th meetings of the Standing Committee (documents T/C.2/SR.450 and 458).

11. The draft resolution considered by the Committee at its 458th meeting contained the following paragraph:

> "2. Recommends that the Administering Authority investigate the claim of the petitioner regarding the damages suffered when he was deprived of the fruits of the land which he had been cultivating and the loss incurred when his family was evicted from the houses which belonged to them and that it take the necessary steps so that full compensation be paid to the petitioner for the losses thus sustained."

This paragraph was rejected by 3 votes to 1, with 2 abstentions.

12. At its 458th meeting, the Committee approved by 3 votes to none, with 3 abstentions, draft resolution V, annexed to the present report, which it recommends that the Council adopt.

VI. Petition from Mr. M.V. Bhardwa (T/PET.2/203)

1. In a letter dated 22 February 1956, addressed to the Secretary-General, the petitioner states that he served as a first grade clerk, a pensionable post, in the Secretariat, Dar es Salaam, from 1 August 1946 until 28 August 1952. As the result of a quarrel with a neighbour, he was sentenced to two months' imprisonment. Before his release from prison he received notification that his services had been terminated. After his release from prison, he appealed unsuccessfully to the Director of Establishment for reconsideration of his case. He submitted a claim, made up as follows, which was also rejected.

	Shs.	Cts.
3 months' pay in lieu of notice	1,474	57
27 days pay for leave due	368	75
21 days pay for deferred leave	319	20
	2,162	52

The petitioner explains that on the expiration of his last leave, he still had twenty-one days' leave due to him which he considers a "deposit" on his account.

2. The petitioner states that he has petitioned the Governor of Tanganyika and the Secretary of State for the Colonies, both without success.

3. In its observations (T/OBS.2/32, section 2) the Administering Authority states that the petitioner's account of his employment and subsequent dismissal by the Tanganyika Government is correct. He was dismissed from the service in August, 1952, consequent on conviction on a criminal charge of doing grievous harm to a woman by stabbing her with a spear below the left eye, resulting in a wound two inches long and half an inch deep.

4. The petitioner was employed on pensionable terms as a clerk in what was then the General Division of the Junior Service. The conditions of his employment were governed by the Colonial Regulations and the General Orders governing conditions of service of Civil Servants, which provide, inter alia, that if an officer is convicted on a criminal charge, the Governor may, upon consideration of the

/...

proceedings of the court, dismiss him, and also that all rights and privileges under an officer's terms of service shall cease on his dismissal. This includes the right of notice of termination of employment and all leave privileges. It is noted in particular that deferred leave in no way represents a "deposit" as alleged in the petition, but is a privilege granted to a serving officer in certain circumstances. General Order No. 378, dealing with the grant of deferred leave, specifically provides that when an officer is dismissed from the service he forfeits all such privileges.

5. The Administering Authority mentions that Mr. Bhardwa has twice petitioned the Secretary of State for the Colonies who on each occasion declined to intervene.

6. The petition was examined and discussed at the 450th and 458th meetings of the Standing Committee (documents T/C.2/SR.450 and 458).

7. The draft resolution considered by the Committee at its 458th meeting contained the following paragraph:

> "2. Recommends to the Administering Authority to take measures so that all working people in the Territory, including employees of the Administration, be guaranteed the right of paid leave."

This paragraph was rejected by 3 votes to 1, with 2 abstentions.

8. At its 458th meeting, the Committee approved by 4 votes to none, with 2 abstentions, draft resolution VI, annexed to the present report, which it recommends that the Council adopt.

VII. Petition from Mr. Abdallah Saidi (T/PET.2/204)

1. In a letter dated 1 June 1956 addressed to the Secretary-General of the United Nations, the petitioner states that in November 1954 he was convicted for stealing and sentenced to eight months' imprisonment. Following his release from prison, he alleges that he was told by the Superintendent of Police that, if he wished to live happily in Dar es Salaam, he should report to the Police each Monday the names of thieves in that town, at least one thief each week, including details of the articles and the person from whom they were stolen.

2. The petitioner states that, as a result of his refusal to act as an informer, he was ordered to sell all his property in Dar es Salaam and to go and live in Lindi. He claims that his property is worth Sh.12,920 in the form of houses and farms and that to sell it would greatly prejudice the welfare of his large family.

3. In its observations (T/OBS.2/33) the Administering Authority states that Abdallah Saidi was convicted in the District Court of Dar es Salaam on 16 November 1954, of the offence of uttering a false document contrary to Section 342 of the Penal Code, and was sentenced to eight months' imprisonment. The Court in addition ordered that he should be subject to Police supervision for a period of three years in view of his criminal record of eight previous convictions, of which a list is attached as an appendix to these observations. The Court further ordered that he should reside in the Lindi district, from which he originated, during the period of this supervision.

4. The petitioner was released from prison on 23 May 1955, and was instructed to leave Dar es Salaam in accordance with the terms of the Court Order but at the same time was given every opportunity either to dispose of his property in Dar es Salaam or to make what other arrangements regarding it he might wish.

5. The value of the property, stated by the petitioner to be Sh.12,920/-, is grossly exaggerated. Careful investigations have shown that he owned no land but had crops to the value of Sh.200/-, while his immovable property, consisting of a mud and wattle house, failed to secure a purchaser when put up to auction.

6. During long drawn out and ineffectual efforts on the part of the petitioner to put his affairs in order, he was permitted to remain in Dar es Salaam and was required to report periodically to the Police. During this period he associated

with two other men with criminal records who were also subject to Police supervision and on one occasion in accordance with normal Police practice, was invited to co-operate with the Police to the best of his ability in the provision of information regarding these or other criminals. This invitation was not accompanied by any threats.

7. The petitioner, who has failed on a number of occasions to report to the Police as instructed, was located and arrested on 9 August 1955, with a view to effecting his repatriation to his district of origin where his family are residing. He was, however, released to following day.

8. After permitting the petitioner nearly one year in which to wind up his affairs in Dar es Salaam, he was finally ordered by the Police to proceed to Lindi in compliance with the Court Order. He failed to depart and was subsequently charged and convicted on 16 July 1956 for failing to comply with the terms of the Supervision Order, contrary to Sections 309 and 310 of the Criminal Procedure Code, and was sentenced to three months' imprisonment. He is at present still serving his sentence.

Criminal Record of Abdallah Saidi

1.	On 8/1/40 at Lindi	stealing c/s 252 P.C.	1 month I.H.L.
2.	" 8/1/40 " "	entering dwelling house and stealing c/s 281 and 252 P.C.	6 " "
3.	" 5/10/42 " "	stealing c/s 252 P.C.	Fined Shs.20/- or one month
4.	" 4/3/46 " "	housebreaking and stealing c/s 294(1) and 265 P.C.	one year I.H.L.
5.	" 19/6/47 " "	burglary and stealing c/s 294(1) and 265 P.C.	18 months I.H.L.
6.	" 19/6/47 " "	housebreaking and stealing c/s 294(1) and 265 P.C.	18 months I.H.L. (concurrent with 5) and two years Police supervision.
7.	" 3/3/52 " DSM	failing to comply with supervision order c/s 309 and 310 C.P.C.	6 months I.H.L.
8.	" 24/12/52 " "	unlawfully wounding c/s 228(1) P.C.	6 months I.H.L. and to pay Shs.150/- compensation or a further six months in default.
9.	" 16/11/54 " "	uttering false document c/s 342 P.C.	8 months I.H.L. and 3 years supervision at LINDI.

/...

9. The petition was examined and discussed at the 450th and 458th meetings of the Standing Committee (documents T/C.2/SR.450 and 458).

10. At its 458th meeting, the Committee unanimously approved draft resolution VII, annexed to the present report, which it recommends that the Council adopt.

VIII. Petition from Mr. Julius Mwasanyagi concerning Tanganyika (T/PET.2/205)

1. In his letter dated 10 June 1956, the petitioner complains that on 11 December 1955, a man in plain clothes, carrying a rifle, whom he subsequently learnt was Sergeant Pius Mwampelembwa of the Tanganyika Police Force, came to the house of his brother Ali Mzee. After conversing with Ali Mzee the man went some distance away to where Mrs. Ali Mzee was working. At that time, neither Ali Mzee nor his wife knew him to be a policeman. After questioning the woman regarding ownership of a drum lying nearby, the policeman assaulted her, striking her until she fainted. When Ali Mzee came to the scene with a number of other people, the policeman loaded his rifle and threatened to shoot him. Ali Mzee ran away, and his mother intervened. The policeman then kicked and struck her, as well as continuing his assault on her daughter-in-law, until both women became unconscious. He threatened to shoot anyone who intervened. The elder woman suffered a burst ear-drum. Many people then gathered at the scene and the police sergeant walked away. The petitioner states that the two women were taken to the nearby hospital, where his brother's wife remained for ten days and his mother for sixteen. The petitioner states that his mother is now completely deaf as a result of this assault.

2. The petitioner further states that repeated efforts by Ali Mzee to obtain redress were rejected by the authorities, who, however, prosecuted him, and fined him 30 shillings, for resisting the Police. Subsequently, the District Officer at Mufindi threatened Ali Mzee with imprisonment if he made any further appeals. Meantime the police hid the medical records of the Kalinga Rural Hospital relating to the assaults on the two women.

3. In its observations (T/OBS.2/34, section 1) the Administering Authority states that on 7 December 1955, Sergeant Pius s/o Mwezimpya, of the Tanganyika Police, (an African of the local Hehe Tribe) was in the Mufindi area of the Southern Highlands Province investigating complaints of pilfering from the Tanganyika Tea Company which owns estates in this area. Sergeant Pius was in plain clothes and had with him a licensed shotgun which was his own property for his personal protection against game frequently encountered in parts of this area.

4. During the course of his investigations, it was reported to him that an employee of the Tanganyika Tea Company was on his way to the nearby village of Ifupira in possession of stolen vitamin oil. Sergeant Pius accompanied by a

headman from Mufindi proceeded to Ifupira Village by lorry to investigate this report. On arrival at the village he saw two women near the shop of Ali Mzee, the brother of the petitioner, endeavouring to conceal a drum and scattering tea into the grass nearby. These two women were questioned by Sergeant Pius, whose suspicions were aroused by their actions, and stated that they were the wives of Ali Mzee and that the drum, which proved to be empty, was the property of their husband.

5. Sergeant Pius, who was not satisfied with the explanation given by the two women concerning their actions and the ownership of the drum, informed them that he was a police officer and that they were being arrested on suspicion of theft. The two women then started to scream and their screams brought Ali Mzee and several male Africans armed with sticks on the scene. This group led by Ali Mzee took up threatening and belligerent attitudes to Sergeant Pius and the headman. Sergeant Pius drew attention to his shotgun stating that he would use it, if necessary, in the event of violence being offered to him in the execution of his lawful duty. At no time did Sergeant Pius threaten to shoot Ali Mzee as stated by the petitioner.

6. The Administering Authority states that Ali Mzee's mother-in-law then pushed the Sergeant, and a general fracas resulted. The evidence of some witnesses indicates that the mother-in-law may have been slapped once on the face by Sergeant Pius, but there is no evidence to indicate that the degree of violence offered by Sergeant Pius was greater than this. As Ali Mzee and his party continued in their aggressive attitude towards Sergeant Pius, the latter withdrew, together with the members of his party, taking with him a packet of tea as evidence but leaving the drum. Sergeant Pius showed restraint in the exercise of his duty although subjected to provocation and threats of violence.

7. The following day Ali Mzee's wife and mother-in-law were provided with medical report forms by the corporal in charge of the Mufindi Police Post and were examined at the Kalinga Dispensary by the Rural Medical Aid who, as is normal in such dispensaries, is not a qualified medical practitioner. The Rural Medical Aid certified that in his opinion both women had sustained blows on the ears, resulting in bleeding, which might have been inflicted by a blunt instrument. The official records at the dispensary, when examined by the police,

showed that the two women attended as out-patients from 12 to 15 December only. A clumsy attempt had been made however to alter the latter date in the records to 25 December and it is relevant to mention that the dispensary was in fact closed from 23 to 25 December inclusive. Both women were examined in August, 1956, by a qualified Government medical practitioner who was satisfied that the hearing of both was normal and that there was no damage to either the ears or the ear-drums. This finding of the medical practitioner is at variance with the petitioner's statement that the mother-in-law is now stone deaf.

8. Ali Mzee made a complaint in January 1956 to the District Officer, Mufindi, who after enquiry informed Ali Mzee that the prosecution of his wife in connexion with the allegedly stolen goods was under consideration and that his wife could institute proceedings, if she so wished, against Sergeant Pius in the Local Court. The wife of Ali Mzee was prosecuted in Court for attempting to destroy evidence and was acquitted; Ali Mzee and one other were convicted of obstructing a police officer in the execution of his duty contrary to section 243(b) of the Penal Code and sentenced to pay fines of Shs.30/- and Shs.20/- respectively. The allegation that this District Officer threatened Ali Mzee with imprisonment if he continued with his complaint is untrue. Neither the petitioner nor Ali Mzee himself nor his mother-in-law made any attempt to institute proceedings in Court for redress of the injuries alleged in the petition, although they were at liberty to do so, had they so wished, and although Ali Mzee was advised to this effect by the District Officer.

9. The petition was examined and discussed at the 450th and 458th meetings of the Standing Committee (documents T/C.2/SR.450 and 458).

10. At its 458th meeting, the Committee approved by 5 votes to none, with 1 abstention, draft resolution VIII, annexed to the present report, which it recommends that the Council adopt.

IX. Petition from Mr. Julius Mwasanyagi (T/PET.2/206)

1. In his letter dated 25 June 1956 the petitioner complains that in four of the Uhehe District sub-chiefdoms, namely Idodi, Mahenge, Kilolo and Kibengu, several hundreds of the indigenous Wahehe people have been deprived of their lands by the Administering Authority, without compensation, and that they are now homeless and without food. He states that the fertile lands taken from these people have been either re-allocated to "immigrant foreign planters" or declared to be forest and game reserves.

2. The petitioner also protests against the attitudes of European settlers to Africans in the Mufindi area, and alleges that whilst Africans are liable to be shot if they enter onto European-owned lands, Europeans enter, and cut firewood and shrubs on African-owned land at will. Requests made by Africans for return to them of the Chesham estate lands, comprising several hundred square miles of agricultural country, were rejected by the Administering Authority. The petitioner states that the Wahehe are afraid that the Administering Authority intends to make the area another Kenya-type White Highlands.

3. The petitioner further complains that the Uhehe sub-chiefs are not chosen by the people, as in other parts of Tanganyika, but by the District Commissioner in consultation with the head chief. He states that the incumbents hold office only so long as they remain subservient to the Administering Authority, and that seven of the twelve sub-chiefs do not belong to the areas they administer.

4. In addition, the petitioner states that the "Incitement to Violence Ordinance" is a bad law that has destroyed freedom of speech and of the Press and is giving rise to great bitterness. He further complains, as an illustration of the attitudes of Europeans to Africans, that two European members of the Legislative Council, Colonel C.L. Towne and Mr. A.L. Le Maitre, spoke at length in the Council against education for Africans, but that an African member of the Council who protested against the "Incitement to Violence Bill" was promptly rebuked by the Member for Legal Affairs. The petitioner cites these occurrences to support his contention that in Tanganyika Territory a very different atmosphere prevails to the spirit of "good racial harmony" alleged to exist by the Administering Authority.

5. Finally, the petitioner requests the United Nations to urge the Administering Authority to return to the Wahehe people the Chesham estate, and the lands in the four sub-chiefdoms of Idodi, Mahenge, Kilolo and Kibengu that were confiscated.

6. In its observations (T/OBS.2/34, section 2) the Administering Authority states that 300 Wahehe of the Idodi Sub-chiefdoms were found to be in the Rungwe Game Reserve and were moved, with Government assistance, to a more fertile area, where water, medical and education services were available. The move was desired by the Chief of the Uhehe and was carried out voluntarily by the people, who readily understood its advantages. The movement of families on the three sub-chiefdoms was in connexion with the creation of the proposed Kilombero Forest Reserve which was established to conserve water supplies. A total of 235 families moved voluntarily in consideration of the payment of compensation. The Administering Authority denies that any persons are either foodless or homeless as a result of these moves.

7. There is no pressure of land in the Mufindi area, and in fact, a considerable area of fertile land in the Mufindi neighbourhood is at present being opened up to relieve pressure on other heavily populated areas of the Uhehe country. The owners of the Tanganyika Tea Company holdings, and the ten farms which comprise all the European settlement on the area do not, in the interests of good farming, encourage encroachment on their lands, whether of a temporary or permanent nature, but no persons are liable to be shot if they enter on other's property as alleged by the petitioner.

8. The reference by the petitioner to "fertile lands being taken over by immigrant foreign planters" is not understood, as no such alienations have taken place in recent years. The estate of the late Lord Chesham, much of which is unsuitable for agricultural purposes except on a large scale, requires considerable capital and technical skill, due to the poverty of the soil. The estate is divided up into a number of farms which are leased to non-Africans. Even if there existed a land-hunger amongst the Wahehe, it would not be possible with their present form of cultivation for them to put this estate to productive use.

9. While it is the policy of the Government to adopt some form of elections in regard to the appointment of chiefs and sub-chiefs, it has not yet been possible to introduce this system in the Uhehe district. Sub-chiefs there continue to be nominated by the Chief, with the approval of Government, which is the traditional method both acceptable to and understood by the people.

10. With regard to the statements made in the Legislative Council by the two Unofficial Members referred to by the petitioner, these do not represent the Government's view, and hence do not call for comment.

11. The Administering Authority finally states that the provisions of the Penal Code (Amendment) Ordinance 1955 were explained in its observations (T/OBS.2/28 and Add.1) on a petition from the Tanganyika African National Union (T/PET.2/198 and Add.1 and 2).

12. The petition was examined and discussed at the 450th, 451st and 458th meetings of the Standing Committee (documents T/C.2/SR.450, 451 and 458).

13. The draft resolution considered by the Committee at its 458th meeting contained the following paragraphs:

> "3. Expresses the hope that indigenous inhabitants will not be moved from the lands which they occupy and that the Administering Authority will give them all the necessary aid to develop modern methods of farming according to the conditions of a given region and to the nature of the soil;
>
> "4. Draws the attention of the Administering Authority to the statements mentioned in the petition made by the two appointed members of the Legislative Council, which are in complete contradiction with the provisions of the Charter of the United Nations and of the Trusteeship Agreement."

The first of these paragraphs was rejected by 3 votes to 2, with 1 abstention, and the second by 3 votes to 1, with 2 abstentions.

14. At its 458th meeting, the Committee approved by 4 votes to 1, with 1 abstention, draft resolution IX, annexed to the present report, which it recommends that the Council adopt.

X. Petition from Mr. M.S. Ramadharri (T/PET.2/207)

1. In his letter of 12 September 1956 the petitioner complains that whilst employed as a constable in the Tanganyika Police Force he applied to transfer to a clerical position in the District Office, Lushoto. He was given permission to buy his discharge from the Police Force for 150 shillings payable in three instalments, and was then taken on the District Office staff as a dispatch and filing clerk, commencing work on 21 January 1956.

2. On 1 May 1956 he was given a month's notice of dismissal, the reason given being mainly because of lack of proficiency in the English language. At the time he had not completed paying for his Police discharge.

3. The petitioner considers that as the District Commissioner had the opportunity of assessing his knowledge of English when he interviewed him before offering the appointment, the real reason for his discharge was other than that stated. He expresses his distress and that of his family at the loss of his employment, together with the 150 shillings paid for his discharge from the Police Force. He requests the United Nations to consider his case.

4. The Administering Authority states (T/OBS.2/34, section 3) that the petitioner was enlisted in the Police Force in March 1954 and whilst serving as a constable, applied to the District Commissioner, Lushoto, for an appointment as a clerk in the District Office. The District Commissioner informed the petitioner that if he accepted employment as a clerk he would do so on his own responsibility and that in accordance with the terms of service applicable to the appointment he would be liable to have his appointment terminated after due notice should his work prove unsatisfactory.

5. The petitioner, who at this time had not completed his period of enlistment with the Police Force, was permitted to purchase his discharge in accordance with the provisions contained in the Police Ordinance.

6. The petitioner took up his duties as a dispatch and filing clerk in the District Office, Lushoto, on 1 February 1956, but mainly owing to his lack of English was found unsuitable for continued employment. On 1 May 1956 the District Commissioner informed him that his appointment would be terminated on 31 May 1956. In the event, the petitioner was permitted to remain in this employment until 15 June 1956 whilst inquiries regarding the possibility of his

re-engagement with the Police Force were being undertaken on his behalf. The Police Force refused to re-engage him because of his disciplinary police record during 1955, namely:

(a) Refusing to obey an order

(b) Being absent without leave, and

(c) Leaving his post before being regularly relieved.

7. It is significant that the Tanganyika African Government Servants Association, when approached by the petitioner regarding the termination of his services did not appear to consider that any grounds existed for intervention on his behalf.

8. The petition was examined and discussed at the 451st and 458th meetings of the Standing Committee (documents T/C.2/SR.451 and 458).

9. At its 458th meeting, the Committee approved by 5 votes to none, with 1 abstention, draft resolution X, annexed to the present report, which it recommends that the Council adopt.

XI. Petition from the Tanganyika Federation of Labour (T/COM.2/L.37)

1. In a letter dated 15 December 1956, the President of the Tanganyika Federation of Labour complains about the enactment of the Trade Union Ordinance of 1956. He states that, in spite of strong opposition and suggestions by non-official members of Legislative Council that the bill be referred to a Select Committee for further study, the Government rushed the bill through the Council without adequate time for its study and without any attention being paid to the objections raised by the Federation of Labour in respect to twenty-three sections of the bill. The petitioner alleges that the Ordinance is prejudicial to the democratic practice of trade union activities in the Territory and that it represents a repressive measure.

2. In its observations (T/OBS.2/37) the Administering Authority states that the first allegation in the petition is that the Trade Union Ordinance of 1956 was "rushed" through the Legislature by the Government despite strong opposition and without adequate time for its study. In fact, considering the circumstances in which this measure became necessary, everything possible was done not only to ensure that it was based on the best advice available, but also to give full opportunity for its consideration by the Legislative Council.

3. The trade union legislation which was in force before the ordinance was enacted dates from 1932 at a time when no interest whatever was taken in trade unionism in Tanganyika. It was little more than an enabling ordinance and contained no detailed provisions for guiding the formation of trade unions on the best modern lines, and it was not until 1950 that the first hopeful signs of the development of a legitimate trade union movement justified a start being made on the drafting of up-to-date legislation. During the next few years this legislation received the most careful consideration of the Tanganyika Government's Labour Department, and a draft Bill was prepared. The new legislation was completed and presented to the Executive Council in October 1956. It was moved in Legislative Council on 13 December. In the debate on the Bill there were fourteen speakers of whom three asked that the Bill be referred to a select committee; it was clear from all the speakers that the Bill had been studied and understood. The Bill was further considered on the following day in the committee stage, when six amendments were agreed to and two others

rejected after lengthy discussion. It passed its third reading on the same day and became law on 27 December 1956.

4. The Tanganyika Government is of the opinion that to have delayed further the passage into law of a measure which had been the subject of expert study for more than five years, would in fact have been a disservice to the trade union movement. It would indeed have amounted to a failure to provide an adequate legal foundation, and the opportunity for a youthful movement to develop on the pattern so successfully established in the United Kingdom, at a time when the efforts and encouragements of the Administering Authority and the Tanganyika Government which had repeatedly been recommended by the Trusteeship Council, had at last borne fruit.

5. The second allegation in the petition is that no attention was paid by the Tanganyika Government to objections raised by the Federation of Labour to twenty-three clauses in the Bill. In fact the points referred to by the Federation in a letter dated 30 November, which included such items as an objection to the provision by which a person convicted of a crime involving fraud or dishonesty should be debarred from holding a position of trust in a union, were considered in detail and a point by point commentary was undertaken by the Labour Department and completed on 3 January 1957, the date on which the petition was dispatched. The reply sent to the petitioner on 21 January 1957 made it clear that while most of the points raised by the Federation appeared to concern controls which had been fully considered during the long period of drafting of the ordinance and were deemed to be fully justified in the present formative stage of the movement, further consideration would be given to them when, in the light of views of organizations of employers and employees based on experience in practice of the operation of the ordinance, amending legislation was being considered.

6. The trade union movement in Tanganyika has made steady progress over the past few years and by 1 January 1956 some twenty unions with a total membership of 2,000 were in existence. During the following few months there was a sudden increase of interest and by 30 September 1956, membership had risen to over 10,000. The petitioner states that the new ordinance constitutes a (death) sentence on the trade union movement and is a repressive measure. In reply, it is only necessary to state categorically that far from there having been any

decline in trade union activity since the Bill became law, there is every evidence that it has had a most beneficial effect and enabled the unions both to develop their organizations on accepted lines and to play an increasingly important role in labour matters.

7. The petition was examined and discussed at the 452nd and 458th meetings of the Standing Committee (documents T/C.2/SR.452 and 458).

8. The draft resolution considered by the Committee at its 458th meeting contained the following paragraphs:

> "Taking into account that the Trade Union Ordinance of 1956 was adopted without taking into consideration the comments and despite the objections of trade unions in the Territory,
>
> "Taking into consideration that this Ordinance, which establishes the full control by the Administration over trade unions and their activities, violates the rights of trade unions;
>
> . . . . .
>
> "3. Recommends to the Administering Authority to adopt measures to safeguard the full freedom of trade union activities in the Trust Territory."

The first two of these paragraphs were rejected by 3 votes to 1, with 2 abstentions. The third paragraph was rejected because, after the procedure laid down in rule 38 of the rules of procedure had been followed, the votes for and against it were equal.

9. At its 458th meeting, the Committee approved by 4 votes to 1, with 1 abstention, draft resolution XI, annexed to the present report, which it recommends that the Council adopt.

XII. Petition from Messrs. S.M. Humbara and I.A. Mponji (T/PET.2/209)

1. In a letter dated 25 February 1957, the petitioners complain about their eviction by the Government from their cultivations on Matagoro mountain, situated in the Songea District of the Southern Province. They were told that the reason for their removal was that Government wanted to plant trees in order to protect the sources of several rivers which rise in the mountain. They maintain, however, that instead of evicting them Government should have taught them how to plant the trees. They state that since May 1953, they have been seeking redress but without success. They mention a rumour to the effect that Europeans are going to occupy the land in question.

2. In its observations (T/OBS.2/36) the Administering Authority states that in 1950 it became clear to the Administration of the Songea District in the extreme south of the Territory that a Forest Reserve should be created in the Matagoro Hills to the East and South East of Songea Township. Its purpose was the preservation of vital water sources threatened by erosion, resulting from over-cultivation, which had begun to develop in the hills. Seven rivers, including the Rovuma and Ruhuhu rivers rise in these hills and one of its streams forms part of the water supply of Songea Township and is essential for the seed beds maintained by the Songea Tobacco Co-operative Society.

3. For the purpose of establishing the Forest Reserve it was necessary to remove 146 cultivators, many of whom were resident in Songea Township with other sources of income, and a substantial proportion of whom were not local tribesmen. None of them was permanently resident in the area which is now a Forest Reserve. After being given full opportunity to reap their annual crop these cultivators evacuated the area at the end of 1950. All who had permanent crops (such as fruit trees) and houses (which it is understood from the records were in most cases no more than shelters for night watchmen in the fields during the annual cultivation season), received compensation which was very carefully worked out and totalled Sh. 4,222/50. At the rates prevailing seven years ago this compensation was acknowledged to be generous. Moreover, those who were moved were offered assistance by the Local Government Treasury to re-establish themselves on a planned basis elsewhere and although this was refused they have, in fact, been able to continue cultivating other land in the neighbourhood.

4. It was not until the end of October 1953 that any marked dissatisfaction on the part of those whom the petitioners claim to represent came to notice. A full review of the whole question was, therefore, arranged by the Tanganyika Government and took place in May 1954, but the best specialist advice confirmed the grave danger of allowing cultivation to be resumed in the Forest Reserve, and this position has had to be maintained in the face of further petitions.

5. The petition is not clearly expressed so that it is difficult to deal with points of detail. There is, of course, no question of colour bar, nor at any time has there been any suggestion that the land in the Matagoro should be occupied by persons of other races. There is not, and never has been, any motive in the creation of the Forest Reserve other than to safeguard essential water supplies in the area.

6. It is suggested that it would be appropriate for the Council to advise the petitioners to accept a situation which is undoubtedly in their long-term interest and that of the greater part of the Southern Province of Tanganyika. It need hardly be added that the Native Authority of the area will continue to give the petitioners every assistance to find new and adequate holdings if required.

7. The petition was examined and discussed at the 452nd and 458th meetings of the Standing Committee (documents T/C.2/SR.452 and 458).

8. At its 458th meeting, the Committee approved by 4 votes to 1, with 1 abstention, draft resolution XII, annexed to the present report, which it recommends that the Council adopt.

XIII. Petition from the Tanganyika African National Union, Bukoba Branch (T/PET.2/210)

1. In a letter dated 5 March 1957, the Chairman of the Bukoba Branch of the Tanganyika African National Union complains that a virtual monopoly is exercised by the Bukoba Native Coffee Co-operative Union Ltd., in that all coffee grown in Bukoba district has, by a compulsory order, to be sold through that Union. He further complains that an application to form another Co-operative Union affiliated to the Tanganyika African National Union under the name of "Bahaya Planters Association" with the object of marketing the coffee of more than 8,000 Africans who are non-members of the Bukoba Native Coffee Co-operative Union Ltd. has been rejected by the Government.

2. The petitioner also complains that while all African coffee-growers, both members and non-members, are obliged to sell their coffee to the Bukoba Native Coffee Co-operative Union Ltd., the European and Indian coffee-growers in Bukoba district are free to sell their coffee anywhere they like and that they obtain better prices than the African growers.

3. In its observations (T/OBS.2/38) the Administering Authority states that this petition amounts to an appeal against the decision of the Tanganyika Government to maintain the one channel marketing control applying to all African produced coffee in the Bukoba district. This coffee accounts for all except 200 tons of the current annual production from the district of 10,000 tons. In order to understand the Tanganyika Government's decision and the misleading nature of this petition it is necessary to trace briefly the history of coffee marketing in Bukoba.

4. Unlike the coffee industries in other areas of the Territory, the Bukoba industry has a long history dating back to before 1914. For a long time the marketing arrangements handled by scores of dealers were exceedingly unsatisfactory and Bukoba coffee had an unenviable reputation for poor and uneven quality and fetched extremely low prices. In 1950 under the Co-operative Societies Ordinance (Cap. 211) of the Laws of Tanganyika the Bukoba Native Co-operative Union Limited was registered, to which were affiliated as members forty-eight registered primary Co-operative Societies. The formation both of the Union and of the Societies was entirely voluntary and they have always, in common with other Registered Societies in Tanganyika, been independent of Government. Contrary to

what is stated in the petition neither the Union nor the Primary Societies have ever imposed an entrance fee. The value of a share in the Union is Sh.50/- and in a primary society was initially Sh.3/- increased, between 1954/55, by a Resolution of the Members of the Primary Societies, to Sh.20/-. Since the matter is referred to in one of the documents attached to this petition it should be emphasized that persons who are not Members of (i.e. shareholders in) a Primary Society, receive exactly the same initial and final payments for coffee marketed through B.N.C.U. Ltd. as do the Members. The advantage of being a shareholder is simply that it gives the power to vote at general meetings.

5. The Bukoba Native Coffee Board to which the petitioner also refers, is a Statutory Board established in 1950 under the provisions of the African Agricultural Products (Control and Marketing) Ordinance (Cap. 284 of the Laws) and empowered to control and regulate the production, cultivation and marketing of coffee grown and produced by Africans in the Bukoba District. The petitioner's phrase that this Board in 1954 was "manned by semi-official Europeans" is untrue since, in addition to the five European official members (including the Provincial Commissioner, Lake Province, as Chairman), and four African unofficial members, there were only two European unofficial members (one of whom had over twenty years' experience of co-operative marketing of African coffee); this number has since been reduced to one.

6. When the African Agricultural Products (Control and Marketing) Ordinance was enacted in 1949 there was already in existence a Bukoba District Native Coffee Board, established under earlier legislation, which had made a Compulsory Marketing Order in 1947 (G.N. No. 169) directing that African producers in Bukoba should sell their coffee through such agency as the Board might direct. This Order was saved when the 1949 Ordinance came into effect but in 1951 was superseded by a new Order (G.N. No. 200) directing similarly that all African producers of coffee in Bukoba should comply with the directions of the Bukoba Native Coffee Board as to the sale of their coffee. This Order was again replaced in 1954 by a further Order (G.N. No. 199) extending the area of compulsory marketing to the Kimwani chiefdom in the Biharamulo District. Thus compulsory marketing orders have been in force continuously since 1947 and not, as might be inferred from the petition, only since 1954. It might also be noted that all the Orders referred to were approved by the Territorial Legislature.

7. As to the Bukoba Native Coffee Board's notice of 1 November 1954, which is attached to the petition, this was made under Government Notice No. 199 of 1954 and is entirely within the statutory powers granted to the Board. In view of the earlier history of African coffee marketing in Bukoba, the Tanganyika Government is of the opinion that the Board's Order was fully justified. The Bukoba Native Co-operative Union Limited with its affiliated Societies comprises over 63,700 or 90 per cent of the African coffee growers in Bukoba. The Union has proved itself, in contrast with private coffee dealers operating in earlier years, to have a high standard of efficiency and honesty and to be genuinely concerned to maintain the high quality of Bukoba coffee.

8. Reference is made in the petition to the fact that European and Asian coffee farmers in Bukoba are not subject to the Board's jurisdiction. This is true but as previously stated these farmers produce only 2 per cent of the crop. Moreover the price which they obtain at the Mombasa coffee auctions, where the B.N.C.U. consignments are also disposed of, depend entirely on quality; no distinction is made between non-native and native coffee. In fact the information available suggests that on balance the B.N.C.U. Ltd. lots have tended to obtain slightly higher prices.

9. Bukoba coffee production is one of the Territory's most valuable industries worth over £2 million at present price, to the African growers. Their coffee now enjoys a high reputation with the hard coffee trade in a competitive market and the maintenance of this reputation depends largely on standard preparation. It is an essential trade requirement that coffee should be marketed in standard bulks, which consequently command higher prices than the products of indiscriminate marketing of small lots of coffee of widely varying preparation and quality. Hence to encourage or promote small associations, such as that proposed by the petitioner, to sell coffee otherwise than through the established channel would undoubtedly result in a decline in quality and a financial loss to all African growers. It should be noted that African-grown coffee in the Moshi District, which has a world-wide reputation for quality, is similarly marketed by the Kilimanjaro Native Co-operative Union Ltd. under a Compulsory Marketing Order made by the exactly parallel Moshi Native Coffee Board.

/...

10. The Administering Authority is satisfied that the present arrangements, which have the wholehearted support not only of the 90 per cent of the African growers who are members of the B.N.C.U. Ltd. and of the sixty-five other Societies now affiliated to it, but also of the majority of the remaining growers, are entirely in their interests and, contrary to the implication in the petition, can in no possible way be represented as a Government-controlled monopoly. It is submitted, therefore, that it would be appropriate for the Council to take no action on this petition other than to recommend these observations to the attention of the petitioner.

11. The petition was examined and discussed at the 452nd, 453rd and 458th meetings of the Standing Committee (documents T/C.2/SR.452, 453 and 458).

12. The draft resolution considered by the Committee at its 458th meeting contained the following paragraphs:

> "2. Expresses regret that the Administration did not allow the Africans represented by the petitioner to form their own co-operative for the sale of coffee;
>
> "3. Recommends to the Administering Authority to guarantee in practice the right of the inhabitants freely to organize co-operatives."

These paragraphs were rejected by 3 votes to 1, with 2 abstentions.

13. At its 458th meeting, the Committee approved by 4 votes to 1, with 1 abstention, draft resolution XIII, annexed to the present report, which it recommends that the Council adopt.

XIV. Petition from the International League for the Rights of Man (T/PET.2/211)

1. In a letter dated 24 April 1957, the Chairman of the International League for the Rights of Man states that he is in receipt of a letter from Mr. Julius Nyerere, President of the Tanganyika African National Union, in which the latter informs him that he has been deprived of his right of free speech because he criticized the Government after his return from the United Nations and that some of the members of T.A.N.U. have been arrested and charged with sedition.

2. In its observations (T/OBS.2/39), the Administering Authority states that the true facts relating to the subject matter of the petition are as follows. On his return at the end of January 1957, from a visit to the United Kingdom and United States, Mr. Nyerere made two speeches in the vernacular at mass public meetings in Dar es Salaam and Moshi, which were attended by large crowds which it would have been very difficult for the Police to control if they had got out of hand. He unfortunately chose to adopt an inflammatory tone and to lay emphasis on points calculated to stir up racial animosities and emotional antipathy to the Government of the Territory and to the Administering Authority. As a result, and in the light of the clear indication that he intended to address a further series of meetings in the same vein throughout the Territory, the Police authorities in the Tanga Province, in accordance with the powers vested in them by law for the prevention of breaches of the peace, on 7 February 1957, refused permission for a mass meeting to be held in Tanga, which was to have been addressed by Mr. Nyerere. Police authorities elsewhere have found it necessary for the same reason to refuse permission for similar meetings for which applications have since been made. Mr. Nyerere has not, however, at any time been prevented from addressing meetings of members of the Tanganyika African National Union, and has in fact done so. He has, moreover, remained at complete liberty to publish his views in broadsheets and through the medium of the Press, a liberty of which he has continued to take full advantage. As has been recently announced the Government of Tanganyika is anxious to permit maximum freedom compatible with the preservation of order and is carefully considering whether and if so on what conditions it can once more safely grant permits for open air meetings of the Tanganyika African National Union.

/...

3. The petition alleges that some of the members of the Tanganyika African National Union "have been arrested and held on charges of sedition". The facts are that one person only, an office-bearer in a District branch of the Union, was arrested and charged with sedition, in December 1956. He was convicted on 28 December 1956, but appealed successfully against the conviction. The Administering Authority categorically repudiates the suggestion that there can be no such offence as sedition in a Trust Territory and that speech and association should be "entirely free", a suggestion which would appear to contemplate a state of political and moral anarchy in Trust Territories which would not be tolerated in any civilized country of the world and which has no authority for it in the Trusteeship Agreement.

4. Finally, in reference to the Trusteeship Agreement and the request with which the petition concludes and which appears to be its main purpose, it is only necessary to point out that article 14 of the Trusteeship Agreement specifically provides that freedom of speech, the Press, assembly and petition should be guaranteed to the inhabitants of Tanganyika (and not only to "native movements") subject only to the requirements of public order. It is the requirements of public order which are the sole reason for the action of the Police authorities in refusing permission for mass public meetings.

5. The petition was examined and discussed at the 453rd and 458th meetings of the Standing Committee (documents T/C.2/SR.453 and 458).

6. The draft resolution considered by the Committee at its 458th meeting contained the following paragraphs:

> "3. Notes with regret that the Administering Authority has forbidden meetings of the indigenous inhabitants in order to hear the President of the Tanganyika African National Union on his return from the eleventh session of the General Assembly in the course of which he appeared as an oral petitioner;
>
> "4. Recommends to the Administering Authority to take all necessary measures in order to guarantee in practice freedom of speech and of assembly to the inhabitants of the Trust Territory."

These paragraphs were rejected by 3 votes to 2, with 1 abstention.

7. At its 458th meeting, the Committee approved by 4 votes to 1, with 1 abstention, draft resolution XIV, annexed to the present report, which it recommends that the Council adopt.

Annex: Draft Resolutions Proposed by the Committee

I. Petition from the Tanganyika African National Union (T/PET.2/198 and Add. 1 and 2)

The Trusteeship Council,

Having examined the petition from the Tanganyika African National Union concerning the Trust Territory of Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/198 and Add.1 and 2, T/OBS.2/28 and Add.1, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority and to the statements of its Special Representative, in particular that section 6 of Penal Code (Amendment) Ordinance, 1955, which was primarily aimed at the preservation and promotion of racial harmony in the Territory, contains nothing which would circumscribe freedom of speech and that since the adoption of the Amendment there has so far been no occasion for the Government to prosecute anyone under its provisions.

2. Expresses its confidence that in the application of section 6 of the Penal Code (Amendment) Ordinance, the Administering Authority will take great care in order fully to guarantee freedom of speech and of the press.

II. Petition from Dr. Heinz Langguth on behalf of Mr. Tom Adalbert von Prince (T/PET.2/199 and Add. 1 and 2) and Messrs. Bertram von Lekow and Tom Adalbert von Prince (T/PET.2/200 and Add. 1, 2 and 3)

The Trusteeship Council,

Having examined the petitions from Dr. Heinz Langguth on behalf of Mr. Tom Adalbert von Prince and Messrs. Bertram von Lekow and Tom Adalbert von Prince concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/199 and Add.1 and 2 and T/PET.2/200 and Add.1, 2 and 3, T/OBS.2/31, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority and to the statement of its Special Representative;

2. Decides that no action by the Council is called for.

/...

III. Petition from Dr. Heinz Langguth on behalf of Mr. Carl von Gebhardt (T/PET.2/201 and Add. 1)

The Trusteeship Council,

Having examined the petition from Dr. Heinz Langguth on behalf of Mr. Carl von Gebhardt concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/201 and Add. 1, T/OBS.2/30, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority and to the statement of its Special Representative;

2. Decides that no action by the Council is called for.

IV. Petition from Dr. Heinz Langguth on behalf of Mr. Walter Kahle (T/PET.2/208 and Add. 1)

The Trusteeship Council,

Having examined the petition from Dr. Heinz Langguth on behalf of Mr. Walter Kahle concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/208 and Add. 1, T/OBS.2/35 and Add. 1, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority and to the statements of its Special Representative;

2. Decides that no action by the Council is called for.

V. Petition from Mr. Juma Karata (T/PET.2/202 and Add. 1)

The Trusteeship Council,

Having examined the petitions from Mr. Juma Karata concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/202 and Add. 1, T/OBS.2/32, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority and to the statements of its Special Representative.

VI. Petition from Mr. M.V. Bhardwa (T/PET.2/203)

The Trusteeship Council,

Having examined the petition from Mr. M.V. Bhardwa concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/203, T/OBS.2/32, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority and to Colonial Regulations and General Orders governing conditions of service of Civil Servants and in particular to General Order No. 378 dealing with the grant of deferred leave, which specifically provides that when an officer is dismissed from the Service he forfeits all such privileges.

VII. Petition from Mr. Abdallah Saidi (T/PET.2/204)

The Trusteeship Council,

Having examined the petition from Mr. Abdallah Saidi concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/204, T/OBS.2/33, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority.

VIII. Petition from Mr. Julius Mwasanygi (T/PET.2/205)

The Trusteeship Council,

Having examined the petition from Mr. Julius Mwasanyagi concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/205, T/OBS.2/34, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority and in particular that neither he nor Ali Mzee nor his mother-in-law made any attempt to institute proceedings in court for redress of the injuries alleged in the petition, although they were at liberty to do so had they so wished, and although Ali Mzee was advised to this effect by the District Officer.

/...

IX. Petition from Mr. Julius Mwasanyagi (T/PET.2/206)

The Trusteeship Council,

Having examined the petition from Mr. Julius Mwasanyagi concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/206, T/OBS.2/34, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority, in particular to the substance of paragraphs 6 and 8 of section IX of document T/L.791, and to the statements of its Special Representative, in particular that up to the time the observations of the Administering Authority were transmitted, the sum of 25,963 shillings had been paid in compensation and that, if, subsequent to that time, any claims remained unsettled, further compensation will be paid;

2. Further draws the attention of the petitioner to the examination by the Trusteeship Council of the petition from the Tanganyika African National Union (T/PET.2/198 and Addenda 1 and 2).

X. Petition from Mr. M.S. Ramadharri (T/PET.2/207)

The Trusteeship Council,

Having examined the petition from Mr. M.S. Ramadharri concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/207, T/OBS.2/34, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority and to the statements of its Special Representative.

XI. Petition from the Tanganyika Federation of Labour (T/COM.2/L.37)

The Trusteeship Council,

Having examined the petition from the Tanganyika Federation of Labour concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/COM.2/L.37, T/OBS.2/37, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority and to the statements of its Special Representative;

2. Notes the statement of the Special Representative that the operation of the Trade Union Ordinance, 1956, will be subject to review one year after its entry into force and that, at that time, further consideration will be given to the views of organizations of employers and of employees.

XII. Petition from Messrs. S.M. Humbara and I.A. Mponji (T/PET.2/209)

The Trusteeship Council,

Having examined the petition from Messrs. S.M. Humbara and I.A. Mponji concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/209, T/OBS.2/36, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority and to the statements of the Special Representative.

XIII. Petition from the Tanganyika African National Union, Bukoba Branch (T/PET.2/210)

The Trusteeship Council,

Having examined the petition from the Tanganyika African National Union, Bukoba Branch, concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/210, T/OBS.2/38, T/L.791),

Draws the attention of the petitioner to the observations of the Administering Authority, in particular to the fact that compulsory marketing Orders have been in force continuously since 1947 and have all been approved by the Territorial Legislature, as well as to the substance of paragraph 8 of section XIII of document T/L.791.

XIV. Petition from the International League for the Rights of Man (T/PET.2/211)

The Trusteeship Council,

Having examined the petition from the International League for the Rights of Man concerning Tanganyika in consultation with the United Kingdom as the Administering Authority concerned (T/PET.2/211, T/OBS.2/39, T/L.791),

1. Draws the attention of the petitioner to the observations of the Administering Authority in particular that the Government of Tanganyika is anxious to permit maximum freedom compatible with the preservation of order and is carefully considering whether and if so on what conditions it can once more safely grant permits for open air meetings of the Tanganyika African National Union;

2. Further draws the attention of the petitioner to the statements made concerning the subject matter of his petition by the representative of the Administering Authority and by its Special Representative in the course of the examination in the Council of conditions in the Trust Territory of Tanganyika (T/SR.813, 819 and 820).
