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

SIXTY-SIXTH REPORT OF THE WORKING GROUP

Chairman: Mr. Salim Ahmed SALIM (United Republic of Tanzania)

1. The Working Group held its 107th meeting on 17 May 1972.
2. At that meeting, in accordance with the decision taken by the Special Committee at its 841st meeting, on 16 March 1972, the Working Group considered the question of the list of Territories to which the Declaration is applicable. The Working Group had before it a note prepared by the Chairman on the question, which is annexed to the present report.
3. Having regard to the consensus adopted by the Special Committee at its 828th meeting, on 6 October 1971, concerning the question of the inclusion of the Comoro Archipelago in the list of Territories to which the Declaration is applicable, 1/ the Working Group agreed that it would take up the question when the report requested of the Rapporteur in the consensus became available.
4. With reference to the letter dated 8 March 1972 from the Permanent Representative of China to the United Nations addressed to the Chairman of the Special Committee 2/ relating to Hong Kong and Macau and dependencies, which the Special Committee had referred to the Working Group for consideration and recommendation at its 839th meeting, on 10 March 1972, the Working Group, after an exchange of views, agreed to recommend the following to the Special Committee:

1/ See annex to this report, para. 3.

2/ A/AC.109/396.

(a) The Special Committee should recommend to the General Assembly that Hong Kong and Macau and dependencies be excluded from the list of Territories to which the Declaration is applicable.

(b) The Special Committee should defer consideration of these questions pending a decision by the General Assembly on (a) above.

(c) The Special Committee should instruct the Secretariat to defer the preparation of any working papers relating to these questions pending further directives from the Committee itself.

The representative of Sweden reserved the position of her Government concerning the above recommendations.

5. As regards the letters dated 9 February and 25 March 1972 3/ from the Permanent Representative of Cuba to the United Nations and the letter dated 28 February 1972 4/ from the Permanent Representative of the United States of America to the United Nations, addressed to the Chairman concerning the question of the inclusion of Puerto Rico in the list of Territories to which the Declaration is applicable, the Working Group agreed by consensus that, in view of the involved nature of the matters raised in these communications, the question might most appropriately be discussed at plenary meetings of the Special Committee where all the members of the Committee and such other non-members of the Committee as might wish to do so would have the opportunity to participate in the consideration of these matters.

3/ A/AC.109/392 and 399.

4/ A/AC.109/395.

Annex

NOTE BY THE CHAIRMAN

Question of the list of Territories to which
the declaration is applicable

1. At its 841st meeting, on 16 March 1972, by adopting the 65th report of the Working Group (A/AC.109/L.763), the Special Committee decided inter alia to allocate to the Working Group for consideration and recommendations an item entitled "Question of the list of Territories to which the Declaration is applicable".

2. In order to assist the Working Group in the consideration of the item, the Chairman wishes to make available to members of the Working Group the following.

Consensus adopted by the Special Committee at its
828th meeting, on 6 October 1971

3. At its 828th meeting, on 6 October 1971, the Special Committee adopted the following consensus relating to the Comoro Archipelago: a/

"The Special Committee, having considered the recommendation of the Working Group concerning the inclusion of the Comoro Archipelago in the list of Territories to which the Declaration is applicable and taking into account the results of the consultations conducted with a view to reaching a consensus on the matter, decides to entrust its Rapporteur, assisted by the Secretariat, to undertake a study on this question, which will include, inter alia, the views of the peoples directly concerned, the Organization of African Unity and any other parties concerned on the matter, for submission at an early date in 1972 for the Committee's consideration."

4. The Working Group may wish to examine the question as soon as the above-mentioned study by the Rapporteur becomes available.

Letter dated 8 March 1972 from the Permanent
Representative of China (A/AC.109/396)

5. In accordance with the provisions of General Assembly resolution 9 (I) of 9 February 1946 and in order to obtain the information required under Article 73 e of the Charter of the United Nations, the Secretary-General, on

a/ Official Records of the General Assembly, Twenty-sixth Session,
Supplement No. 23 (A/8423/Rev.1), chap. I, para. 80.

29 June 1946, addressed a letter to all Members of the United Nations (A/74) in which he requested, inter alia, that they enumerate the particular Non-Self-Governing Territories under their jurisdiction. On the basis of the replies to this letter, the General Assembly, in resolution 66 (I) of 14 December 1946, noted a list of 74 Non-Self-Governing Territories, which included Hong Kong. The Government of the United Kingdom has transmitted information on Hong Kong to the Secretary-General annually since 1947.

6. Although Hong Kong was the subject of consideration by the Committee on Information from Non-Self-Governing Territories until its dissolution in 1963, no substantive consideration has been given to the item by the Special Committee. Included among the working papers prepared annually by the Secretariat at the request of the Special Committee has been one on Hong Kong.

7. In its resolution 1542 (XV) of 15 December 1960, the General Assembly listed the Territories under Portuguese administration, including Macau and dependencies, as Non-Self-Governing Territories within the meaning of Chapter XI of the Charter, and declared that the Government of Portugal had an obligation to transmit the information called for in Article 73 e in respect of these Territories. The Government of Portugal refuses to transmit information to the Secretary-General on any of the Territories listed in the resolution under reference.

8. The question of the Territories under Portuguese administration and the non-compliance of Portugal with Chapter XI of the Charter and with General Assembly resolution 1514 (XV) of 14 December 1960 have been discussed by the General Assembly since its sixteenth session. A working paper on Macau and its dependencies has also been prepared annually by the Secretariat.

9. At its 141st meeting, on 3 April 1963, the Special Committee, on the recommendation of the Working Group, approved a preliminary list of Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples applied. In the Working Group, the representative of Bulgaria had reserved the position of his Government with regard to the inclusion of Macau and dependencies and Hong Kong in this list, stating that his Government regarded these Territories as integral parts of the People's Republic of China forcibly occupied in the past by Portugal and the United Kingdom of Great Britain and Northern Ireland, respectively. Similar viewpoints were expressed subsequently by the representative of Cambodia b/ in respect of Hong Kong, and by the representative of the Union of Soviet Socialist Republics in respect of both Territories. The representatives of the Soviet Union, Bulgaria and Poland have maintained the position that, since the questions of Hong Kong and Macau and dependencies were directly related to the People's Republic of China, the United Nations and its organs, including the Special Committee, could not consider the questions until the legitimate rights of that State had been restored in the United Nations.

b/ Now the Khmer Republic.

Letters dated 9 February and 25 March 1972 from the
Permanent Representative of Cuba (A/AC.109/392, 399);
letter dated 28 February 1972 from the Permanent
Representative of the United States of America
(A/AC.109/395)

10. The General Assembly, by adopting resolution 66 (I) of 14 December 1946, noted, inter alia, that information under Article 73 e of the Charter had been transmitted by the United States Government concerning conditions in Puerto Rico (see para. 5 above).

11. In a letter dated 19 January 1953, the Government of the United States, in pursuance of resolution 222 (III) of 3 November 1948 informed the Secretary-General that the Commonwealth of Puerto Rico had been established as a result of the entry into force on 25 July 1952 of a new Constitution, and that, as a consequence, the Government of the United States considered that it was no longer necessary or appropriate to continue to transmit information on Puerto Rico under Article 73 e. In a letter dated 20 March 1953, the text of the Constitution of Puerto Rico and other information were transmitted to the Secretary-General. These documents (A/AC.35/L.121) were placed before the Committee on Information from Non-Self-Governing Territories in 1953 in pursuance of resolution 448 (V) of 12 December 1950.

12. Following its consideration of the question, the Committee adopted a resolution in which it took note "in the limits of its terms of reference, and without anticipating the disposal of this question by the General Assembly - that the information before it indicates that the Commonwealth of Puerto Rico may be considered as falling outside the scope of Article 73 e of the Charter" and also took note "of the opinion of the United States Government that it is no longer necessary or appropriate to transmit information on Puerto Rico under Article 73 e of the Charter". c/

13. At its eighth session, the General Assembly, by adopting resolution 748 (VIII) of 27 November 1953, considered, inter alia, that, "due to... circumstances, the Declaration regarding Non-Self-Governing Territories and the provisions established under it in Chapter XI of the Charter could no longer be applied to the Commonwealth of Puerto Rico"; took note "of the opinion of the Government of the United States of America concerning the cessation of the transmission under Article 73 e of the Charter of information on Puerto Rico"; and considered it "appropriate that the transmission of this information should cease". The text of resolution 748 (VIII) is attached to the present note (see enclosure).

14. At the 389th meeting, on 7 October 1965, the Chairman drew the attention of the Special Committee to a letter dated 1 October 1965 (A/AC.109/144) addressed to him by the Minister of Foreign Affairs of Cuba, in which was requested the inclusion of the question of Puerto Rico on the agenda of the Special Committee. Owing to lack of time, the Special Committee was unable to examine the matters raised in the Cuban letter in 1965 and 1966.

c/ Official Records of the General Assembly, Eighth Session,
Supplement No. 15 (A/2465), Part One, para. 67

15. At its 50th meeting, on 10 April 1967, the Working Group, following an exchange of views, agreed by consensus to refer to the Special Committee the question of the inclusion of Puerto Rico in the list of Territories to which the Declaration is applicable (A/AC.109/L.392, para. 2). The Special Committee considered the question at its 509th and 510th meetings, on 17 and 19 April 1967, and at its 510th meeting, decided, by a vote of 19 to 8, with one abstention, to adopt a proposal by the representative of Syria to adjourn sine die the debate on the question of the inclusion of Puerto Rico in the list of Territories to which the Declaration is applicable. d/

16. In a letter dated 17 August 1971 addressed to the Secretary-General (A/8441 and Add.1), the Permanent Representative of Cuba requested the inclusion in the supplementary list of items for the agenda of the twenty-sixth session of the General Assembly of an item entitled "the colonial case of Puerto Rico". This supplementary item appeared as item 104 in the Secretary-General's memorandum on the organization of the twenty-sixth session (A/BUR/177 and Corr.1, para. 17). The General Committee considered the request by Cuba at its 192nd meeting, on 23 September. At the same meeting, following an exchange of views, the Committee decided by 10 votes to 5, with 8 abstentions, to recommend to the General Assembly that item 104 should not be included in the agenda of the twenty-sixth session (A/BUR/SR.192).

17. The General Assembly considered the recommendation of the General Committee concerning item 104 (A/8500, para. 17) at its 1937th and 1938th meetings on 24 September 1971. At the 1938th meeting, following an exchange of views, the Assembly adopted, by a roll-call vote of 57 to 26, with 38 abstentions, the recommendation of its General Committee not to include item 104 in the agenda.

d/ Ibid., Twenty-second Session, Annexes, addendum to agenda item 23 (Part I) (A/6700/Rev.1), chap. I, paras. 173-174.

Appendix

GENERAL ASSEMBLY RESOLUTION 748 (VIII) OF 27 NOVEMBER 1953

Cessation of the transmission of information under Article 73 e
of the Charter in respect of Puerto Rico

The General Assembly,

Considering that, in resolution 222 (III) of 3 November 1948, the General Assembly, while welcoming any development of self-government in Non-Self-Governing Territories, considers it essential that the United Nations be informed of any change in the constitutional status of any such Territory as a result of which the government responsible for the transmission, under Article 73 e of the Charter, of information in respect of that Territory thinks it unnecessary or inappropriate to continue such a practice,

Having received the communications a/ dated 19 January and 20 March 1953 informing the United Nations of the establishment of the Commonwealth of Puerto Rico, as a result of the entry into force on 25 July 1952 of the Constitution of Puerto Rico, and stating that, in consequence of these constitutional changes, the Government of the United States of America would cease to transmit information under Article 73 e of the Charter,

Having studied the report b/ prepared by the Committee on Information from Non-Self-Governing Territories, during its session of 1953, on the question of the cessation of the transmission of information on Puerto Rico, and presented to the General Assembly in conformity with paragraph 2 of resolution 448 (V) of 12 December 1950,

Having examined the communications of the Government of the United States of America in the light of the basic principles embodied in Chapter XI of the Charter and of all the other elements of judgement pertinent to the issue,

Considering that the agreement reached by the United States of America and the Commonwealth of Puerto Rico, in forming a political association which respects the individuality and the cultural characteristics of Puerto Rico, maintains the spiritual bonds between Puerto Rico and Latin America and constitutes a link in continental solidarity,

Bearing in mind the competence of the General Assembly to decide whether a Non-Self-Governing Territory has or has not attained a full measure of self-government as referred to in Chapter XI of the Charter,

1. Takes note favourably of the conclusions set forth by the Committee on Information from Non-Self-Governing Territories in its resolution; c/

a/ See document A/AC.35/L.121.

b/ See Official Records of the General Assembly, Eighth Session, Supplement No. 15, (A/2465), Part One, paras. 27-67.

c/ Ibid., para. 67.

2. Recognizes that the people of the Commonwealth of Puerto Rico, by expressing their will in a free and democratic way, have achieved a new constitutional status;

3. Expresses the opinion that it stems from the documentation provided that the association of the Commonwealth of Puerto Rico with the United States of America has been established as a mutually agreed association;

4. Recognizes that, when choosing their constitutional and international status, the people of the Commonwealth of Puerto Rico have effectively exercised their right to self-determination;

5. Recognizes that, in the framework of their Constitution and of the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity;

6. Considers that, due to these circumstances, the Declaration regarding Non-Self-Governing Territories and the provisions established under it in Chapter XI of the Charter can no longer be applied to the Commonwealth of Puerto Rico;

7. Takes note of the opinion of the Government of the United States of America as to the cessation of the transmission under Article 73 e of the Charter of information on Puerto Rico;

8. Considers it appropriate that the transmission of this information should cease;

9. Expresses its assurance that, in accordance with the spirit of the present resolution, the ideals embodied in the Charter of the United Nations, the traditions of the people of the United States of America and the political advancement attained by the people of Puerto Rico, due regard will be paid to the will of both the Puerto Rican and American peoples in the conduct of their relations under their present legal statute, and also in the eventuality that either of the parties to the mutually agreed association may desire any change in the terms of this association.
