



Twelfth session
Agenda item 37

THE FUTURE OF TOGOLAND UNDER FRENCH ADMINISTRATION

Special report of the Trusteeship Council

1. By its resolution 1046 (XI) of 23 January 1957 on the future of Togoland under French administration, the General Assembly, inter alia, resolved to dispatch to Togoland under French administration a Commission of six members to be appointed by the President of the General Assembly in order to examine the entire situation in the Territory resulting from the practical application of the recently adopted Statute and the conditions under which that Statute was being applied. The Commission was requested to submit its report, with its observations and suggestions, to the Trusteeship Council for its consideration. The Council was in its turn requested to study the question, taking into account the report of the Commission, and to transmit the results of its study to the Assembly at its twelfth session.
2. The Commission, after visiting the Territory during June 1957, adopted its report (T/1336 and Corr.1, T/1336/Add.1 and Corr.1 and T/1336/Add.2) at Geneva on 25 July 1957. The observations and suggestions of the Commission appear in chapter V of the report.
3. The Trusteeship Council considered the question of the future of Togoland under French administration, taking into consideration the report of the Commission, at its seventh special session (841st to 846th meetings held between 12 and 19 September 1957). The Council decided to examine at the same time political conditions in that Territory, the consideration of which it had decided to postpone from the nineteenth session to the seventh special session.

4. At the opening meeting, the Chairman of the Commission, Mr. Charles T.O. King (Liberia), introduced the Commission's report. At the same meeting, Mr. Jacques Kosciusko-Morizet, representative of France on the Trusteeship Council, and Mr. Georges Apedo-Amah, the representative of the Togoland Government, made statements in which they commented on the report of the Commission, gave further explanations of the existing situation in the Territory and mentioned certain additional powers which the French Government proposed to transfer to the Togoland authorities on the termination of trusteeship. These statements are reproduced in annex II to the present report.
5. From its 842nd to 845th meetings, the Council held a general debate, in the course of which the United States of America submitted a draft resolution (T/L.808).
6. During the discussion of the United States draft resolution, a number of delegations made suggestions concerning possible revisions of its text, some of which were incorporated into a revised text presented by the sponsor at the 846th meeting (T/L.808/Rev.1). At the same meeting, the sponsor made orally a further revision of the text.
7. The United States draft resolution, as revised, was adopted by the Council at its 846th meeting by 9 votes to none, with 5 abstentions. The text of the resolution^{1/} forms annex I to the present report.
8. Before the vote was taken, the representative of Guatemala asked that one of his suggestions, which had not been incorporated in the final text of the United States draft resolution, be recorded in the present report. This suggestion of the representative of Guatemala was to insert the following paragraph after operative paragraph 3:
"Notes in particular the Commission's observations and suggestions:
"(a) That full autonomy will be attained through the progressive transfer of those powers not yet within the competence of the Government of Togoland;
"(b) That the holding of elections on the basis of universal suffrage to representative organs in Togoland would represent the implementation of an important democratic principle embodied in the Statute and might contribute towards the creation of a more favourable political atmosphere;

^{1/} Trusteeship Council resolution 1785(S-7) of 19 September 1957.

"(c) That at an appropriate time the people of the Territory would need to be consulted by appropriate means concerning their desires for the future status of the Territory, and that such consultation should be undertaken in full agreement with the General Assembly of the United Nations as one of the two parties to the Trusteeship Agreement."

9. In accordance with the decision taken by the Council at its 805th meeting, on 4 June 1957, the observations on political advancement in Togoland under French administration made by individual members of the Council during the examination of the annual report on the Territory for 1955 at the nineteenth session as well as during the consideration of the question of the future of the Territory at the seventh special session are reproduced as annex III to the present report.
10. The present report was adopted by the Council at its 847th meeting, on 20 September 1957.

ANNEX I

Trusteeship Council resolution 1785 (S-7) of 19 September 1957

THE FUTURE OF TOGOLAND UNDER FRENCH ADMINISTRATION

The Trusteeship Council,

Having received the report of the United Nations Commission on Togoland under French administration,^{1/} prepared pursuant to General Assembly resolution 1046 (XI) of 23 January 1957,

Having taken note of the presentation of the report to the Council by the Chairman of the Commission,

Having taken note of the statement of the representative of the Government of France and that of the representative of the Government of Togoland,^{2/}

1. Expresses its appreciation to the members of the United Nations Commission on Togoland under French administration for the unanimous and comprehensive report which they have submitted on the situation in the Territory resulting from the practical application of the new statute and the conditions under which it is being applied;
2. Commends the Administering Authority for broadly interpreting and liberally applying the statute of 24 August 1956, as modified on 22 March 1957;
3. Notes with satisfaction the exercise by the Togoland authorities of the powers transferred to them under the statute, and the intention of the Togoland Government to hold new elections before 1960, on the basis of direct universal suffrage, for a new Legislative Assembly;
4. Considers that the report, as well as the statements before the seventh special session of the Trusteeship Council made by the representative of the Government of France and the representative of the Government of Togoland, provide a useful and constructive basis for consideration and action by the General Assembly with a view to reaching a mutually satisfactory solution in accordance with the Charter of the United Nations and the Trusteeship Agreement;

^{1/} T/1336 and Corr.1, T/1336/Add.1 and Corr.1 and T/1336/Add.2.

^{2/} See annex II below.

5. Decides to transmit to the General Assembly the report of the Commission, together with the proceedings of the Trusteeship Council,^{1/} in order to set in motion an appropriate procedure for the early attainment of the final objective of the Trusteeship System.

^{1/} T/SR.841 to 847.

ANNEX II

Statements of Mr. Jacques Kosciusko-Morizet,
representative of France, and Mr. Georges Apedo-Amah,
representative of the Togoland Government

I. Statement of Mr. Kosciusko-Morizet

The special session of the Trusteeship Council convened a little over a year ago - in July 1956 - to consider the question of the future of Togoland is no doubt still fresh in the minds of members of the Council.

The date is worth recalling, not in order to awaken memories that may well be viewed in a different light, but in order to bring out the vital importance of the events that have taken place since that date in Togoland, then under French administration.

A brief backward glance will therefore be in order. On 30 July 1956, after defining the broad outlines of the new Statute that had been drawn up in collaboration with elected Togoland representatives, the French Government announced its intention of holding a referendum on the Statute. The Statute was promulgated by a decree of 24 August and entered into force immediately, and, on 28 October, a Territory-wide referendum, organized impartially and free from local political pressures was held on the basis of direct and universal adult suffrage. In the Territory as a whole, 71 per cent of the registered voters voted in favour of the Statute, and only 5 per cent in favour of the continuation of trusteeship. In all except two circonscriptions (Lomé and Palimé), over 50 per cent of the registered voters voted for the Statute and in favour of the termination of trusteeship, and in the two circonscriptions mentioned, the number of votes in favour of the Statute greatly exceeded the number in favour of the continuation of trusteeship.

After considering the whole problem, the General Assembly decided on 23 January 1957, in agreement with the French Government and at the invitation of the Government of the Autonomous Republic of Togoland, to dispatch a six-member Commission to Togoland to examine the new situation. In consequence, the Assembly decided to postpone consideration of the request for the termination of the Trusteeship Agreement which had been presented to it.

Since that date, an extremely important development has taken place: the visit of the six-member United Nations Commission to the Autonomous Republic of Togoland, where it was received by the Government of the new Republic and was able to see for itself how that Government exercised its new responsibilities.

The Commission's main function, under its terms of reference, as set out in resolution 1046 of 23 January 1957, was to examine in the light of the discussion in the Fourth Committee the entire situation in the Autonomous Republic of Togoland resulting from the practical application of the new Statute and the conditions under which the Statute was being applied.

This the Commission did.

It noted the large measure of autonomy enjoyed by the Republic of Togoland.

The Commission reported: "the Statute has been interpreted in a broad manner... some of the competences specifically reserved to the French authorities have been much attenuated through interpretation."

And the Commission concluded: "the Statute, which represents a very significant step in the achievement of the objectives of Article 76 of the Charter...has been broadly interpreted and liberally applied, and...in consequence Togoland possesses a large measure of internal autonomy...".

The Commission thus found not only that the Statute was being applied in practice but "that it was being liberally applied". "As a result of that broad interpretation and liberal application," it stated, "amendments to the Statute have been adopted."

Thus, the Statute, which the General Assembly noted with satisfaction has already been substantially broadened in a number of respects and it will not escape the Council's attention that, despite the misgivings on this point entertained by certain Member States, the French Government has gone far beyond the reforms which it announced to the Council a year ago, in July 1956.

The Council will also no doubt note the view expressed orally by the spokesman of a non-governmental party "that the Statute, if properly applied, would represent a major political advancement.". The French Government accordingly welcomes the Commission's unambiguous findings on that point. The Statute has been interpreted, not only properly but liberally, and has already been the subject of substantial improvement.

Many services have been transferred, including the police force, which was transferred some time ago. As the Committee points out, "the maintenance of internal law and order is now within the competence of the Togoland Government." In addition, a systematic policy of "Togolization" of the civil service is being applied.

In this connexion, the Commission noted with approval the laudable plans of the Togoland Government for placing Togolanders in high posts in the civil service, and the French Government's plans to increase substantially the number of Africans in the service of the French Republic.

In discussing the processes by which the new institutions were developed, the Commission stressed that the Statute was a negotiated instrument. Although the formal procedure adopted may suggest that the Statute was granted unilaterally, the actual procedure was in fact bilateral and essentially contractual. The Statute was not imposed. It was the result of free discussion at various levels between Togoland representatives, responsible for their actions to those who elected them, and the Government of the French Republic and was approved by the people by a decisive majority vote.

This free discussion was initiated in the French Parliament, where the representatives of Togoland were able to make a decisive contribution and continued at the local level in the Togoland Assembly. The discussion has not yet ended.

Although its terms of reference were primarily political, the Commission also examined the entire situation in the economic and social fields and in the field of education. In its study of the economic implications of the new Statute, the Commission noted the importance of the plans for the development of hydroelectric resources, in particular the large hydroelectric dam on the Mono river, as well as "the commendable scheme by which several thousand Cabrais from the over-populated Lama-Kara District are being settled under carefully controlled conditions in the hitherto sparsely populated region of Eastern Mono".

The entire report conveys the impression that the Commission was very much aware that the Government of the Autonomous Republic was a reality and was effectively exercising its powers.

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The Commission found a highly developed political consciousness and a lively interest in the political future of the Territory and reported the existence of well organized political parties with active local branches. All this is to the credit of the Togoland Government and the democratic system it has sought to establish.

The Commission was also pleased to note the eagerness with which Togoland youth takes advantage of educational facilities available in the Territory, a factor which augurs well for the continued progress of self-government in Togoland. Those are the words of the Commission, not of the French Government.

Finally, the Commission reported that "the Togoland Government appears to have matters well in hand in the competences in those fields which it has taken over" and specifically referred to "the excellent working and social relationships existing between the French and Togoland, and to the ease and courtesy of social contacts". The Commission added that this was remarkable and reflected credit on both sides.

Naturally the Commission's report did not limit itself to stressing the positive aspects of the new Statute as it has been applied.

The Commission considered that certain improvements could be made and that the position could be clarified in certain respects. The Commission noted the highly democratic bases of the new institutions, and suggested that certain measures would further strengthen them.

The objection - based on the provisions of the Statute - has been raised, and will no doubt be raised again, that the present Assembly was elected in 1955 on the basis of limited suffrage by an electorate which comprised less than half the present electorate and that its term of office will not expire until 1960, whereas article 6 of the Statute provides that the Assembly shall be elected by universal adult suffrage. The fact should not be overlooked, however, that the Statute forms a whole, and that article 40 specifically provided that the Territorial Assembly, now the Legislative Assembly, could continue to exercise its functions until 1960.

The French Government has already presented its views on this question at length, and I shall briefly restate them.

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Under the provisions of the Statute, the Assembly elected in 1955 was to continue to function until 1960. The Statute has been approved by a referendum held on the basis of universal direct adult suffrage. The present Assembly has therefore been approved by a plebiscite based on universal suffrage - to which General Assembly resolution 1046 refers - and the technical arrangements for the plebiscite were, as the General Assembly has recognized, satisfactory.

In any case, the French Government must point out that the question of the organization of elections is now within the jurisdiction of the Togoland authorities, and their discretion and responsibilities in the matter cannot be dissociated from the general responsibilities which have been entrusted to them.

When the occasion arises, the French Government will therefore support by the appropriate procedure the position freely adopted in this matter by the Togoland Government.

While recognizing that the Statute confers on the Togoland authorities many powers formerly exercised by the French authorities, the Commission has suggested that certain amendments, most of which would be mere clarifications, be made to the Statute.

In so far as it still is competent to do so, the French Government, upon the initiative of the Government of the Autonomous Republic of Togoland, would consider favourably measures enabling the Territory to take a new and substantial step forward.

In the light of the sympathetic consideration the French Government has given during the past year to requests for the amendment of the Statute, there can be no doubt regarding its future attitude in this connexion.

The Commission was clear on this point and noted the substantial changes that have been made in the Statute as adopted in October 1956. The first - and substantial - amendments to the Statute were made on 22 March 1957 and further improvements have been made since that date.

Further amendments are under consideration in the light of the prospective termination of trusteeship.

Decisive transfers of powers will be made in three fields: public freedoms, justice and constitutional review.

With the termination of the Trusteeship Agreement, the last obstacle to the free exercise of full autonomy will be removed, and the Togoland Legislative Assembly will then receive the power to enact legislation in the field of public freedoms, which will then be within its exclusive jurisdiction. This right will be accorded to it, subject to no limitations other than those deriving from the high moral obligations which the Togoland Government has accepted as binding on it, since article 10 provides that the laws of Togoland must be in conformity with the principles set forth in the Universal Declaration of Human Rights, in the preamble to the Constitution of the French Republic, and in international treaties and conventions.

While recognizing the high independence of the French judiciary (the independence of the judiciary is one of the basic principles of French public law and is safeguarded by the fundamental rule of the separation of powers) the Government of the Autonomous Republic of Togoland has expressed the view that the absence of a specifically Togoland judiciary might be construed as a limitation of its autonomy.

This situation is justified by the special safeguards afforded by the independence of the judiciary as it exists in France and as it was applied in Togoland, in respect to other powers, and it was considered that the judicial system might continue to function as a common service. The Togoland authorities, however, considered that these reasons, weighty though they are, would not be understood in some quarters and that it might be suspected by some that a covert attempt was being made in this way to continue trusteeship, which, although officially terminated, would still be exercised in practice.

Although these arguments are based on a purely psychological and therefore subjective appreciation of the situation, they have led the French Government to reconsider its position in the matter. As a result, articles 26 and 27 of the Statute will be amended to permit the organization of a specifically Togoland judiciary.

This will undoubtedly impose further burdens on the Togoland budget, which will have to provide the funds required to run the services concerned.

However, the expenditure will no doubt be largely compensated for by the elimination of any possibility of misunderstanding in this matter.

Thus, in the Autonomous Republic, there will be a specifically Togoland judiciary, existing side by side with the other powers, just as in France itself.

This extension to Togoland of the principle of the separation of powers - introduced in France some 150 years ago - will be a powerful safeguard of the citizen's right to justice.

In addition, the Togoland Government, anxious not to limit the rights of appeal available to citizens and mindful of the community of thought defined in article 1 of the Statute, agrees that appeal from the judgements of Togoland courts shall lie, through the normal channels, to a common tribunal of final jurisdiction which will judge independently and justly, far from the scene of local quarrels. The Conseil d'Etat and the Court of Cassation, whose independence is recognized to be the chief guarantee of justice for all citizens, will thus be vested with the functions and attributes of supreme courts for Togoland as well as for French courts and tribunals.

Finally, it has been considered proper that the people and Government of Togoland should themselves decide the form of their internal political organization. That has always been the opinion of the French Government.

Consequently, full and complete freedom will be given to the competent Togoland authorities to determine their own internal constitutional rules (such as the term of office of assemblies, the procedure for investiture, governmental organization, and so forth).

These final transfers of responsibility have been envisaged for some time and the French Government has refrained from putting them into effect only because, the Trusteeship Agreement being still in force, it was anxious to retain the power to discharge all the responsibilities incumbent on it as Administering Authority under the Trusteeship Agreement.

Other changes are contemplated.

In particular, the Government of Togoland would participate, by means of joint decrees, in the assignment and appointment of officials charged with general co-ordination. Finally, a number of detailed changes would clarify

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certain points in the Statute, particularly in regard to the maintenance of public order.

In any case, all these modifications would take effect only upon the termination of trusteeship.

Thus, in terminating trusteeship, the United Nations will confirm the Togoland Republic's full freedom to manage its own affairs in the future.

Nevertheless, the Statute would not be immutable. What has been given cannot be taken away, and the provisions of the Statute preclude any step backward.

It is, of course, impossible to foresee what form relations between the French Government and the Government of the Togoland Republic will take in future, after the termination of trusteeship. What is important is that provision is made for the continuing revision of the Statute, and that procedure for revision, under which the initiative is in the hands of the Togoland authorities alone, exists and is precise, bilateral and essentially contractual.

In the steady advance towards a better future, the Autonomous Republic of Togoland cannot afford to lag behind. Its Statute, drafted in accordance with the higher traditions of French revolutionary liberalism, to which many democratic States throughout the world are a living testimony, is the surest guarantee that Togoland will continue to progress.

The French Government can therefore affirm without hesitation - and in this it agrees with the Commission - that the present Statute does not unalterably fix the relationship between France and Togoland but that that relationship continues to be capable of evolution.

II. Statement of Mr. Apedo-Amah

Last January, I had the honour, on behalf of the Togoland Government, to invite the United Nations to send a mission to Togoland to observe for itself the conditions under which the Statute of Togoland was being applied and the functioning of the new institutions in the Autonomous Republic of Togoland.

Today it is my pleasant duty to express my Government's thanks to the United Nations for having accepted that invitation.

The Government and the people of Togoland have had the privilege of receiving such a mission, which remained in our country for a month. We were especially gratified at the fact that the Chairman was a representative of Liberia, in other words, a representative of Africa.

During the time that this mission of inquiry was in our country, the Government and the various Togoland authorities spared no effort to give it as detailed a picture as possible of the situation resulting from the application of the Statute, so that it might accordingly be in the best possible position to report to the United Nations.

We particularly appreciated the gratitude which the Mission expressed to us through its Chairman and its warm thanks for the hospitality extended by our young Republic, despite our modest means and our lack of experience.

It was our desire that the members of the Commission, who were our guests, should enjoy the best possible conditions of working, gathering information, travel and accommodation. To the extent that we succeeded, we are happy.

The Commission's report notes that the Statute confers upon the Togoland authorities a large number of competences previously exercised by the Administering Authority.

The Togoland Government took part in the various negotiations which resulted in the preparation of the original Statute and later amendments thereto. As a member of that Government, I believe that it would be useful to give the Trusteeship Council some additional information on the subject.

The powers of the Togoland authorities are very extensive.

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First, in constitutional matters, the Togoland authorities are on an equal footing with the French authorities as regards the preparation and revision of the Statute. Henceforth the Togoland authorities will have prior and even exclusive rights in the legal procedure for amending the Statute, since the first official step in any revision is the expression of a voeu (wish) or a vote by the Legislative Assembly. It should also be noted that there is no restriction on the Assembly's power of initiative in this connexion. On the contrary, when there are preliminary discussions between the Togoland Government and the French Government concerning amendment of the Statute, the drafts drawn up as a result of such discussions - which may be submitted to the Assembly only by the Togoland Government - are not binding on the Assembly, which may adopt, reject or amend them, and no amendment can enter into force until it has received the Assembly's favourable vote.

Hence, not only must the Togoland Legislative Assembly discuss all proposed modifications of the Statute, but, in addition, the drafts which are submitted to the Assembly for discussion are the result of preliminary negotiations and discussions between the Togoland authorities and the French authorities.

Thus, the original draft statute, which had been the subject of preliminary negotiations between the elected representatives of Togoland and the French Government, was submitted in July 1956 to the Togoland Assembly, which introduced extensive modifications before it became the Statute of Togoland.

In the same way, the modifications ratified by the Decree of 22 March 1957 were prepared by governmental negotiations at Lomé and Paris before they were discussed by the Assembly.

The Legislative Assembly has usually modified considerably the drafts submitted to it for discussion, and the changes which it has made in the original drafts have always been confirmed by the French Government. I should like to take this occasion to stress the fact that the French Government fully understands our desire for evolution.

It cannot therefore be said that the Statute of Togoland is a unilateral instrument conferring a new set of rules on Togoland: it is, in law as in fact,

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a bilateral instrument which cannot be modified without the consent of the Togoland authorities, and to which they have introduced a number of modifications and substantial additions. This will continue to be the case.

Certain matters traditionally pertaining to the constitutional structure fall exclusively within the competence of the Togoland authorities.

One case in point is the right of dissolution. The Statute provides only that the Prime Minister may dissolve the Legislative Assembly under conditions fixed by a Togoland law, which was enacted last June.

Similarly, all matters concerning the electoral system fall exclusively within the competence of the Togoland authorities, and specifically of the Legislative Assembly.

In the legislative field, the competence of the Togoland authorities is very broad.

As the Commission's report states, the Togoland legislators exercise power in all the affairs proper to the Autonomous Republic of Togoland, that is, all Togoland affairs, with the strict exception of matters expressly reserved by the Statute to the central organs of the French Republic.

Since the Statute specifies only the powers reserved to the French Republic, some readers may have the mistaken impression that the powers transferred to the Togoland authorities are of minor importance.

In these circumstances, I believe that it is necessary to give the Council some details of the powers that have been transferred.

The following matters fall within the competence of the Togoland Legislative Assembly, both in fact and in law, but they do not constitute an exhaustive list of the matters which may be dealt with by that body:

The political and administrative organization of the Republic of Togoland: structure of the Ministries, organization and functioning of circonscriptions, communes and other local collective units, the Togoland judicial system, civil servants, maintenance of internal public order, protection of the exercise of public freedoms, information, the Press and radio;

Financial matters: budgets, loans, taxes, customs duties, public lands;

Economic affairs: plans of development and investment, agriculture, animal husbandry, commerce and industry, transportation, the postal system, telecommunications;

Social affairs: social insurance, application of the Labour Code, public assistance and social aid, health and hygiene, education, youth welfare;

Private law: status of persons and property, except for matters concerning French citizens, commercial legislation, and fiscal legislation.

The only limitation on this power results from the obligation to respect certain philosophical and juridical principles and the supremacy of treaties and international conventions: these are the rights of man and of the citizen embodied in the Universal Declaration of Human Rights and the Preamble of the French Constitution; and the Statute of the Autonomous Republic, that is to say, constitutional provisions which prevail over Togoland laws.

As can be seen, these are not limitations peculiar to the Autonomous Republic of Togoland, but principles which have been affirmed, and restrictions which have therefore been generally accepted, by modern democratic States, and which make it possible for these States to fulfil their obligations towards other States and towards their own citizens.

This point should be kept in mind in speaking of civil liberty in Togoland, a question to which I shall return later.

Certain powers are, however, reserved to the French legislative body. They are not numerous and the list is exhaustive; it should be noted, furthermore, that the elected representatives of Togoland participate in the drawing up of legislation on the matters concerned.

Lastly, the report notes that certain administrative acts do not fall within the competence of the Assembly, but in this case there has been a transfer of power by the Togoland legislature itself to another Togoland authority: the executive branch. This division of powers therefore represents an act of internal sovereignty.

The Togoland Government is a true executive authority. The Ministers are not merely high officials at the head of a department: in addition to the technical, administrative or financial responsibilities mentioned in the Commission's report, they have political functions, severally as the heads of their respective Ministries, whose activities they direct and supervise jointly within the Government.

The Togoland Government discusses all political questions concerning the Autonomous Republic of Togoland; this is done at meetings of the Cabinet Council (Conseil de Cabinet), which are held at least twice a week, and the weekly meetings of the Council of Ministers. The Government examines, for example, matters concerning the relations between the Autonomous Republic of Togoland and the French Republic, or general measures related to the formulation of domestic policy.

It should be emphasized that the Togoland public services, whose main responsibility is the application of laws passed by the Legislative Assembly, are empowered also to apply various laws relating to reserved matters, to the exclusion of the French services. The Commission noted this fact on various occasions, especially in connexion with foreign trade.

Lastly, the Togoland Government, which is responsible for internal public order, has authority, in principle, over everything pertaining to the application of the penal code in the territory of the Autonomous Republic.

The Commission observed that the Statute of Togoland "has been broadly interpreted and liberally applied".

Other equally important facts may be added to the various points noted by the Commission in this connexion. None of the machinery of legislative control reserved to the French authorities by the Statute, either while the Trusteeship Agreement remains in force or after its termination, has, thus far, ever had to be set in motion.

Neither the Minister for Overseas France nor the High Commissioner has exercised the right of veto which the Statute has granted them for the duration of trusteeship, nor has the High Commissioner exercised, with respect to Togoland laws, his power to request a new deliberation or the right of appeal, vested in him by articles 11 and 12 of the Statute.

The existence of these powers of appeal led the Commission to determine what guarantees there were against violations of the Statute.

This question must be examined from two angles: the guarantee which Togoland citizens enjoy, and the guarantee which the Togoland authorities themselves possess.

Togoland citizens enjoy all the guarantees offered by French public law, which have been adapted to the needs of the Autonomous Republic of Togoland. They may, among other things, take legal action against any decision of the Togoland Government, whether it takes the form of a regulation or a ruling on an individual case. It is interesting to note in this regard that none of the acts which some citizens or parties have labelled arbitrary has ever been brought before the competent courts.

In Togoland, as is the case in a great many countries, there is no appeal against a law.

The guarantees enjoyed by the Togoland authorities are many and they have been mentioned by the Commission in several connexions. I believe that it would be useful, however, to present an over-all view of these guarantees which will enable the Council to appreciate the binding force of the Statute with respect to the French authorities.

With regard to legal matters, there may be recourse to the Conseil d'Etat against any French regulation which is contrary to the Statute, on the grounds that it violates the Statute.

There is no recourse to a court against a French law. Although in theory, therefore, there is no recourse against laws which might prove contrary to the Statute, it should be pointed out, as the Togoland Government stated in its reply to the Commission's questions, that if a French law deals with a matter which is not reserved to the French Republic, that is to say in contravention of the Statute, this does not prevent the Togoland legislature from taking action on the same matter, in accordance with article 6 of the Statute.

This is, however, a highly theoretical case, in view of the fact that no French law can be enforced in Togoland until it has been promulgated by the High Commissioner, who first consults the Togoland Government and obtains its agreement. The fact that elected Togoland representatives sit in the Assembly of the French Republic affords them a safe and effective means of opposing the passage of any law which is contrary to the Statute or even simply inadvisable.

This would prove, if proof were needed, that the participation of Togoland representatives in the French assemblies is warranted.

Such participation has already proved most useful in the past.

In point of fact, it was not the draft prepared by the French Government, but an amended version prepared by one of the Togoland Senators, Mr. Ajavon, which served as the legislative basis for the Statute.

This problem of guarantees should not be allowed to obscure the number and importance of the practical questions which the Togoland authorities now have to solve as a result of the transfer of powers effected by the Statute.

The Commission's report has mentioned some of them. Indeed, Togoland has to deal with all the problems confronting an under-developed country that wishes to modernize itself. Whether it is a matter of basic transport and communication equipment, of agricultural equipment for the building of dams and the technical training of agricultural workers, of the industrialization of Togoland and the training of craftsmen, or of fundamental education and adult education - all these problems, and many more besides, have to be considered and solved. These are not easy problems which can be settled in the immediate future.

Anyone who has been concerned with the development of the under-developed countries in the different parts of the world knows the difficulties it entails.

It could not be expected that the Statute would settle in advance problems which are now the sole responsibility of the Togoland authorities and it is to the credit of the Statute that it left the problem of organizing the country's local administration, for example, to the Togolanderns themselves.

Since taking over from the French authorities the Government and legislators of Togoland have applied themselves to the task of solving these different problems. It would not be fair, however, to blame them for the fact that Togoland has the social structure and economic framework of an under-developed country, the improvement of which requires a long-term effort. The Togoland Government, with the financial support of France, is now making that effort.

In order to modernize the social structure of Togoland, it is first necessary to give the leaders elected by the tribal or rural communities the training and means necessary for the accomplishment of an increasing number of tasks, more complex than those they have traditionally been called upon to fulfil.

In this respect I should like to correct a mistaken impression which the report might leave in the minds of the members of the Trusteeship Council.

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As I have already said here on several occasions, the customary and traditional chiefs are not appointed by the Togoland Government authorities, just as they were not previously appointed by the Administering Authority.

They are appointed in accordance with customary rules and in most cases by customary assemblies of the communities concerned. The Government merely recognizes and confirms their appointment; it has no initiative or responsibility in the matter.

How else could one explain the fact that many traditional chiefs have declared their opposition to the policy followed by the Togoland Government? Was not the first delegation received by the Commission during its stay at Lomé a delegation of traditional chiefs belonging to the opposition party?

The fact is that the opposition between rival clans or between enemy brothers within the tribal communities drives each adversary, as the Commission indicated in its report in connexion with the cercle of Dapango, to seek the support of one or another of the political parties. Those who have not been appointed chiefs naturally turn to the opposition parties, not for ideological reasons but in the hope of obtaining revenge in their personal rivalries.

The traditional chiefs are both the representatives and the leaders of the local communities; their importance should not be under-estimated, in Togoland or in any other African country.

It is a question of developing the traditional institutions of our country, not of destroying them at the risk of creating disorder and anarchy. We should certainly be blamed if we allowed that to happen.

We are as democratic as anyone else, but we are also Togolandians and we are therefore anxious to provide our country with institutions in keeping with its traditions and its needs.

Certain incidents and statements reported by the Commission may give the impression that public freedom does not exist in Togoland.

Public freedom does indeed exist in Togoland, not only because it is guaranteed by the Statute of the Autonomous Republic of Togoland but also - and mainly - because the Togoland legislative and executive authorities want the citizens of Togoland to enjoy all freedoms, among which the freedom to govern themselves is the principal one.

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The Commission, which was instructed to report on what was happening in Togoland as a result of the application of the Statute, had occasion to hear representatives of the opposition parties in almost every place it visited, just as it was able to hear representatives of the majority parties.

It was able to observe that these parties, including the opposition parties, were allowed to meet freely.

It was able to see that these opposition parties freely published many more newspapers than the majority parties.

It was able to observe that representatives of the opposition were present at all official functions and at receptions organized by the Togoland Government.

It was able to observe that trade-union rights existed in Togoland and it even witnessed a forty-eight-hour strike called especially for its benefit by one of the Togoland trade unions.

It would be difficult to conclude from these different observations that freedom does not exist in Togoland. It is easy to see, however, that all the incidents that took place during the visit of the United Nations Commission were provoked by leaders or members of the opposition parties.

Indeed, it was as though the arrival of a United Nations Commission was the occasion for a number of people to expand their influence inordinately; at such times to create disorder and disturbances is the best way to attract notice.

The Togoland Government, which is responsible for the maintenance of public order, prefers whenever possible to take preventive steps to avoid violent disturbances rather than to allow serious incidents to occur which would then have to be suppressed and which might lead to the prohibition of one or another of the political organizations. So far the steps taken have made it possible to avoid such an eventuality.

The Togoland Government is proud to be able to say that no political group is legally excluded from political life in the Territory of the Republic of Togoland. Consequently, while the opposition parties have, since 1951, refused to take any part in the many intercalary electoral consultations held, it should be noted:

- (1) that they did so on their own initiative and that their policy of absenteeism could not be used to discredit the Government;
- (2) that the majority candidates or programmes were approved by 71 to 80 per cent of the electorate at all these consultations;
- (3) that the opposition's deliberate abstention was only a ruse to conceal its loss of popular support - after the political reorganization of the Parti togolais du Progrès and the Union des Chefs et des Populations du Nord-Togo - by falsely claiming as its supporters all those who had abstained, for the most part, a minority in any case.

The further effort which is now being made to cast doubt on the clearly-expressed will of the people of Togoland, to the benefit of politicians who are deliberately making capital out of these minority abstentions, should be clearly exposed.

Freedom exists for all the citizens of Togoland.

It is their responsibility to make the best use of that freedom in order to assist in the development and progress of our country, which cannot be achieved without the full participation of all its sons.

Anxious as we are for democratic freedom, we do not want a one-party system to be established in our country; on the contrary, we should like all political parties and every shade of opinion to participate in Togoland's new political life, while respecting the rules of its institutions.

On several occasions, in particular upon the establishment of the Togoland Government and upon the arrival of the United Nations Commission, the Prime Minister has offered representatives of the opposition places in the Government. There again not only have they refused but by incitement to violence and abuse they have even tried to discredit the Togoland Government and the Autonomous Republic itself.

Nevertheless we feel that our hopes will not always be disappointed and that the opposition, abandoning henceforth its policy of abstention and sterile obstruction, will take a step towards the reconciliation of all Togoland and will participate in the elections, to be held on the basis of direct universal suffrage, to the new Assembly; recent developments may perhaps make it possible to hold the elections before the regularly scheduled date.

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A second point which is important for the development of our country concerns relations between France and Togoland.

As we have always said, and as the French Government for its part has always proclaimed, the provisions of the Statute are subject to amendment, which means to progress.

As experience is acquired, further transfers of authority will be made and the Togoland authorities will themselves be able to amend the relevant institutional rules.

We rejoice at the progress of the negotiations now taking place and the amendments agreed upon jointly by the French and Togoland authorities.

In his opening statement the permanent representative of the French Republic discussed these negotiations and amendments, whose full implications the Council will be able to determine. The institution of these reforms will bring the principles underlying the Statute into full play and will permit of the full application of the Statute, whether in the matter of the relations between the French Republic and the Republic of Togoland, the holding of new elections on the basis of universal suffrage or the termination of the Trusteeship Agreement.

The transfer thus effected of the residual French powers to the Togoland authorities would in fact be devoid of true significance and value if the trusteeship were maintained.

I think that the results of the Commission's visit to Togoland will fully enlighten the United Nations on the true nature of the Statute and will enable it to take this year a decision which last year it considered premature.

ANNEX III

Observations of members of the Trusteeship Council on political advancement in Togoland under French administration, representing their individual opinions only

I. Observations made at the nineteenth session

1. The representative of China stated that he was glad to be reassured that the parties which had so far taken part in the election of the Legislative Assembly were ready to co-operate with the Government by participating in the free election of a new Legislative Assembly. Such a freely elected Legislative Assembly would demonstrate the true wishes of the Togoland people. Pending receipt of the report of the Commission on Togoland, his delegation would not comment further on political advancement.
2. The representative of New Zealand said he would not attempt to review the progress reported in the political sections of the annual report for 1955, since, on the one hand, they had been by-passed by later events to such an extent that any comment on them would be quite unrealistic and, on the other hand, it would be elementary courtesy to reserve for the members of the United Nations Commission on Togoland under French administration the explanations and comments which the implementation of the new institutions in Togoland might call for.
3. The representative of Guatemala considered that the Statute of Togoland under French administration could not be regarded as a definitive instrument leading towards the objectives of self-government or independence, inter alia, since the Government of the Territory did not possess full legislative, executive and judicial powers, since its representation in the central organs of the French Republic was not an association of two independent or sovereign States on a basis of equal footing and since the Legislative Assembly was restricted to the right to propose amendments to the Statute. To remedy this state of affairs, elections organized on the basis of universal suffrage should be held, if possible before the United Nations Commission visited the Territory, for both the Legislative Assembly and for the municipal councils. The measures prohibiting public meetings or hindering the political activities of opposition parties should be rescinded. The Administering Authority should demonstrate its impartiality and

the Togoland Government should adhere strictly to democratic principles. The Togoland Government and the Administering Authority should moreover give the conseils de circonscription the support which they should have for carrying out their role in the economic life of the Territory.

4. The representative of Haiti was disturbed that the municipal elections in Togoland had been postponed sine die and that there was nothing to indicate that elections to the Legislative Assembly would be held in the near future. Furthermore, his delegation considered the grant of dual citizenship to be extremely dangerous for a young State which had to defend the principle of its independence.

5. The representative of India stated that the Territory was neither autonomous nor a **republic**, although it did have a certain measure of internal self-government and the beginnings of a parliamentary system were present. A decision to terminate trusteeship as long as the Territory was not self-governing or independent would be contrary to the Charter and to the Trusteeship Agreement. While it was perhaps true that in a strictly constitutional sense the Trust Territory had not been made an integral part of the French Republic, certain characteristics of de facto integration were unmistakably present.

6. The representative of India considered that the request of the Comite de l'Unite togolaise for new elections was very reasonable, that the new legislation introducing universal adult suffrage had not been applied and that, therefore, the practical application of the Statute was not in the hands of the people's representatives elected by universal suffrage. The existing Legislative Assembly had been elected by half the present electorate. There were apparently no practical difficulties in the way of holding elections and it was the responsibility of the Administering Authority under the Charter and the Trusteeship Agreement to establish democratic and representative bodies in the Territory.

7. The representative of India considered it regrettable that the political activities of the opposition parties were being hampered and considered that, ultimately, it was the responsibility of the Administering Authority to guarantee public freedoms.

8. The representative of the Union of Soviet Socialist Republics stated that the recent reforms had had the effect of removing Togoland from United Nations supervision and of harnessing it to the territories belonging to the Administering Authority and that there was nothing to show that Togoland was being helped towards independence. The Administering Authority had not given effect to the General Assembly's recommendation concerning the organization of general elections by universal suffrage for a Legislative Assembly to replace the existing Assembly, which had been elected on the basis of a limited suffrage and was not representative. The reforms might have some significance only if they were considered as a step towards independence and if the Administering Authority qualified them by indicating the exact time within which the aims of trusteeship would be fulfilled.

9. The representative of Italy stated that his delegation had taken note of the amendments made to the Statute in response to the wishes of the Togoland Assembly but considered that it was unrealistic to discuss the report on conditions in the Territory before the report of the United Nations Commission was available.

10. The representative of the United States of America considered that general elections to the Legislative Assembly of the Territory should take place as soon as possible in conformity with the terms of and as authorized by the loi-cadre of 23 June 1956.

11. The representative of the United Kingdom said that his delegation would refrain from commenting on political developments in the Trust Territory, since it did not consider that the Council was in a position to make recommendations in that connexion at the present time.

12. The representative of Belgium considered that there was no point in the United Nations addressing recommendations to the Administering Authority on matters which it had transferred to the Togoland Government and that it had the most serious reservations concerning the holding of a general debate on the Territory. The only important point which deserved attention at the present stage was the substantial amendment to the Statute which, barely seven months after the promulgation of the original decree, had greatly enlarged the prerogatives of the Togoland Government.

13. The representative of Syria stated that the Statute, even as amended by the Decree of 22 March 1957, purported to set up an autonomous Republic which was in fact neither autonomous nor a republic. Noting that, under the Decree of 22 March 1957, the question of political freedoms came within the competence of the Togoland Government, he stated there was reason to believe that the Government was in no position to guarantee those freedoms, and considered that the Administering Authority should take steps in accordance with its specific obligations under the Trusteeship Agreement to ensure the exercise of such freedoms.

14. The representative of Syria did not consider that the Territorial Assembly, elected on 12 June 1955 on the basis of restricted suffrage and without the participation of the opposition parties, possessed the necessary qualifications for a Legislative Assembly. The Council, while endorsing the General Assembly's views that the Statute was an important step towards the achievement of the objectives of the Charter, should reiterate the General Assembly's recommendation that the Legislative Assembly should be constituted as soon as possible on the basis of universal adult suffrage, and should emphasize that progress towards the objectives of the Charter could not continue satisfactorily without the guarantee of public freedoms.

15. The representative of Australia considered that it would be especially inadvisable to touch upon political developments in the Territory, for to draw conclusions on that subject would be to risk prejudging the findings of the Commission which was being sent to the Territory. He would, however, like to express his delegation's satisfaction at the manner in which the Administering Authority had implemented its policy of introducing indigenous people into the Territorial and local public service. The progress made in that field was a good augury for the future.

16. The representative of Burma stated that the Statute was a commendable step towards the ultimate achievement of self-government. Before, however, Togoland became in fact autonomous, the people would have to be given full legislative, executive and judicial powers. The future relationship of the Trust Territory with the metropolitan country should be decided by the people themselves through a representative body elected on the basis of universal adult suffrage and only

after a full measure of independence or self-government had been granted.

17. The representative of Burma considered that, now that the Statute had been introduced, it was appropriate that a new legislature should be elected on the basis of universal adult suffrage. The Administering Authority should remove existing restrictions on civil liberties so as to permit free and fair elections and should hold such elections at the earliest possible opportunity.

18. The representative of France stated that both the Administering Authority and the Government of the Republic of Togoland must withhold comment on the establishment of the new Togoland institutions until the forthcoming Commission had drawn up its report, for premature official declarations by either of them might have some influence on the opinion of members of the Commission. At the same time, he could not leave unanswered certain statements made by other representatives.

19. He found it hard to understand, he stated, how the Indian representative could argue that the autonomous Republic of Togoland was neither a republic nor autonomous. The organization of the French Republic, and consequently of the Republic of Togoland which was patterned upon it, seemed to him to come as close as any to the generally accepted idea of a republican regime, namely, a Government representing the interests of all. As far as autonomy was concerned, the Republic of Togoland was autonomous in that it managed its own affairs under its own laws. If the local organs were to be given full legislative, executive and judicial powers, as the representative of Burma had urged, leaving nothing within the competence of the central organs of the French Republic, Togoland would not be autonomous but fully independent. Yet the Administering Authority had made it very clear that the Statute provided for autonomy rather than independence.

20. The representative of France, noting that certain delegations had urged that a new Legislative Assembly should be elected on the basis of universal suffrage, pointed out that the existing Assembly had been chosen by an electorate numbering more than 200,000 citizens, whereas lists drawn up on the basis of universal suffrage contained more than 400,000 names.

21. The representative of France stated that Togoland legislation concerning the exercise of civil rights was exactly the same as the legislation existing in

France, which was not reputed to be a country where civil rights were suppressed. It was the duty of the authorities to ban meetings that threatened to disturb public order, as had been expressly indicated in article 4 of the Trusteeship Agreement.

II. Observations made at the seventh special session

22. The representative of Syria stated that the suggestions outlined in the Commission's report would unquestionably contribute to the evolution of the Territory along the lines envisaged by the Charter. He further stated that the Administering Authority's contention^{1/} that the Statute was an integral whole and that under the provisions of article 40 the Assembly could continue to exercise its functions until 1960 merely strengthened his belief that the Statute had been unilaterally imposed on the people of Togoland by a procedure more akin to a plebiscite than to a referendum. He could not agree that the final transfers of responsibility in such matters as civil liberties, justice and constitutional review must await the termination of the Trusteeship Agreement; on the contrary such transfers must take place before the Agreement could be terminated. It was incompatible with Togoland's full independence that the judgements of Togoland courts should be subject in the last instance to the approval of a French court. It was important that the relationship to be established between the French Government and the Republic of Togoland should be published before the Trusteeship Agreement was terminated. The United Nations could not recommend the termination of Trusteeship without knowing, at least in broad outline, what that relationship would be. It must be in a position to ascertain whether the conditions laid down by the Charter had been met in full.

23. The representative of Syria could not agree with the representative of the Togoland Government^{2/} that the Togolese authorities were, constitutionally speaking, on an equal footing with the French authorities so far as amendment of the Statute

^{1/} See annex II, section I above.

^{2/} See annex II, section II above.

was concerned. He also pointed out that the Commission had not observed that, as the representative of the Togoland Government claimed, opposition parties could meet freely in the Territory. He warmly commended the Togoland Government's preparedness to agree to make a conciliatory gesture towards the opposition.

24. The representative of Haiti noted the Commission's statement that the Statute had been broadly interpreted and liberally applied and that the Togoland Government was exercising competently the powers that had been transferred to it. That was an important advance, upon which the French and Togoland Governments alike were to be congratulated.

25. The representative considered that three passages in the Commission's report were particularly pertinent to the conclusions which the Council should make on the Commission's report and the situation described therein. Firstly, the Commission expressed the view that there existed little doubt that a trend of events had been set in motion which made inevitable a further broadening of the degree of autonomy achieved by Togoland towards its full autonomy. Secondly, the Commission pointed out that until such time as new elections were held by universal suffrage the implementation of the principle of universal adult suffrage provided for in article 6 of the Statute would not have taken place. It therefore considered that the holding of elections to the Legislative Assembly and other representative organs in Togoland on the basis of universal adult suffrage would represent the implementation of an important democratic principle embodied in the Statute and might contribute towards the creation of a more favourable political atmosphere, in which the support of the entire population of Togoland would be thrown behind the new political institutions created by the Statute. Lastly, with regard to the termination of trusteeship, it was the opinion of the Commission that at an appropriate time the people of the Territory would need to be consulted by appropriate means concerning their desires for the future status of the Territory. That consultation should, however, be undertaken in full agreement with the United Nations as one of the two parties to the Trusteeship Agreement. His delegation considered that the Council should take note of those conclusions and bring them to the attention of the General Assembly and the authorities concerned.

26. The representative of China found it encouraging to note that, according to the report of the Commission, the new Statute had been liberally applied and that

the Territory possessed a large measure of internal autonomy. He observed, however, that there must be social peace and political unity in the Territory if the new economic and financial advantages provided by the Administering Authority were to bear full fruit. He further expressed the hope that all parties would co-operate with the present Togoland Government by participating in the free election of a new Legislative Assembly. He also stressed the importance of the observations of the Commission in this connexion.

27. The representative of India pointed out that the statement contained in the Commission's report that the Statute represented a very significant step in the achievement of the objectives of Article 76 of the Charter obviously implied that, although much progress had been made, the goal had not yet been achieved. Moreover, since the representatives of the Togoland Assembly had been elected on a very restricted franchise, the Statute had been examined only by the representatives of a few groups. It should be noted, however, that the relations between the Administering Authority and the Togolanders were excellent, a fact which favoured the future development of the Territory. With regard to the organization of elections, the representative of India noted that the Administering Authority had emphasized that that question fell within the competence of the Togolanders and that it would support the position taken by the Government at Lomé. He hoped, however, that such support would not make it possible for the Togoland Government to extend its term of office indefinitely.

28. To terminate the Trusteeship Agreement at the present stage, in the opinion of the representative of India, would be tantamount to handing over that trust to the Administering Authority for the future. The Trusteeship Agreement did not allow of any residuary trust being left with the Administering Authority. The representative of the Administering Authority had admitted that the present Statute was not the final stage of relations between his country and Togoland. A process of development was of course taking place and that was to be commended; his Government hoped that the next step would be taken as soon as possible.

29. The representative of Belgium observed that it was evident from the Commission's report that Togoland now had a large degree of internal autonomy, that the Statute had been broadly interpreted and liberally applied, and that there had been a

genuine transfer of authority to the Government of Togoland in all the fields which were within that Government's competence. In his opinion, the Commission's statement that "the competences reserved to the French Authorities are mostly those of a financially or technically onerous character"^{3/} and the fact that the Government of Togoland was relying on the economic, financial and technical assistance of the Administering Authority to carry out its new plans for the economic and social development of the Territory, proved that at the present stage, and no doubt for some time to come, independence for Togoland would present more disadvantages than advantages. Thus, self-government, in the form of association with the former Administering Authority, seemed to be the only solution capable of maintaining the present rhythm of economic and social progress.

30. He was glad that the Commission had found a highly developed political consciousness in the Territory and that it had emphasized the good social relationships existing between the French and the Togoland. It was unfortunate that the relationship between opposing political parties was marked by a certain bitterness, but in his view the conclusion of the Commission that the political situation in the Territory was somewhat tense did not seem to be borne out by the petitions coming from it. In connexion with the Commission's statement that "in many areas opposition parties do not enjoy the same measure of political freedom of expression and assembly as do the pro-Government parties",^{4/} the representative of Belgium pointed out that freedom of assembly was never unconditional and was always subject to the over-riding requirements of public order and economic life, and, secondly, that the accusation came from political parties which systematically refused to take part in any electoral consultations and which resorted to agitation and violence.

31. He called attention to the way in which the Administering Authority had extended the competence of the Togoland authorities by reducing the scope of some of the powers which it had expressly reserved to itself. In connexion with the machinery provided for the modification of the Statute, he questioned the interpretation which the Commission had placed on article 37 of the Statute. He pointed out that only the Togoland Assembly had the right of initiative in the matter of amending the Statute. If the separate agreement between Togoland and

^{3/} T/1336, para. 458.

^{4/} T/1336, para. 476.

the Administering Authority advocated by the Commission were entered into, whereby both parties could modify or terminate the Statute according to their free wishes, Togoland would lose the benefit of its privileged position in the matter of revision.

32. The representative of Belgium pointed out that the termination of the Trusteeship Agreement would result in the disappearance of the right of veto over Togolese legislation held by the Minister for Overseas France and of the High Commissioner's right of veto over the decisions of the Council of Ministers and of the Ministers, as also in decisive transfers of authority in matters of civil liberties, judicial organization and initiative with regard to constitutional revision. Moreover, the representative of the Government of Togoland had clearly implied that the termination of trusteeship could be followed shortly by new elections under universal suffrage. Consequently, the further political development of the Territory depended in practice on the recognition by the General Assembly of the fact that the goals of Article 76 of the Charter had been attained and that the existence of the Trusteeship Agreement was the only obstacle still remaining to the autonomy of the people of Togoland.

33. The report of the Commission had reinforced his Government's conviction that the goals of the Trusteeship System had been attained in the Territory. It would therefore consider favourably any solution which, while safeguarding the principles set forth in the Charter and the Trusteeship Agreement, would take into account the aspirations of the vast majority of the Togolese people and would make it possible to emerge from the present impasse. The Togolese people were to be congratulated on the amazing progress they had made during the year.

34. The representative of the United States of America observed that the Commission's report was most constructive and that it paid a well-deserved tribute to the Administering Authority for the important reforms it had undertaken in Togoland. He congratulated the Togolese people on the great ability they had demonstrated in putting those reforms into effect.

35. His delegation believed that there was general agreement that there had been a very significant transfer of powers from Paris to Lomé, and that these powers were being extended to the point where internal autonomy would shortly be realized.

There was also general agreement that the Territory should hold new elections on the basis of universal suffrage as soon as possible, to set up a Legislative Assembly fully qualified to express its views as to the future of Togoland.

36. It was the considered view of his delegation that the holding of free and fair elections on a universal suffrage basis, and perhaps with United Nations observers, represented a democratic and fair means of determining the country's future. The Council had been told by the leaders of groups and parties in Togoland that all would participate in such elections, if freely and fairly conducted. His delegation believed that the Council should not prejudge the future of the people of Togoland, or interfere with them ahead of time in the free expression of their wishes through such free elections. If the elections were to be delayed for the purpose of giving an advantage to one party or the other, it would seem to be an unjust interference in the affairs of the people of Togoland. His delegation believed that the people of Togoland were ready to participate in such a democratic and well-tried method of determining their wishes.

37. The representative of Italy observed that the documentation before the Council showed clearly that the Administering Authority had carried out its obligations most satisfactorily. Togoland under French administration was now enjoying a very large measure of autonomy, thanks to the Statute, which had been applied in a liberal way. The Territory had reached a stage at which no further major reforms could be introduced without a reconsideration of the responsibility devolving on the Administering Authority by virtue of the Trusteeship Agreement.

38. The representative of New Zealand considered that the Commission's finding that the Administering Authority and the Government of Togoland had broadly interpreted and liberally applied the Statute fulfilled the Council's expectations, based on its long association with the problems of the Territory and the French Government's handling of those problems.

39. The representative of the Union of Soviet Socialist Republics observed that attempts had been made to concentrate the Council's attention on those remarks in the Commission's report relating to the so-called broad interpretation and

liberal application of the Statute. It was quite clear, however, that the Statute could not be considered an alternative to self-government or independence. He stated that, even on the most liberal interpretation, the Commission had seen it as only the beginning of "a trend of events ... which made inevitable a further broadening of the degree of autonomy achieved by Togoland towards its full autonomy". The report clearly indicated the many restrictions on the autonomy enjoyed by Togoland. Article 26 of the Statute, in particular, proved conclusively that there were no grounds whatever for terminating the Trusteeship Agreement on the basis of the existing situation: the reserved powers related not only to such matters as external affairs, defence, currency and the foreign exchange system, but also to the penal code, the code of criminal procedure, the commercial code and administrative tribunals, the organization of justice, the system of public freedoms, the educational curricula and the Labour Code. The Administering Authority's statement that a further extension of the powers of the Togoland Government was under consideration would be of greater significance were it not for the proviso that the changes under discussion would be introduced only after the Trusteeship Agreement had been terminated. It was clear from the principles underlying the International Trusteeship System that a Territory must first attain independence or self-government and that only then could the Trusteeship Agreement come to an end. He hoped that the Administering Authority would review its position in that respect and negotiate and carry out the further transfer of power to the Togoland Government within the framework of the Trusteeship Agreement.

40. He observed that the report raised a number of other important questions, first and foremost among which was the political tension prevailing in the Territory. The Commission rightly linked that tension to another important issue, namely, the need for immediate elections to the representative organs in Togoland on the basis of universal adult suffrage. The Council could not turn a blind eye to the Commission's conclusions in that respect. Such measures could not be made conditional on requirements outside the Trusteeship Agreement, but ought, rather, to be adopted as part of the trusteeship programme.

41. The representative of Guatemala noted that the observations and suggestions set forth in the Commission's report coincided in many points with the views

expressed by his delegation at previous sessions of the Council and of the General Assembly. It could be asserted that the facts brought out in the report as well as the observations and suggestions contained in it were based upon voluminous documentation, upon direct observation and also upon what the members of the Commission heard directly from the people throughout the Territory. The observations and suggestions of the Commission indicated that although the Statute and its application constituted a very significant step in the political development of the Territory, the objectives of Article 76 of the Charter had not yet been fulfilled. Important limitations still existed by virtue of the retention of certain specific powers and areas of competence by the Administering Authority. His delegation was concerned lest the relations between the Administering Authority and the Territory by virtue of certain articles of the Statute might lead to the integration of the Territory into the French Republic or the French Union. The arrangements whereby some of the highest officials of the Government of Togoland shared in the exercise of French sovereignty could be a step in this direction, even if it was not intended to be so.

42. The implementation of the provision for holding elections on the basis of universal adult suffrage might go far to remove the political tension referred to in the Commission's report. In that connexion, it should be noted that Togoland was the only one of the territories affected by the loi-cadre in which elections to the Assembly and to municipal bodies had not yet been held. Now that the Commission itself had recommended the holding of elections and the representative of the autonomous Republic of Togoland had stated that his Government was contemplating that step, it was to be hoped that a new and truly representative Legislative Assembly would be brought into being in the near future. The Commission's remarks on political freedoms were particularly important in relation to the question whether adequate provision would be made for the free expression of political opinion and the holding of meetings in all parts of the Territory, as also for the fair registration of the electorate, so that when elections were held their results could be interpreted as the true expression of the will of the majority.

43. The representative of Guatemala further stated that if the Commission on Togoland felt that the objectives of Article 76 of the Charter had not yet been attained in Togoland, it was logical for it to state, as it did in paragraph 482 of its report, that when that goal was eventually reached the people of the Territory should be consulted with regard to their wishes for the future of their country. The General Assembly, as one of the parties to the Trusteeship Agreement, must give its consent to the manner in which such a consultation would be carried out, and also to participate in such consultation, so as to certify its results both before the Togolese and international public opinion.

44. His delegation had been pleased to note from the statement made by the representative of the Administering Authority that the transfer of powers in three major fields was contemplated. Nevertheless, the statement that those and other changes could come about only after termination of the Trusteeship Agreement would seem to lead to an impasse. Before any such decision was taken, his delegation would wish to consider whether the transfer of powers actually constituted the achievement of the objectives of the Charter. That problem, however, was one which it should be possible to overcome without undue difficulty. The statement by the representative of the Togoland Government that it hoped elections could be held before 1960 was encouraging.

45. The representative of Burma stated that the report of the Commission threw considerable light on the progress of Togoland towards the achievement of the objectives of the Trusteeship System. While Togoland could be said to enjoy a relatively large measure of internal autonomy, it must also be stated that there existed substantial limitations on the enjoyment of that autonomy as a result of the reservation of important executive and legislative powers to the French Government. The Decree of 22 March 1957 had improved the situation to some extent but there must be further transfer of powers for the attainment of the objectives of the Trusteeship System. His delegation also considered that it was important that new elections on the basis of universal adult suffrage should be held as soon as possible. Such a step would not only serve to implement the provisions of article 6 of the Statute but would also give expression to one of the fundamental

principles of democracy. Furthermore, it would remove what the Commission considered to be one of the causes of dissatisfaction among the opposition parties and might thereby contribute to the easing of tension and the creation of a more favourable political atmosphere.

46. The representative of Burma concluded that while the report left no doubt that important progress had been made towards the achievement of the objectives of Article 76 of the Charter, there was still much to be done before the Territory could be said to enjoy all the attributes of self-government. The process of evolution towards self-government or independence was very much in evidence, but further political progress must take place before it could be said that the final stage of the Territory's political evolution had been reached. Burma hoped that the final stage would be reached soon, so that the people of Togoland could be properly consulted in the near future concerning their desires for the future status of the Territory. Before that stage was reached there could, however, be no question of the termination of the Trusteeship Agreement; such action would not only be impossible under the Charter and the Trusteeship Agreement, it would also be contrary to their provisions.

47. The representative of the United Kingdom considered that the Commission's report offered a detailed analysis of the complicated constitutional and other problems involved in the matter under discussion, that it gave full consideration to the views of all concerned and that it included specific recommendations which should serve as a basis for discussion by the United Nations. The statements of the representatives of the Administering Authority and of the Togoland Government had made it clear that due importance had been attached to the matter of future changes in the relationship between France and Togoland. Since those changes related to the responsibilities of France as the Administering Authority, it seemed to him that they must inevitably await termination of the Trusteeship Agreement. In any case, the important thing was to consider the two questions in relation to each other and he saw no reason why the United Nations should not take into account the changes which the Administering Authority envisaged.

48. With regard to the concern voiced by certain delegations about the political tension which was understood to exist in some areas, he could only say that,

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while violence was to be deplored, it must be recognized that a certain amount of political liveliness was an inevitable part of the democratic process in any free country.

49. The representative of Australia considered the report of the Commission a document of great significance, not only to the people of Togoland but to all the States Members of the United Nations. Clearly, the Charter prohibited any Administering Authority from placing any restriction on the right of the people to determine their own political régime and their own political future, and the Council was indebted to the representative of the Administering Authority for the assurance he had given on that point. Equally, it prohibited any members of the Council from placing restrictions on the right of the people of Togoland to attain self-government and independence, whether they did so in association with the French Union or with other States or without any form of association whatsoever. The Charter imposed a solemn obligation on Member States not to fetter the freely expressed wishes of the people of Togoland, whose aspirations alone could properly shape their future. His delegation did not wish to determine in advance the future of any people.

50. The representative of the Togoland Government, speaking as a member of the French delegation, replied to observations which had been made on the fact that, whereas general elections had been held by universal suffrage in all French Overseas Territories in 1957, no such elections had been held in Togoland, and stated that Togoland was a particular case and should not be confused with the Overseas Territories. As a matter of record, however, three elections had been held since 1946 for the Togoland Assembly and three for the Assemblies in the Overseas Territories. The difference was that the last elections to the Togoland Assembly had taken place in June 1955, which was somewhat earlier than the last elections in the Overseas Territories. Subsequent elections had shown, however, that the electorate had remained faithful to the Government parties. In particular, in the referendum of 28 October 1956 carried out on the basis of universal adult suffrage, 71 per cent of the total electorate had, despite the abstention of the opposition parties, voted in favour of the Statute approved by the Legislative Assembly. The electorate had thus made it clear that a new election was not necessary.

51. No one in Togoland, the representative stated, had then called for a new election, and everyone had interpreted the result as being a decisive one even on the morrow of the referendum. The majority party had been confirmed not only by the percentage of the votes, but also by the geographical distribution of its supporters. This distribution appeared to be almost identical with that prevailing in June 1955 and January 1956. There were therefore no grounds for calling for a new election and the abstention of a minority, which preferred not to stand up and be counted, could not harm a substantial majority. Under these conditions, any pressure for elections before the expiration of the term of the present Assembly might appear as interference in the internal affairs of Togoland.

52. As to the setting of an early date for new elections to the Assembly, the Government of Togoland considered that the matter should be evaluated in relation to the mandate given to it and the stage of development achieved under the mandate. The present Assembly was the first to receive expanded powers to deal with political matters and was regarded both by the parties composing and by public opinion as carrying out the work of a Constituent Assembly. The constituent nature of the Assembly and its policy of development were reflected in the words "susceptible of evolution" which supplemented article 37 of the Statute and expressly reserved to the Assembly the right to modify the Statute.

53. With regard to the "Togolization" of the administration, the Government had plans for this, but did not consider that self-government of Togoland meant the systematic eviction of European officials. No French official was sent to Togoland without the formal agreement of the Government of Togoland and those serving on the Government staff had been requested, or designated, by the officials of Togoland.

54. In conclusion, the representative stated that since residual authority would be transferred to Togoland when the provisions of the Statute had been achieved, the task of the Assembly would then be regarded as completed and it could stand aside with pride. Togoland would then have a sound structure of government, characterized by the elimination of vetoes, the transfer of residual competence, the renewal of the Legislative Assembly and of the Government which would then be free to exercise domestic sovereignty without restriction, and with subjection to no other Power.

55. The representative of France stated that the presence of armed forces and the gendarmerie was not a restriction on self-government but a corollary to it and a logical consequence of the fact that Togoland citizens were not subject to military service. The presence of armed forces was, in fact, the result of a request of the Togoland people themselves, whose representatives had requested that the Statute should explicitly state that the Administering Authority would be responsible for the defence of the Territory. Furthermore, these forces amounted to only 250 persons and the unit had been almost completely "togolized".
56. The representative further stated that the Administering Authority had clearly announced its intention of transferring to the autonomous Republic of Togoland judicial powers, a transfer which would coincide with the termination of trusteeship. The fact that in the last instance a French court would have jurisdiction did not in any way prohibit the existence of an independent judiciary.
57. With regard to the "Togolization" of the administration, the Europeans who held posts in the Togoland Government departments had been nominated and selected by the Togolese themselves. At the same time, it was the policy to Africanize the higher cadres.
58. As to the relationship between the Administering Authority and Togoland, this was governed by the bilateral act represented by the Statute of the autonomous Republic of Togoland, an act not fixed forever, but capable of evolution and modification, particularly at the initiative of the people of Togoland themselves. The future was not prejudged in any way and the Republic of Togoland, free from trusteeship, would be free to choose, in agreement with the French Republic, the form of ties that would or would not link it to the whole French community. It was impossible to tell what the form of this relationship would be because that would depend on Togoland itself and upon the French community existing at that time. It would be for Togoland alone, however, to decide whether it wished to continue to be associated with this community of interests and what form this association was to take. On this point, the representative, in reply to a question by the United States representative, stated that, should the Trusteeship System be terminated and should the duly

electd Assembly of Togoland express the wish to leave the French Union, the Government and Parliament of France would undoubtedly have no choice but to accept and to meet by due legal procedures the expressed wishes of the Togoland Assembly.

60. The residual powers had been specifically assigned by the Charter and the Trusteeship Agreement to the Administering Authority and these responsibilities covered, for instance, "respect for human rights and for fundamental freedoms" and "the maintenance of law and order within the Trust Territory" in Articles 76c and 84 of the Charter. The Administering Authority was desirous of effecting, as soon as possible, the final transfer of power, but considered that its obligations as an Administering Authority must cease on the date of such a transfer.
