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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 TWELFTH MEETING

Held at Headquarters, New York,
on Tuesday, 13 March 1962, at 3.35 p.m.

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PRESENT:

Chairman:

Mr. JHA (India)

Members:

Mr. PLIMSOLL Australia

Mr. KOUN WICK Cambodia

Mr. WODAJO Ethiopia

Mr. RASGOTRA India

Mr. THEODOLI Italy

Mr. TRACRE Mali

Mr. LEWANDOWSKI Poland

Mr. CHEHLAOUI)
Mr. MANSOURI) Syria

Mr. NGAIZA Tanganyika

Mr. Taieb SLIM Tunisia

Mr. MOROZOV Union of Soviet Socialist
Republics

Mr. CROWE United Kingdom of Great Britain
and Northern Ireland

Mr. BINGHAM United States of America

Mr. SILVA SUCRE Venezuela

Mr. PAVICEVIC Yugoslavia

Secretariat:

Mr. PROTITCH Under-Secretary for Trusteeship
and Information from
Non-Self-Governing Territories

Mr. CHACKO Secretary of the Committee

ORGANIZATION OF WORK (continued)

Mr. WODAJO (Ethiopia) said that, contrary to the impression some delegations might have gained from the statement he had made at the previous meeting, his delegation was very much in favour of petitioners being heard by the Committee.

The problem raised had not been one of principle but only of procedure. In his delegation's view, the best procedure would be for petitioners to submit a request for a hearing in writing; the communication would go to the Sub-Committee on Petitions, which would make recommendations to the Committee. The Committee would then take a decision. As the Sub-Committee was widely representative, its view was very likely to reflect that of the Committee and it was difficult to imagine that the Committee would not approve the Sub-Committee's recommendations.

He wished to make it clear that if in his statement at the previous meeting he had given the impression that he thought the procedural problem had been settled, that had not been his intention. He had simply thought that it would be logical for the Committee, having set up the Sub-Committee, to follow the procedure of referring such questions to it. He had made no formal proposal and would be glad to hear the views of other delegations on the matter.

Mr. PAVICEVIC (Yugoslavia) thought that, as the Soviet representative had suggested, it would be preferable to have documents which were addressed either to the Chairman or to the Committee circulated to all the Committee members; the Committee's work could only gain by that and its members would thus be informed of all the documents addressed to it.

With regard to the procedure to be followed in dealing with petitions, he thought that certain points needed clarification. In his view, the Sub-Committee's task was to examine petitions and requests for hearings and to make recommendations to the Committee, but it was not authorized to take decisions or to hear the petitioners. It was for the Committee alone to take decisions concerning the petitions and the requests for hearings, bearing in mind the Sub-Committee's recommendations, which it had the right to approve, to reject or to amend.

Summing up, he thought that the logical procedure in principle would be to circulate all the petitions and then to send them to the Sub-Committee on Petitions, after which the Committee would consider the Sub-Committee's recommendations and would take final decisions on the matter.

(Mr. Pavicevic, Yugoslavia)

With regard to the proposal the Soviet Union representative had made at the previous meeting concerning the request for a hearing submitted by Mr. Nkomo of Southern Rhodesia, he wished to state that his delegation had no doubts whatever about the representative character of Mr. Nkomo, who was an eminent leader of the Southern Rhodesian people, and that when the vote was taken in the Committee his delegation would vote in favour of granting that request.

Mr. Taieb SLIM (Tunisia) recalled that the main reason why the Committee had established the Sub-Committee had been to facilitate its work, particularly by screening both oral and written petitions and by submitting certain recommendations to the Committee. His delegation therefore thought it would be wise for the Committee to entrust the major part of that work to the Sub-Committee, without relinquishing its right to accept or reject its recommendations.

The Sub-Committee's function would be to consider all the requests from petitioners who wished to appear before the Committee, and to submit a report to the Committee. He agreed with the representative of Yugoslavia that it would not be advisable to leave the task of hearing the petitioners to the Sub-Committee; in his view it was the Committee itself which should hear them, bearing in mind the Sub-Committee's suggestions.

With regard to written petitions, his delegation thought that those which the Sub-Committee considered admissible and which were accepted by the Committee should be circulated as documents.

He thought that, if that procedure was agreeable to all the representatives, the Committee should accept it, without, however, feeling rigidly bound by it. In the case of Mr. Nkomo, for instance, if the Committee could decide quickly whether or not to hear him, his delegation would have no objection to that procedure.

In conclusion, he stressed the need for accommodating the views of all the representatives and avoiding the creation of any disharmony within the Committee.

Mr. MOROZOV (Union of Soviet Socialist Republics) thanked the delegations which had supported the USSR delegation in requesting that all the communications addressed to the Committee and its Chairman should be circulated to the Committee members. He thought that a decision could be taken on that matter forthwith, since unanimity appeared to have been reached.

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(Mr. Morozov, USSR)

He thought that the Committee could take a decision also on the question of the hearing of petitioners, since all the members appeared to be of the same opinion, namely that it was for the Committee itself, and not the Sub-Committee, to hear petitioners.

With regard to the question of the consideration of requests for hearings, he thought that there were some points still to be elucidated. He stressed that his delegation was not opposed to the idea that requests for hearings should not be considered directly by the Committee itself but should be referred to the Sub-Committee for consideration. Whereas, however, the representative of Ethiopia was proposing the establishment of a very rigid rule under which every request for a hearing would automatically be referred to the Sub-Committee, his own opinion was that the Committee should consider every request, in order to decide whether it should take an immediate decision or whether it should refer the request to the Sub-Committee, so that the latter might submit recommendations on the matter.

In order to eliminate the remaining differences, he proposed that the procedure suggested by the representative of Ethiopia should be adopted, with the proviso that, in cases which were absolutely clear, the Committee could decide to settle the matter itself there and then, without referring it to the Sub-Committee.

In his opinion, Mr. Nkomo's request for a hearing was one of those absolutely clear cases and it had been on the basis of the opinion expressed by the majority of the delegations that he had proposed that the Committee should immediately decide to hear Mr. Nkomo. He did not see why the Committee should postpone its decision on that point.

Mr. BINGHAM (United States of America) said that, contrary to what the Soviet representative appeared to think, there had been different points of view expressed with regard to the advisability of circulating immediately the petitions received by the Secretariat; he recalled that the representatives of Tunisia and Ethiopia, in particular, had stressed that one of the functions of the Sub-Committee would be to consider written communications and to decide or recommend to the Committee which of them should be circulated as United Nations documents.

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(Mr. Bingham, United States)

He shared that opinion and warned the Committee of the consequences of the procedure advocated by the Soviet representative. Such communications might, for example, come from any Territory which, for reasons that might or might not be valid, the petitioners considered to be non-self-governing, and the Committee might be flooded with communications of that kind. Moreover, the very fact of its being published gave a document a certain status which was not always justified by its contents. He therefore thought that the best procedure would be to let the Sub-Committee on Petitions take the appropriate decision, or submit recommendations on the communications received by the Committee, rather than to make the circulation of those communications an automatic process.

With regard to requests for hearings, he thought that the Committee should keep to the sensible procedure of referring them to the Sub-Committee. He was afraid that the Committee might find itself in a difficult position if it began by making exceptions to that procedure. In the case of the request made by Mr. Nkomo, without expressing an opinion on whether or not he should be heard he felt that the Committee would be well advised to follow the same procedure.

Mr. LEWANDOWSKI (Poland) considered that with regard to the circulation of communications received by the Committee or by its Chairman from petitioners desiring hearings, the fears of the United States representative might be dispelled if the Committee adopted the practice followed by the Fourth Committee and the Trusteeship Council. That procedure consisted in circulating all such communications to the members of the Committee or transmitting them to the Chairman, who then informed members. He suggested that the present Committee should adopt the same procedure. In cases where the Committee was unable to decide immediately on the question of hearing a petitioner, the Sub-Committee would pass judgement on the question and make recommendations to the Committee.

He agreed with the representatives who held that it was for the Committee to take a final decision on the Sub-Committee's recommendations and that the Sub-Committee was not called upon to hear petitioners or to pass judgement on the merits of a case which it wished to bring before the Committee.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that he had thought that agreement had already been reached on the need for the circulation of all documents addressed to the Chairman. In order to dispel the doubts just expressed by the United States representative, he proposed the following procedure.

In cases where the request for a hearing or the petition manifestly came from a Territory within the jurisdiction of the Special Committee - in other words, from a Territory to which the Declaration on the granting of independence to colonial countries and peoples was applicable, the Chairman or the Secretary of the Committee would arrange for its immediate circulation. To judge from the experience of the Fourth Committee and of the Trusteeship Council, that would apply in at least 90 per cent of the cases.

In the very much rarer cases about which there was some difficulty, the Committee would decide the matter, either on the basis of the report of the Chairman or the Secretary - which his delegation would prefer - or after consulting the Sub-Committee on Petitions.

He would like to hear the views of his colleagues on those points, and in particular the views of the representatives of Ethiopia and the United States.

Mr. PLIMSOLL (Australia) said that among the large number of questions that had been raised there were some upon which the Committee had not yet taken a definite position. There was, for example, the question whether the Committee should formally refer petitions to the Sub-Committee or whether the Chairman could do so automatically. It would probably be preferable to wait for the Sub-Committee on Petitions to make its own recommendations and establish its own rules on the basis of the statements made at the eleventh and twelfth meetings of the Committee. Neither the Trusteeship Council, which knew quite clearly what Territories it had to deal with, nor the Fourth Committee, which worked in a different environment and with a different time-table, provided precedents on which the Special Committee could necessarily base itself. There was also the question of letters from eccentrics, of which every committee received a number, and of documents of such length that they would be expensive to circulate.

To ask the Chairman and the Secretary of the Committee to decide in clear-cut cases, as the Soviet Union representative suggested, would be to

(Mr. Plimsoll, Australia)

lay a heavy responsibility on them; moreover, it was unnecessary, since the Sub-Committee, which was composed of experienced persons and would be able to meet at short notice, could do the work of screening and could refer any borderline cases to the Committee.

He therefore thought that the Committee should adopt the Ethiopian suggestion that all petitions and requests for hearings should be referred to the Sub-Committee on Petitions.

Mr. WODAJO (Ethiopia) said that the Committee seemed to be faced with two problems.

The first related to the circulation of documents. In that regard, a distinction should be made. The circulation of the documents for information purposes was not only a possible but a desirable measure, which would enable the Committee to take its decisions in full knowledge of the facts. If, however, it was a question of the documents becoming part of the official records of the Committee, the latter should await the recommendation of the Sub-Committee on Petitions.

The second problem concerned the hearing of petitioners. On that point, the position of the Soviet Union delegation was further from the Ethiopian position than the Soviet representative seemed to think. That representative had spoken of evident cases, for which an exception should be made. To say whether something was evident, however, involved a value judgement which should be left to the Sub-Committee on Petitions set up for that purpose. That would not mean any loss of time, for if the case was evident the Sub-Committee would refer it to the Committee after a purely routine consideration. If, on the other hand, departures were to be made from the procedure which had been established, that procedure would be pointless.

Mr. THEODOLI (Italy) expressed agreement with the point of view of the Ethiopian delegation. If the Committee decided to circulate all the communications it received as official documents, it would be in danger of being flooded by requests from all over the world, and from many Territories with which it doubtless did not propose to concern itself.

With regard to the petitioners, it would be dangerous to depart, at the outset, from a procedure which had just been established, even in respect of clear-cut cases, which might well not appear so to everyone. The experience

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(Mr. Theodoli, Italy)

of the Fourth Committee was not applicable, since that Committee had no sub-committee to do the screening. All petitions and requests for hearings should therefore be sent without distinction to the Sub-Committee on Petitions.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that he would make one more attempt to reconcile the views which had been expressed. Supposing that a request for a hearing addressed to the Committee met with no objection from any member, as in the case of the request from Mr. Nkomo, it would be a waste of time to refer the request to the Sub-Committee. It would seem more reasonable, in the absence of any objection, to take an immediate decision. In acting otherwise, since no question of principle was at stake, the Committee would become a slave to its own procedure.

He therefore proposed that, while accepting the Ethiopian suggestion, the Committee should decide to grant automatically any request for a hearing against which no argument was put forward. Any request which met with objection, on the other hand, would be referred to the Sub-Committee, on whose recommendation the Special Committee would take its decision.

Mr. NGAIZA (Tanganyika) said that, while all members of the Committee were agreed that petitioners should be heard, there was still the question of what procedure should be adopted for dealing with those hearings with a minimum of delay. The most expeditious method would seem to be to adhere to the procedure already decided upon. The Soviet Union delegation, whose good intention towards African nationalists were beyond question, was likely to delay the hearing of the petitioners by upsetting the procedure. He therefore appealed to the USSR representative not to press his proposal.

Mr. CROWE (United Kingdom) wished to make it clear that, in spite of what the USSR representative had said, there was no unanimous agreement regarding the hearing of the petitioners. The United Kingdom delegation, for one, was opposed to the hearing of Mr. Nkomo. The Charter provided only for the hearing of petitioners from Trust Territories. Any petitioner coming from another Territory should be heard only with the approval of the Administering Power.

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Mr. THEODOLI (Italy) considered that it would certainly expedite the Committee's work if all petitions were automatically referred to the Sub-Committee. Moreover, it seemed irrational, after creating a Sub-Committee, to dispense with its services.

Mr. RASGOTRA (India) thought that the Committee would be well advised, once an area of agreement had been found, not to stray too far from it and, even if difficulties arose, to try to resolve them by agreement. A large measure of agreement had been reached on the question of petitions and requests for hearings. It had been summed up by the Chairman in paragraph 7 of document A/AC.109/1, in the following terms: "The consensus of opinion appears to be that petitioners may be heard, if necessary, but not as a matter of course. The Committee should have discretion to screen petitions, for which purpose a suitable machinery might be established".

The Sub-Committee which was to constitute that machinery had just been appointed with the unanimous agreement of the Special Committee. A point of disagreement had now arisen regarding that Sub-Committee and a solution of the problem was of great importance to the future of the Committee.

In his view, it would be rather unusual for the Special Committee to lay down a line for the Sub-Committee to follow. The custom was for any council or plenary body appointing a Sub-Committee to leave the latter full freedom to devise its own procedure or at least to formulate precise recommendations on the matter. The importance of the procedural question could be judged by the fact that in connexion with the consideration of petitions Trusteeship Council had a whole set of rules regarding the classification and circulation of those petitions. The Special Committee had no such rules and would not always be able to follow those of the Trusteeship Council or of the Fourth Committee; it differed from those two bodies in many respects and would frequently have to take its own decisions, as would also the Sub-Committee it had set up.

The main thing was to avoid the Committee's spending too much time on petitions. The number of territories to be considered was so great and the questions to be examined so crucial that the Committee might find itself flooded by requests for hearings, and if it had to deal with them in the first instance,

(Mr. Rasgotra, India)

it would probably be spending all of its meetings listening to such requests. A certain amount of screening was therefore necessary if only to eliminate petitions from persons who were merely disgruntled.

Consequently, the Ethiopian proposal ought to be adopted without the reservations which the USSR representative wished to introduce and which seemed unnecessary. The USSR delegation was rightly concerned about preventing any trespass on the plenary Committee's powers and about making sure that Mr. Nkomo would be heard. However, in the first place, the recommendations would have to come to the Committee for final approval and the Committee would always be free to change the recommendations of its Sub-Committee, which, judging from its membership, did not seem opposed to the principle of hearing petitioners. Secondly, so far as Mr. Nkomo, who was an outstanding African personality, was concerned, there was no real difference of opinion with regard to him; five or six members of the Committee who were also members of the Sub-Committee had already stated that they were in favour of hearing him. Even if the matter was referred to the Sub-Committee, its recommendation could only be affirmative.

The Indian delegation therefore felt that the Ethiopian proposal should be adopted as it stood. It had already been agreed almost unanimously that the Committee should hear Mr. Nkomo, and a decision to that effect could be taken formally after the question of hearing him had been referred to the Sub-Committee on Petitions.

Mr. MOROZOV (Union of Soviet Socialist Republics), replying to the representative of Tanganyika, said that he could not have asked for more than to hear Mr. Nkomo at three o'clock in the afternoon and that the procedure proposed would tend to delay the time of Mr. Nkomo's hearing. He hoped that the Chairman would be able to summarize the points on which agreement had been reached so that the problem might be settled before the end of the meeting. In order to take another step towards agreement, he suggested that the Committee should decide that with rare exceptions all the documents would be published, first in provisional form and then, unless the Sub-Committee on Petitions objected, as official documents, and that the petitioners would be heard by the plenary

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(Mr. Morozov, USSR)

Committee. He still thought that in cases where all delegations had agreed that a petitioner should be heard, the Committee should be able to take a decision to that effect at once, on the understanding that in all other respects the proposed procedure would suffice.

Mr. TRAORE (Mali) said that Mr. Morozov had just answered the question he himself had been about to ask him. Mr. Morozov's last statement was quite acceptable to him, and he suggested that, in the light of that statement, time could be saved if the Chairman summarized the discussion and drew the relevant conclusions.

Mr. BINGHAM (United States of America) explained that he had not replied before to the remarks of the USSR representative because he had wished to hear the views of other delegations with regard to the circulation of communications. The United States delegation felt that the screening of petitions should be done by the Sub-Committee set up for that purpose, since it was by no means certain that most of the written communications received by the Committee would be clear-cut cases raising no problems or that their publication would be clearly warranted. It might be that if the screening was left to the Chairman and the Secretariat, the burden would be too heavy. It was therefore better for the Sub-Committee to do the screening.

As to requests for hearings, he suggested that the Committee should be notified of the requests that were received, as had been proposed by the representative of Poland. That would keep the members of the Committee informed of the requests addressed to the Committee and referred to the Sub-Committee. However, that was quite a different procedure from that of circulating as official documents all communications received regardless of their origin.

Finally, he wished to reiterate his delegation's view that it would be a mistake for the Committee to agree to hear petitioners against the wishes of the Administering Power concerned, where that Power had been co-operating with the United Nations. Since the United Kingdom objected to Mr. Nkomo being given a hearing, the United States delegation had to take a similar position regardless of its high regard for Mr. Nkomo. It took that position as a matter of principle.

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The CHAIRMAN said that he would try to summarize the points of agreement in going from the general to the particular. The formulation he was about to suggest would be without prejudice to the right of the Committee to decide otherwise in any particular case for exceptional reasons. All petitions, whether concerning requests for hearings or other matters, would be examined in the first instance by the Sub-Committee on Petitions. After such examination, the Sub-Committee would submit a report to the Committee, which would have the final authority to take decisions. Copies of all petitions for hearings would be circulated, in the language in which they had been received, to all the members of the Committee at the same time that they were circulated to the members of the Sub-Committee. So far as other petitions were concerned, the Sub-Committee on Petitions would consider the question, having regard to the observations made by the members of the Committee at the eleventh and twelfth meetings, and would make suitable recommendations concerning procedure.

Mr. MCROZOV (Union of Soviet Socialist Republics) said that decisions on petitions for hearings should be taken by the Committee as a whole, the function of the Sub-Committee being limited to recommendations for or against hearing petitioners. The hearing itself should also take place before the Committee in plenary meeting.

The CHAIRMAN confirmed that interpretation.

Mr. MCROZOV (Union of Soviet Socialist Republics) reiterated his delegation's view that in certain clear-cut cases a hearing could and should be granted on the direct decision of the Committee. That applied in particular to the request for a hearing submitted by Mr. Nkomo, a matter on which the USSR delegation reserved the right to speak again.

The CHAIRMAN pointed out that his formulation had been without prejudice to the right of the Committee to decide otherwise in any particular case for exceptional reasons. It would accordingly be open to any member, if such member considered that a matter was urgent or of exceptional importance, to suggest that there should be an immediate hearing. However, the general rule would be that all such requests would be examined in the first instance by the Sub-Committee on Petitions.

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(The Chairman)

If no other delegation wished to comment on his formulation, he would take it to be acceptable to the Committee.

It was so agreed.

The CHAIRMAN invited the Committee to take up the particular case of the requests for hearings submitted by Mr. Nkomo and Mr. Malianga. Two proposals were before the Committee: one made by the representative of Ethiopia, and the other by the representative of the Soviet Union. It was for the Committee to take a decision on the matter.

Mr. LEWANDOWSKI (Poland) felt that a decision could be taken immediately, since the various delegations seemed already to have adopted a clear stand on the matter.

The CHAIRMAN said that he agreed with that view. The matter had been debated and he had the impression that the majority of the members favoured referring the two requests to the Sub-Committee. He was therefore prepared to take that as the consensus of the Committee.

Mr. PLIMSOLL (Australia) repeated the view of his delegation that petitioners from Non-Self-Governing Territories should not be heard without the consent of the Administering Power, for the reason in particular of the difference of treatment accorded by the Charter to Trust Territories and Non-Self-Governing Territories.

The CHAIRMAN said that Mr. Plimsoll's observation would be noted in the official record of the meeting and that if no other member of the Committee wished to speak, the requests for hearings submitted by Mr. Nkomo and Mr. Malianga would be referred to the Sub-Committee for examination and report, the report to be presented as soon as possible.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that he could not modify his position. His delegation's insistence was dictated by a desire to expedite the work of the Committee and hasten the moment when Mr. Nkomo would be heard. Mr. Nkomo's statement should help the Committee to decide more clearly on the recommendations it was to make to the General Assembly concerning Southern Rhodesia and its accession to independence as quickly as possible.

(Mr. Morozov, USSR)

As the majority of delegations nevertheless appeared to prefer a procedure by which the petition should be sent to the Sub-Committee for study, the Soviet delegation asked that the Chairman's summary should go further and make it clear that the majority of the delegations, including the Soviet delegation, considered that the recommendations of the Sub-Committee should be presented as soon as possible.

The CHAIRMAN pointed out that he had made it quite clear that the Sub-Committee was to present its report as soon as possible.

Mr. TRAORE (Mali) observed that as the resources of the petitioners were limited they should be spared too long a stay in New York. Since the representative capacity of Mr. Nkomo was not questioned by any member of the Committee, he suggested that the Sub-Committee should give urgent and special attention to that particular case.

The CHAIRMAN pointed out that as there was only one representative on the list of speakers for the meeting on the following morning, the Sub-Committee could meet immediately after the Committee meeting. It could elect its officers at that first meeting and then in the afternoon take up the questions which had been referred to it. The members of the Sub-Committee were perfectly aware of the urgency of their task.

The meeting rose at 5.20 p.m.