

## TRUSTEESHIP

## TUTELLE

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## VERBATIM RECORD OF THE EIGHTH MEETING OF THE TRUSTEESHIP COUNCIL

Lake Success, New York

Thursday, 3 April 1947, at 10:00 a.m.

## PRESENT:

The PRESIDENT: Mr. Francis B. Sayre

Mr. Makin	Australia
Mr. Ryckmans	Belgium
Mr. Yu	China
Mr. Garreau	France
Mr. Khalidy	Iraq
Mr. Padilla Nervo	Mexico
Sir Carl Berendsen	New Zealand
Mr. Thomas	United Kingdom
Mr. Gerig	United States of America

The PRESIDENT: The Council is in session.

The Drafting Committee met yesterday afternoon and is hard at work on its report. It has made considerable progress, and I hope it will be ready to turn in its full report to us on Monday.

In our session this morning, I hope we can complete our discussion on the general problems underlying petitions, and then, turn to a consideration of the Rules, beginning where we left off with Rule 10 of the Document T/4.

## CONTINUATION OF CONSIDERATION OF ITEM 7 ON THE AGENDA

We resume our discussion of petitions where we broke off yesterday. You remember that we had been discussing v. the screening of petitions.

VI contains matters which I think we have already covered in our discussions; that is, what petitions shall be considered by the Trusteeship Council. I think we have already considered that sufficiently for the Drafting Committee to work on. So that brings us this morning to VII, the procedure for handling petitions in the Trusteeship Council. Now, there again, we have already covered much of the ground in our previous discussions.

Paragraph A concerns the preliminary survey of petitions by the Secretary-General, indicating the source and the number and suggesting groups which, in his opinion, might be dealt with together. I take it that no particular discussion is necessary on that.

Mr. MAKIN (Australia): Mr. President, in regard to A, sir, which you have just been referring to, would that not be a question for the ad hoc committee, particularly that portion dealing with suggesting groups which might be considered together? I should regard that as really more the duty of the ad hoc committee than the Secretary-General.

The PRESIDENT: I wonder if anyone has thoughts with respect to the question raised by the representative of Australia?

Mr. GERIG (United States): I wonder if the position of the representative of Australia would be met if, instead of saying "preliminary survey" you said "preliminary classification of petitions" so that it was clear. As I understand his meaning, the Secretary-General or the Secretariat is not to go into any preliminary examination of the substance of the question but merely to classify them, <sup>or</sup> group them.

Mr. MAKIN (Australia): That is all right.

The PRESIDENT: May I ask the representative of Australia whether that does meet the position.

Mr. MAKIN (Australia): Yes, sir, the suggestion by the distinguished representative for the United States does meet the position.

The PRESIDENT: I suppose that if the ad hoc committee has not yet been appointed or is not in active operation, considerable time might be saved by the Secretary-General in doing this preliminary classification.

Mr. Padilla NERVO (Mexico): Mr. President, I thought I understood the representative from Australia to be objecting to the second part of this sentence rather than to the first; that is, <sup>that</sup> the Secretary-General might make classifications of the petitions. But the suggestion of groups to be considered together is what I thought the representative from Australia wanted to assign to the ad hoc committee rather than to the Secretary-General.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

The PRESIDENT: It seems to me that that comment is quite just. My thought in talking these matters over is not necessarily that there shall be a rule covering each thing but that we would have common ideas so that those formulating the rules would know what our common ideas are.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

The PRESIDENT: I quite agree and I take it everyone does.

Mr. KHALIDY (Iraq): Mr. President, I will not take much of your time. I would like to know what exactly is the position of the Secretary-General now on this point? In summing up the discussion, is the Secretary-General empowered to attack the petition? Is he empowered to attack the petition or the documents referred to in the petition or is he empowered to put forward

a factual background or an historical background? What exactly is the position?

The PRESIDENT: You mean referring to our discussion of yesterday?

Mr. KHALIDY (Iraq): Yes.

The PRESIDENT: What I am hoping to do is to let the Drafting Committee formulate the ideas which we discussed yesterday. Then, I am going to bring all those rules regarding petitions together before our Council, and we will all have a chance to determine whether the Rules Committee did correctly interpret our common ideas or not. Therefore, if it is agreeable to you, I would like to defer that particular point until we have before us the rules which the Drafting Committee have formulated covering this whole subject of petitions.

Mr. KHALIDY (Iraq): I quite agree.

The PRESIDENT: Regarding Point B, the right of the administering authority to appoint a special representative covering each trust territory to consult with the Trusteeship Council, either orally or by exchange of communications, again I doubt whether it would be very profitable for us to enter into a detailed discussion of that. I think our minds are as one, that certainly the administering authority shall have the right to appoint a special representative covering each trust territory to consult with the Trusteeship Council, either orally or by exchange of communications. I take it there is no question as to that right to be exercised by the administering authority. We already have in Rule 86 of Document T/4 a formulation of that rule which again I wonder whether we could not refer to this Drafting Committee and bring it in with the whole body of rules for final discussion, unless someone now wants to speak about the matter. I believe the representative of Belgium does.

(Mr. RYCKMANS, representative of Belgium, spoke in French).

The PRESIDENT: I wonder whether I correctly caught the meaning of the representative from Belgium. In 86 of Document T/4, the words "shall be entitled" appear.

Was it Rule 43 that you referred to?

Mr. RYCKMANS (Belgium): Yes.

The PRESIDENT: Yes, but in Rule 43 you see that same language, "shall be entitled to designate. . ."

(Mr. RYCKMANS, representative of Belgium, spoke in French).

The PRESIDENT: Yes. If I correctly understand your meaning, you suggest that we should adopt this language, "shall be entitled."

Mr. RYCKMANS (Belgium): "Shall be entitled" and not invited.

The PRESIDENT: I beg your pardon?

Mr. RYCKMANS (Belgium): "Shall be entitled", but not "shall be invited."

It is for them to judge.

The PRESIDENT: I think I express the thought of all of us by agreeing heartily to that wording.

Unless there are other observations of a general nature on this right of the administering authority to appoint a special representative, let us pass on to the more difficult question of oral petitions and oral hearings on the petitions.

There the Drafting Committee has already done considerable work with respect to oral petitions, and until they make their report to this Committee, perhaps we should not enter into too meticulous a discussion. My own feeling is that this Council ought to make it clear that we, as a Council, always have and retain power in each case to grant, control, limit, or deny oral hearings, within our discretion. I take it, unless I hear objection, that all of us



agree to that -- that is, that the Trusteeship Council shall have power in each case to grant, control, limit, or deny oral hearings.

Mr. THOMAS (United Kingdom): Mr. President, for the sake of clarification, may I ask if you are now dealing with the oral examination of petitioners who have petitioned in writing. I see a complete difference between oral petitions, in the first instance, and the oral examination of petitioners who have presented their petitions in writing.

The PRESIDENT: I think that both of them must be covered in our rules -- that is, there is a very real distinction between, on the one hand, oral petitions and, on the other hand, oral discussions in favour of or against written petitions -- oral hearings.

I think -- in fact, I know -- that the Drafting Committee has already been wrestling with that problem; and they already have provisionally drafted certain tentative rules. They are wrestling with that right now.

If this Council would like to open that up, I am glad to read what their first preliminary attempt is -- if you would like to discuss that now. I am not sure whether it might not consume a good deal of time if we open it up now, but if you would like to it is before the Council.

(Mr. RYCKMANS, representative of Belgium, spoke in French).

The PRESIDENT: I am a little hesitant, because the Chairman of the Drafting Committee is not here at the moment.

I wonder if you could inform me whether he is expecting to be here later in the morning.

Mr. YU (China): Yes, he will be here very shortly; I think around noon.

The PRESIDENT: I think maybe with your permission, Mr. Ryckmans, it would be well to defer proceeding with that until the Chairman of the Drafting Committee is here.

May we then postpone for the moment that discussion and proceed to Number VIII, on the disposition of petitions. There again, I think there will probably not be disagreement. The suggestions on our discussion outline, as you see, are first, that the Secretary-General should make immediate acknowledgment to the petitioners of his receipt of all petitions. When I say "all", of course anonymous petitions are not included, but all except anonymous petitions.

Mr. THOMAS (United Kingdom): Mr. President, one small point that arises on your present remarks. A petition may come through the administering authority. In that case, the acknowledgment authority and not to the original petitioner.

The PRESIDENT: I would like to hear the thoughts of the Members of the Council as to that; that is, suppose the Secretary-General receives a petition from the administering authority, which I hope will be the normal way--I hope that we can make our procedures such that petitioners will find it more advantageous to use the machinery of notification through the administering authorities. It will save considerable time, and when they once begin to realize that, I hope this will be the normal and usual practice.

Now if the petition does come to the Secretary-General, from the administering authority, should the Secretary-General in that event not notify the petitioner of its receipt, but content himself with notifying the administering authority?

Mr. KHALIDY (Iraq): Mr. President, I believe this would be an adequate procedure, with an addition, if I may propose it; that is to say, the

Secretary-General will acknowledge the receipt of the petition to the administering authority, but he will ask the administering authority to inform the petitioner of its receipt by the Secretary-General.

The PRESIDENT: I take it, Mr. Thomas, that that would be in line with your conception.

Mr. THOMAS (United Kingdom): Yes, Mr. President, what will happen in practice is that when the administering authority receives a petition, it will acknowledge the receipt of the petition and say that it is being forwarded to the Secretary-General and, therefore, he will get the acknowledgment from the Secretary-General, so to speak, in advance. But I quite agree that I see no difficulty in the suggestion made by the honourable representative of Iraq. It would be quite acceptable to the United Kingdom.

The PRESIDENT: Just to clarify my own mind. If I understood correctly, the representative from Iraq suggested that after the Secretary-General acknowledges the receipt, to the administering authority, that then the administering authority should notify the petitioner that it has been received. Was that your thought?

Mr. KHALIDY (Iraq): Fairly the same thing. I meant truly that when the letter of "accuse de reception" goes to the administering authority, the Secretary-General will naturally tell the Governor that he acknowledges the receipt of the petition. In the same letter he would ask him to be good enough to inform the petitioner that the Secretary-General has received the petition.

The PRESIDENT: That is, if I understand you correctly, you are thinking of the effect upon the petitioner and desire that the petitioners, wherever they may be, will feel that the Trusteeship Council is on the job, so to speak, and you are thinking of the psychological situation and therefore



are suggesting that the administering authority should notify the petitioners, specifically, that the petition has been received by the Trusteeship Council.

That, 'I take it, is in accord with yourself.

Mr. THOMAS (United Kingdom): Yes.

Mr. Padilla NERVO (Mexico): Mr. President, I regret I have to defer from that suggestion. In the first place, it should always be present in our minds, in my opinion, that the petitions are petitions to the Council and are not petitions to the administering authority; that the channel, in those cases, is that they could send those petitions to the Council for consideration. Petitions can be addressed, as we discussed it the other day, through the administering authority, directly to the Secretary-General, even to the President of the Council, and even to the Members of the Council.

The important thing we have to keep track of is that the petitioner would be assured of the time when the Secretary-General received the petitions, whether through the administering authority or by other channels. That is very important in relation to the time that is going to elapse between the receipt of a petition and the consideration of same by the Council. I think that the petitioners have the right to be assured of the date the petition was received by the Secretary-General. This has the advantage of having the same system for all kinds of petitions, regardless of what channels they have chosen to send them.

For that reason, Mr. President, I should be in favour of the idea that the Secretary-General acknowledges receipt directly to the petitioner. I think that the suggestion made by the distinguished <sup>representative</sup> from Iraq will just add <sup>because</sup> another procedure, another step to the procedure, / it has to send a letter anyway to the administering authority requesting the administering authority to answer the receipt of the petition.

The PRESIDENT: If I correctly gather the idea of the representative from Mexico, he would suggest that the Secretary-General, on receiving petitions from whatever source, send a notification to the petitioner direct, and if the petition comes from the administering authority he would also send a notice of his receipt of petition to the administering authority.

Mr. Padilla NERVO (Mexico): Yes.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

Mr. Padilla NERVO (Mexico): Mr. President, I referred especially, in my last statement, to the petitions which are directly addressed to the Secretary-General. I believe that you, yourself, repeated what I had said. You asked me if in case the petition had been received through the administering authority whether the Secretary-General acknowledged receipt to the administering authority. I said, "yes".

However, in the last remark made by the distinguished representative from Belgium -- that even those petitions that are received directly by the Secretary-General should be acknowledged by receipt and should be sent through the administering authority -- I do not think that that is necessary. I believe that in that case the Secretary-General should acknowledge the receipt of that petition directly to the petitioner. He already has the obligation of sending that petition immediately to the administering authority, so that the administering authority is already informed of the petition. But <sup>we</sup> will take, psychologically, the different impression, which will have the effect on the petitioner that the Secretary-General is calling his attention to the fact that he should always address petitions through the administering authority. The same psychological effect that the representative from Belgium referred to a moment ago, in the opposite case, will have the effect that the Secretary-General acknowledges receipt of a direct petition through the administering authority.

SAAL: The PRESIDENT: I am sorry if there has been any confusion. I think that with regard to petitions sent from the petitioner directly to the Secretary-General, there is no difficulty whatsoever. There, I take it, all of us agree that the Secretary-General should send a reply and acknowledgement of the receipt direct to the petitioner, it having come from the petitioner. If I am wrong about that--and I see that some do not agree with that--then we had better clarify our minds as to that.

Now again, I am not sure we want to rule as to this but I do feel we ought to have a clarification of our ideas.

Mr. GERIG (United States): Mr. President, I do not believe that we really need a very precise rule on this, nor do I believe we need very much further discussion. It seems to me that the normal practice in acknowledgements is that you acknowledge by the way you receive. If you get it directly, you acknowledge to the sender. If you get it through the administering authority, you acknowledge it to him and he would inform. Therefore, it seems to me perfectly normal that the acknowledgement process would be exactly the reverse of the manner in which the communication was received. That would be the normal practice.

(Mr. RYCKMANS, representative of Belgium, spoke in French)

Mr. Padillo NERVO (Mexico): Mr. President, I beg you to excuse me if I speak again on this subject.

I do not see any objection in making the inhabitant realize that he might do as well in sending his petition to the administering authority rather than direct to the Secretary-General. I am sure he will do just as well.

If I insist on this question, it is because it appears to me as a question of principle and not only a question of red tape. The representative from Belgium has just stated that when a petition was addressed to the

Government of Belgium directly, they try to make the petitioner realize that he should have sent that petition to the local administering authority. He is right. But those are petitions addressed to Governments. We are dealing with petitions addressed to the Council. And in the petitions addressed to the Council, the main organ which handles those petitions normally, the organ entrusted with that function is the Secretariat of the United Nations. In that respect, I think it is important that we give that--let us say--personality to the petitioner in dealing directly with the United Nations, as the Charter wants. The Council has a duty to hear petitions from the inhabitants of the trust territories. Therefore, the trust territory disavows his right, under the trusteeship system, to address petitions to the organ entrusted to deal with those petitions; that is, this Council. And if they write any communication to this Council, the normal way should be through the Secretariat of the United Nations.

I think it might be in any other way. If the petitioner chooses another channel, it is all right. But if the petitioner chooses the direct channel, I think the answer should be given directly by the same channels.

(Mr. GARREAU, representative of France, spoke in French.)

Mr. THOMAS (United Kingdom): Mr. President, the honourable representative from Mexico said that it was laid down in the Charter that there was a right of direct petition to the Trusteeship Council. For the sake of accuracy, I should like to point out that that is not in fact the case. The only words in the Charter used about petitions are those in Article 87: "The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may;

"b. accept petitions and examine them in consultation with the administering authority."

It is therefore not laid down at all in what procedure that is to be done, and we are trying to settle that very point this morning.

I merely say that for the sake of accuracy, because I do not wish to disagree on the point of substance very much.

The honourable representative from Mexico also made the distinction between petitions that are sent through the administering authority and petitions sent through the Secretary-General. This is in fact a fallacious distinction because all petitions will go through the Secretary-General. The point is whether the approach to the Secretary-General should be made through the Administering Authority or should be made direct.

Now I agree with the honourable representatives of France and Belgium that the more normal and courteous method would always be for petitions to be transmitted through the administering authority and for the acknowledgment to be sent through the administering authority. There is however one case where it will be necessary for the Secretary-General to make the acknowledgment direct. We have conceded that petitions may be received from outside trust territories, and in that case, it would of course be



perfectly proper for the Secretary-General to send the acknowledgment direct. In all other cases although the matter is not of very great importance, I hope that the acknowledgment will be sent through the administering authority.

Mr. KHALIDY (Iraq): Mr. President, I hope you will not mind my saying a few more words about this subject since it was I who started all this fluff.

I fear that there is some little confusion now between two channels of transmission. I thought we had already agreed that there are three channels of transmission of petitions. We are speaking about two of them already. Now there is one channel of the petitioners addressing themselves straight to the Secretary-General, and the administering authority does not come into it in any way. I thought we conceded this right to them. When we were speaking of liberalism and all that, we said that everybody must have the right inside a trust territory to address a petition direct and straight to the Secretary-General, and I thought we had agreed upon that. Here, I think the administering authority does not come into it.

If the Secretary-General receives a petition from a group in Tanganyika to take an example off-hand, then he is entitled and called upon to acknowledge the reception of this petition direct to the petitioner.

Now there is the other way, the other channel of the petition coming through the administering authority. In that case, I believe as I said, the Secretary-General will have to acknowledge receipt to the administering authority. That is only logical and courteous. But my only suggestion was that to satisfy the psychological factor involved in the question, he may ask the authority to be good enough to inform the petitioner on this point on the spot. This is purely a small matter between the petitioner and the administering authority there, on the spot, to inform them that the

Secretary-General has already received that petition. I do not think we ought to mix between these two channels, Mr. President, and for my part, I would be glad to accede to what the representative of the United Kingdom has just said. I think that is the correct way, and I think the representative of Belgium agreed to that way also. It is only courteous that we should acknowledge receipt back to the source which sent the petition; that is to say, in this case, the administering authority, but only with the provision that they may tell the petitioners that the Secretary-General has received that petition. It is only logical.

The PRESIDENT: There are three representative who have signified their desire to speak; the Belgian, the Mexican, and the New Zealand representatives.

I fear we should not, and cannot, spend too much time on this subject, because we have so many others of considerably greater importance ahead of us. I am wondering whether we could not save time in this way: The proposal which has been made by the representative of the United States is a proposal which accords, I am informed, with the general practice of the Secretariat with respect to all communications -- that is to say, in general, the Secretariat acknowledges to the sender the receipt of the communication. That seems logical and I suspect to most of us desirable.

I would like to, if agreeable to the Members of the Council, <sup>less</sup> more or/ to cut the discussion short by asking for a show of hands on the desirability of following that general practice. That general practice would be that the Secretary-General would follow the same course here as he follows with all communications -- that is, to acknowledge the receipt to the sender. Coupled with that would be, in the case of a petition, of course the forwarding of the petition at once to the administering authority, and if the petition does come through the administering authority, then the Secretary-General would couple with the acknowledgement, I take it, a request that the administering authority should inform the petitioner that the petition has been received.

There are these three other speakers, and if they desire to speak, I am certainly going to give them their right, but I would like to cut the discussion short as soon as possible, and, if agreeable to the Council, ask for a show of hands on that suggested procedure.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

The PRESIDENT: Does the representative of Mexico wish to speak?

Mr. Padilla NERVO (Mexico): Mr. President, I am not going to talk again about the substance of the problem, but very often, in the sessions of other organs, I have found how difficult it is not to be in the privileged position of speaking in my own language, and due to that fact, the representative of the United Kingdom and the representative of Belgium attribute to me a statement which I do not know whether I said, but at least I did not intend to say it. I never intended to say that the Charter stated that the normal way of addressing a petition is the direct way, to the Secretary-General. I never could have said that.

But the Charter does not say either that the normal way to address a petition is through the administering authority. The Charter does not say anything in that respect, but the Charter says that one of the functions of the Trusteeship Council is to accept and to examine petitions. And if there are petitions that the Council has to examine, I said that it follows from the Charter that the petitioner does not have any provision to send a petition directly to the Secretary-General. Now I do not want to go to the substance of this indication. If the majority of the Council considers that the inhabitant would not have the right to receive direct the acknowledgment of the receipt of his communication, I certainly could not insist on that. I am expressing what my point of view is, and I have taken into consideration always, in my intervention in this Council, that we all have accepted the fact that the interests of the inhabitants are paramount, and that the administering authority is to have that in mind. That was all of my purpose.

Sir Carl BERENDSEN (New Zealand): Mr. President, I am torn between two conflicting desires. The first and predominant one is, of course, to follow your desires in this matter, and the second, is to express very moderately and very briefly -- much more briefly than is my custom -- what I feel on this particular question at issue.

I am a man of strong, if inaccurate, views. I hold very strong views on this question of the method of acknowledging petitions. My view on that is that we could utilize our time to much better advantage than discussing this little matter of red tape. What is important to my mind is primarily what is to be done with the petitions; and we all agree on that. A second matter, which is not without importance, is the method which is to be adopted in bringing petitions before this Council. Now my views on that matter are known. I am not going to repeat them. I believe, as a result of many years of experience, that petitions arising within the territory, within a trust territory, should normally be dispatched through the administering authority, and I am surprised to learn -- though little surprises me at my age -- that it is the general view of this Council that there should be no such normal procedure; in other words, that it is equally good for the inhabitant of a trust territory to send his petition through the administering authority or directly to this Council.

I think, with my Belgian colleague, that we really should decide what is the normal procedure. I am not going to suggest -- as indeed the same line is taken by my Belgian colleague -- I am not going to suggest that because a petition from a trust territory is not sent through the administering authority, we should necessarily take no action on it. But I do suggest that it is a very salutary principle that inhabitants of a trust territory should, in the normal course, be required to send their petitions through the administering authority. Very well, if that is the case, if we come to an agreement that that is the normal course to adopt, then I suggest that what we are discussing now is entirely secondary and of no moment at all. If the petition comes from outside the territory, then of course it is acknowledged directly. If it comes from inside the territory, through the administering authority, then it is acknowledged through the administering authority.



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But if, in any exceptional cases, something comes from the territory not through the administering authority, then I do not care the proverbial tin of fish how it is acknowledged. What I would like to see, sir, is a decision -- I do not mean anything inflexible -- as to what this Council does feel upon this matter which, believe me, is not without its importance.

The PRESIDENT: I do not want to cut the discussion short but I do feel that we have much more important subjects ahead of us. I hope we can indicate by a show of hands what our feeling is upon this subject, on which we have already spent over an hour. I am going to ask not for a vote, but simply for a show of hands as an indication as to whether we are in agreement or disagreement with the proposal which I outlined a few moments ago; that is to say, whether or not the Secretariat shall carry out its ordinary practice of acknowledging the receipt of petitions directly to whomever sends those petitions. If the petitions come direct from petitioners, then acknowledgments should be sent to the petitioners. If the petition comes through the administering authority, then the acknowledgment should be sent to the administering authority.

Merely to indicate our feelings, may we have a show of hands on that?

I notice the representative from China desires to speak. As I am most anxious to hasten on to other subjects, will it be agreeable to you --

Mr. YU (China): I agree with you entirely on the point you raised.

The PRESIDENT: Thank you very much. I appreciate that.

Then, will all those in favour of the suggestion which has been made of acknowledging petitions direct to the sender, signify by raising their right hands.

(A vote was taken by a show of hands.)

The PRESIDENT: The result is four to four.

Sir Carl BERENSEN (New Zealand): I wish to make some comment on the vote, sir, if I may.

I wish to record an <sup>from</sup> abstention / this vote for the reason that I do not find myself able to come to any intelligent conclusion on it until I know whether, in the normal course of events, we agree that a petition

should come through the administering authority.

The PRESIDENT: With respect to that, I think we have already discussed at some length how petitions might be sent. We have already decided, so far as I have understood the thought of Members of this Council, that petitions might come in any one of three ways -- either through the administering authority, direct from the petitioner, or through the medium of a visiting representative of this Council.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

(During the above remarks, Mr. Liu Chieh of China replaced Mr. Yu at the Council table.)

(Mr. GARREAU, representative of France, spoke in French.)

Mr. THOMAS (United Kingdom): The honourable representative from Belgium has also expressed my sentiments, Mr. President.

Sir Carl BERNHARDSEN (New Zealand): And mine, sir.

Mr. KEALIDY (Iraq): Mr. President, I am indeed very much surprised by the flow of discussion in this Council. We have already agreed on something the other day and now, the least opportunity presents itself and we turn somersaults. We have already agreed that petitioners may address themselves direct to the Secretary-General, to this Council. Now, this is in accordance with the spirit of the Charter.

I cannot forget the lengthy talk and discussion on liberalism in this Council the other day. I do not know what is the matter today. I remember our distinguished Vice-President was very eloquent on liberalism, and we all agreed with him. We said, with respect <sup>to</sup> liberalism on the part of this Council, <sup>there</sup> would be three ways of presenting petitions: one would be addressing it to the Secretary-General without soliciting the help or intermediary of the administering power.

I do not see why we should change that now. I cannot tire of saying and repeating that there are three ways. I, for my part, will still stand by these three ways, exactly as you stated.

One way is that they should address themselves, if they like--they must have this right. I said, and I repeat it now, that there are cases when the population of the territory will be afraid of the administering power; they would not like to transmit their petitions through them. So they would do it directly to the Secretary-General. I do not see why we should not acknowledge receipt of these petitions directly back to the petitioners themselves.

I suggest, Mr. President, that the suggestions put forward a few minutes ago change the whole subject completely. We have discussed this question for two days, I think. These suggestions now change the subject radically, and we cannot go back on them.

I appeal to you to uphold the decisions of the other days.

The PRESIDENT: I think the representative of Iraq is absolutely right. We have discussed for two days this question of how petitions can reach this Council.

I think all of us must agree that we cannot allow ourselves to be turned into a debating society. The world is on fire. <sup>must</sup> We recognize conditions in the world which are grave. It is the task of this Council always to remember that and not to lose ourselves in unnecessary delay and discussions which are needless, in view of the job ahead.

We have now had two days to discuss this question of how petitions shall come in. I think the representative of Iraq is quite right, that we all of us did agree that petitions may come either through the administering authority or direct from the petitioners or through visiting representatives of this

Council. I take it that is the decision of this Council, and it is not open to us to go back and debate that again.

Mr. LIU CHIEH (China): Mr. President, I am sorry I was not here during the earlier part of the discussion. But during the few minutes I have been here, I have heard the arguments on both sides, and the issue is so clear and the principle involved is so fundamental that I cannot help asking your permission to say a few words.

I think the representative of Iraq has put the issue very clearly and forcibly, and I entirely agree with him. We have already established the right to send petitions directly to the Secretary-General, and therefore the petitioner is entitled to receive an acknowledgment directly from the Secretary-General.

I am quite aware that the administering states do not like anything to be done that would in any way undermine the authority of the administering power. But, surely, even, say in New York, if a citizen of New York should address a communication to the Secretary-General, the Secretary-General does not have to go through the State Department to send an acknowledgment of the receipt.

I do not see how the prestige of the administering authority could be undermined in any way by such direct acknowledgment. In fact, it seems to me to be entirely an abnormal procedure if the Secretary-General should ignore the existence of the petitioner and find it necessary to send a reply through the administering authority.

What I want to say is that I will not go into a debate on the merits of both sides, but I would like to observe that the representatives of the administering authorities in this Council have so far demonstrated very liberal ideas on this subject, and it is my intention to urge them not to retract from the very liberal position they have taken in this matter.



Sir Carl BERENDSEN (New Zealand): Mr. President, I think I have been accused of three things, firstly of illiberalism. I wish to reject at once any suggestion that I or the country that I represent will not be in the very forefront of any liberal proposals in connection with trust territories or any other question whatsoever. And I suggest to you that there is no validity in the suggestion of illiberalism, because modestly and moderately I support, as the result of long practical experience, the desire not to minimize petitions, not to prevent petitions, but to prescribe what seems to be a normal and proper course by which as many petitions as people may wish to present may actually be presented and fully heard.

Now, sir, I have been accused again of somersaulting. I have not physically somersaulted for half a century, and I have not mentally somersaulted. It is true that we have been discussing this matter, in my opinion, at quite inordinate length. I can be accused frequently and properly of stupidity, but I am bound to say this, that stupid or otherwise, I have never come to the same conclusion as you, sir, or as my colleague for whom I have most respect and friendship from Iraq, that the Council did formulate a view on this question.

My remarks on the matter are on record and at all times I have been perfectly willing, as I am now, to subordinate any views that I may hold or express to the common sense of the Council. Had I felt as you, sir, feel--and that concludes the matter as far as I am concerned--and as my colleague feels that the Council had expressed an opinion on this matter, I should never have referred to it again. It was my understanding that this was one of the matters on which we were expressing our common views, and that the Drafting Committee would endeavour to formulate something that might meet all our views. But, sir, if that is your decision that the Council has decided--and that is a matter I am bound to say of surprise to me--

I have nothing more to say whatsoever on this subject, and I shall not raise my voice again. I would suggest that it might be useful if on these matters where there is a difference of opinion, an honest difference of opinion, in a body which is showing great sense of responsibility and objectivity, it would be useful if we did clarify, by means of an informal show of hands, our views on all these subjects, so that no such misunderstanding as this can raise itself again.

Now I want to emphasize once more, and with all the emphasis of which I am capable, that nobody can accuse me or my country of illiberality. The facts are on record.

(Mr. RYCKMANS, representative of Belgium, spoke in French)

Mr. GERIG (United States): Mr. President, I am sorry to intervene again. I feel that really the subject is one that does not merit quite as much attention as we have been giving it this morning, but I, in giving my vote, did not feel that I was necessarily taking a liberal or an illiberal position, an abnormal or an irregular position. I felt that we had agreed on three possible ways for petitions to get here, and I am a little sorry that the words "normal" and "abnormal" have entered into our discussion. I feel it could take us a long time to decide which is the most normal of the three methods or which is the most desirable or the most practicable.

The only argument I have heard at this table--and I think we have all agreed on this one--is that it is most expeditious that if we went through the administering authority, it would save about a month's time. I have heard that argument, but I have not heard any other argument to indicate that any one method is more normal than any other method, and my vote was cast in favour, in the way I cast it, because I felt that the most expeditious method was the one we all sought. I would be willing to help to

draft a rule, if you wanted to start, in order to expedite the consideration of the petition, if it is desirable that they should be sent from the trust territory to the administering authority. That saves actually about a month's time. I feel that if we ventured into the question of which of these three methods is the most normal or abnormal, regular or irregular, we might be here a very long time and not agree at all. And I hope that the Council will not go into that kind of description of normality.

The PRESIDENT: I think we have discussed this matter at as great length as we should. I quite agree that it is not a question of what is liberal or illiberal. It is a question of what is the wisest and most practicable and most expeditious procedure to follow in order to reach the objective that all of us are after.

I think, as Mr. Gerig has suggested, it will be very unprofitable to try to label one method "liberal" and another "illiberal". It is simply a question of how best can we obtain our common objectives. Again we will be in a quagmire if we begin discussing what is normal and what is the abnormal procedure to follow. I think that will work out in practice. We will find that as a matter of practice, the majority of petitions will probably come in one way or another, depending upon the views of the petitioners as to which is most expeditious, as to which perhaps is freest from red tape.

I do not see that it would profit us to discuss the question of normality versus abnormality.

I would like to pass on, before we break up for lunch, to this second sub-heading which relates to what should be contained in the notification. Now I believe that in the Mandates Commission it was unquestioned practice to notify the petitioner of the final determination by the Council and to transmit the official record to him. I presume that we will all agree with this, but I am not sure. I wonder if anyone has any objection to following the practice which was followed in the Mandates Commission?

(No objection voiced).

Unless I hear objection, I take it we can leave it to the Drafting Committee to draft on this question of notification.

May we then pass along to these other matters. So far as public records are concerned, and the handling of those public records, I suspect

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we might leave that discussion until we come to discuss the section in the rules on the handling of records. I think this will relate to our decisions with regard to public records.



Mr. MAKIM (Australia): Mr. President, I would like to ask whether security considerations are related there to the question of public records of petitions or whether security considerations are something quite apart from the question of records, because I would wish to speak about the question. When matters have security import attached to them, we should secure from the Security Council an acknowledgement as to whether such petitions should be heard privately or in public. But I am a bit in doubt, sir, as to whether this matter of security considerations is one that actually relates to what I wish to speak upon or whether it is in regard to the question of records.

The PRESIDENT: I had in mind, sir, simply security considerations with respect to whether the full record of a petition, its disposition and its hearing should be made accessible to the whole public. Now, that is something which I think we will probably have to consider when we talk about the disposition of records. I suggest that we defer that discussion until that time.

Mr. MAKIM (Australia): That will be quite satisfactory.

The PRESIDENT: That brings us to the last subject on our little outline discussion; that is, the question of emergency or summary procedure.

I think probably all of us feel that there may be exceptional circumstances when, because of the gravity of some inflamed situation, because of exceptional circumstances of some kind or other, we ought to abbreviate the time necessary under our normal procedure for the consideration of petitions.

Now, in order to meet that situation, we might adopt a rule somewhat along the line of the suggestion in our outline of discussion; that is to say, if the whole Trusteeship Council at its meeting by a majority vote feels that a particular case is so exceptional as to require an abbreviation of the time, and if that majority vote is concurred in by the representative of the administering authority, then the ordinary rules concerning time -- you will remember

we discussed the question and decided that a certain time limit, presumably three months, would be allowed to the administering authority from the time of its receipt of the petition until the opening day of the meeting. Such a time might be abbreviated, I say, by a vote of the majority of the Council itself which is concurred in by the representative of the administering authority.

I wonder whether we all agree on that or whether there are contrary views?

Mr. LIU CHIEH (China): I agree with you, sir, that there may be emergency cases which require abbreviation of the time limit for hearing of petitions. But in regard to the procedure you have proposed, I do not know whether that is a wise one because, as I see it, this kind of emergency meeting would be in the nature of a special session of the Council.

The PRESIDENT: Not necessarily, if I may interrupt. It might come up at a regular session.

Mr. LIU CHIEH (China): In any case, the usual rule is a majority decision of the Council. When you say that the majority decision has to be concurred in by the administering authority, then you are introducing into this Council a principle which is tantamount to a veto and which, I think, it is desirable to avoid. To avoid giving the impression of introducing that principle of veto, therefore, I beg to differ from that part of the suggestion.

(Mr. RYCKMANS, representative of Belgium, spoke in French. At the conclusion of the interpretation, the following statement was made in English.)

Mr. RYCKMANS (Belgium): The administering power, which must be present when the petition is heard, must agree to the shortening of delays. It cannot be obliged, against its own free will, to be present when it is not ready with its case.

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The PRESIDENT: And, therefore, if I understand you correctly, it is not necessary to have any rule along the line which I have been suggesting. It is superfluous because of other provisions. I think there is a great deal of force in what you say.

I take it, then, that we all agree that such a rule would be superfluous, although there will be times when the administering authority, possibly of its own desire, will see fit to help in the abbreviation and shortening of the ordinary period.

Mr. LIU CHIEH (China): Mr. President, on the contrary, I think the original proposal -- the idea of it -- is a very good one, apart from the principle of whether the administering authority should be first consulted. I mean that is an established principle. It is laid down in the Charter. It is a very desirable thing to put in, in the contingency of an emergency meeting, to abbreviate such time limits, because, as was pointed out in the course of discussion in the Council, the time limit was considered by several Members to be unduly long and to have some sort of provision which says that in emergency cases -- in other words, cases of exceptional urgency -- the Council would consider abbreviating such limit. It is a very desirable addition.

Mr. President, I would suggest that you do not retract your proposal so rapidly, because I have not heard the Council express its view that it is entirely superfluous. I think even the Belgian representative has not said that in so many words.

The PRESIDENT: May I say that I did not mean to retract my idea, but only the question of whether we needed any rule.

We always can call special sessions as provided in other rules. At our regular sessions I suppose we can decide by vote to abbreviate the ordinary three months' period, so that, as I understood the suggestion of the Belgian representative, all of us would keep in mind the possibility of emergency or summary procedure, but that we do not need a rule, a special rule, for it.

I am also troubled somewhat; if we do write it in the rule, we have to bear in mind always the Charter provision, Article 89, paragraph 2, which says: "Decisions of the Trusteeship Council shall be made by a majority of the Members present and voting." That is, a majority of the Members present and voting can always upset any rule that we may have established.

Therefore, is it necessary to write a special rule?

Sir Carl BERENDSEN (New Zealand): Mr. President, I am very largely in agreement with my Chinese colleague and, to a certain extent, also in agreement with the representative of Belgium, and with you, sir, a very happy position for me to find myself in.

I do think there is much to be said for some formal recognition in our rules, that we must contemplate the possibility of emergencies, recognizing, of course, that we have duties to the administering power. We must also recognize the administering power has duties to the Council.

I think we might possibly meet all points of view if we reported our recognition of the fact that emergencies may arise and that in such cases, when, in the opinion of the Council, an emergency has arisen, then it will be the duty of the Council and the administering authority to endeavour to agree to a truncating or shortening of the period normally prescribed. I think such a course might be useful, sir.

Mr. LIU CHIEH (China): Mr. President, I did not mean to take the floor again, but since you have posed a question, I would like to answer it.

As to whether it is necessary to write it in the rules, of course, the Council can always convene a special meeting or decide on any emergency meeting.



But I think the representative of New Zealand, on the Working Committee, has wisely pointed out yesterday, that the rules of procedure serve two purposes; one is to guide the Council in the conduct of its business; and the other is to let outsiders, petitioners, or would-be petitioners, to know what their positions are; I mean, how long it would take for their petitions to be considered and to see, in such cases, whether any other exceptional measure can be taken, and so on. So for that purpose, I entirely agree with the distinguished Vice-President that some sort of rule, or something that is known to everybody, should be incorporated.

The PRESIDENT: I suggest that we turn this over to the Drafting Committee, asking them to try their hand at drafting a rule covering this question of emergency and summary procedure.

That brings us to a completion, except for the one or two small remaining points which we will refer to later, of our discussion outline.

May I announce that the Drafting Committee will meet quite briefly at two o'clock this afternoon in Room 5, and that I hope we will have a report from the Drafting Committee covering these subjects which we have been discussing, perhaps by next Monday night, so that we can study those suggested rules on Tuesday. In other words, we will now continue our discussion, going back to Rule 6 and working along rule by rule, interrupting ourselves later to give consideration to the rules in the report returned to us by the Drafting Committee.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

we agreed

The PRESIDENT: There are four minutes left before/ to stop for lunch I wonder if we had not better do that this afternoon when we first meet.

Mr. RYCKMANS (Belgium): I think four minutes is plenty, sir.

The PRESIDENT: Is it enough?

Mr. RYCKMANS (Belgium): I hope so.

The PRESIDENT: We will take four minutes then.

Mr. GERIG (United States): Mr. President, I do not want to precede  
of  
the representative / Belgium, but I have a small point that is in addition  
to our outline, which I would like to have one minute on.

The PRESIDENT: Will you proceed?

Mr. GERIG (United States): It affects Rule 42 of T/1 and it is  
repeated in Rule 87 of T/4. It is this phrase which says: "The hearings  
of all petitions affecting strategic areas may be held in public or in  
private, at the discretion of the Council."

Now I am just suggesting that the Council should agree that the  
Drafting Committee, this afternoon, should retain that language. We  
have not discussed that but it is quite obvious that in a strategic area,  
if an oral petition comes from what might be a closed area, with regard  
to the disclosure of certain information, the Council might wish to take  
it in private, and the records of that discussion might need to be restricted  
in some way. If that principle is accepted by the Council, I think the  
Drafting Committee can deal with it.

The PRESIDENT: I take it that the Council is agreeable to the  
Drafting Committee taking this matter into consideration and drafting as  
has been suggested.

May I turn now to the representative from Belgium and ask him, in  
brief compass, to express what is on his mind.

(Mr. RYCKMANS, representative of Belgium, spoke in French.)

The PRESIDENT: I will repeat to the Chairman of the Drafting Committee: I had expressed this morning the thought that we should have, in the rules concerning oral hearings, some rule to the effect that the Trusteeship Council shall have the power in each case to grant, or control, or limit, or deny oral hearings; that is, I think the Council should reserve to itself the power to deal with oral hearings. I believe that the Rules Committee has already been working on oral hearings. I felt that perhaps the Drafting Committee should incorporate an additional rule, making it clear that the giving of an oral hearing is a privilege and not a right--that is to say, that the Council reserve the right to grant, or to control, or to limit, or to deny oral hearings, as it sees fit.

Mr. LIU CHIEH (China): Mr. President, the Drafting Committee understood that the hearing of oral petitions is a matter of discretion of the Council, and in fact has proceeded to draft rules in that sense.

The PRESIDENT: May I announce that the Council will meet in this room at 2:30 o'clock this afternoon, and the Drafting Committee will meet at two.

The meeting is adjourned.

(The meeting adjourned at 1:03 p.m.)