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SPECIAL COMMITTEE ON THE SITUATION WITH REGARD
TO THE IMPLEMENTATION OF THE DECLARATION ON THE
GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES
AND PEOPLES

SUMMARY RECORD OF THE NINTH MEETING

Held at Headquarters, New York
on Wednesday, 7 March 1962, at 11.35 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. JHA	(India)
<u>Members:</u>	Mr. PLIMSOLL	Australia
	Mr. KOUN WICK	Cambodia
	Mr. GEBRE-EGZY	Ethiopia
	Mr. BHADKAMKAR	India
	Mr. THEODOLI	Italy
	Mr. ANDRIAMAHARO	Madagascar
	Mr. TRAORE	Mali
	Mr. LEWANDOWSKI	Poland
	Mr. CHEHLAOUI	Syria
	Mr. NGAYZA	Tanganyika
	Mr. Taieb SLIM	Tunisia
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Sir Hugh FOOT	United Kingdom of Great Britain and Northern Ireland
	Mr. BINGHAM	United States of America
	Mr. VELAZQUEZ	Uruguay
	Mr. SOSA-RODRIGUEZ	Venezuela
	Mr. PAVICEVIC	Yugoslavia
<u>Secretariat:</u>	Mr. PROTITCH	Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories
	Mr. CHACKO	Secretary of the Committee

ORGANIZATION OF WORK (continued)

Mr. PROTITCH (Under-Secretary) announced that, taking into account the desire expressed by the Committee at its eighth meeting, the Secretary-General had decided, as an exception to the existing rules, that verbatim records of the meetings in English and French would be placed at the disposal of the members of the Committee, for working purposes, whenever the Security Council was not meeting. The summary records, however, would still be the official records and delegations should submit corrections, if necessary, to the summary records.

Mr. MOROZOV (Union of Soviet Socialist Republics), speaking on a point of order, expressed satisfaction with the decision announced by the Under-Secretary, which he hoped would prevent the appearance of any inaccurate statements in the summary records in future.

He pointed out that in the summary record of the sixth meeting (A/AC.109/SR.6) the summary of the statement made by the Chairman at that meeting and subsequently circulated as document A/AC.109/1 contained some serious mistakes. As an example, he quoted a sentence from paragraph 8 of the Chairman's statement, relating to visiting groups, the original text of which read: "Most members appear at the same time to have recognized the limitations to this procedure and the need for securing the co-operation of the Administering Authorities concerned". The corresponding passage of the summary record stated: "Most of the members were of the opinion that visiting missions should be dispatched only when circumstances made it necessary and on condition that the Administering Power concerned gave its consent". As that comparison showed, the text of the summary record included limitations which did not appear in the statement it was intended to summarize.

The USSR delegation therefore requested that the text of the summary record (A/AC.109/SR.6) should be amended, the passage in question being re-drafted or else replaced either by a reference to document A/AC.109/1 or by the verbatim text of the original paragraph. That last solution appeared to be the best but he would leave it to the Chairman to decide the matter.

He recalled that at its 1303rd meeting the Fourth Committee had decided to publish the full texts of the statements made by the representatives of the United Kingdom, Ghana, the United Arab Republic, Tanganyika, Liberia and Iraq.

(Mr. Morozov, USSR)

So far, only the text of the United Kingdom statement had been circulated. In future, such decisions should be carried out in full. It was essential that delegations should have all the relevant documents at their disposal and be able to rely on their accuracy.

The CHAIRMAN recognized that the observations made by the USSR representative were justified. The passage of the summary record to which he had referred would be brought into line with the corresponding passage of the verbatim text in the final record.

Mr. PROTITCH (Under-Secretary) apologized for the delay in the publication of the statements made in the Fourth Committee. The Secretariat had been provided with a written text of the United Kingdom statement, but the other statements had had to be transcribed from the tape. The work was in process and the statement in question would be circulated as soon as possible.

SOUTHERN RHODESIA: GENERAL ASSEMBLY RESOLUTION 1745 (XVI)

Sir Hugh FOOT (United Kingdom) recalled that in the Fourth Committee he had confirmed the view of his Government that the question of Southern Rhodesia was outside the competence of the United Nations and, after summarizing the constitutional position in Southern Rhodesia, had explained why no information on Southern Rhodesia had ever been transmitted to the United Nations. He would not therefore revert to those questions.

The Special Committee had been instructed by General Assembly resolution 1745 (XVI) to examine the question whether the Territory of Southern Rhodesia had attained a full measure of self-government. He wished to speak on the facts of the constitutional position in Southern Rhodesia without prejudice to the basic question of competence.

Southern Rhodesia had been self-governing in respect of its internal affairs since 1923, when, by referendum, the electors of the Territory had chosen the alternative of "responsible government" in preference to incorporation in South Africa. Under the Constitution of 1923, all executive powers had been transferred to elected Ministers responsible to the Legislative Assembly.

In respect of Southern Rhodesia's internal affairs, the only power retained by the United Kingdom Government was the power to disallow certain categories of laws, including laws affecting the interests of the African population. That power had

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(Sir Hugh Foot, United Kingdom)

in fact never been exercised. The United Kingdom had not retained any power to legislate with respect to Southern Rhodesia's internal affairs and, consequently, United Kingdom Ministers had not been answerable since 1923 to the British Parliament for Southern Rhodesia's internal affairs. Her Majesty's Government had, however, retained responsibility for Southern Rhodesia's external relations and, since 1953, ultimate responsibility for the external relations of the Federation of Southern Rhodesia, Northern Rhodesia and Nyasaland established in that year.

The establishment of the Federation of Rhodesia and Nyasaland had not entailed any changes in the 1923 Constitution of Southern Rhodesia except in so far as the division of functions between the Southern Rhodesia Government and the Government of the Federation was concerned.

The 1923 Constitution had been revised in 1961, under the Southern Rhodesia (Constitution) Order in Council, 1961. In the new Constitution, which reproduced many of the provisions of the 1923 Constitution, the power formerly retained by the United Kingdom Government, but never exercised by it, to disallow certain categories of legislation had been replaced by more effective safeguards against legislation of a discriminatory nature.

The first of those safeguards was the Declaration of Rights, which was intended to ensure that every person in Southern Rhodesia enjoyed the fundamental rights and freedoms of the individual, namely, the right, irrespective of race, tribe, place of origin, political opinion, colour or creed to:

- (a) life, liberty, security of the person, the enjoyment of property and the protection of the law;
- (b) freedom of conscience, of expression, and of assembly and association;
- (c) respect for his private and family life.

In addition to those fundamental principles, the Declaration included a number of detailed provisions for putting them into effect, in particular provisions against discriminatory legislation which, for reasons of race, colour or creed, would subject anyone to special restrictions or deprive him of advantages accorded to others.

The implementation of the Declaration of Rights was in turn safeguarded by the creation of a Constitutional Council which would examine all bills other than money bills passed by the Legislative Assembly and submit a report to the Governor, within thirty days, stating whether any of the provisions were inconsistent with the Declaration of Rights. The Council consisted of a Chairman and eleven members who
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must be drawn from all communities in Southern Rhodesia, so that it could not be dominated by persons of one colour, race or creed. The Chairman must be a retired Judge or advocate of at least fifteen years' standing and the members would be elected by secret ballot by an electoral college consisting at first election of the Chief Judge and Puisne Judges of the High Court, and the President of the Council of Chiefs.

The functions of the Council were advisory only, but legislative provisions on which it gave an adverse opinion could only be adopted by a two-thirds majority of the total membership of the Legislative Assembly, or by a simple majority after a delay of six months.

In addition, any person who considered that a law contravened the Declaration of Rights could apply to the Council for a legal aid certificate enabling him to bring the matter before the courts, including proceedings by way of appeal, at public expense. Furthermore, the Southern Rhodesian Government had already put in hand a systematic review of all legislation at present in force, with a view to repealing those provisions which could be considered to be of a discriminatory nature.

The provisions relating to the Declaration of Rights and to the Constitutional Council were entrenched clauses of the Constitution and could not be altered without:

- (a) the agreement of a two-thirds majority of the Legislative Assembly, and
- (b) either the agreement of each of the four principal racial communities recorded by majority vote in a separate referendum, or the specific approval of the United Kingdom Government.

The new Constitution contained important changes relating to the Legislative Assembly. The latter would consist of sixty-five members, of whom fifty would be elected from "constituencies" covering the whole country and fifteen from "electoral districts" likewise covering the whole country. Voters would register on two rolls: those with higher qualifications would be on the "A" roll and those with lower qualifications on the "B" roll. The qualifications were not based on colour or race but, with certain exceptions which benefited Africans only, on financial and educational qualifications which applied to all the inhabitants of Southern Rhodesia. In each constituency and district both "A" roll and "B" roll voters would vote. There were, however, provisions to ensure that voters on either of the rolls did not swamp those on the other roll by weight of numbers: for instance, if the number of "A" roll votes cast in an electoral district amounted to more than 25 per cent of the "B" roll votes cast, then the "A" roll votes would be proportionately reduced in

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value to 25 per cent of the "B" roll votes cast; in the case of the constituencies the procedure would work the other way round.

The franchise qualifications could be changed only by a two-thirds majority vote of the total membership of the Legislative Assembly, and even then such changes could only be for the purpose of extending the franchise. No restrictive amendments could be adopted except as the result of a referendum of the four principal racial communities, in which Africans over twenty-one years old who had completed a course of primary education would be able to vote, or with the specific approval of the United Kingdom Government.

It was clear from the foregoing that Southern Rhodesia had attained a very large measure of self-government. It was true that the United Kingdom Government still retained ultimate responsibility for the external affairs and defence of the Federation but, apart from the restrictions on the rights of the Legislative Assembly to amend certain basic clauses of the Constitution, Southern Rhodesia was completely autonomous in regard to its internal affairs.

Complicated and changing as was the position in the Federation of Rhodesia and Nyasaland, he hoped that the analysis of the constitutional position which he had just given would help the Committee to find the right answer to the question referred to it, namely whether the Territory of Southern Rhodesia had attained a full measure of self-government, and that it would help the Committee to come to the right conclusion.

He reserved the right to reply during the course of the debate if necessary, but despite his naturally impetuous nature he would make a great effort not to be provoked into unnecessary intervention.

Mr. GEBRE-EGZY (Ethiopia) asked how many Africans took part in the activities of government in Southern Rhodesia and, in particular, what was the proportion of Africans in the Legislative Council under the new Constitution. He would also like to know what were the qualifications for voting. Those were extremely important points, since the purpose of the Committee was to ensure that the peoples of the Non-Self-Governing Territories should administer their own affairs, as laid down in the Charter. His delegation had always considered "a full measure of self-government" to mean self-government for the whole population, which in the present instance would mean African self-government.

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Mr. MOROZOV (Union of Soviet Socialist Republics) said that he was interested in the questions the representative of Ethiopia had asked and he reserved the right to bring up a number of important questions concerning Southern Rhodesia. He felt that it would be useful for the Committee to have the full text of the Constitution mentioned by the representative of the United Kingdom before it started detailed discussions on the subject.

Sir Hugh FOOT (United Kingdom) said that he would endeavour to obtain a sufficient number of copies of the Constitution, which was set out in an Order in Council.

ORGANIZATION OF WORK (continued)

The CHAIRMAN asked the members of the Committee for their views on paragraphs 6 (1) and 7 of document A/AC.109/1. Paragraph 6 (1) suggested that the drafting of the questionnaire to be addressed to Administering Authorities should be entrusted to the Secretariat, possibly with the assistance of two or three members of the Committee. Paragraph 7 referred to the machinery which would have to be set up to screen petitions. Several communications had already been sent in, addressed to the Chairman or to the Secretariat, and some arrangements would have to be made before they became too numerous. In his view it would be a good thing to set up a committee that included members who had had experience in the matter in other bodies of the United Nations.

Mr. GEBRE-EGZY (Ethiopia) said that in his delegation's view the committee entrusted with the drafting of the questionnaire could be made up of the Chairman, the Bureau and two other members selected by the Chairman.

With regard to the committee to screen petitions, he suggested that it should consist of seven members, to be nominated by the Chairman with due regard for the balance reflected in the Committee.

Mr. BINGHAM (United States of America) agreed with the representative of Ethiopia concerning the composition of the group to draw up the questionnaire. With regard to the committee to screen petitions, he suggested that it should consist of five members rather than seven, for he felt that a smaller group was often more efficient.

Sir Hugh FOOT (United Kingdom) said that he would like to recall the reservations made by his delegation on the matter of the method of obtaining information and on the question of petitioners.

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Mr. MOROZOV (Union of Soviet Socialist Republics) thought that the proposals made by the representative of Ethiopia were extremely useful with regard to the organization of the Committee's work. His delegation was sure that the Chairman would know how to choose the members of the groups mentioned by the Ethiopian representative and that the Committee would have little difficulty in reaching unanimous agreement on the composition of those groups.

In the view of the USSR delegation it would be useful to have any petitions which might be addressed to the Committee published as official United Nations documents. In that way, all the members of the Committee would have complete documentation, which would enable them to take decisions in full knowledge of the facts.

Mr. THEODOLI (Italy) said that he was in full agreement on the principle of setting up the two groups. He did not think, however, that the group for screening petitions would need seven members - which was half the Committee - in order to carry out its work objectively.

Mr. GEBRE-EGZY (Ethiopia) remarked that seven members did not amount to one half, but one third, of the Committee. He himself thought that a seven-member group would be more likely to be representative of the various tendencies in the committee and thus would obviate unnecessary discussion later.

Mr. MOROZOV (Union of Soviet Socialist Republics) supported the Ethiopian representative's proposal concerning the number of members of the group which would consider petitions. He agreed that, if the group had seven members, its decisions would as a rule command the support of the whole Committee. The Committee could really deal with the matter itself, but as it was agreed that a smaller group should be set up he felt that its membership should not be too restricted, if the discussions it held were not to be repeated subsequently in the Committee.

The CHAIRMAN noted that, on the question of drafting a questionnaire, the opinion of the Committee seemed to be that its officers and the Secretariat, with the assistance of two members of the Committee, might draw up a text which would be submitted to the Committee for consideration. If members of the Committee were agreed on that point, he suggested that a decision should be taken to that effect.

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Mr. Taieb SLIM (Tunisia) stated that his delegation had no objection to the group in question being composed of the officers of the Committee, together with two other members; since, however, the Vice-Chairman and the Rapporteur were both absent, it might be more appropriate to say that it would be composed of India, Mali, Syria and two other members.

The CHAIRMAN said that it should be perfectly in order for the representatives of Mali and Syria to participate in place of the Vice-Chairman and the Rapporteur, if the Committee saw no objection.

Mr. PLIMSOLL (Australia) thought that, as a principle, it should be possible for the officers of the Committee to nominate members of their delegations to take their place whenever necessary, and not only during their present absence.

The CHAIRMAN felt that the officers of the Committee were elected in a personal capacity, but that it was entirely open to the Committee to make a temporary departure from that principle and to say that, in the absence of the Vice-Chairman and the Rapporteur, the representatives of their delegations would act for them temporarily. The Committee was completely free to decide to that effect.

Reverting to the question of the drafting of the questionnaire, he said that, in the absence of any objection, he would consider that the Committee authorized him to nominate two of its members to assist in the drafting of the text. He would announce the names later.

On the second point also - the question of a committee to screen petitions - there seemed to be general agreement apart from a difference of opinion concerning its composition, some members of the Committee favouring five members and others seven. The difference was not great but one advantage of the larger figure was that recommendations made by a seven-member group would be less likely to be questioned. He did not wish to express any opinion on the point but, if the Committee so desired, he could nominate seven of its members, who would consider the question and could make an interim report on the manner in which applications, petitions and communications should be dealt with. The suggestion made by the representative of the USSR that every communication received should be circulated as a document might also be considered by the group.

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Mr. LEWANDOWSKI (Poland) thought that, rather than making a report or formulating general principles, the screening committee should adopt a vertical approach: in other words, as each specific Territory was studied, the group should deal with the petitions relating to that Territory and should advise the Committee whether a given petitioner should or should not be heard.

The CHAIRMAN said that there were a number of possible approaches to the question of petitions and many issues were involved, including that of their circulation; if there were more than a few petitions, it might be difficult to circulate them as documents in all languages. That, however, was a matter for the Committee to decide.

Mr. PAVICEVIC (Yugoslavia) agreed with the representative of Ethiopia that the various trends in the Committee must be taken into account and that it would be preferable to leave it to the Chairman to consult all the members of the Committee. Once he was aware of the wishes and the difficulties of the various delegations, he would be able to proceed to the appointment of the group to deal with petitions.

Mr. BINGHAM (United States of America) supported the Yugoslav representative's suggestion. The best solution would be to leave it to the Chairman to determine, after consultations, the number of members of the group in question.

The CHAIRMAN said that, if there were no further observations, he would take it that the suggestion made by the representative of Yugoslavia and supported by the representative of the United States, namely, that it should be left to the Chair, after consultations, to decide the number of members of the screening committee, was adopted.

It was so decided.

The meeting rose at 12.45 p.m.