



Friday, 25 January 1957,
 at 3.35 p.m.

New York

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Chairman: Mr. Enrique de MARCHENA
 (Dominican Republic).

In the absence of the Chairman, Miss Brooks (Liberia), Vice-Chairman, took the Chair.

AGENDA ITEM 34

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (A/3105 to A/3109, A/3110 and Corr.1, A/3111 and Add.1 and 2, A/3112 and Add.1 and 2, A/3113 and Corr.1, A/3114 and Corr.1 and Add.1, A/3115, A/3127) (*continued*):

- (a) **Information on educational conditions (A/3165 and Corr.1 and Add.1 to 3; A/C.4/L.459/Rev.2) (*concluded*);**
- (b) **Information on other conditions (*concluded*)**

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.459/Rev.2) (*concluded*)

1. The CHAIRMAN called upon the Committee to consider the seventeen-Power draft resolution (A/C.4/L.459/Rev.2) and the amendments proposed to it.
2. Mr. LOIZIDES (Greece) said that, while he was willing to withdraw his amendment (A/C.4/L.463), he retained his proposal that the word "establish" in paragraph 2 of the seventeen-Power draft resolution should be replaced by the phrase "allow to be established through democratic means", to make it clear that the local bodies referred to would not simply be appointed by the Administering Members.
3. The CHAIRMAN said that as none of the sponsors appeared to be willing to accept that proposal it would be put to a separate vote.
4. Mr. THORP (New Zealand) observed that the draft resolution involved three major points. The first, which was the question of scholarships and other educational facilities, had been the subject of resolutions adopted at the three immediately preceding sessions

and he saw no point in repeating it, particularly in view of the statement made by the Under-Secretary at the 609th meeting.

5. The second was a reaffirmation of the views expressed in paragraph 17 of the report on education (A/3127, part two), and was already adequately covered by the Committee's adoption of the resolution approving the report. He noted, however, that the third paragraph of the preamble appeared to go beyond the findings of the Sub-Committee, in that it made imperative for their success the inclusion of appropriately qualified indigenous inhabitants in the local bodies concerned. He thought that a more qualified statement of principle would be justified; in the second part of the paragraph the sponsors themselves seemed to recognize that.

6. The third point, which his delegation regarded as the most important part of the resolution, was that set forth in paragraph 5. In addition to the question the Australian representative had raised of the propriety of the United Nations' addressing a recommendation to an international body entirely independent of it, it should be borne in mind that a member of a regional organization could not take a decision alone but only jointly with the other member Governments. He would therefore be obliged to abstain from voting on paragraphs 5 and 6. With regard to the final paragraph of the preamble, he pointed out that the inter-governmental agencies referred to, while they functioned in harmony with the spirit of Article 73 d of the Charter, had actually been either established or conceived before that instrument had been drawn up. He suggested that that mis-statement of fact could be deleted without affecting the remainder of the paragraph.

7. Mr. VIXSEBOXSE (Netherlands) acknowledged that the draft resolution embodied a number of constructive elements, but felt that its manifold implications required further study and consultation. The commitments which his Government had undertaken as a member of the South Pacific and Caribbean Commissions must likewise be taken into consideration. He would therefore abstain from voting on paragraphs 5 and 6 and on the draft resolution as a whole.

8. Mr. CLAEYS BOUUAERT (Belgium) said that his delegation's position was similar to that of Australia and New Zealand. He would therefore vote against paragraphs 5 and 6 and abstain from voting on the draft resolution as a whole.

9. Mr. GIDDEN (United Kingdom) pointed out that the substance of the draft resolution was embodied largely in the fifth paragraph of the preamble and in operative paragraph 5; it would have been preferable if the former had been so drafted as to take less for granted the extent to which a contribution could be made by States which were not members of the regional organizations concerned. Paragraph 5 involved

serious juridical complications. In so far as the administering Powers were members of the regional organizations, acceptance of the resolution would imply that those Powers had the obligation to bring pressure to bear within the regional commissions to further the policy of co-operation which the resolution was designed to achieve. He did not think that that was the sponsors' intention, since they were undoubtedly aware that for a long time it had been the practice of the Caribbean Commission, for example, to invite non-member States in the area to participate in some of its activities. Hence, there was no conflict of purpose. His delegation did not wish to appear to be in opposition to that purpose but felt bound to uphold what it considered a valid constitutional principle. Paragraph 6 made matters worse by implying the unquestionable right of the General Assembly to require a report on the implementation of a resolution which in itself was of doubtful propriety. His delegation would therefore vote against that paragraph and abstain in the vote on paragraph 5.

10. He thought the word "programmes" in paragraph 3 should be replaced by the word "projects", since the agencies responsible for the formulation and implementation of programmes were presumably the Technical Assistance Administration and the Technical Assistance Board. Paragraph 4 was too sweeping. If the Greek amendment was accepted, his delegation would vote against the draft resolution as a whole. It would abstain from voting on it in its present form.

11. Mr. JAIPAL (India) said it had always been the view of his delegation that adequate stimulus for education in the Non-Self-Governing Territories should be provided at the local level. He therefore welcomed the recommendation concerning the establishment of local bodies. It appeared from paragraph 2 of the draft resolution that the ultimate responsibility for the formulation and implementation of education programmes remained with the administering Powers, whose obligation it was to provide the necessary financial and other resources. While his delegation agreed that in some cases local taxation might be necessary as an additional source of revenue, he was sure it was not the intention of the sponsors that financial responsibility should immediately be shifted from the administering Powers to the local bodies. He wondered who was to determine whether indigenous inhabitants were qualified to serve on the local bodies; no doubt each administering Power would ultimately place its own interpretation on the matter. It was his delegation's understanding that such a provision, far from acting as a deterrent to local participation, would serve to promote it on the widest possible basis. The effect of paragraph 5 would be to secure co-operation among countries situated in a particular area in solving their common problems. As such co-operation already existed on a small scale, he saw no impropriety in that provision, nor did he think its implementation would involve insuperable constitutional difficulties. It should be noted that the paragraph did not recommend that the General Assembly should address any inter-governmental agency directly, but merely expressed the hope that the administering Powers would initiate action which would result in the issue of invitations to other Governments. His delegation would vote in favour of the draft resolution.

12. The CHAIRMAN called on the Committee to vote on the seventeen-Power draft resolution (A/C.4/

L.459/Rev.2) and the Greek amendment to operative paragraph 2.

The Greek amendment was rejected by 32 votes to 12, with 17 abstentions.

The six paragraphs of the preamble were adopted by 55 votes to none, with 10 abstentions.

Operative paragraphs 1, 2, 3 and 4 were adopted by 54 votes to none, with 11 abstentions.

At the request of Mr. Rivas (Venezuela) a vote was taken by roll-call on paragraph 5.

Jordan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Liberia, Mexico, Nepal, Nicaragua, Pakistan, Panama, Peru, Philippines, Poland, Romania, Spain, Sudan, Syria, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, Honduras, India, Indonesia, Iran, Iraq, Japan.

Against: Australia, Belgium, France.

Abstaining: Netherlands, New Zealand, Norway, Portugal, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Austria, Canada, Denmark, Finland, Israel, Italy.

Paragraph 5 was adopted by 48 votes to 3, with 14 abstentions.

Paragraph 6 was adopted by 49 votes to 5, with 12 abstentions.

At the request of Mr. Rivas (Venezuela) a vote was taken by roll-call on the draft resolution as a whole.

Tunisia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, Honduras, India, Indonesia, Iran, Iraq, Israel, Japan, Liberia, Mexico, Nepal, Nicaragua, Pakistan, Panama, Peru, Philippines, Poland, Romania, Spain, Sudan, Syria, Thailand.

Against: None.

Abstaining: Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Italy, Netherlands, New Zealand, Norway, Portugal, Sweden.

The draft resolution as a whole was adopted by 49 votes to none, with 16 abstentions.

13. Mr. LOOMES (Australia) said that in the course of the debate the Indian representative had referred to the question of the transmission of information concerning the Cocos, or Keeling Islands, the administration of which had been recently transferred from the United Kingdom to Australia. Certain questions arising from that transfer, including that of the transmission of information, were under consideration by the Australian Government, but no final decision had been reached. The fact that the matter had been

the subject of comment in the Fourth Committee had already been brought to the attention of his Government, which would no doubt take note of the views expressed. If possible, he would make a further statement on the question at a later date.

14. Mr. ESPINOSA Y PRIETO (Mexico) said he had been glad to vote in favour of the draft resolution and congratulated the sponsors, all of whom were representatives of countries with which Mexico was closely linked.

15. Mr. ROLZ BENNETT (Guatemala) said he had been glad to note that even those representatives who had voted against parts of the draft resolution, or had abstained in the vote on the draft resolution as a whole, had recognized the constructive spirit that underlay it.

16. The fact that he had been one of the sponsors of the draft resolution was without prejudice to the reservation which he had made at the 600th meeting with regard to the territory of Belize (British Honduras).

17. He had been obliged to vote against the Greek amendment, not because his delegation had any objection to its substance but because the introduction into the draft resolution of such a phrase might have led to difficulties in its implementation by the administering Powers.

18. With regard to paragraph 2 of the draft resolution, he emphasized that he understood it to mean that the financial resources referred to would be provided principally by those responsible for the administration of the Non-Self-Governing Territories and not only by the local bodies which were to be responsible for the formulation of educational policy.

19. Mr. KIANG (China) said that the inclusion of the words "study the possibility of" in paragraph 5 of the draft resolution had enabled his delegation to vote in favour of that paragraph and thus of the resolution as a whole.

(c) General questions relating to the transmission and examination of information (A/C.4/331 and Add.1; A/C.4/L.460) (continued)

20. Mr. BARGUES (France) said that the Iraqi draft resolution (A/C.4/L.460) raised the question of the division of competence between the General Assembly and the Committee on Information from Non-Self-Governing Territories. The French delegation could not endorse the views of the delegation of Iraq; indeed it felt that the question should not have been raised, since the General Assembly had no competence in the matter. At previous sessions the General Assembly had adopted resolutions on the subject for which the French delegation had never been able to vote.

21. In February 1956 the Secretary-General had addressed to the new Members of the United Nations a letter similar to that sent in June 1946 to all States which had then been Members, requesting them to inform him whether there were any Territories covered by Article 73 of the Charter for the administration of which they were responsible. In 1946 some States had replied that there were such Territories under their administration, and since then they had regularly furnished information concerning those Territories. Other States had affirmed that they did not administer any

Territories coming within the provisions of Article 73, while yet others had not replied to the Secretary-General's request. The General Assembly had simply taken note of the replies given by Member States and as far as Members in the first category were concerned had established a list of the Territories regarding which information would be furnished.

22. In his view, two alternatives had been open to the United Nations at that time: either to establish a system of verification of the information submitted by Member States and of the situation in any Territories in respect of which States had submitted no information or had failed to reply, or else to accept the statements of the Governments concerned, as had in fact been done.

23. Information was transmitted concerning Territories which by the unilateral decision of the administering Power were felt to come within the scope of the obligations it had undertaken in signing the Charter. Since information was transmitted as the result of a unilateral decision, it was obvious that the cessation of the transmission of such information must equally be the result of a unilateral declaration or decision on the part of the Member State concerned.

24. That was the position the French delegation had consistently taken, but he had felt obliged to restate it in view of the draft resolution presented by Iraq. The French Government had ceased to transmit information concerning several countries whose political status had undergone a change, and the General Assembly had never thought it necessary to verify whether France had been justified in so doing.

25. Mr. PACHACHI (Iraq) observed that most of the arguments propounded by the French representative seemed to him to relate to the question of the commencement of the transmission of information rather than to its cessation. His delegation would deal with that question later in connexion with the debate on document A/C.4/331 and Add.1 regarding the applicability of Chapter XI of the Charter to Territories administered by new Members of the United Nations.

26. For the time being he would merely say that, as far as Iraq was concerned, the General Assembly had never abdicated its right and competence to decide which Territories did or did not fall within the scope of Chapter XI.

27. The draft resolution now before the Committee related solely to the question of the cessation of the transmission of information, a question on which the General Assembly had established its competence and reaffirmed it a number of times since 1948. At previous sessions the Fourth Committee had dealt with three specific cases of the cessation of the transmission of information, in connexion with Puerto Rico, Greenland, and the Netherlands Antilles and Surinam. He therefore considered that there could be no doubt about the General Assembly's competence in the matter.

28. Mr. BARGUES (France) said that the argument he had presented applied both to the transmission and the cessation of transmission of information: it was simply that the decision to transmit or cease to transmit information depended solely on the decision of Member States regarding whether or not they administered Territories of the type referred to in Article 73. France had always denied that the General Assembly had a right to intervene in that decision.

29. Mr. BOZOVIC (Yugoslavia) said that his delegation was in complete agreement with the interpretation of the Charter and of the competence of the General Assembly on which the Iraqi draft resolution was based, and would accordingly support it. His delegation had always opposed the thesis that the data transmitted to the Secretary-General by the Administering Members were for purposes of information only; the General Assembly was perfectly competent to examine such information and to decide, or share in deciding, whether such information should no longer be transmitted for a given Territory. It followed that the General Assembly had a perfect right to examine cases of the cessation of transmission, as the draft resolution called on it to do.

30. The draft resolution raised no question of a division of powers between the Committee on Information and the General Assembly, since the Committee was itself an organ of the Assembly; moreover, his delegation agreed with the Iraqi representative that the new procedure it suggested would be an improvement.

31. The French representative had argued that because the original decision to transmit information had been unilateral, the decision to stop transmitting information must also be unilateral; that argument was, however, far from legally unassailable. An analogy might clarify the point: in the case of trade agreements entailing the exchange of lists of goods, for example, the original submission of those lists was voluntary, but once they had been established they could not be altered unilaterally.

32. The French representative had also based his argument on the fact that France had decided unilaterally to cease to transmit information and that the General Assembly had accepted that decision. The General Assembly had not, in fact, taken a decision in the matter, for it had never accepted the principle that such a cessation should take place by unilateral action.

33. A further argument put forward by the French representative was that the General Assembly had accepted the refusal on the part of some countries to submit a list of the Territories under their administration. It was well known, however, that Chapter XI of the Charter had been drawn up with specific reference to the colonial Powers and their colonies and that in 1946, when the system had been put into operation, none of those Powers had refused to qualify their colonies as Non-Self-Governing Territories.

34. Mr. BARGUES (France) said that the fact that the data to be transmitted by the Administering Members had been intended for information purposes only was not a theory of his own but was specifically stated in Article 74 of the Charter. He would point out also that if the so-called colonial countries alone had submitted lists of Territories in 1946 it was because they alone had accepted the obligations embodied in Article 73. If the General Assembly had at that time assumed the right to determine for itself which Territories were in fact non-self-governing, it might have found that the colonial Powers were not the only ones which administered such Territories.

35. Mr. CARPIO (Philippines) said that the question whether Article 73 e of the Charter established definite rights and obligations had always been a source of confusion in the United Nations. His delegation considered that it did, and that the assumption

that the declaration made in Article 73 was unilateral in nature and therefore created no rights and duties was a false one. All the authorities on international law who had so far examined the question had come to the conclusion that Article 73 was not a simple declaration on the part of Administering Members but a multilateral agreement with which all signatories of the Charter were bound to comply. Moreover, Article 73 itself spoke of the obligation assumed by Administering Members, and the General Assembly had adopted many resolutions which assumed the existence of such an obligation. Unless the critics of that view could point to a specific provision of the Charter denying that Article 73 created rights and obligations, his delegation would continue to consider that it did.

36. Obviously, no obligation could exist without entailing the existence of a corresponding right to enforce that obligation. In the case under discussion, that right was vested in the United Nations. The question that arose was whether an Administering Member could decide unilaterally to cease to transmit information on the ground that the Territory under its administration had attained self-government. Here again, it seemed logical that the United Nations should have the right to determine whether self-government had actually been attained, otherwise the obligation to develop self-government, which had been accepted by the Administering Members, would have no meaning.

37. The French representative had argued that Administering Members had the right to decide unilaterally on the cessation of transmission of information. In the past, however, all the Administering Members who had proposed to cease transmitting information on a given Territory had submitted the matter to the United Nations; if they had had no obligation to transmit the information there would have been no need to bring the question to the Organization's attention. It was his delegation's view that it was within the discretion of Member States to decide whether they administered Territories falling within the scope of Article 73 or not. Once having done so, however, it would be a breach of their obligations under the Charter not to comply with the provisions of Article 73.

38. Mr. PACHACHI (Iraq) said that his delegation had not expected its draft resolution to evoke a debate on the competence of the General Assembly or the interpretation of Chapter XI of the Charter. The draft resolution was extremely simple and constituted no departure from resolutions already passed and implemented by the General Assembly.

39. In 1946, there had been a debate in the General Assembly on the question whether the United Nations could itself determine which Territories fell within the scope of Article 73. The Assembly had finally decided merely to note the list of Territories submitted by Administering Members, because at that time there had been no apparent differences of opinion between administering and non-administering Powers on the scope and interpretation of Chapter XI of the Charter. When those differences had begun to appear, the General Assembly had endeavoured to clarify and define the meaning of self-government. Two *ad hoc* Committees had been established and a long debate had ensued on the factors which should be taken into account in determining whether a Territory had attained self-government. By adopting the list of factors submitted by the *Ad Hoc* Committee on Factors, the General Assembly in resolution 742 (VIII) had

affirmed its competence to decide on cases of cessation of the transmission of information. In 1953, the General Assembly in resolution 748 (VIII) had approved the cessation of transmission of information in the case of Puerto Rico, and in so doing had again confirmed its right to decide on such questions. The same

principle had been confirmed and applied in subsequent years and there could be no doubt of its validity. The sole purpose of the Iraqi draft resolution was to change the machinery by which that principle was put into effect.

The meeting rose at 5.35 p.m.