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Twenty-eighth Session

VERBATIM RECORD OF THE ELEVEN HUNDRED AND SEVENTY-NINTH MEETING

Held at Headquarters, New York,
on Thursday, 11 January 1962, at 3 p.m.

President:

Mr. BINGHAM

(United States of America)

1. Examination of petitions [5] (continued)
2. Appointment of the members of the Standing Committee on Petitions [6]
3. Credentials of representatives

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(17 p.)

AGENDA ITEM 5

EXAMINATION OF PETITIONS LISTED IN DOCUMENT T/1584/Add.1 (continued)

The PRESIDENT: We will now continue with our discussion of the proposal made by the representative of the United Kingdom, to the effect that the items remaining on the list of petitions circulated as Addendum 1 to the agenda be referred to the next session of the Trusteeship Council. It is the understanding of the Chair that this refers to three petitions, two under the heading of New Guinea and one under the heading of the Trust Territory of the Pacific Islands. Objection has been made to this proposal by the representative of the Soviet Union. Is there any further discussion of this proposal?

There being no further discussion, I will proceed to put to a vote the proposal of the United Kingdom delegation, as just described.

The proposal was adopted by 9 votes to 1.

Mr. BHADKAMKAR (India): Before consideration of item 5 is concluded, my delegation would like to go on record with a brief observation in the light of our discussion this morning. I am referring generally to item 5 as a whole, but more specifically to our discussion this morning. In the light of the developments that did take place this morning, my delegation would like to go on record as expressing the view that it most sincerely deplores the attempt by the delegation of the United Kingdom to take shelter behind a procedural screen -- which is the only way I can describe it -- so that it may wriggle out of certain clearly imposed obligations, obligations imposed upon it by resolutions of the Council as well as, more specifically, by resolution 1646 (XVI) of the General Assembly.

(Mr. Bhadkamkar, India)

We must sincerely regret this attitude of the former Administering Authority which, in the light of what has happened so far, smacks of some kind of disrespect of the wishes and decisions of the Council, and of a willingness -- as alleged by one of the petitioners in the telegram to the Secretary-General dated 7 December 1961 -- to flout the spirit of the decisions of the General Assembly. I am making a special reference to the spirit of the decisions, which I still think has as much validity as the letter or the word.

In the face of this very definite situation as stated by the representative of the United Kingdom this morning, my delegation has already indicated that it is extremely sorry to be in this position, but we continue to cling to the hope that the former Administering Authority is indeed acting in good faith and will fulfil in due course the obligations deriving from the decisions of the Council and the General Assembly.

AGENDA ITEM 6

APPOINTMENT OF THE MEMBERS OF THE STANDING COMMITTEE ON PETITIONS

Mr. KIANG (China): The item now under consideration is the one left over by decision of the Council at its previous session, and the circumstances under which that decision was made do not seem to me to have changed at the present time. I think the circumstances today remain the same. Under the present circumstances, I would say that I cannot see any compelling reasons for the Council to make any rigid decision in a matter of the appointment of members of the Standing Committee on Petitions. Should we make any rigid decision, say, for instance, in the sense that the Standing Committee on Petitions should be abolished, then we will run into difficulties of reconciling ourselves with rule 90 of the rules of procedure. Rule 90, in our view, is a mandatory one.

At this juncture I want to make it very clear that I do not wish to comment on any proposal that may be forthcoming with regard to the Standing Committee on Petitions. All that I wish to do is to put forward the view

and the suggestion that I would like to offer in this connexion. If the President has to make a decision, whether he is to follow the past practice of the Council in making the appointment or not, I think we might assist him by suggesting that the appointment of the members of the Standing Committee on Petitions may be further deferred until the next session of the Trusteeship Council, unless he considers it necessary to have the Standing Committee on Petitions functioning between sessions. I myself do not see any immediate necessity for having this Committee meet between sessions, as is indicated in paragraph 4 of rule 90 of the rules of procedure.

To decide not to continue the Standing Committee on Petitions would require a prior decision; that is, to have a new item on our agenda relating to this question, either at this session or at the next session. This would be tantamount to a proposed step to amend the rules of procedure, as provided for in rule 107. Therefore, I cannot see how we could enter into any substantive debate of the question without a prior decision to include an item of this kind. In other words, the course of action which the Council is to take in this matter is bound to be restricted by the mandatory rule 90 to which I have just referred.

In view of this fact and in the light of the circumstances which I have already described, I think the only practical step which we can take at the present time is to apply rule 106 of the rules of procedure and to decide that rule 90 be suspended for the present session and defer the appointment of the Members of the Standing Committee on Petitions to the next session of the Council.

I believe that I need not point out that the rules of procedure do not permit us, even if we should agree among ourselves, to dispose of the Standing Committee on Petitions in a summary manner, as the Council did with the termination of the Committee on Administrative Unions and the Committee on Rural Economic Development.

I also wish to add that the general question raised in connexion with the Standing Committee on Petitions, in the light of what took place in the Council last year, might as well be subject to the study which the Council ordered

(Mr. Kiang, China)

yesterday, at the suggestion of the representative of New Zealand, with regard to General Assembly resolution 1701 (XVI), namely that the General Assembly recommends that the Trusteeship Council consider its methods of work and procedure. I believe that the study to be undertaken by the Secretariat in pursuance of that resolution will have to include a general review of the methods of procedure in terms of the Council's rules of procedure, and of course the procedures pertaining to examination of petitions will be one of the important things having to do with the methods of procedure of the Trusteeship Council. Therefore, I just mention this point in passing. To summarize, I will propose to the Council that we suspend rule 90 of the rules of procedure.

Since I have the floor and this is the first occasion I am speaking, I should like to congratulate you, Mr. President, and the Vice-President upon your elections. I must say that the Council has made a very wise choice and I think that it should be congratulated for not having thrown overboard the ground rules which have become part of its tradition.

(Mr. Kiang, China)

I am certainly not very happy to see the departure of some of our colleagues. I must mention in particular my warmest admiration for the representative of Paraguay, Mr. Solano Lopez, and for his ability and wisdom when he was with the Council.

Mr. SALAMANCA (Bolivia) (interpretation from Spanish): I have listened very carefully to the views expressed by the representative of China, and I find myself in somewhat of a paradoxical position. Fundamentally I agree with the latter part of his statement, but for different reasons. I do not believe that the position is as complicated as he seems to think it is.

First, I differ from the representative of China on the interpretation of rule 90. Before reading out this rule, I would draw the Council's attention to the fact that there is a tacitly accepted rule followed by all organs that have any sense of constitutional procedure according to which the Assembly and the Councils are master of their own procedure. Rule 90, paragraph 1 reads: "The Trusteeship Council shall establish a Standing Committee ...". Therefore, this is not binding but is optional. It says, "The Trusteeship Council shall establish", which means that it can decide to establish or can decide not to establish this Standing Committee.

The representative of China has referred to rule 106, which states: "When the Trusteeship Council is in session, a rule of procedure may be suspended by a decision of the Council." I emphasize the words "may be suspended". This means that rule 90 is not binding and is purely an optional provision.

There is a further point on which I disagree with the representative of China. Circumstances have changed to such an extent that there are no petitioners, and this is the fundamental question. When this body was set up, it was set up to discuss something that existed. But we cannot maintain somewhat in the air a Committee which has no concrete, immediate and real objectives.

Having offered these explanations, obviously the Council can properly decide to take no decision as to whether or not the Committee should be appointed. In addition, we have to adapt our rules of procedure to the dictates of common sense. How can we establish a Standing Committee on Petitions made up of six members when

(Mr. Salamanca, Bolivia)

at the present time the Trusteeship Council consists of only ten members? Therefore, I agree with the last part of the statement, but, as I have said, for other reasons. The Trusteeship Council should not take any decision as to whether or not it should elect members to such a Committee or to suspend the application of rule 90 pursuant to rule 106. Accordingly, if any petition is forthcoming, it should be submitted through the Secretariat to the Trusteeship Council. The whole process of presenting petitions through the Secretariat will then be facilitated, because we shall not have many petitioners coming forward and we shall not require a special body to deal with this subject.

Of course the Trusteeship Council can decide that a Standing Committee on Petitions shall no longer exist. However, it would be simpler to take no decision with respect to rule 90. Actually I am introducing the same proposal as the one made by the representative of China, but for other reasons.

Mr. KIANG (China): I must tell my good friend, Mr. Salamanca, that I always agree with his pragmatic approach to many things. I am very glad to hear that he fully agrees with the last part of my remarks, which actually contains the essence of what I said.

I would like to make it quite clear and to put on record that we must abide by the rules of procedure. Since rule 90 provides for the establishment of the Committee, unless we waive that rule we have to appoint the Committee. It is for this simple reason that I have proposed that, in accordance with rule 106, we suspend rule 90 and not take any decision but defer the decision until the next session. I think in essence we are in complete agreement.

The PRESIDENT: Does the Chair understand correctly that the representative of China has made a formal proposal that rule 90 be suspended until the next session of the Council?

Mr. KIANG (China): That is correct.

The PRESIDENT: I so understand. Is there any objection to the proposal?

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): As we understand it, before the Council at the present time there is one proposal, namely the proposal introduced by the representative of Bolivia that there is no need to set up now a Standing Committee on Petitions. The Trusteeship Council, in accordance with rule 90 of the rules of procedure, may set up such a Committee if the need should arise, but as was very correctly pointed out by the representative of Bolivia, no such need exists at present.

The Soviet delegation already at the last session declared that it was in favour of liquidating the Standing Committee on Petitions so that the Trusteeship Council might directly carry out one of its basic obligations under the Charter. At that time the opponents of that proposal told us that it was not yet clear how many petitions there might be. They said that there might be such a large number of petitions that the Trusteeship Council would be unable to examine all of them. However, even this rather formalistic argument at present has no real significance since we see that the number of petitions is such that it would be rather ridiculous to speak of setting up a special organ. Aside from these technical arguments we believe for reasons of principle that all petitions should be examined directly by the Trusteeship Council. This is all the more true since, as was pointed out by the representative of Bolivia, the Trusteeship Council now consists of only ten members. In the circumstances it would be rather difficult to understand why an organ of six members should be set up to examine petitions.

Therefore, at the present session and for the reasons indicated, we again wish to speak in favour of liquidating the Standing Committee on Petitions and we are in favour of having all petitions examined directly by the Trusteeship Council.

The PRESIDENT: It is my understanding, as President, that there is only one proposal before the Council, and that is the proposal made by the representative of China. If I misunderstood the remarks of the representative of Bolivia in that respect he will, I am sure, correct me.

Mr. BACON (United States of America): As I understand it there is no member here which wants to keep a Standing Committee on Petitions if it does not prove to be needed. I think that to that extent we all agree with the Soviet representative. Should there be an influx of petitions in large numbers in the future -- which apparently no one expects at the moment -- we could then elect members to the Standing Committee on Petitions.

I should like to advance this suggestion in an effort to meet what the Soviet representative desires and, perhaps, what the rest of us also desire. If we were to change the Chinese proposal slightly to suspend rule 90 until further notice instead of until the next session that would prevent the item from coming up on our agenda again, although it could be included at a later date if there were a need for the Standing Committee on Petitions to be brought back into action. In that way the Council would, as I understand it, consider the petitions in its plenary meetings but, at the same time, should the need become apparent for a sub-committee or a standing committee of any type this issue could then be discussed. I make that as a suggestion which the representative of China might perhaps care to consider.

Mr. KIANG (China): I appreciate what has been said by the representative of the United States, but I must say that this is a question not of my view but of my interpretation of rule 106 of the rules of procedure, which reads: "When the Trusteeship Council is in session, a rule of procedure may be suspended by decision of the Council." I do not know whether we can construe the meaning of this rule in accordance with the interpretation given by the representative of the United States, namely, that we can suspend a rule of procedure until further notice. It seems to me that we can suspend a rule

(Mr. Kiang, China)

of procedure only for the particular session at which the decision to suspend is taken. I have that difficulty. Despite the interpretation given by the representative of the United States, I myself find it difficult to interpret the rule in such a way as to meet his view. That is why I do not propose that we should suspend the rule until further notice. I personally would be in agreement with what he has said, but if we were so to interpret the rule I think that we would then have difficulty because, under the terms of rule 106, we can suspend a rule only for the period during which the Council is in session. Can we suspend a rule for the next session? That remains to be discussed, and I doubt very much whether it is possible for us to do so. That is the difficulty which I see.

Mr. BACON (United States of America): In the Council's report (A/4818) of the last session we have this wording relating to the appointment of the Standing Committee on Petitions:

"At its 1171st meeting, the Council decided to defer ... the question of ... the appointment of members of [the Standing Committee on Petitions] until its next session."

I would suggest that we could make the same decision now, but without putting in the words "until its next session". We would thus defer the item without any reference to when we would reconsider it. It may be we could say "and for this purpose to suspend rule 90 of the rules of procedure".

Mr. KIANG (China): I think that that is a great improvement suggested by the representative of the United States in connexion with his interpretation of the rule. I fully agree with him if the Council so decides.

Mr. SALAMANCA (Bolivia)(interpretation from Spanish): I think that we are coming to the point where we are really dealing in academic arguments. If the Council fails to take a decision under rule 90 I think that that means that it has suspended rule 90, purely and simply. If, at our next session, the Council

(Mr. Salamanca, Bolivia)

were to decide to appoint a standing committee, should petitioners be forthcoming, what rule of procedure would prevent it from so doing? I do not believe that there would be any rule to prevent that. Therefore I think that the original proposal, which has become fairly complicated as a result of the debate, put the matter in a way which made it very easy to resolve. Let us not take any decision with regard to rule 90. I do not feel that we have to go on discussing whether or not we are invading the competence of the Council at its next session. I said in my first statement that I thought that the rules of procedure could not run counter to common sense. If we have no petitioners we have no Standing Committee on Petitions. If we have a few petitioners the Council will hear them in plenary meeting. In order to simplify the task of the President I would suggest that he merely put to the vote the following motion:

"The Council considers that it is unnecessary to take any decision at this session with respect to the application of rule 90".

The PRESIDENT: It is my understanding that the proposal before the Council is the proposal of the delegation of China, as amended pursuant to the suggestion of the representative of the United States. Would the United States representative please restate his proposal?

Mr. BACON (United States of America): I will repeat my restatement of the proposal. It would be, "The Council decides to defer the appointment of members of the Standing Committee on Petitions". May I say that if we take this decision we shall be operating in effect under rule 90, under rule 106 for those who feel we should, or under any other rule. It is clear that we can take this decision, and it really does not make any difference under which rule we do take it.

The PRESIDENT: If there are no further comments I shall take it that that is the correct and acceptable restatement of the proposal made by the representative of China. Is there any objection to that proposal?

Mr. OBEREMKO (Union of Soviet Socialist Republics)(interpretation from Russian): We should like to point out that, for some reason, the President apparently wishes, rather obstinately, to ascribe the proposal advanced by the United States representative to someone else, namely, to a person who does not represent anyone here. If it is the intention of the President to put to the vote the proposal of the United States representative the delegation of the Soviet Union wishes to enter in the record of our meeting its reservation of principle to the effect that it considers that the Standing Committee on Petitions is superfluous and should be liquidated, and that the examination of petitions should be conducted by the Trusteeship Council itself directly. Since the proposal of the United States delegation does not run directly counter to that position of the Soviet Union we shall not, of course, object to it, but we deem it necessary to make the reservation I have just outlined.

Mr. KIANG (China): Mr. President, I suppose that you will agree to rule out of order the offensive remarks which we have just heard from the preceding speaker.

The PRESIDENT: I shall rule that the matter under discussion is a proposal of the representative of China which was amended by his consent in accordance with the suggestion made by the representative of the United States.

No other matter is before the Council for its consideration.

Mr. DOISE (France) (interpretation from French): It must be noted that, in spite of appearances, there is now within the Council a unanimity that I would describe as touching. As the Council knows, my delegation was deeply interested last July in the elimination of the Standing Committee on Petitions. But we consider that several means are possible to achieve that end. The means that has now been suggested by various representatives appears to me to be practical; therefore, my delegation, although it had another opinion last July, now aligns itself with it.

The PRESIDENT: There is a proposal before the Council that the appointment of any members to the Standing Committee on Petitions should be deferred. With the reservation expressed by the representative of the Soviet Union, is there any further objection to that proposal?

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): We have heard the ruling of the President, but we still consider that the proposal was introduced by the representative of the United States. If the President considers that that is not the case and that the proposal emanated from a private individual who has in fact no right to be present or to attend these meetings of the Council, then, in our view, there has been no proposal before the Council and we shall take no part in the vote on a proposal which, legally speaking, does not exist.

Mr. DOISE (France) (interpretation from French): I should like to make it perfectly clear, in order that there may be no misunderstanding whatever; that my delegation fully supports the proposal of the representative of China.

The PRESIDENT: I think that the matter stands clear on the record. There is no question before the Council as to the proper representation of China in this body, and the proposal stands adopted, with the reservation expressed by the representative of the Soviet Union.

It was so decided.

DATE OF NEXT SESSION

The PRESIDENT: The only remaining question before the Council is to set a date for the next session.

The Council will recall that, according to a decision taken at its 1173rd meeting, the Council decided to suspend rule 1 of our rules of procedure and to commence its summer session on a date in the second half of May 1962. I am advised that the Visiting Mission to Nauru and New Guinea has decided to meet in Sydney on 12 March and to spend approximately two months on its visit to the two Trust Territories. It is, therefore, not expected to return to New York much before the middle of May. The suggestion has been made that the next session of the Council, in order to allow time for the preparation and translation of the Visiting Mission's report and also to comply with the previous decision of the Council, should commence on Thursday, 31 May. Is there any discussion on that point?

Mrs. TENZER (Belgium) (interpretation from French): I have no very precise views as to the date on which we should begin our next session. The important thing is that it should begin at a time when we shall have the necessary documents which will allow us to bring to a fruitful conclusion the work which we shall be doing. In this connexion I believe that the Secretariat has informed us, through the President, of the plans of the Visiting Mission. It would appear to me that the time between the return of the Visiting Mission to New York in May and the convening of the Council on 31 May is rather short. However, no doubt the matter can be studied a little more thoroughly if we first settle a question of principle.

It is true indeed that we did suspend the application of rule 1 of our rules of procedure, but, as has just been pointed out by the representative of China in connexion with another matter, while we suspended the application of that rule

(Mrs. Tenzer, Belgium)

regarding the session of the Council which was to follow immediately after the adoption of that suspension, that decision does not hold concerning subsequent sessions. Therefore, I think that we can now revert to rule 1, which was suspended, I believe, regarding the 26th or 27th session. Therefore, if it would be useful to start our work somewhat later -- although I doubt that -- I do not believe that we should adhere a priori to the idea that we must at all costs begin on 31 May.

Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories): In order to avoid any unnecessary discussion, I should like to point out that on page 1 of the Council's report concerning its different decisions, it is clearly stated that rule 1 has been suspended in order to commence its summer session on a date in the second half of May 1962. This has been done for different reasons, including the allowing of time to prepare a report and translate it so that it may be ready for the General Assembly session.

Mr. SANKEY (United Kingdom): I should just like to say that I think that the representative of Belgium is right and that the action taken by the Council was an "enabling" order, enabling the Council to meet earlier if necessary; but I do not think that it must be binding if circumstances should prove otherwise. I myself have no objection to the proposed date of 31 May, but I do not think that we ought to be bound by that date if circumstances subsequently prove otherwise.

Mr. DOISE (France) (interpretation from French): I should like to put a further question to the experts of the Secretariat or the experts around this table. When will the Council be able to finish its work?

The PRESIDENT: I believe the only answer that can be given to the question of the representative of France is that that would depend on the decision made by the Trusteeship Council and on its procedures: whether it had two sessions a day and so forth, and whether it makes use of drafting committees and the like.

Mr. BHADKAMKAR (India): I only wish to draw your attention and that of the Council to the fact that we have been called upon to consult or work in association with this Committee of Seventeen; that also, I think, should have some bearing because if we start too late and finish too late, the Committee of Seventeen also will have to prepare its report to the Assembly and so forth.

The PRESIDENT: May I suggest to the Council that the focus on the question of the starting date -- if it has objection to the date of 31 May and wants it earlier or later -- that this be considered: I feel sure that we could overcome any procedural obstacles, if there are any, to reconsidering the decision, tentative or otherwise, that was made at the last session.

Is there any representative who wishes to speak for an earlier or a later date?

Seeing none, I will take it that the date as proposed is agreeable, and it will be so ordered.

The next session of the Council therefore will take place on Thursday, 31 May.

STATEMENT BY THE PRESIDENT

The PRESIDENT: Before adjourning this session, I am sure that I would speak on behalf of the other members of the Council in expressing our regret that this is the last meeting at which our friend and colleague, Mr. Edmonds of New Zealand, will be present at the Council. I know I speak for all the members in saying how much we have enjoyed his company and

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his interventions frequently with a sparkle of wit which we need so much. I am sure that I also speak for all the members of the Council in wishing him well and all success in his next assignment.

Is there any other business to come before the Council?

CREDENTIALS OF REPRESENTATIVES

Mr. OBEREMKO (Union of Soviet Socialist Republics) (interpretation from Russian): Mr. President, although we were not presented a report on credentials, since the credentials of all representatives have not been obtained by the Secretariat for today, we would, after all, wish to point out that even without that report it is quite clear to all that at the present session, unfortunately, in the Trusteeship Council there were no representatives of China.

We wish once again in a most emphatic and categorical manner to state that the representative of China in the Trusteeship Council, as well as in any other organ of the United Nations, can be a person appointed by the Central Government of the Chinese People's Republic. That is why we protest and object to the seat of China at the present session being occupied by persons who have no right whatsoever to represent China.

Mr. KIANG (China): As the representative of China I consider it beneath my dignity even to take issue with the preceding speaker. I wish to place on the record that the Government of the Republic of China which I have the honour to represent here in this Council is the only freely legitimately constituted Government of China, which alone can speak for the Chinese people in the United Nations.

The PRESIDENT: Are there any other matters to come before the Council? If not, I declare that the twenty-eighth session of the Trusteeship Council is adjourned.

The meeting rose at 4.5 p.m.