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CONTENTS

	Page
Agenda item 37:	
The future of Togoland under French administration: report of the Trusteeship Council (continued)	
Hearing of petitioners (continued)	257

Chairman: Mr. Thanat KHOMAN (Thailand).

AGENDA ITEM 37

**The future of Togoland under French administration:
 report of the Trusteeship Council (A/3676 and Corr.1,
 A/3677, A/C.4/367, T/SR.841-847) (continued)**

HEARING OF PETITIONERS (continued)

At the invitation of the Chairman, Mr. Anani Ignacio Santos, representative of the Mouvement de la jeunesse togolaise (Juvento), Mr. Alexandre John Ohin and Mr. André Akakpo, representatives of the Mouvement populaire togolais, and Mr. Sylvanus Olympio, representative of the All-Ewe Conference, took places at the Committee table.

1. Mr. KING (Liberia), Chairman of the United Nations Commission on Togoland under French Administration, recalled that at the previous meeting one of the petitioners had expressed regret that no reference was made in the Commission's report (A/3677) to two incidents connected with the Commission's presence in the Territory. Since the petitioner had described the incidents as they had been reported to him, he felt he should inform the Committee of what had occurred in both cases.

2. On 6 June 1957 the Commission had attended a meeting of the Togoland Legislative Assembly. Shortly before the beginning of the meeting the Chairman and the Principal Secretary of the Commission had been informed by the Prime Minister that the streets leading to the Legislative Assembly building had been specially protected by a police force in order to prevent an assault which, according to reports he had received, was being prepared by elements hostile to the Government. That display of force had prevented many people from attending the meeting and journalists had complained that they were unable to be present, as was stated in paragraph 437 of the Commission's report. The freedom of movement of the members of the Commission and of the Secretariat had not, however, been affected either on that or any other occasion. The members of the Commission had not seen any machine-guns posted on the neighbouring roof-tops and no one had pointed any out to them.

3. The second incident had occurred in the morning of 5 June 1957, when the Commission was leaving Lomé for Palimé. The Government had placed at the disposal of the Commission a special railway car not available to the public. When the Commission had arrived at the railway station a group of journalists had asked the Principal Secretary if they could travel

with the Commission, since it was difficult for them to arrange their own means of transport. After consulting the Chairman of the Commission, the Principal Secretary had agreed to that request and had informed the representative of the Togoland Government who was in charge of the arrangements. He had replied that his instructions were not to permit any passengers other than the members of the Commission to travel in the railway car and that all journalists, whether pro-Government or against the Government, must travel by their own means. After discussing the matter again with the journalists and realizing their difficulty in arranging last-minute transport, the Chairman had decided to allow the journalists to travel in the Commission's car.

4. While travelling in the north the Commission had received the full co-operation of Mr. Mama Fousséni, the Minister of State, whenever journalists had requested assistance to enable them to witness the carrying out of the Commission's programme. It had been the Commission's policy to give every facility to members of the Press. Although the incidents in question served to illustrate the analysis on the subject of political freedoms in paragraphs 423 to 439 of the report, the Commission had not felt it necessary to describe them in detail in its report.

5. Mr. NOGUEIRA (Portugal) asked the petitioners whether the Statute had in fact evolved since the previous session of the General Assembly and, if so, in what way.

6. Mr. SANTOS (Juvento) replied that there had been some progress in that certain responsibilities had been transferred from the French administration to the Togoland Government. In other respects the situation had unfortunately remained unchanged. The granting of fresh powers to the Togoland Government had not improved relations between the leaders and the masses or between the leaders and the political parties which were struggling for the emancipation of the country. Hence it might be said that although a step had been taken in the direction of independence, the application of democratic principles had not progressed.

7. Mr. NOGUEIRA (Portugal) asked whether the technical departments or ministries which had been set up had already completed plans for economic development, particularly in relation to agriculture, transport, health and the food situation.

8. Mr. SANTOS (Juvento) pointed out that there were no new technical departments or ministries which might have approached the problems of Togoland from a fresh angle and drawn up plans; all that had been done was to redistribute the existing services between the Togoland Government and the representatives of the French Republic. The health service was under the direction of a French lieutenant-colonel but was otherwise made up entirely of Togo-

landers. Some of the officials dealing with agriculture were Togolanders and others Frenchmen, but they were all under the authority of the Togoland Government. The Parti togolais du progrès had had no practical programme ready and had thus been greatly handicapped when it had come to power. For example, the budget for 1957 had not been adopted until 20 July 1957 because the Legislative Assembly had not foreseen in time the financial implications of the transfers of powers and had not decided how to allocate credits.

9. Mr. NOGUEIRA (Portugal) asked whether the new Statute had affected the land-tenure system and what was the situation in that respect at the present time.

10. Mr. SANTOS (Juvento) replied that previously all ownership of land, whether collective or individual, had been governed by the custom of the region where it was situated, so that there were different systems in different places. French legislation had introduced the system of registration, based on the Australian system. When the owner of a piece of land stated that he was placing it under French legislation a file was opened for that land showing the owner's name, the boundaries and the value of the property and the manner in which the owner had acquired it; if the land were transferred the file was placed under the purchaser's name. He did not know what would happen to such properties if the legislation were changed as a result of the judicial reorganization. Possibly the system of registration and the customary system would be merged in a new system.

11. U PAW HTIN (Burma), referring to paragraphs 344 and 347 of the Commission's report, asked what, in the petitioners' opinion, was the explanation of the delay in introducing municipal reform and in the holding of municipal elections.

12. Mr. OLYMPIO (All-Ewe Conference) said that before the Statute had entered into force there had been *municipalités du troisième degré*, i.e., municipalities where the mayor had not been elected. In November 1955 an Act had been passed providing for wholly elected municipal councils in the Overseas Territories. In French West Africa such councils had been established in November 1956. In Togoland elections were to have been held in May 1956 but had been postponed until November 1956 and later until April 1957, and had ultimately been postponed indefinitely.

13. A bill to amend the organization of municipal councils was in preparation; he had seen the draft, as had also the United Nations Commission. For all practical purposes the bill did away with municipal councils, for the mayor's only remaining function would be that of chairmanship and the real power would be held by a secretary-general chosen by the municipal council from a list submitted by the Government. The main reason for that reform was that the Government, knowing that it had no supporters in the capital, feared that the Lomé municipal council would fall into the hands of the opposition. Furthermore under the bill there would be no safeguards against electoral fraud. Thus it would be even less liberal than the Act of 18 November 1955 which it was designed to replace and which had been adopted by a colonialist legislature.

14. Mr. WHITE (Canada) asked whether the Togolanders and the French owned large areas of farm land.

15. Mr. SANTOS (Juvento) replied that there were no

large landowners or settlers in Togoland. In the past most of the land had been collectively owned. The advent of the Europeans had made it necessary to place property rights and transfers of property on a rational basis. That had led to the establishment of the land registration system under which a holding could be placed under the French system and could be mortgaged and sold with all the safeguards of French law. It often happened that a Togolese tradesman who was asked by a business house for security against the delivery of goods would ask his family to place a holding in his name, so that he could give a pledge to the firm which was selling him the goods.

16. With a few exceptions the rights relating to immovable property were the same as those provided under civil law. For example, the property of an individual who enjoyed customary status was still subject to the rule of succession established by custom. Moreover, under article 7 of the Trusteeship Agreement non-indigenous persons were required to apply for the consent of the public authority before they could acquire Togolese lands.

17. In reply to a question from Mr. KHAN (Pakistan), Mr. SANTOS (Juvento) explained that there was a personal law, in that relations between indigenous inhabitants were governed by custom; custom, however, varied from one region to another. The multiplicity of customs created complex problems: if an Ewe had a dispute with an Akposso about a piece of land, the applicable custom was that of the place in which the land was situated; in the case of an obligation the custom applied might be that of the place in which it had been entered into or that of the place in which it was to be discharged.

18. Mr. KHAN (Pakistan) asked whether the personal law was based on religion.

19. Mr. SANTOS (Juvento) replied that the personal law did not depend on religion as such. In a Moslem community the Koranic law was applicable but not as customary law.

20. Mr. KHAN (Pakistan) asked whether there would be any radical change in the civil and penal law if Togoland became independent.

21. Mr. SANTOS (Juvento) felt that a people should be free to choose the system of law which suited its own disposition. If Togoland became independent it would doubtless have to use the existing system pending judicial reorganization; the main point was that it would do so of its own free will. It might set up a commission to study the law, to see which of the various customs should be preserved and to draft a body of law suited to the needs of the Togoland nation.

22. Mr. KHAN (Pakistan) asked the petitioners how long they thought it would take for Togoland to achieve on all-Togoland administration.

23. Mr. OLYMPIO (All-Ewe Conference) said it was difficult to give an exact answer to that question. The Togolanders would follow Ghana's example; they would use the existing staff and gradually replace Europeans by Togolanders.

24. Mr. KHAN (Pakistan) asked whether the petitioners considered that education was sufficiently widespread for Togoland to be able to ask for independence.

25. Mr. OLYMPIO (All-Ewe Conference) considered that the level of education was sufficiently high and that the Togolanders would be capable of taking full control. In any case there had never been any intention of dismissing all the French officials when the country attained independence.

26. Mr. OHIN (Mouvement populaire togolais) said that he too wished to make it clear that the Togolanders had no intention of dismissing the French officials who were already in the country. It was not a question of being for or against the French, or even for or against colonialism, but merely of the right of any people which had come of age to manage its own affairs, whether or not foreign officials were employed.

27. Mr. SALOMON (Haiti) said he had gathered that some Togolanders were subject to French law and others to customary law. He asked whether a Togolander could make some of his actions subject to French and others to customary law.

28. Mr. SANTOS (Juvento) explained that those Togolanders who were French citizens had had to apply for naturalization like any other foreign national. In recent years, however, French nationality had been granted automatically to all nationals of Overseas Territories who applied for it and who fulfilled certain conditions. The family of such a person, however, remained subject to customary law, and that situation might give rise to legal difficulties; he gave a few examples of such difficulties.

29. Mr. SALOMON (Haiti) asked the petitioners whether the Acts passed by the Legislative Assembly were applicable to French citizens resident in Togoland.

30. Mr. SANTOS (Juvento) said that Acts passed by the Assembly applied only to Togolanders; the powers of legislation and regulation concerning the personal and property status of French citizens were reserved to the central organs of the French Republic, under article 26 of the Statute.

31. Mr. KADRY (Iraq) asked Mr. Olympio to explain what he had meant by his statement at the 696th meeting that it was surely time to make a rule that civil servants could not sit in the Legislative Assembly, where at present they occupied more than half the seats, unless they resigned their government posts.

32. Mr. OLYMPIO (All-Ewe Conference) pointed out that that was a situation peculiar to Togoland: civil servants were not obliged to resign in order to sit in the Assembly. Until January 1957 they had remained at work and had attended the Assembly only when necessary; since then they had been "seconded" to the Assembly and, without ceasing to be civil servants, were no longer required to perform their professional duties. They could choose between their salary and the parliamentary allowance, and they remained eligible for promotion.

33. Mr. KOSCZIUSKO-MORIZET (France) reserved the French delegation's right to reply to the final statement which Mr. Olympio was to make at the next meeting. He wished, however, to reply immediately to some criticisms and to give some explanations. Many of the criticisms appeared to have been levelled more at the Togoland Government than at the Administering Authority, and France did not wish to intervene in purely Togoland affairs; it hoped for a reconciliation

which would enable the representatives of the opposition to make use of their abilities in the service of their country. Moreover, the opposition which the petitioners represented was only a minority, and if the opposition in every country represented in the United Nations was invited to address the Committee he was sure that its remarks would often be more severely critical than those of the petitioners. It was not the function of the United Nations to help an opposition or a minority to gain power with the aid of the democratic system, but to promote the advancement of all territories.

34. He would reply to questions regarding the transfer of powers during the general debate. With regard to the judicial organization, a distinction must be drawn between the judiciary authority and the legal codes. Many countries had adopted the French Civil Code without being accused of subjection to France and that Code had never been regarded as an instrument of oppression or reaction.

35. With regard to the fact that there were civil servants in the Togoland Legislative Assembly, it should be borne in mind that in many countries members of the Government were chosen from among the members of parliament and that civil servants were authorized to stand for election; if they were elected they were placed on the reserve list without leaving the ranks of the civil service, since they might resume their duties as civil servants at some future date. In France, for example, members of Parliament who were civil servants received the normal automatic promotion in the government service; they could not, however, apply for promotion, for that would amount to an abuse of power.

36. In a reply to a question raised at the previous meeting by the Indian representative, mention had been made of the Congress of the Rassemblement démocratique Africain (RDA) which had taken place at Bamako. He had been working in collaboration with the RDA for several years and enjoyed the confidence of its leaders. They were real nationalists who could not be accused of indulging in compromise and who nevertheless could only conceive of the emancipation of their country in co-operation with France. He would transmit the text of the resolution that had been unanimously adopted by the Congress of the RDA, the largest African party, to any delegation which would like to see it. The resolution proclaimed the right of peoples to independence and also to inter-dependence and it emphasized the will of the RDA to work for the independence of the African territories within a general social, political and economic Franco-African framework.

37. Mr. Senghor, whose name had been brought up in connexion with the RDA Congress, was also in favour of a Franco-African federation to which the communities of Equatorial and West Africa would belong. Mr. Houphouët-Boigny, for his part, considered that the territories should be directly associated with the federation without going through an intermediate community. Mr. Senghor had never thought of resigning from the French Parliament.

38. Mr. APEDO-AMAH (France) read an extract from the records of the debates of the Togoland Legislative Assembly, in which the Lama-Kara incident was related as follows. On 22 June 1957 a gendarme of the local detachment had been surrounded by men of the

opposition, who had demanded that a peasant who had been arrested should be set free. Arriving on the spot the commandant de cercle and his assistants had themselves been molested by the demonstrators, who as night was falling had started shooting arrows. The commandant had then been obliged to open fire after the regulation three warnings. Seven people had been killed on the spot and three had died in hospital.

39. Mr. Olympio had complained that the elections had been fraudulent and that there were no public freedoms. Would he have said the same of the 1946 elections, in which he had been successful?

40. He himself was only too pleased to hear the petitioners state that the opposition would not resort to violence, but he would like so worthy a decision to receive wider publicity in the Territory, for it was in strange contrast with the speeches and incitements to violence that had often been heard from supporters of the opposition.

41. The opposition accused the Government of squandering money and claimed that that was the only reason why the Togoland budget did not balance. In reality the imbalance was attributable to the effort that the country was making to mobilize all its resources. For instance, school attendance had increased from 34 per cent in 1951 to nearly 50 per cent in 1956. Similar progress had been made in public health and in the construction of roads. Such developments entailed enormous expenditure, too heavy for the Territory. As for those who maintained that the budget was not published, they apparently overlooked the fact that all Government acts appeared in the Journal officiel before they could go into effect.

42. Mr. MUFTI (Syria) paid a tribute to the petitioners. He regretted that there had been attempts to discredit them and thus to impair the right of petition, which was enshrined in the Charter.

43. In his opening statement (694th meeting) Mr. Ajavon had said that the report of the United Nations Commission on Togoland under French Administration could not be exempt from criticism. Mr. Ajavon could

perhaps specify what those criticisms were. Mr. Ajavon had also stated that Togoland members of Parliament had taken part in drafting the Statute. He would like to know who those members of Parliament were.

44. Mr. JAIPAL (India) asked when the Administering Authority thought the Togoland members would be in a position to assume full responsibility for administration. He would also like to know exactly how much France contributed in subsidies to the budget of the Territory, what use was made of those funds, and for how long those subsidies would continue to be necessary.

45. The French delegation had announced that it was ready to transfer to the Togoland Government three reserve powers, but it was asking for the Trusteeship Agreement to be brought to an end before those powers were transferred. He saw no reason why the Trusteeship Agreement should be brought to an end before rather than after the transfer of powers. He would also like to know exactly what powers France would retain. Lastly, he would be glad to have some explanation of exactly what the French delegation understood by the expression "constitutional revision".

46. Mr. CARPIO (Philippines) said that he too would like the French delegation to give details regarding the reserve powers which France was considering transferring to the Togoland Government. He failed to see how the Trusteeship System could stand in the way of self-government. There was nothing to prevent the Administering Authority from carrying out all the transfers that were necessary to make Togoland fully self-governing. Lastly, he asked whether France intended to retain any reserve powers other than the three already mentioned, and whether, if that were so, it would be possible to regard Togoland as fully self-governing.

47. Mr. KOSCZIUSKO-MORIZET (France) said that the French delegation would reply to all the questions at one time.

The meeting rose at 5.25 p.m.