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VERBATIM RECORD OF THE NINE HUNDRED AND SEVENTY-FIFTH MEETING

Held at Headquarters, New York,
on Friday, 12 June 1959, at 2.30 p.m.

President:

Mr. DORSINVILLE

(Haiti)

Examination of conditions in the Trust Territory of Nauru
3d, 67 (continued)

Note:

The Official Record of this meeting, i.e. the summary record, will appear in provisional mimeographed form under the symbol T/SR.975 and will be subject to representatives' corrections. It will appear in final form in a printed volume.

AGENDA ITEMS 3d and 6

EXAMINATION OF CONDITIONS IN THE TRUST TERRITORY OF NAURU (T/L.911): (continued)

- (a) ANNUAL REPORT OF THE ADMINISTERING AUTHORITY FOR THE YEAR ENDED 30 JUNE 1958 (T/1446, 1465)
- (b) REPORT OF THE UNITED NATIONS VISITING MISSION TO THE TRUST TERRITORIES OF NAURU, NEW GUINEA AND THE PACIFIC ISLANDS, 1959 (T/1448 and Add.1, T/1460)

At the invitation of the President, Mr. Jones, special representative for the Trust Territory of Nauru under Australian administration, took a place at the Trusteeship Council table.

Political advancement (continued)

The PRESIDENT (interpretation from French): The special representative wishes at this time to give some information on questions which were put to him at the Council's last meeting.

Mr. JONES (Special representative): Yesterday, the representative of India asked a question concerning the positions occupied by the members of the Nauru Local Government Council. I regret to say that I do not have the complete records with me. At the moment, I can only say definitely that three members are officers of the Administration. I am quite sure, however, that, with the exception of Hammer de Roburt, the Head Chief, they are all officers of the Administration. If the representative of India would like me to confirm this, I can send a cablegram -- but perhaps the information I have supplied is sufficient for his purpose.

Mr. VELLODI (India): I should like to thank the special representative for that information. As I said yesterday, however, it is not so much a question of whether these people are employees of the Administration; that fact has been confirmed by the 1956 Visiting Mission. What my delegation is interested in knowing is the capacity in which these people are employed by the Administration. I would once again request the special representative to let us know -- either now or at some future date when he has the information -- the capacity in which these people are employed by the Administration.

Mr. MUFTI (United Arab Republic) (interpretation from French): I should like to preface my questions in the political field with a certain number of considerations explaining the general structure of those questions. Of course, some of my questions have already been touched upon at previous meetings, but the replies have not been entirely satisfactory.

In the first place, we know that under paragraph 1 of article 5 of the Trusteeship Agreement the Administering Authority is called upon to:

"...co-operate with the Trusteeship Council in the discharge of all the Council's functions under Articles 87 and 88 of the Charter".

I do not mean to imply that the Administering Authority has not so far co-operated with the Trusteeship Council. I merely wish to emphasize this obligation, which may be of the greatest importance in connexion with the implementation of resolutions adopted by the Trusteeship Council.

We also know that under paragraph 2 (c) of article 5, the Administering Authority has undertaken to take all the appropriate measures to promote the political advancement of the inhabitants in accordance with Article 76b of the Charter.

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I should also like to recall that the Visiting Mission, when it examined the work of the Local Council in Nauru, reached the conclusion that they could only achieve independence by exercising responsibility.

Finally, I should like to point out that the special representative stated, in reply to a question which had been put by the representative of the Soviet Union, that the special representative was in a good position to give information concerning the plans of the Administering Authority in the political field. On the other hand, it seems that we are in the midst of a sort of vicious circle and contradiction here. At our previous meetings, on the one hand, mention was made of the restrictions placed by the Administering Authority upon the exercise by the Local Council of Nauru of powers which they hold at the present time by virtue of present legislation; and, on the other hand, the reluctance of the Administering Authority to confer broader powers upon the Local Council so long as the present powers are not fully exercised. That, of course, is one of these vicious circles which the Trusteeship Council must break if the Territory is to evolve as the Charter would have it evolve. Another vicious circle is that we see that no plan in the political field or other fields could be presented to the Council before a decision is taken by the Nauruans with regard to their future, whereas we feel that such a decision cannot validly be taken by the Nauruans so long as they have not enjoyed a certain degree of self-government.

The special representative contradicted himself yesterday. He told us that the future of the Nauruans should not constitute an obstacle to the self-government of the Territory. Consequently, it follows that if that is the true attitude of the Administering Authority, the decision to be taken by the Nauruans with regard to their future should not prevent the Administering Authority from presenting plans in the political field or in any other field.

The Administering Authority admitted yesterday that the profits which the Nauruans get from the phosphate industry and the concern of the Nauruans for the future of their Territory -- concerns which have been stirred up by a series of plans for their resettlement -- all of this discouraged the Nauruans in the political field and turned them aside from the development of other sources of

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wealth in the Territory. However, the Administering Authority continues to say that the phosphate industry will be further developed and that the Nauruans should take some decision as to their future. Now these are all contradictions, in my opinion, concerning which the views of the Administering Authority are now requested to be stated.

I should now like to come to the following questions. In the observations ~~on~~ on the Visiting Mission's report, under the heading of "Powers of Nauru Local Government Council", the Administering Authority states:

"The views expressed by the Visiting Mission that increased powers should be given to the Nauru Local Government Council and that it considers the time to be imminent when matters of 'house-keeping' can, for the most part, be entrusted to the Nauruans, have been noted and will be given careful consideration by the Administering Authority when reviewing the powers and functions of the Local Government Council in local matters." (T/1460, Section B)

My delegation is not interested in knowing when the Administering Authority will proceed to such an examination because, as the special representative himself has admitted, this question has always been under study. My delegation rather would like to know when the results of such a review will be transmitted to the Trusteeship Council. Consequently, that is the first question I wish to ask.

My second question is as follows: could these results be included in the next annual report of the Administering Authority? My delegation would also like to know whether such results could be transmitted to the Trusteeship Council in the form of a plan providing for the gradual introduction of measures, and this in conformity with the resolution passed by the Trusteeship Council. My delegation would also like to know whether the first stage in that plan might include relaxing restrictions in giving powers to the Local Council and whether they could extend freedom of action of the Government Council in local matters. We should like to know whether such an initial stage might provide for the encouragement of the Government Council by concrete measures allowing them to use the present powers which they have to establish taxes. We should also like to know whether that stage might provide for the lightening of the administrative burdens of the Council so as to allow the Council to make full use

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of its powers to deliberate upon important matters. Could these administrative tasks which the Council is now performing not be entrusted to some other organ which would be something like a municipal council? For example, I would say that the Local Council at the present time is concerned with the painting of certain buildings. I must say that this is a very insignificant matter.

Along the same line of ideas, my delegation would like to know whether restrictions at the present time are reimposed upon the conduct of debates in the Local Council. We know in effect that this Council has two types of meetings, weekly meetings presided over by the Principal Chief, and monthly meetings presided over by the Administrator himself. My delegation would like to know whether the conduct of the debate and the procedures are identical in these two types of meetings and whether the Government Council is empowered to take decisions during these two types of meetings or whether its powers to take such decisions are restricted to those meetings presided over by the Administrator.

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My delegation also would like to know whether the principal objective of such an over-all plan could not be the gradual transformation of the Government Council into a legislative body. I will proceed to my following questions when I have received a reply to all these questions.

Mr. JONES (Special representative): I think the Council will appreciate that the question on political development put by the representative of the United Arab Republic comprises at least twelve separate questions. Whilst I have a very good memory and I have made a few notes here, I would feel -- and I would ask the opinion of the President of this particular matter -- that if I am to have questions of such a nature addressed to me they should be addressed to me in writing so that I may have the opportunity of replying to them fully. I find it impossible to memorize, even with notes, the number of questions that have now been asked. If the questions were put as single questions, I would be quite happy to deal with them, but there are so many questions that, though I could probably deal with some of them, I feel it would be very difficult to answer all of them from the few notes I have. I want to give the information; I want to assist the Council, but I cannot do so properly when twelve questions are asked at one time.

The PRESIDENT (interpretation from French): The representative of the United Arab Republic preceded his questions with certain comments and observations which were to clarify the meaning of those questions. I wonder whether the representative of the United Arab Republic could not repeat the questions one by one. I think that the special representative will recall the preliminary observations, and when you put the questions to him one by one he will be able to give a reply.

Mr. MUFTI (United Arab Republic) (interpretation from French): My first question deals with the contradictions which exist between the statements made by the representative of the Administering Authority concerning certain aspects or matters which are brought up in my observations. I should like to know the views of the Administering Authority concerning these contradictions which I brought out. That was the first question that I asked.

Mr. JONES (Special representative): My reply to that is: what are the contradictions?

Mr. MUFTI (United Arab Republic) (interpretation from French): I do not want to read my speech all over again, but I will make special mention of the fact that the contradiction, which I consider to be fundamental, is the fact that on the one hand it is said that self-government or political development of the Territory has nothing to do with the future of the Nauruans and on the other hand that no plan can be submitted in the political field before such a decision has been taken by the Nauruans with regard to their future. This is the contradiction that I should like to have explained.

Mr. KELLY (Australia): I want to be of assistance at this stage. The suggestion has been made that there is a contradiction apparently between two statements made either by the special representative or by myself or between two statements made by either of us. I have with me at the moment the provisional verbatim records of the 973rd and 974th meetings. To clarify the existence or otherwise of this alleged conflict or contradiction, I should be very grateful if the representative of the United Arab Republic could refer us to the particular passages which have given rise in his mind to the thought that a contradiction exists.

Mr. MUFTI (United Arab Republic) (interpretation from French): I do not have before me these verbatim records, but I will put my question in another manner. I should like to ask the special representative whether he feels that the measures which must be taken in the political field must be subordinated to the decision which the Nauruans will be called upon to take with regard to their future resettlement. This is a direct question which I am now putting without mentioning the contradictions any more.

Mr. JONES (Special representative): In no way are our preparations or our obligations under the Trusteeship Agreement with regard to their political development subordinated in view of the fact that it is probable that they may have to be resettled in another area. I thought I had made it quite clear that

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we are going ahead with our responsibilities and obligations in all fields of advancement, but what I did say was that it may be affected if and when a decision is made for their resettlement, but it is not subordinating or influencing our present actions with regard to their political development.

Mr. MUFTI (United Arab Republic) (interpretation from French): If I understood the statement which has just now been made, there would be no obstacle at the present moment which would keep political measures from being introduced in the Territory. If this indeed is the case, I should like to go on to the second series of my questions.

In this second series of questions, I refer to the observations of the Administering Authority concerning the report of the Visiting Mission with regard to the powers of the Nauru Local Government Council. The Administering Authority stated that it had taken note of these observations and that the administration was ready to investigate the opinion of the Visiting Mission to the effect that the powers of the Local Government Council might indeed be broadened and certain local or housekeeping matters might be entrusted to it. I should like to know when the results of such a review will be transmitted to the Trusteeship Council and whether these results of the review could be included in the next annual report to the Council.

Mr. JONES (Special representative): The Administering Authority has undertaken to give consideration to review the powers and functions of the Local Government Council, and the Council can accept the fact that that will be done although as I have already mentioned, in practice, the Council is always more or less under review with the hope that it will be possible to extend further powers to them. The first step, if any is taken, will be, as more or less suggested by the Visiting Mission, in regard to housekeeping powers. Any change made in regard to the powers of the Local Government Council will, as a matter of course and routine, be included in the next annual report.

Mr. MUFTI (United Arab Republic) (interpretation from French): I thank the special representative for this statement. I will take account of it. I would like to go on to my next question.

My délegation would like to know whether the results of this review might be transmitted in the form of a plan or programme which would provide for certain stages at which certain measures, spread out over a period of time, might be introduced; and if the first stage of such a plan might provide for the gradual lifting of restrictions and the broadening of the freedom of action of the Council?

Mr. JONES (Special representative): We will take note of the suggestion regarding a plan; however, as special representative I am not in a position to say that any information provided to the Council will be in the form of a plan; but it will give full information with regard to any additional powers that have been granted to the Council or any change with regard to their present powers and responsibilities.

Mr. MUFTI (United Arab Republic) (interpretation from French): I made this suggestion concerning the administrative powers which the Local Government Council exercises at the present time, and which we feel to be of a very subordinate nature. My suggestion was that these secondary administrative powers might be entrusted to another organ, like a municipal organ -- municipal council. I wonder whether my suggestion could be contemplated?

Mr. JONES (Special representative): I am not too clear why the representative is making this suggestion, because at the present time the powers of the Nauru Local Government Council are greater than the powers that are normally granted to a municipal council; in fact, they have the powers of a municipal council plus advisory powers in regard to ordinances affecting the Territory generally.

I think it might be just as well at this stage if I repeat some information in regard to the powers of the Council. I might add that it will take up some time, and it is merely repeating what I have told the Council on several occasions, but as the question has been asked, I shall inform the Council once again of the powers of the Nauru Local Government Council.

"The Council is a body corporate with perpetual succession and a common seal and is empowered to acquire, hold, and dispose of real and personal property, to enter into contracts, to institute and defend actions, suits and other legal proceedings, and to do all things necessary for carrying out its powers and functions. It may advise the Administrator in relation to any matter affecting Nauruans, including the making of new ordinances and regulations and the repeal or amendment of any existing legislation, and shall have such powers and functions as are provided by or under this or any other ordinance.

"The Council, the Head Chief and a Councillor shall perform the duties and fulfil the obligations imposed upon it or him by this ordinance or by any other law in force in Nauru; subject to the laws of Nauru, generally maintain peace, order, and good government among the Nauruans; and intervene for the purpose of preventing, and to the best of its ability prevent, the commission by any Nauruan over whom it or he has authority for any offence against a law of Nauru.

"Subject to the provisions also of any other law in force in Nauru and to the approval of the Administrator, the Council may organize, finance or engage in any business or enterprise; carry out any works for the benefit of the Nauruans, either generally or in particular districts, and provide or co-operate with the Administration of Nauru or other body in providing any public or social service."

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"The Council may make rules not inconsistent with any act or ordinance or any instrument, including regulations made thereunder in force in Nauru for regulating the conduct of its business and for the peace, order and welfare of the Nauruans, and in particular, for regulating the manner in which the Councillors shall elect one of their number to be Head Chief regulating the time, place and manner of its meetings, and the order and conduct of its business."

Well, it goes on. Perhaps that will be sufficient to indicate, but it is quite a comprehensive list of matters under which it may make rules, and it also includes, if I may mention this:

"The Council may impose, collect and levy rates and taxes to be paid by Nauruans and Pacific islanders, as defined by the Nauruan Community Ordinance, charge fees or make charges for services rendered by the Council or by persons employed by the Council."

I think it will be quite clear that the Nauruan Local Government Council already has the usual powers granted to a municipal body plus a very important advisory function in regard to Nauru generally.

Mr. MUFTI (United Arab Republic) (interpretation from French): I would like to thank the special representative for this information which he has just supplied. I was very well acquainted with the long list of powers which the Government Council has, but that was not the question. I did not mean to say that the present powers on the books were too few. But it seems to me that the Government Council now is overburdened with certain very subsidiary and secondary tasks, and this somewhat kept the Council from exercising its higher, more important powers. Therefore, I wanted to know whether it would not be possible to lighten the burden of the Government Council so as to allow it to take up more important matters. That is the crux of the matter. But I do not want to press this point, and I will go on to another question.

My delegation would like to know whether restrictions are imposed upon the conduct of the debate in the Government Council, and whether the Government

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Council takes decisions at all meetings which are held either when presided over by the Head Chief or when presided over by the Administrator; for example, if the Administrator can oppose having certain questions debated in the Government Council?

Mr. JONES (Special representative): There is complete freedom of debate in the Council, and the meetings at which the Administrator is present are held in exactly the same manner as when the Head Chief presides.

Mr. MUFTI (United Arab Republic) (interpretation from French): I should like now to go on to my next question.

Chair
At its twentieth session, the Trusteeship Council felt that the electoral regulations could be further improved if the supervision of the balloting was not exercised by the Administrator himself and if all contested motions were examined by a tribunal. Following that recommendation, the Administering Authority declared in its annual report for 1956-57 that the Administration envisaged by means of an amendment to the Ordinance with respect to the Government Council the withdrawal from the Administrator of his functions with regard to the scrutiny of the voting and the provision of a central tribunal to hear any protests. My delegation would like to know whether such a measure has been adopted by the Administering Authority. If the answer is in the affirmative, then I would like to know why the report for 1957-58 does not mention this important point.

Mr. JONES (Special representative): It would appear that there has been no actual amendment to the Ordinance. However, I should like time to study that because I was under the impression that action was in hand some considerable time ago to amend the Ordinance along the lines of our reply to a resolution on this particular matter. I should like that to stand over, and I will reply at the next meeting after I have had more time to study my documents.

Mr. MUFTI (United Arab Republic) (interpretation from French): My delegation hopes that the reply will be given before we take up the general debate here because the reply will determine our position with regard to political advancement in the Territory.

Chair
We go on now to the judiciary. We note that the judges of the Central Court and those of the Appeal Court cannot be recalled except by reason of incompetency, proven misbehaviour or incapacity. We also note that such a guarantee does not exist with regard to judges of the District Court who can be recalled at any moment by the Administrator without any reason being given. My delegation would like to know the reason why such a guarantee is not also applied to the judges of the District Court and whether the guarantee in question can be invoked

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with regard to the functionaries of the Central Court and the Appeal Court. Finally, we should like to know if there exists a disciplinary council or committee which determines these cases of incapacity or misbehaviour or whether the Administrator himself decides whether such is the case.

Mr. JONES (Special representative): The provision as mentioned by the representative is exactly as it is shown in the report; that is, the Administrator may relieve an officer of the District Court of his functions. There is no committee. It is purely at the discretion of the Administrator.

Mr. MUFTI (United Arab Republic) (interpretation from French): I now come to my last question, which is as follows. What would the attitude of the Administering Authority be in the event the interest of the Trust Territory came into conflict with the interest of the phosphate mining company? What are the means of action available to the Administering Authority to face up to such a situation? We should like to know whether the Administering Authority intends to make use of the means of action available to it? As I read over the provisions of the special agreement concerning the exploitation of phosphates, an agreement which the representative of the Administering Authority was good enough to make available to us, I note that the freedom of action of the Administering Authority with regard to the phosphate mining company is very restricted. I will not go into detail with regard to these provisions at this stage of our work. The Administering Authority, on the other hand, has undertaken certain obligations under the Trusteeship Agreement and the Charter of the United Nations. We might recall here that Article 103 of the Charter provides that in the case of a conflict between the obligations of a Member State by virtue of international agreements and its obligations by virtue of the Charter, the latter shall prevail.

Conflict of the laws and procedure

It may be that this situation has not yet arisen. Consequently, the Administering Authority may not yet have paid attention to it. However, it would seem that unless the advanced development of the phosphate industry, as announced by the company in question, is accompanied by satisfactory control so as to distribute the profits satisfactorily and in the interests of the Territory, this, in my opinion, may constitute such a situation.

Mr. KELLY (Australia): May I thank the representative of the United Arab Republic for his question which in form appears to have a juristic character and which I, for one, would like some time to consider. While I am considering his question I might perhaps direct his attention to Article 80 of the Charter of the United Nations which might help him to solve some of the problems of a largely hypothetical character, which have arisen from his reading of the several agreements relating to the island of Nauru.

Mr. MUFTI (United Arab Republic) (interpretation from French): I did not understand this reply very well. I should like to know whether a reply to my question will be supplied to my delegation before the general debate takes place.

Mr. KELLY (Australia): We shall certainly do the representative of the United Arab Republic the courtesy of very carefully considering the question that he has put to us. But if it is a question that raises hypothetical juridical considerations it may not be possible for me to furnish him tomorrow with the reply that he would regard as eminently satisfactory. But I will do my best to furnish him with a reply that the Australian delegation would consider satisfactory.

Mr. JEAN-LOUIS (Haiti) (interpretation from French): I still have a few questions to put to the special representative, but most of them have been dealt with in the questions which were put to the representatives of the Administering Authority by delegations who spoke earlier, specifically the delegations of India and the United Arab Republic. However, I think there are certain nuances which can be clarified by the special representative.

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My first question is as follows. Members of the Local Government Council have submitted to the Visiting Mission a request containing six proposals which would increase the powers of the Council. Without rejecting this request categorically, the Administering Authority has replied generally that more extensive powers will not be given to the Council until it shows more diligence in exercising the powers that it enjoys at present.

(Mr. Jean-Louis, Haiti)

There seems to be here an antagonistic point between the Council and the Administering Authority. Could the special representative tell us what prompts the Council to neglect its powers, which are very restricted, whilst at the same time it now requests more extensive powers. What is the reason for this? Could the special representative clarify this point?

Mr. JONES (Special representative): I really have nothing to add to what I have already said on the matter of additional powers for the Nauru Local Government Council. I am not in a position to say why they are not exercising their powers to the full extent or showing the amount of initiative that we had hoped for. During the questioning period so far, the matter has been covered and certain reasons have been put forward to which I have nothing to add at the present moment. But it may be that if they are given, shall we say, more autonomy in certain housekeeping matters, that may be an added encouragement to them to take a more active part.

Mr. JEAN-LOUIS (Haiti)(interpretation from French): I wanted to have these explanations with respect to the powers of the Local Government Council for as I said in my first question, in its reply to the report of the Visiting Mission, the Administering Authority has refused to give consideration to the suggestions that were made by the Local Government Council because, allegedly, they were not exercising with due diligence the powers already possessed. During the present debate the Administering Authority has admitted that further powers would nevertheless be granted to the Council.

My second question relates to this same issue. I would like to ask the special representative whether it might not be possible, with a view to stimulating the zeal of the members of the Council, inducing them to exercise the powers they possess, to take steps which would grant them some degree of power of decision in the matters that are already delegated to them. In reading the documents which we have before us, it is easy to realize -- and I do not know whether I am wrong -- that all decisions of the Council are subject to the approval of the Administrator. They have no power of final decision on any matter. All of them are subject to the discretionary power of the Administrator.

(Mr. Jean-Louis, Haiti)

My question then is whether by way of an inducement, it might not be possible to delegate to them a certain number of matters over which they would have final power of decision without being subject to the veto of the Administrator? Could the special representative reply to the suggestion?

Mr. JONES (Special representative): I think that when we refer to giving them more autonomy in regard to housekeeping matters, that is really the same as what the representative of Haiti is now saying. That will be given consideration. I would like at this stage to say a few words in regard to the Visiting Mission's report and the proposals of the Local Government Council that have been referred to by the representative of Haiti and also by other members.

If the observations of the Administering Authority are carefully studied, it will be seen that it is not the intention to say "no, no, no". They give a very considered reply to each of the proposals and state that consideration will be given to the matters raised. I just wanted to make that point so that the Trusteeship Council does not get the impression that the four or five proposals which have been submitted by the Nauru Local Government Council to the Visiting Mission have been more or less refused out of hand.

Mr. JEAN-LOUIS (Haiti) (interpretation from French): My third question ~~relates to the electoral system in Nauru.~~ I would be grateful to the special representative if he could tell me what conditions, if any, are required in order to stand for office in Nauru. I realize full well, and I have read this in the report, that any Nauruan, age twenty-one, can stand for office, but are there any other conditions besides the age limit? For instance, must one make a declaration that he is standing for office? What are the conditions in this regard in Nauru?

Mr. JONES (Special representative): I take it that the representative of Haiti has before him the annual report of the Territory of Nauru. The chapter which refers to local government is chapter 3, on page 12 of the report, and it carries over to pages 14 and 15 which deal with suffrage. It

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explains, I think, the points on which the representative of Haiti is now seeking information. If there is any information required in addition to what is shown in the report, I should be very happy to endeavour to provide it. On page 14 of the annual report, in chapter 5, under the heading of "Suffrage", the method of nominating a candidate and other matters pertaining to the election of a candidate is clearly set out.

Mr. JEAN-LOUIS (Haiti)(interpretation from French): I put this question in order to understand better the negligence that has been attributed to members of the Trusteeship Council. What I wanted to know is whether there is any provision which obligates a member of the Council, when running for office, to proclaim his candidacy. Do they have to fulfil certain conditions, which consist, for instance, in stating that they are running for office and in making a declaration, or were they selected and told to run for office? My question is whether they themselves decided to stand for office, or whether they were selected by the administration to run for office? I do not find that information in the report.

Mr. JONES (Special representative): The Administration in no way influences, or takes any action in regard to, the selection of a candidate for office. The selection is made by the people themselves; the different districts nominate in writing those people whom they desire to stand for office. I will read the relevant paragraph from the report:

"The nomination of a candidate for Councillor is effected by delivering to the Returning Officer, not later than noon on nomination day, a prescribed nomination paper signed by the candidate and by two or more electors of the electoral district concerned." (T/1446, p. 15)

Mr. JEAN-LOUIS (Haiti) (interpretation from French): I thank the special representative for that information.

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I had two questions now relating to the judiciary, but it will not be necessary for me to put the first because it has already been put by the representative of the United Arab Republic, so I will proceed to my second question. In the comments of the Administering Authority on the report of the Visiting Mission, the Administering Authority draws the attention of the Trusteeship Council to the opinion of the Commonwealth legal officers on the case relating to the former German wireless station land. The Administering Authority is of the opinion that the case can be taken before the Nauru courts, and that in particular the Central Court is competent to deal with the matter. It is further suggested that both the Administration and the Administrator might be called as defendants in the case. Since the Administrator himself can be called as a party to a case before a Nauru tribunal, would it not be wise, by a regulation or an ordinance, to ensure the complete independence of the judges by appointing them for a fixed period and by laying down the conditions under which they can be revoked?

Mr. JONES (Special representative): I am not too clear about the question, but I take it that the proposal is that the conditions under which judges or magistrates may be appointed to or removed from office should be stated in an ordinance. If that is the question, it is already covered by the Judicial Ordinance mentioned in the report, the provisions of which, as set out in the report, are the statutory provisions in relation to the question.

Mr. JEAN-LOUIS (Haiti) (interpretation from French): My first question, which I did not intend to put because the matter had already been raised by the representative of the United Arab Republic, would have asked the special representative whether there were any specified conditions under which judges or magistrates could be revoked or whether such a decision was left to the judgement of the Administrator. From the reply given by the special representative to the representative of the United Arab Republic, we realized that the Administrator was the sole judge of when, how and why a magistrate or judge could be revoked. We wished to apply this situation to a given case, the case of the old German wireless station land. Since the Administrator can be called as a defendant in this case, it seemed to us a rather interesting situation: a magistrate can hardly enjoy the necessary independence since he can be revoked on the sole initiative of the Administrator who himself may appear before the said magistrate as a defendant. That is why I was wondering whether the Administration might not be willing, in view of this situation, to lay down in an ordinance what the reasons for revocation might be.

Mr. KELLY (Australia): The representative of Haiti has raised an interesting question in relation to the reply given by the Administering Authority with respect to certain claims concerning the old German wireless station land. I am rather reluctant, as I would imagine most people with any legal training are, to reply off the cuff to involved legal questions. I feel that while it is true that the Administrator may appoint a judge of the Central Court by commission, one cannot proceed to the conclusion that the Administrator could deprive that judge of his judicial status. I think the reply of the Commonwealth legal officers is based upon the fact that in Australia itself the Commonwealth of Australia may be sued in contract and in tort in the courts of the Commonwealth, and that cases against the Commonwealth are in fact heard and determined by judges of the Commonwealth. In other words, in Australia itself a case against the central Government is heard in the courts of that Government by judges who owe their original appointment to the same Government. I do not think any Australian citizen has experienced any disadvantage as a result of

(Mr. Kelly, Australia)

the practice -- which does not obtain in all countries -- of making the central Government a defendant in actions by citizens themselves. In case there is any real inconsistency between the general policy of the Administration to ensure that the judiciary is quite distinct from the executive in Nauru and the advice tendered that the Administrator himself might in certain circumstances be made a defendant in a court the judge of which is appointed by the Administrator's own commission, the Australian Government will undertake to make further inquiries and if possible try to resolve the apparent legal problem mentioned by the representative of Haiti.

Mr. MUFTI (United Arab Republic)(interpretation from French): I believe that no reply was given to one of my questions. I asked whether officials of the Central Court and the Court of Appeal had the same guarantees as judges, or whether they simply had the status of officials.

Mr. JONES (Special representative): The District Court comprises magistrates appointed by the Administrator. As I have already mentioned, the amount of court work in Nauru does not warrant the appointment of full-time magistrates. For that reason, honorary magistrates are appointed. The Administrator may at any time revoke the appointment of a magistrate in the District Court.

Judges or magistrates are appointed to the Central Court and, again, they may be removed from office by the Administrator on the grounds of proved misbehaviour or incapacity. There is a difference between the two courts.

The Court of Appeal consists of one judge, who may be removed from office by the Administrator on the grounds of proved misbehaviour or incapacity.

Mr. MUFTI (United Arab Republic)(interpretation from French): I am sorry, but I do not think that the special representative fully understood my question. We know that there are judges in the Central Court and the Court of Appeal who are at the same time officials. I would like to know whether these officials enjoy the same benefits as the judges or magistrates.

Mr. JONES (Special representative): The magistrates appointed to the District Court do not have exactly the same immunity, because, as I have pointed out, the Administrator may remove them from office without the necessity of proving misbehaviour or incapacity; whereas, before the magistrates and judges of the Central Court and the Court of Appeal may be removed from office, it must be proven that they have misbehaved or are incapable of carrying out the duties of the Courts.

Mr. MUFTI (United Arab Republic)(interpretation from French): Perhaps I should put my question in another way. What I should like to know is whether the magistrates of the courts who are also officials may be removed from office for any reasons other than the two which have been mentioned by the special representative.

Mr. JONES (Special representative): Yes, they may be removed from office by the Administrator for any reason he deems fit.

Mr. SCLAKO LOPEZ (Paraguay)(interpretation from Spanish): Actually, most of my questions have already been asked by other representatives. I do, however, still have certain doubts. Perhaps these matters, too, have already been raised in previous questions; if so, I apologize. I should, however, like to have some comments on the following question.

sure From the documents before us, it would appear that the Administering Authority has undertaken studies aimed at finding some appropriate place for the resettlement of the Nauruans. It would also seem obvious that the resettlement of a community would require studies on the way in which the final objectives of the Trusteeship System are nevertheless to be met. I would therefore ask the special representative the following questions: First, have studies been undertaken on the ways in which the Nauruans may be led to the achievement of the aims of trusteeship even if they are resettled elsewhere? Secondly, have studies been made on measures to preserve the existence of the Nauruan community as an entity even if the Nauruans are resettled?

Mr. JONES (Special representative): I really do think that those points have been covered in replies to previous questions. I can think of nothing new to add to the information which I have already given the Council. I would merely repeat that, while awaiting a final decision on resettlement and the nature of the resettlement, the Administering Authority is carrying out its obligations and responsibilities under the Charter as regards political and other development. The final decisions as to whether it will be possible for

(Mr. Jones,
Special representative)

the Nauruans to retain their identity, and as to the other matters referred to by the representative of Paraguay, will be made after concrete proposals are drawn up and presented to the Nauruan people.

Mr. SOLANO LOPEZ (Paraguay)(interpretation from Spanish): I am grateful for that information. I should like to explain why I asked the question. I said that it was speculative and, also, that if the information had already been given by the special representative in replies to other questions I would merely like to have some confirmation. That is all that I had in mind.

Economic advancement

W. J. Boujaert
Mr. CLAEYS BOUJAERT (Belgium) (interpretation from French): My delegation has only one question in the economic field. Could the special representative furnish a few further explanations or clarifications regarding the fishing industry whose establishment is planned. The special representative stated in his opening statement:

"The plans now are for the £700, which had been approved for the cost of blasting an opening in the reef and so provide a harbour for small boats, to be used towards the provision of a freezer and cool room." (T/PV.972, page 87)

A little further on he stated:

"It may yet be necessary to have the envisaged boat harbour constructed for small boats, and funds will be made available for this purpose if required." (Ibid.)

During our visit to Nauru, we were informed that the credit of £700 which was voted by the Nauru Local Government Council had been originally envisaged not to build a harbour but to blow up with dynamite one or several channels in the reef which encircles the island, in order to enable the fishermen to launch their boats in deep water without having to carry them over a rather rough and dangerous coral reef.

We were told -- and this seems obvious to us -- that to build a fishing harbour, even by means of explosives, could cost £50,000 to £100,000. Since the proposed fishing industry will be based on the few fishermen at present living on the island, would not the Administering Authority think that it would be just as useful, if not more so, to allow the Nauru Local Government Council to carry out its original plan, namely, not to build a harbour but to open channels in the reef? This would enable the fishermen to go to sea, and it might even provide an incentive for them to be more active and to do more fishing. Once this result was achieved, further projects such as cold storage facilities, sales service and so on could be achieved by the addition of a cold storage room for the co-operative butcher. This would not involve too great an expenditure. Later on, if need be, it would be possible perhaps to purchase a boat for deep-sea fishing. As paragraph 51 of the report of the Visiting Mission points out, the British Phosphate Commissioners are prepared to allow this boat to use the small harbour facilities which they have built for their own needs.

Mr. JONES (Special representative): The plans for the £700 referred to by the representative of Belgium was for the purpose of assisting the Nauruan fishermen with regard to the actual carrying of their canoes from the foreshore to the deep water. As will be seen from the plan which is attached to the annual report and at the back of the Visiting Mission's report, the whole of Nauru is surrounded by a reef which is almost dry at low water, and in launching their canoes and small boats they have to carry them across this reef.

When we referred to this matter before, we referred to blasting and opening the reef so as to provide a harbour into which small boats could be launched at all tides. I think that has perhaps been a little misleading. The proposal of the Nauru Local Government Council was to blast narrow channels from the deep water to the foreshore, to various parts of the reef where these fishermen live, so the boats could be launched straight into the water and more or less paddled out into the deep water.

I wanted to explain that first so that there would be no misunderstanding as to making one big harbour which, of course, would not be necessary for that particular purpose. At a meeting in January it was decided by the Nauru Local Government Council that they would prefer as a first step to provide a freezer so that they could not only use it for storing fish, but also for storing fruit and vegetables. It was also decided that at some later date, if reasonable progress was made with the fishing venture, to purchase a launch, and arrangements were made with the British Phosphate Commissioners that their facilities for handling boats of that size would be made available to the Nauruan people.

The point made by the representative of Belgium that it might be a good thing to go ahead with making the channels for the canoes, as well as building the freezer, is a very sound one because it would give the necessary encouragement to the individual fishermen to carry on and develop their present industry. I will certainly bring that matter before the Administering Authority when I get back to Australia.

I might add in passing that there are sufficient funds from which the Local Government Council could draw their finances to provide for both.

The PRESIDENT (interpretation from French): We will take our usual fifteen-minute recess.

The meeting was suspended at 4 p.m. and resumed at 4.20 p.m.

ice phosphate
Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): My first question relates to world prices for phosphate.

The special representative and the representative of the Administering Authority no doubt have information on the subject. In the report of the Visiting Mission we read that the Local Government Council has been attempting to obtain information on the prices of phosphate on the world markets but without success. Perhaps my endeavours will be more successful.

Mr. JONES (Special representative): I regret that I have no information at all in regard to the prices at which phosphate is selling in markets in other parts of the world. Of course, there is ~~apparently no such thing as~~ a world price such as there is for many other commodities.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): Perhaps Australia imports phosphate from other areas also, and in assessing the prices for phosphate the prices paid in other countries are taken into account. After all, the Administering Authority is not operating in a vacuum. It is surely informed as to what the prices of phosphate are if it is imported, let us say, from countries other than Nauru. Therefore, perhaps the special representative could give the prices which are paid for phosphate from other areas. He could perhaps supply this information at another meeting; I do not want to press him now.

(Mr. Oberemko, USSR)

My next question is the following, What is the structure of the prices of phosphates? How can they be schematically broken down? So that my question might be better understood by the special representative, I would refer him to the example of the diagram which was submitted by the representative of New Zealand when we were discussing Western Samoa; then there was a very eloquent blueprint regarding the prices that are charged for copra and for bananas. We would very much like to have a similar diagram regarding the prices on phosphates. Would that be possible?

Mr. JONES (Special representative): In the annual report, from the information given in the appendices, and also in the body of the report, the f.o.b. price of phosphate can be worked out. Appendix XIII contains the f.o.b. cost, including other costs; and in the body of the report there is also shown the amount of phosphate that was shipped during the year. Well, if the quantity shipped, and the total f.o.b. price is worked out, that would give the f.o.b. price at Nauru. That is the only information that I have available at this meeting.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to say that I did note that the special representative was leafing through a document. Perhaps that document contains information that may be of use to us in this regard.

Mr. JONES (Special representative): I am looking through the annual report to find the table. It was covered by some other document. It is the table on page 17 of the report which shows the quantity of phosphate shipped, and the f.o.b. value.

The PRESIDENT (interpretation from French): Has the special representative anything to add?

Mr. JONES (Special representative): No. I regret that I have no other information except that in the annual report on pages 17 and 67. I have no other information regarding the f.o.b. price or any other cost in relation to the production of phosphates.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): If the special representative and I are basing ourselves on the same document, then we will not get very far because this data does not figure in the information of the Administering Authority -- it does not figure in appendix XIII or any other place. The special representative was looking for data on the cost of phosphates; but this figure is known. It has been quoted by the Administering Authority. We read that during the year under consideration 1,167,180 tons were shipped, total value of £2,421,898. Therefore if you break this down you have approximately £2 per ton. But that was not what interested me. I wanted to know the structure of this price of £2 -- what is the breakdown? If you were to draw a circle which you would then cut up like a pie, you would see what would be the share that is paid to the Nauruans, as duty, the various subdivisions of this price, the amount that goes to amortize the total investment, and so on and so forth. That is the source of breakdown I was interested in.

Mr. JONES (Special representative): I have nothing more to add than the fact that the information available to me is contained in the annual report. On page 67 it does give the f.o.b. price, plus the interest on capital, contribution to a sinking fund, etc., but there is no detail of what these amounts add up to. On page 68, other information is given in a general way. I have no other information which will assist in any effort to break down the actual costs.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): If the special representative does not have this data here, I will of course not insist that he answer me right away. However, this question seems to be of importance. Therefore, if he could find some material to substantiate such a breakdown, it would be helpful to the members of the Council in formulating their recommendations regarding the economic situation in the Territory. Perhaps the special representative might use as an example the breakdown that was supplied by the representative of New Zealand. That is the type of information we would like to have -- a breakdown of the various component parts of these prices.

My next question relates to the level of exploitation of the phosphates. As we know, the present production level is approximately 1 million tons a year as the average output. There is information that the Administering Authority proposes to increase this output to the level of approximately 1.6 million tons. I should like to know how this was arrived at. Was it arrived at only by the British Phosphate Commissioners? Were there any consultations with the Nauruan people on the subject? Did the BPC inform the Nauruan people of the consequences of such a sharp increase in output?

Mr. JONES (Special representative): The decision to increase the annual output of phosphate was reached by the British Phosphate Commissioners, but the Nauruan people, through their Council, were kept fully informed of the intentions. There was no opposition in any way to the suggestion. It was also carefully explained to them that this would mean that the deposits would be exhausted in approximately forty years instead of sixty years, as had been estimated previously.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to know whether the British Phosphate Commissioners ever considered the following question: Is it not better to cut the output level or stabilize it to some extent so as to extend the period and not cut it from seventy years to forty years?

Mr. JONES (Special representative): I can make no comment on that. I am not aware of what discussions actually took place when the decision was finally made, of course, with the approval of the Administering Authority.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): The following questions arise: Did the Administrator of the Trust Territory participate in the work or does he participate in the work of the BPC? Is he informed about the meetings that have been held? Are financial documents put at his disposal? Does he know about the decisions of the BPC?

Mr. JONES (Special representative): To the best of my knowledge and belief, the Administrator is concerned only with the administration of law and order and other general matters of administration and in no way interferes so far as the managerial side of the British Phosphate Commissioners is concerned. He would therefore not know, as it were, of the internal management or the details of the internal management.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I thank the special representative for such a very conclusive reply. I would now like to put a question regarding the possibility of publishing the 1919 Agreement with the changes which were introduced. I should like to know whether it can be circulated as an official document of our Council. Perhaps we could decide this en passant. Therefore I am also putting my question to the President of the Council and to the representative of the Administering Authority. Would it be possible to issue this document as a document of the Council so that it would be permanently at hand?

The PRESIDENT (interpretation from French): I should like to ask the representative of Australia what he thinks about this. He did submit this documentation to the Council. Perhaps he could reply to the representative of the Soviet Union with regard to what extent, form and degree of publicity might be given to this document.

Mr. KELLY (Australia): As far as the Australian Government is concerned and as far as the Administering Authority is concerned, the widest publicity has been given to these two agreements, both of which have been annexed to Acts of the several parliaments concerned directly, or indirectly, with the Administration of the Trust Territory of Nauru. If the Council should take a decision to circulate these agreements in the form of a Council document, then I suggest that the Secretariat might obtain the text from the official laws of the Commonwealth of Australia, the Dominion of New Zealand and the United Kingdom of Great Britain and Northern Ireland.

The PRESIDENT (Interpretation from French): I would like to know whether Council members have any objection to having this published as a United Nations document, taking into account, naturally, the observation of the representative of Australia with regard to the procedure to be adopted by the Secretariat in order to obtain an authentic text.

It appears that there are no objections to having this reproduced as a United Nations document.

It was so decided.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I would like to put a few questions in relation to this 1919 Agreement. At the last meeting we already dealt with the matter as to who had over-all sovereignty over the phosphates, the sole resource of the islanders.

In Article 6 of the Agreement of 1919 we read the following text:

"The title to the phosphate deposits on the island of Nauru and to all land, buildings, plant and equipment on the island used in connexion with the working of the deposits, shall be vested in the Commissioners."

The last time when I asked who held the rights over all this, whether it was the Nauruan people or the BPC, the representative of Australia, Mr. Kelly, for some reason, said that this matter does not even come within the purview of this Council when considering this situation in the Territory. Yet in article 6 we find a quite definite answer to this question. But this, of course, does not satisfy me. I would like to know whether the Administering

(Mr. Oberenko, USSR)

Authority believes that this article 6, which was included in the 1919 Agreement -- that is to say, many years before the inception of the Trusteeship System -- can remain in force and that notwithstanding the Trusteeship Agreement all rights over these phosphate deposits should devolve not upon the Nauruan people but upon the BPC? How can all this be reconciled?

Mr. KELLY (Australia): I hope there is no misunderstanding of the comment I made, I think, yesterday. In translation I understood the representative of the USSR to refer to the concept of sovereignty, ^{the same} and I observed that I felt ^{that} it was inappropriate to discuss the concept of sovereignty in this particular context. ^{to state that} Article 6 of the 1919 Agreement does not use the expression "sovereignty". It refers to "title" to phosphate deposits.)

This Agreement was in existence between three Governments, it is true, long before the Trusteeship Agreement was negotiated and there is nothing in the Trusteeship Agreement which invalidates this Agreement. That is my reply to the question asked of me by the representative of the USSR.

Mr. OBERENKO (Union of Soviet Socialist Republics) (interpretation from Russian): Of course, the various juridical provisions that are connected with the Trusteeship Agreement are fairly clear and we will be able to comment on them during the general debate. My question refers to article 12 of this same Agreement of 1919. Article 12 says that in the event that there would be any profits as a result of the sale of phosphates, these profits would be handed over by the Commissioners to the three Governments of the United Kingdom, New Zealand and Australia. I would like to know how this takes place in practice. How are the profits allocated?

Mr. JONES (Special representative): The basic point is that although that provision appears in the Nauru Agreement, the Phosphate Commissioners are a non-profit-making concern. The industry is not run along those lines. It is merely run to cover the expenses of the production of the phosphate.

It will be seen from the statement of accounts of the Commissioners, contained in Appendix XIII of the annual report, that the actual balance for the year's operation was £4,662. The balance carried forward in the previous year was £214,681. That was carried forward and absorbed in the management of the industry, leaving a balance at the end of the current year of some £4,000. For that reason, of course, there has been no distribution. It has been a purely non-profit-making concern. The Commissioners merely endeavour to just cover the costs of producing the phosphate.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): The representative of the Administering Authority says that the BFC is a non-profit organization. That, of course, we know and we have heard this said repeatedly. We can merely conclude from this statement that the BFC is there to sell the phosphates at the lowest possible price. In other words, the phosphates are sent to the United Kingdom, Australia and New Zealand at the lowest possible cost, which does not even involve profit of any type for the BFC. Therefore, the concealed profit, in a way, devolves upon the Administering Authority. That is why I put my question regarding the world prices on phosphates, so that it might be possible to compare the two figures and see the relationship between the prices that have been set by the BFC, which is allegedly a non-profit organization, and the world prices charged by those companies that are profit-making.

(Mr. Oberemko, USSR)

If the special representative cannot add anything on this subject, I would like to go on to the next article of the 1919 agreement. In article 14 of the Agreement we read that the phosphates mined in Nauru are distributed according to a certain ratio -- 42 per cent to the United Kingdom, 42 per cent to Australia, and 16 per cent to New Zealand. I would like to know whether any of the phosphates have been exported to any other country apart from those three, and if so at what price?

Mr. JONES (Special Representative): To the best of my knowledge and belief, and according to the records available to me, the phosphate has not been sold to any country apart from the three named.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): From the Administering Authority's report and from the report of the Visiting Mission, we learn that in April 1959 there was to be a conference between the representatives of the BPC and representatives of the Nauruans regarding a revision of the royalties. The special representative also referred to this matter in his opening statement and I would like to know whether he can give us any further information on the results of that conference.

Mr. JONES (Special representative): The information I gave in my opening statement detailed the last action that had been taken in regard to that conference. I stated that the matters were discussed very fully and very frankly among the three parties who attended the conference, at the end of which the Commissioners will have had a meeting at which the whole matter will have been thoroughly discussed. The representative of the Nauruan people, the head chief and the Treasurer of the Council, have gone back to their people and the whole matter will be discussed there. I take it that when both parties are ready another meeting will be arranged to come to some final decision in regard to the future payment of royalties.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I would like to know what proposals or requests the Nauruan representatives made. We must assume that the Nauruans have certain views on the

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subject and the Administration will no doubt be informed about them. It might be interesting also to know what proposals were advanced by the BFC, unless those are a state secret.

Mr. JONES (Special representative): I have no knowledge of what actually took place at the meeting. I was not present and I have no documents of any sort relating to the discussions which took place. I have however already given in general terms the basis on which the meeting was called.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): Perhaps this information will be available later; will it appear in a document which the Administering Authority may be able to supply to us?

Mr. JONES (Special representative): I do not know whether the Administering Authority or the parties concerned would wish the discussions to be released at this stage, but I can assure the Council that when the final meeting is held and decisions are made full particulars will naturally be conveyed to the Council.

financial
Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I would like to return to a question already put by another representative but to which we have not yet received an answer. Has the special representative got the financial report of the BTC? The rather meagre information in appendix XIII of the report does not tell us much. It is difficult to see what is the financial position of the BFC. Can the special representative make the balance sheet of the BFC available to the members of the Council?

Mr. JONES (Special representative): The only documents available to me are those which appear in the report; appendix XIII gives the statement of accounts for the year and also the balance sheet.

Mr. OBEREMKO (Union of Soviet Socialist Republics)(interpretation from Russian): The information given in appendix XIII does not really make the situation very clear, in fact it does not seem even to enlighten the special representative, as we have seen. In so far as the special representative is continually referring to that appendix, we do not seem to get any further and that is why I was asking the special representative whether he could give us a more detailed balance sheet than is contained in the report. If that is possible we would appreciate it.

Mr. JONES (Special representative): I regret that I am not in a position to give any information other than that which appears in the report.

Mr. OBEREMKO (Union of Soviet Socialist Republics)(interpretation from Russian): I would like it to be noted that the Soviet Union delegation is not the only delegation which has failed to obtain a reply to this question; other delegations also have vainly sought to obtain more detailed information. The purpose of our question was to obtain something more than we can find in the Administering Authority's report. We would very much like the Administration to fill in this gap, but if I cannot obtain anything more from the special representative, then I will go on to my next question.

Mr. JONES (Special representative): I regret I have no more information.

Mr. MUFTI (United Arab Republic) (interpretation from French): I apologize for interrupting the USSR representative's questions, but I should like to make a suggestion. Would it not be possible to attach a representative of the British Phosphate Commissioners to the Australian delegation, a representative who would be in a position to supply the information requested? This is only a suggestion.

Mr. KELLY (Australia): The suggestion made by the representative of the United Arab Republic will doubtless appear in the verbatim and summary records of this meeting.

Mr. MUFTI (United Arab Republic) (interpretation from French): I thank the representative of Australia for the assurance which he has just given me.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): Apparently, it is becoming more and more fruitless to attempt to obtain additional information on what seems to be a somewhat ticklish point. I would only say to the representative of Australia that the delegation of Australia is not doing the Trusteeship Council a favour in supplying this information: it has the duty of supplying the information. If the information is not immediately available, perhaps the Australian delegation would be good enough to promise the Trusteeship Council that it will be supplied at some future time. Of course, no one can know everything -- that is only human -- and the special representative and the representative of Australia may not be able to reply to one or two questions. If, however, it becomes a systematic thing not to reply, we cannot help wondering whether the Administering Authority is performing its duty under the Trusteeship Agreement. After all, the Trusteeship Agreement does provide that the Administering Authority should co-operate with the Trusteeship Council in the performance of its functions. Replying to questions is one form of co-operation. Apparently, however, we cannot reach an agreement with the Administering Authority regarding this co-operation.

I apologize for that rather length observation, but I would say that I still have not lost hope that the Administering Authority will make an effort to reply to the questions put by my delegation and other delegations.

Mr. KELLY (Australia): I feel called upon merely to observe that in this matter the Administering Authority has discharged its obligations very fully and is continuously co-operating with the Trusteeship Council. The essential data required for estimating the cost of production of Nauruan phosphate does appear in the body of the report and in appendix XIII, on pages 67 and 68. While I understand that the USSR representative is not satisfied with that information, he ought at least to accept my assurance that, in our opinion, we are fully co-operating with the Trusteeship Council and are furnishing it with the information which we feel obliged to furnish, having regard to the United Nations Charter and the terms of the Trusteeship Agreement.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I would merely point out to the representative of Australia that co-operation is always a two-way road. It is not only the Soviet Union delegation which has put questions which, for some reason, remain unanswered.

My next question is the following. Do Nauruans hold any responsible posts with the British Phosphate Commissioners and, if so, what posts?

Mr. JONES (Special representative): No Nauruan at present holds an executive position with the British Phosphate Commissioners.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): In paragraph 58 of the Visiting Mission's report, we read that the Nauru Council is requesting the return of land originally alienated by the Germans to build a wireless station. I should like to know whether the Administering Authority envisages taking any steps to return this land to its legitimate owners.

Mr. JONES (Special representative): The legitimate owner of that land is the Administering Authority. As I believe I mentioned in my opening statement, the land was purchased by the German administration from the Nauruan people. There was some doubt earlier in regard to the purchase of this particular area. The Nauruans were requested to furnish any available

(Mr. Jones, Special representative)

information that would assist the Administering Authority in arriving at a decision on the ownership. The Nauruans made no effort at all to produce any documents or other information, even as to which Nauruan or Nauruans claimed ownership. The Administering Authority, however, carried on with its investigations and finally obtained documents from Germany -- there were thirteen such documents -- which proved beyond any doubt that the land had been purchased from the Nauruan people. As I mentioned in my opening statement, these documents were translated into English and made available to the Council for study and comment. No reply was received from the Council. After a considerable lapse of time, the Administrator approached the Council and asked why it had made no comments. He was told that the Council was quite satisfied in the light of the information that had been produced. Hence, the Administration regarded the matter as closed. It then decided to discuss with the Nauruan people what should finally be done with the land. Having established ownership, the Administering Authority thought it would discuss the future of the area with the Nauruan people.

Meanwhile, the Visiting Mission arrived. The Nauruans again raised the matter with the Visiting Mission. They explained to the Mission that when they had said they were satisfied they had meant they were satisfied with the translations of the documents, but they were not too happy about the position generally. They then approached the Visiting Mission about taking action to have the matter investigated by a court. The Visiting Mission asked the Administering Authority whether it would be possible to ascertain what steps, if any, the Nauruan people could take to bring the matter before a court. The Administering Authority made the necessary inquiries. In its observations (T/1460) on the Visiting Mission's report, the Administering Authority sets forth the action which it has taken in this respect -- namely, it has informed the Trusteeship Council of the position and has told the Nauruan people how they can take action in a court, if they so desire.

In view of this development, the proposed meeting with the Nauruans has for the time being been postponed.

Mr. OELREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): I am afraid that the situation is not as simple as the representative of the Administering Authority seems to imply. The special representative says that this land was bought from the Nauruans. The Nauruans, however, say that the "Lands were never properly acquired by the Germans" (T/1448, paragraph 58). We know how the German colonialists acted and how other colonizers act. We also know how these lands are purchased. You will recall that the island of Manhattan, for instance, where we are at present sitting, was bought for less than \$100. It is worth noting that the Administration is demanding that the Nauruans submit concrete proof in support of their statement. This is an extraordinary demand. The population was deprived of its land, the population complains that this land was taken away from them and it demands restitution; then the Administration asks them to give concrete proof that would convince the Administration that their claim is just. Apparently realizing the rather shaky nature of their claim, the Administering Authority now says that the Nauruans can complain against the Administration in the courts, in the courts appointed by the Administering Authority itself. Do you think that the Administration will ever recognize that it is guilty since in the past it has always denied responsibility and it has always claimed that the land belonged to it and that it was purchased by the Germans and that therefore it was legitimately passed on by the Germans to the Administration?

I do not think that this case can be swept under the rug. I should like to ask the Administering Authority what steps can be taken at this point, what steps are contemplated being taken with a view to returning these lands to the legitimate owners?

Mr. JONES (Special representative): I must repeat again, first, that the legitimate owner of the land is the Administration. That has been established beyond doubt by documents. I must make that point.

The second point I must make is that I must reject any suggestion that the courts of the Territory would not give a fair and just hearing to any claim which the Nauruans put forward. We have not called upon the Nauruans to prove their claim. It is the Nauruans who desire to dispute the claim to ownership made by the Administering Authority.

As to what steps may be taken in the interim, I am not aware. It may be that the two parties will get together and some compromise will be made. I do not know, but that is just possible. I say that in view of the fact that it was the intention of the Territorial Administration to discuss this matter with the Nauruan people, with a view to some final settlement that would be acceptable to the Nauruan people.

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): The special representative has again said that the Administration is the legitimate owner of this land, that this has been proven, that there is no doubt about it and that this is final. The question arises: is not, therefore, the suggestion of the Administration that the plaintiffs go to court, to say the least, hypocritical?


I have another question. If title to the land has been proven so incontrovertibly and if all the documents to that effect exist, then how does the special representative view the statement of the Local Government Council to the effect that the deed, with the signatures of those who signed, the sellers and the buyers, has never been found? There is no title of purchase, and yet you say that all the documents proving the legitimacy of the seizure of these lands exist. There is no deed for the purchase of the land.

Mr. KELLY (Australia): Having regard to the fact that the Visiting Mission suggested that certain legal advice might be tendered to the Nauru Local Government Council to enable that Council, if it so wished, to challenge the incontestable ownership of the land by the Administering Authority, I think it inappropriate that a representative of the Administering Authority should be called on to discuss the matter of potential litigation, and I would ask the representative of the USSR to respect the position in which we are placed. The Trusteeship Council is not a court of law. There is a suggestion that the Nauru Local Government Council may be able to act on certain legal advice tendered it to challenge this claim. In those circumstances, the representative of the Soviet Union will understand that we must refrain from discussing the documents to which the Nauru Local Government Council has adverted to in its representations to the Visiting Mission, and those documents which the special representative referred to earlier.

Mr. OBEREMKO (Union of Soviet Socialist Republics)(interpretation from Russian): I realize, of course, that the representatives of the Administering Authority find it rather unpleasant to discuss this matter and that they would prefer to have the whole thing settled in their own courts. Indeed, I must say that Ambassador Kelly seems to show great timidity in regard to legal matters. As soon as some legal matter crops up, even without having any legal implication, Ambassador Kelly immediately answers that the case is somehow beyond the purview of this Council because of the legal implications.

I should like to refer back to the statement of the special representative, to the fact that the Administration has all the documents proving that the Administration is the legal owner of this land. In that case, I should like to put a concrete question. Does the special representative reject the statement of the Local Government Council to the effect that the purchase deed was never found; that is to say, the principal document that could prove the purchase, does not exist. I find that statement in paragraph 58 of the Visiting Mission's report. Does the special representative reject this statement?

Mr. JONES (Special representative): The documents that were available are sufficient to show quite clearly that the land was purchased from the Nauruan people. Considering the position that this matter has reached on Nauru, as referred to by my colleague, I would prefer not to make any more comments on it, but the Council can be assured that, whatever the outcome, whatever steps are taken by either side will be fully reported upon at the next session of the Council when the annual report of the Administering Authority is being examined.

 Mr. de CAMERET (France) (interpretation from French): In the economic field, we have only one question, which is connected with the question put some time ago by the representative of Belgium. It concerns the fishing industry. In this happy island, very little work is done; the inhabitants lead a fine life. The only other industry besides the phosphate industry is the fishing industry, as has been indicated on several occasions. My question is as follows.

We read in paragraph 21 of the working paper (T/L.911) that once the requirements of the population were satisfied, it was planned to sell the surplus fish to the British Phosphate Commissioners. Could the special representative tell us whether this company, when it has available a certain amount of the catch, envisages processing the fish, or will the company attempt to convert the fish into vitamin concentrates or fish powder or something like that? Would the company then export the fish easily in the form of powder or vitamins?

Mr. JONES (Special representative): The discussions in regard to the development of the fishing industry have not yet reached that stage. As you know, this is in the initial stages, and the first step in the development of the industry will be to get the Nauruans really interested in catching the fish. The first step as far as the preservation is concerned is the freezer plant and cold storage in which the surplus fish can be stored. No doubt eventually there will be a certain amount of curing of fish. If the industry does develop into a worthwhile industry and the production is greater than can be used on the island by both the Administering Authority and the British Phosphate

(Mr. Jones, Special representative)

Commissioners and, of course, the Nauruan people themselves, no doubt some thought will be given by the Local Government Council, on the advice of the officers of the Territorial Administration, to further development.

Mr. de CAMARET (France) (interpretation from French): I thank the special representative and I am glad that he has given this commitment to the Council concerning the future of fish production. The representative of Belgium took up the matter of how to get the fish out of the water and so forth, but, once you get them out of the water, you have to process them, and therefore I am glad that Mr. Jones has given this assurance for the future.

I should like to refer to the co-operation given by the Australian delegation. In my opinion, the Australian delegation can be criticized on one point: namely, that it has co-operated only too well over the last few years in the work of the Council in regard to Nauru and other matters. It will be recalled that in past years we have calculated how much it cost the United Nations, particularly the Trusteeship Council, to examine the question of Nauru. As there is the question of resettling the inhabitants of Nauru some forty or fifty years hence, we have calculated that the money spent here in the Trusteeship Council might be given to the inhabitants of Nauru, and every inhabitant of Nauru would then have several hundred dollars, or even a million, which he could then use to get settled somewhere else.

U TIN MAUNG (Burma): I have also a few questions to ask on the fishing industry, following up the questions by the representatives of Belgium and of France. This Council has in the past discussed, with considerable interest, the fishing industry with the representatives of the Administering Authority. In view of the fact that the Nauru Local Government Council has set up a diet and nutrition committee, and because the considerable growth of public interest in the future of the fishing industry in Nauru has encouraged both the Administration and the Nauru Local Government Council to take the necessary steps to organize the existing professional fishermen, my delegation is interested to know whether the existing professional fishermen -- who I think number about five -- have signified their desire to sell their surplus fish. I should also like to know whether the surplus fish which the fishermen could supply to the local consumers

(U Tin Maung, Burma)

would be of sufficient quantity to justify the execution of a long-term plan. I ask this question because we were told last year by the special representative that public interest in the project had not been as great as had been hoped.

Mr. JONES (Special representative): One of the doubtful features of the development of this industry is whether or not the territorial administration and the Local Government Council can get the few fishermen sufficiently interested and whether they will continue to be interested. I might add that during my own visit to Nauru quite recently I discovered that the fisheries committee of the Nauru Local Government Council was itself not too happy with the response so far and that it was continually negotiating with the few fishermen on the possibility of their numbers being increased, the main purpose being to hold their interest in the proposed fishing industry, because it is obvious that, if the Nauruan people will not take part and are not prepared to go on with the fishing, the proposed industry will collapse in its infancy. It is, shall we say, despite this apparent lack of interest so far on the part of the fishermen that the Administering Authority and the Nauru Local Government Council feel that they should go on with it and, by providing certain facilities and arranging a reasonable price for the fish and, in particular, as mentioned by the representative of Belgium this afternoon, making these channels which will make their task easier, it is hoped that sufficient interest will be aroused to enable the project to be proceeded with. Actually I should say that we shall know during the next twelve months whether or not the proposal is meeting, or will meet, with success.

U TIN MAUNG (Burma): I will go on to the next aspect of the fishing industry. Reading the annual report, at page 21, I seem to get the impression that the culture of fish called Ibia, caught as fingerlings on the reef and transferred to grow in the Buada Lagoon and other smaller shallow lagoons in the coastal flats, is not very successful. I wonder whether the Administration have considered the culture of other species of tropical fish which would thrive or breed in the Nauruan lagoon. We know, of course, that the assistance and advice of the South Pacific Commission is being sought by the Administering Authority. What I would like to know is whether inquiries so far made have been favourable to warrant the launching of a long-term plan for the culture of the reef fish in the territorial lagoons.

Mr. JONES (Special representative): The latest information I have on that particular matter is that the Administering Authority has been in touch, as mentioned by the representative of Burma, with the South Pacific Commission, seeking their aid and advice in regard to the fish-pond industry. I have no information at all whether it is considered that other types of fish can be used for this purpose. But here again, of course, the Buada Lagoon, which no doubt was seen by the Visiting Mission, is a very limited area of water, and the most that it could supply, even if it proved successful, and there were other fingerlings, other types of fish that could breed successfully, the most it could do, I should say, would be to provide a fish diet for a limited number of families.

U TIN MAUNG (Burma): Let me go on to the deep-sea fishing. Regarding deep-sea fishing, the Nauruan Local Government Council would, I understand, buy a forty-foot launch to operate for fishing. I would like to know whether there is a plan to have Nauruans undergo training in deep-sea fishing, and I would also like to know how many would be employed, if at all, once these plans are put into execution by the Local Government Council or by the Nauru Co-operative Society, which I understand operates the fishing industry? Has the Administering Authority offered scholarships to Nauruans to undergo training in fishing, in Australia or any other country?

Mr. JONES (Special representative): I am not aware that any Nauruan has been specifically offered a scholarship or has known that they would be available for training. However, I feel quite sure -- I have no actual information on this point -- that part of the plan would be to arrange for any Nauruans who are sufficiently interested to attend the Fish Training School which they hold periodically under the auspices of the South Pacific Commission. As to the number that would be employed in the industry, of course that would depend on its development. In the beginning, I should say that the nucleus will be those professional fishermen, if we can use that term. They number only five and will form the nucleus of the number to be employed. If the industry developed and other Nauruans saw that they could get a reasonable return for their efforts, no doubt more would become engaged in the industry. Actually that is one of the limiting and unknown factors with regard to the future development -- how many Nauruans would be interested enough to make fishing their work.

U TIN MAUNG (Burma): I thank the special representative for his answer.

We are gratified to know that the Nauru Co-operative Society has taken the initiative to construct a cool room with refrigerator adjoining the existing butcher's shop to store the fish for sale. The information and the impression that the Visiting Mission gained was that the fish would be sold together with meat, which I understand is supplied now by the British Phosphate Commissioner's, which we have visited and which have a very large storage. I wonder whether the special representative can tell me, if the Nauru Co-operative Society succeeds in its salesmanship, whether it will be able to induce Nauruan housewives to buy more fish than meat?

Mr. JONES (Special representative): I am afraid that is a rather difficult question to answer. I suppose that we could have on the island a fish drive -- "eat more fish", as it were -- and point out to the Nauruan people that it is a most valuable food and preferable probably as a major part of their diet to tinned meats and even perhaps to frozen meats. But I really cannot say to what extent it will be able to induce the housewives to adopt fish as a major part of their protein diet.

U TIN MAUNG (Burma): I would suggest then to the Local Government Council, through you, the representative, to let the existing company take the initiative in interesting people to eat more fish.

My last question is very short. It is in connexion with the air strip. On page 23 of its annual report, the Administering Authority said:

"There is no regular service to Nauru, but flights are made as the need arises."

I should like to ask the special representative this question: Since the departure of the Visiting Mission from Nauru on 14 March 1959, how many times has the air strip been used?

Mr. JONES (Special representative): To the best of my knowledge and belief, it has not been used since the departure of the Visiting Mission.

The PRESIDENT (interpretation from French): The Council will meet Monday morning at 10.30 and then again in the afternoon at 3.

The meeting rose at 5.45 p.m.

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Trusteeship Council
24th Session, 9th Meeting (PM)

Press Release TR/1491
12 June 1959

TRUSTEESHIP COUNCIL -- TAKE 1

JUN 15 1959

The Trusteeship Council this afternoon continued the questioning of J.H. Jones, Australia's special representative, with regard to political conditions in the trust territory of Nauru.

Before the Council is the annual report of Australia, the administering authority, on conditions in this territory for the year ended 30 June 1958, together with the report of the Council's 1959 visiting mission on Nauru, as well as the written observations of the administering authority on the mission's report.

The first questions put to the special representative today were by Jawdat Mufti (United Arab Republic).

Noting the statement of the administering authority that it would carefully consider the suggestions of the visiting mission that increased powers in local matters should be given to the Nauru Local Government Council, Mr. MUFTI asked when the Trusteeship Council could be informed of the results of such a review, and whether such results could be transmitted in the form of a plan for the stage-by-stage expansion of the powers of the Local Government Council.

Mr. JONES replied that the administering authority had undertaken to give careful consideration to reviewing the powers and functions of the Nauru Local Government Council. The Trusteeship Council, he believed, could accept the fact that this would be done.

The first steps, if any were taken, would be, as suggested by the visiting mission, to give the Local Government Council increased powers in certain "house-keeping" matters, he stated. Information on any change in the powers of that body, he added, would be included in the next annual report on the territory.

Mr. JONES said he would take note of the suggestion that information on this matter should be transmitted in the form of a plan. However, he could not give any undertaking that this suggestion would be followed.

(END OF TAKE 1)

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Trusteeship Council
24th Session, 9th Meeting (PM)

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12 June 1959

TRUSTEESHIP COUNCIL -- TAKE 2

Mr. MUFTI (United Arab Republic) asked what action could the administration take in the case of a conflict of interests between the trust territory and the phosphate industry. He cited as an example the question of phosphate royalty payments.

KEVIN T. KELLY (Australia), speaking for the administering authority, said that, in form, the question was of a hypothetical and juristic character. He therefore wanted time to consider it. He suggested, however, that Article 80 of the UN Charter would in a general way provide a reply to hypothetical questions of this type.

Questioned by ERNEST JEAN-LOUIS (Haiti) about the possibility of giving more powers in local matters to the Nauru Local Government Council, the special representative rejected the idea that the problem was to make that body use the powers it already possessed.

Mr. JEAN-LOUIS then asked whether it was possible, as a means of encouraging that body to exercise its existing powers, to grant the Local Government Council some degree of power of decision on certain matters already within its jurisdiction. He understood, he said, that the Nauru Local Government Council had no power of final decision, and that all its decisions were subject to approval by the Administrator.

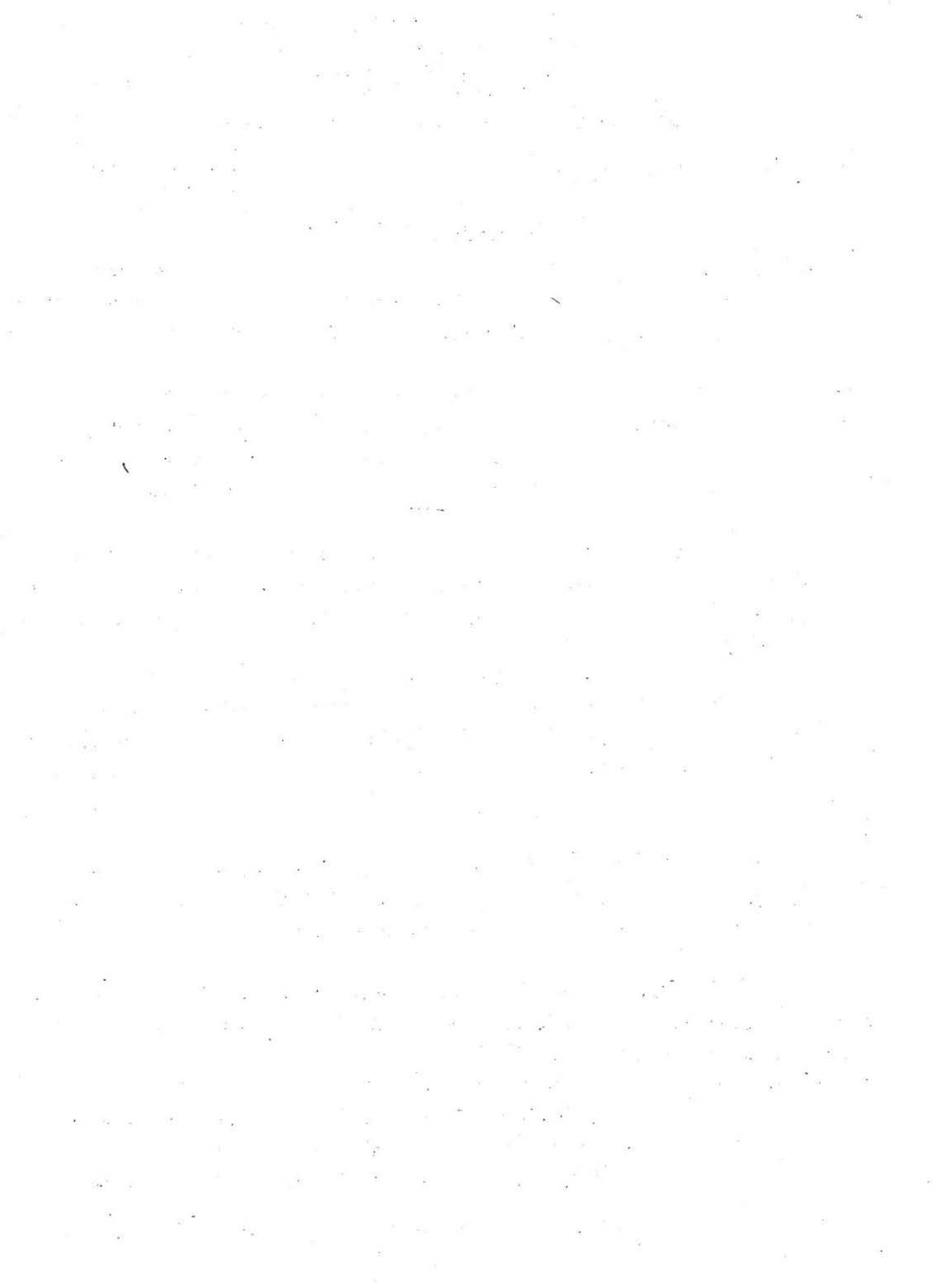
Mr. JONES replied that his earlier reference to the possibility of granting the Local Government Council more autonomy in "housekeeping" matters meant the same thing. He had stated, he recalled, that consideration would be given to this matter.

Other questions asked by the representative of Haiti and by the representative of the United Arab Republic, to which the special representative replied, had to do with electoral and judicial matters.

Mr. JONES stated that judges and officers of the district courts did not have the same immunity as the judges and magistrates of the central and appeals courts in the sense that the officials of district courts could be removed from office by the Administrator at the latter's discretion, without having to prove misbehavior or incapacity.

There being no further questions on political matters, the Council proceeded to the questioning on economic conditions in Nauru.

(END OF TAKE 2)



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Trusteeship Council
24th Session, 9th Meeting (PM)

Press Release TR/1491
12 June 1959

TRUSTEESHIP COUNCIL -- TAKE 3

VALENTIN I. OBEREMKO (USSR) asked for information on the world price of phosphate. He noted that, according to the report of the visiting mission, the Nauru Local Government Council had tried without success to obtain information on the subject in order to ascertain how the price of Nauru phosphates stood in relation to the world price.

Mr. JONES, Australia's special representative for Nauru, replied that he had no information at all on the price of phosphate sold in the world market. Apparently, he added, there was no such thing as a world price for phosphate.

Mr. OBEREMKO asked for a breakdown on the way the price of phosphate was arrived at.

Mr. JONES said the annual report contained information on the f.o.b. price.

Mr. OBEREMKO said that what he wanted was a breakdown of the price structure, showing its various components, and that information was not given in the annual report.

The special representative said, in reply to another question by the Soviet representative, that the decision to increase the rate of phosphate extraction was taken by the British Phosphate Commissioners. The Nauruan people, through the Nauru Local Government Council, he said, were kept informed of the intention to do so and no opposition was raised by them.

Mr. JONES added that it was carefully explained to the Nauruan people that the decision to increase production meant that the phosphate deposits would be exhausted in 40 years, rather than the original estimate of 60 years.

On being asked about other matters concerning the phosphate industry, the special representative said the Administrator was concerned with the administration of law and order, not with matters affecting the management of the British Phosphate Commissioners (BPC). The Administrator therefore would not know details of internal administration of the phosphate industry.

How were the profits of the phosphate industry allocated? Mr. OBEREMKO asked. The special representative said the BPC was a non-profit concern.

(more)

Mr. OBEREMKO said he was aware that the BPC was a non-profit organization, and that as such it sold the phosphates at the lowest possible price to the United Kingdom, New Zealand and Australia. Thus, there appeared to be a "concealed profit" to the administering authority, he said, and that was why he had asked for the world price of phosphate.

Asked whether the phosphates were sold to countries in addition to the three mentioned, Mr. JONES said that, to his knowledge, the phosphates were not sold to other countries.

Mr. OBEREMKO then sought information about the outcome of the recent discussions held with the BPC on the question of royalty rates.

Mr. JONES replied that the consultations concluded on the understanding that the BPC would consider the whole question at the next meeting of the Board of Commissioners later this month.

What proposals were submitted during those discussions? the Soviet representative asked.

Mr. JONES said he had no further knowledge on the meeting other than what he had just said.

Pressed further for information on the cost of phosphates, Mr. KELLY (Australia) said the essential data for estimating the costs were given in the annual report.

Did any Nauruan hold any executive position in the phosphate industry? Mr. OBEREMKO asked. The special representative said no.

Expressing interest in the fishing industry, MICHEL DE CAMARET (France) noted that, according to present plans, it was envisaged that any surplus catch of fish would be sold to the BPC. He asked whether the BPC planned to process such fish.

Mr. JONES said the discussion on establishing a fishing industry was still in the initial stage. The first step was to get the Nauruans really interested in catching fish. To encourage them in the undertaking, he said, it was planned to provide a freezer for storing fish. The question of processing any surplus fish would not arise until a later stage.

Questioned on the same subject by U TIN MAUNG (Burma), the special representative said the next 12 months would tell whether the project would be successful.

Asked how frequently the airfield in Nauru was used by planes, Mr. JONES said that, to his knowledge, it had not been used since the visiting mission left the territory in March.

The questioning of the special representative for Nauru will be continued by the Council at 10:30 a.m. Monday, 15 June.

(END OF TAKE 3 AND OF PRESS RELEASE TR/1491)