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GENERAL ASSEMBLY

SPECIAL COMMITTEE ON INFORMATION TRANSMITTED

UNDER ARTICLE 73 e OF THE CHARTER

SUMMARY RECORD OF THE SECOND MEETING

Held at Lake Success, New York,
on Friday, 26 August 1949, at 11 a.m.

- CONTENTS:** Questions preparatory to the consideration of the Secretary-General's summaries and analyses of information transmitted during 1949:
- (a) date of receipt of information (A/AC.28/W.6) (discussion continued)
 - (b) territories enumerated (A/AC.28/W.6)
 - (c) information concerning the cessation of transmission of information in virtue of General Assembly Resolution 222(III) (A/915 and A/915/Add.1)

Chairman: Mr. GERIG United States of America

Rapporteur: Mr. de MARCHENA Dominican Republic

Members:

Mr. HOOD	Australia
Mr. RYCKMANS	Belgium
Mr. de OURO PRETO	Brazil
Mr. LI	China
Mr. SVEISTRUP	Denmark
Mr. FARRAG	Egypt
Mr. GARREAU	France
Mr. SHIVA RAO	India
Mr. SPITS	Netherlands
Mr. LAKING	New Zealand
Mr. WOLLIN	Sweden
Mr. SOLDATOV	Union of Soviet Socialist Republics
Mr. FLETCHER-COOKE	United Kingdom
Mr. STOLK	Venezuela

Representatives of specialized agencies:

Miss WEHRWEIN	Food and Agriculture Organization (FAO)
Mr. METALL	International Labour Organization (ILO)
Mr. CORTESAO	United Nations Educational, Scientific and Cultural Organization (UNESCO)
Mr. HILL	World Health Organization

Secretariat:

Mr. HOO	Assistant Secretary-General
Mr. BENSON	Secretary of the Committee

QUESTIONS PREPARATORY TO THE CONSIDERATION OF THE SECRETARY-GENERAL'S SUMMARIES AND ANALYSES OF INFORMATION TRANSMITTED DURING 1949: (a) DATE OF RECEIPT OF INFORMATION (A/AC.28/W.6) (discussion continued)

The CHAIRMAN, speaking as representative of the United States of America, explained that the reason why his Government had been rather late in submitting information was that it had not been advised of the change in the stipulated period of transmission until September 1948, and had therefore been unable to prepare the necessary information by December of that year. It fully intended to transmit information within the prescribed period in the future.

Mr. LAKING (New Zealand) stated that information concerning Cook Island had been transmitted by his Government since the note by the Secretariat (A/AC.28/W.6) had been issued. He expressed his Government's regret for the delay.

Mr. FLETCHER-COOKE (United Kingdom) pointed out that at the time the Secretariat document had been prepared his Government had failed to submit information on only three of the many Non-Self-Governing Territories under its administration; since that time, it had sent in information on one of the three territories, Nigeria. He stressed that the work of compiling data for transmission to the Secretariat and other organs of the United Nations placed a considerable burden on the administrative staffs of the United Kingdom Territories, a burden which would be increased if it was decided that such data should be still more voluminous in the future. He was therefore unable to go further than to say that his Government would, as it had done in the past, do its best to send in the required information within the prescribed period.

Mr. SOLDATOV (Union of Soviet Socialist Republics) remarked that the note by the Secretariat showed that many Administering Powers had submitted information at a very late date, thus complicating the work of the Secretariat and the Special Committee. He took note of the assurance just given by the United Kingdom representative that his Government would endeavour to transmit information on time in the future; nevertheless, in the interests of the Committee's future work, it should not be overlooked that the United Kingdom

Government had not yet submitted information on Bermuda and the Federation of Malaya for 1949, while the information on Nigeria had been submitted so late that the Secretariat had not yet been able to analyze and summarize it.

(b) TERRITORIES ENUMERATED (A/AC.28/W.6)

Mr. SOLDATOV (Union of Soviet Socialist Republics) pointed out that documents submitted to the Committee by the Secretariat included references to Indonesia and the Indonesian Republic; Indonesia was, in fact, listed among the Non-Self-Governing Territories in document A/AC.28/W.6. He recalled that during the 1948 session of the Special Committee, the USSR representative had stressed that information on Indonesia should not be discussed by the Committee, since the Republic of Indonesia had become an independent State by the will of its people. At that time, the Secretariat had attempted to justify the inclusion of materials on Indonesia among the documentation submitted to the Committee by a formal explanation that, since information on Indonesia had been submitted by the Netherlands Government, the Secretariat was obliged to present it to the Committee. In the current year, however, that explanation did not apply, as no information on Indonesia had been submitted.

The USSR delegation, therefore, again insisted that information on the Republic of Indonesia should be excluded from the documents before the Committee, inasmuch as the Republic of Indonesia was an independent State.

Mr. SPITS (Netherlands) recalled that when that point had been raised by the USSR representative in 1948, the representative of the Netherlands had explained that his Government had transmitted the information in question because the whole of Indonesia was still under the sovereignty of the Netherlands; indeed, the Renville Agreement made it clear that the sovereignty of the Netherlands was recognized even by the Republican Government itself. The question of sovereignty was no longer governed by the Renville Agreement but by the Van Royen-Rum Agreement; a round-table conference was taking place in the Hague on that issue. It was clear that sovereignty over the whole of Indonesia was still in the hands of the Netherlands Government: consequently, it was quite in order for the Netherlands Government to transmit information on that Territory in accordance with Article 73 e.

Mr. SHIVA RAO (India) endorsed the views expressed by the USSR representative and recalled that at the third session of the General Assembly the Indian delegation had, in the Fourth Committee, expressed strong disapproval of the inclusion of references to the Republic of Indonesia in a report dealing exclusively with Non-Self-Governing Territories. Without wishing to make any additional remarks on the subject so as not to influence in any way the outcome of the Hague conference, he nevertheless stressed that the USSR representative's arguments carried considerable weight.

Mr. SOLDATOV (Union of Soviet Socialist Republics) reserved the right to make a proposal on the subject of Indonesia later if the need arose.

Mr. FLETCHER-COOKE (United Kingdom) said that, if any such proposal was made, he would wish to make a statement, not on the merits of the case but on the principles involved, and reserved his rights accordingly.

The CHAIRMAN stated that all members would be free to express their views when and if a proposal was made.

(c) INFORMATION CONCERNING THE CESSATION OF TRANSMISSION OF INFORMATION IN VIRTUE OF GENERAL ASSEMBLY RESOLUTION 222 (III) (A/915 and A/915/Add.1)

Mr. FARRAG (Egypt) recalled that the question of the enumeration of Non-Self-Governing Territories had been raised during the Committee's session in 1948, and that the definition of Non-Self-Governing Territories had been considered by Sub-Committee 2 of the Fourth Committee during the first part of the third session of the General Assembly. The same question arose again from the terms of paragraph 2 of Resolution 222 (III). The Committee was seized of communications received by the Secretary-General from the Governments of France, the United Kingdom and the United States of America concerning the cessation of transmission of information on certain territories. The French communication stated that under Article 73 the determination of which territories whose peoples had not yet attained a full measure of self-government, lay exclusively within the competence of the States which had responsibilities for the administration of such territories. Mr. Farrag remarked that that had been true in international law before the coming into force of the United Nations Charter; with the Charter, however, a new conception of international law had been created, which might properly be described as the theory of international accountability. In that connexion, he quoted from statements made at the twenty-seventh plenary meeting of the General Assembly by representatives of the United Kingdom and the United States, the first of whom had welcomed Chapter XI of the Charter as an "international colonial convention".

/The United Nations

The United Nations could not shirk its responsibilities to any Non-Self-Governing Territory simply because the Metropolitan Power had ceased to submit information regarding it. Cessation of transmission of information could be permitted only if the Territory concerned had attained self-government. Mr. Farrag was therefore unable to share the views expressed by the French Government in its letter of 29 April 1949. He felt, however, that the issue was not within the competence of the Special Committee, and felt that a recommendation might be made to the General Assembly to refer the matter to the Fourth Committee.

Mr. FLETCHER-COOKE (United Kingdom) emphasized that nothing in its terms of reference entitled the Committee to discuss the substance of questions included under item 4 of the agenda; still less was the Committee empowered to make recommendations on any of those items.

The Egyptian representative had implied that the United Kingdom representative at the first session of the General Assembly had accepted the principle of international accountability with regard to colonies. But it was sufficient to review the work of the Committee in 1948 to realize that the United Kingdom Government did not recognize such a principle as applying to Non-Self-Governing Territories.

The United Kingdom Government had assumed certain limited obligations under Article 73 e of the Charter; it had honoured those obligations in the past, was still doing so, and would continue to do so. It did not, however, recognize the right of any organ of the United Nations to call Metropolitan Powers to account for their policies or actions in Non-Self-Governing Territories under their administration. It therefore entirely shared the view of the French Government that it was for the Administering Power alone to decide which of the territories under its administration were non-self-governing and which had reached such a degree of self-government that it was no longer necessary to transmit information in their respect.

Mr. SHIVA RAO remarked that the question had been discussed at length the previous year. Nevertheless, he wished to make a few remarks in connexion with the communication from the French Government and the statement by Mr. Creech-Jones quoted in document A/915. The latter said, in particular: "There were British territories which, while not yet in full control of their external affairs, were nevertheless fully responsible for the conduct of their internal affairs", and indicated that Malta was one of them. Mr. Shiva Rao questioned that such a territory could be said to enjoy full self-government under the terms of

Article 73 c of the Charter. The French Government, in its communication, approached the question from a different angle and stated that the provisions of that Article should normally "cease to apply to territories whose peoples have attained a sufficient degree of culture, prosperity and self-government". In spite of their different approach, the two Governments agreed that the decision which territories were non-self-governing lay entirely with the Administering Authorities.

In the view of the Indian delegation, the question at what stage of development of a Non-Self-Governing Territory an Administering Authority could, without reference to the United Nations, decide that it was no longer non-self-governing was extremely complicated and involved legal and constitutional considerations far beyond the competence of the Committee, which was severely limited by its terms of reference. He noted in passing that, even within those limitations, the Committee had already performed useful work and had justified its existence by the help which it had been able to give to the populations of Non-Self-Governing Territories. It was in the belief that the Committee would become of increasing value to those populations that the Indian delegation took part in its work.

In view of those limitations, he fully endorsed the remarks of the Egyptian representative and in particular the suggestion that the Fourth Committee should consider under what conditions a Non-Self-Governing Territory might be said to have outgrown its status. It was of vital importance to the populations of those Territories that they should enjoy the protection extended in Chapter XI of the Charter until they had progressed to a point at which they could apply for membership in the United Nations. Cessation of transmission of information should not be based on any other reason. The whole question was, however, for the Fourth Committee to consider.

In conclusion, he said that representatives on the Committee of countries which had no Non-Self-Governing Territories under their administration had been endeavouring to observe loyally the limitations of Article 73 c, and appealed to representatives of the Administering Authorities to act in the same spirit and to give the most liberal and enlightened interpretation possible to the terms of that Article. The Committee should not permit its jurisdiction to be reduced by the gradual disappearance of Non-Self-Governing Territories which the Administering Authorities no longer wished to consider as such. No State could afford to ignore the recent march of events in Asia and Africa; no State

/should seek

should seek to evade its responsibility by legalistic interpretations of Chapter XI which, though they might have been valid a few years previously had lost much of their validity in the light of the current state of world affairs. The widespread unrest in Asia and Africa, which might well become a threat to peace, had been caused by political suppression even more than by poverty and famine. It was to counteract that unrest that the most liberal and generous view should be taken of the meaning of Chapter XI.

Mr. FLETCHER-COOKE (United Kingdom) said that his Government also looked forward to the day when Non-Self-Governing Territories would be able to claim membership in the United Nations, but reminded the Indian representative that Ceylon, which had recently attained its independence, had not yet been admitted to the United Nations in spite of repeated applications.

He fully agreed that the question raised by the Egyptian representative lay outside the competence of the Committee. Furthermore, it was beyond the competence of the General Assembly itself to attempt to define which territories fell within the scope of Article 73 or to establish a list of those territories, as the constitutional relationships between Administering Authorities and the Non-Self-Governing Territories fell entirely within the former's domestic jurisdiction.

Mr. GARREAU (France) pointed out that the term "Non-Self-Governing Territories" was not defined in the Charter and did not necessarily refer to colonial territories alone. The list of such territories had been drawn up on the basis of statements made by certain Governments of their own free will and was consequently by no means exhaustive. Many non-autonomous populations were not included in it simply because the Governments concerned had not seen fit to transmit information concerning them.

The French Government had voluntarily and loyally submitted information concerning all its overseas territories without exception, including even the islands of St. Pierre and Miquelon, the entire population of which was French and enjoyed the same rights as the citizens of France itself. Since then, far-reaching changes in the political relationship between France and its overseas territories had taken place; the latter, for example, were governed in all internal matters by their own freely elected assemblies. They could no longer be considered Non-Self-Governing Territories; the question of the constitutional ties which bound them to Metropolitan France was one of domestic jurisdiction and therefore could not be discussed either by the Committee or by the General Assembly.

/Mr. FARRAG (Egypt)

Mr. FARRAG (Egypt) proposed that the Committee should request the General Assembly to instruct the Fourth Committee to define the term "Non-Self-Governing Territory" with a view to determining those territories concerning which information should be transmitted under Article 73 e.

The CHAIRMAN suggested that the Egyptian representative might submit his proposal in writing.

Mr. RYCKMANS (Belgium) recalled that the Egyptian representative himself had stated that the question was outside the competence of the Committee; logically, therefore, the Committee was not competent to adopt a resolution on it. The Egyptian representative was free, however, to request his Government to place the question on the agenda of the General Assembly.

Mr. FARRAG (Egypt) replied that it was precisely because the Committee itself was not competent to establish a definition of the term "Non-Self-Governing Territory" that it should ask the General Assembly to do so. Such a definition was indispensable; the Committee could not do its work properly unless it knew exactly which territories it was expected to deal with.

Mr. HOOD (Australia) said that under Article 73 e States had bound themselves to transmit information concerning territories for which they were "respectively responsible". There was nothing in that Article to suggest that the Committee -- or, for that matter, the General Assembly itself -- had any right to indicate to those States the extent of their responsibility. That right belonged exclusively to the States themselves.

It was however the opinion of the Australian Government that Administering Authorities should interpret Article 73 e in the widest sense and should transmit information regarding all the territories under their administration which were not fully autonomous in internal matters. The Australian Government fully intended to pursue that course.

/Mr. FLETCHER-COOKE

Mr. FLETCHER-COOKE (United Kingdom) remarked that it was plain from paragraph 2 of General Assembly Resolution 146 (III), which contained the Committee's terms of reference, that the Committee was not competent to adopt a resolution such as proposed by the Egyptian representative. The remarks of the Egyptian and Indian representatives on the subject would, however, be duly recorded in the Committee's report to the General Assembly.

Mr. FARRAG (Egypt) could not agree that it was outside the competence of the Committee to request the General Assembly for the definition of a term which was part of the Committee's very name and which had to be clarified to enable it properly to accomplish its work.

Mr. GARREAU (France) felt that the whole discussion was not in order, and should have taken place in the Fourth Committee. He endorsed the observations of the United Kingdom representative with respect to the Egyptian proposal.

If the General Assembly were to establish a list of Non-Self-Governing Territories, it might well do so on the basis of complaints -- such as were being daily received by the Secretariat -- from peoples who considered themselves to be in subjection to foreign Powers. Not all those Powers had recognized, however, that they were administering Non-Self-Governing Territories. It would therefore be a dangerous course for the General Assembly to embark upon.

Mr. STOLK (Venezuela) supported the proposal of the Egyptian representative. It was difficult to see how the Committee could carry out its terms of reference unless the meaning of the term "Non-Self-Governing Territory" was clearly defined. The proposal was not one of substance and he considered that it was within the Committee's terms of reference.

Mr. SHIVA RAO (India) agreed with the representatives of the United Kingdom, France and Australia that the Committee's terms of reference were strictly limited: it must consider the information submitted and it might submit reports on that information to the General Assembly, make procedural recommendations and such substantive

recommendations as seemed desirable generally, but not with respect to individual territories. Nevertheless the Committee's report would contain a reference to the current discussion, and it would be open to any member of the Fourth Committee to draft a resolution on the subject for consideration by the Assembly.

Mr. SOLDATOV (Union of Soviet Socialist Republics) pointed out that the Chairman had suggested that the Egyptian representative should submit his proposal in writing. He thought that that procedure should be followed and that a decision on the matter should be deferred until the meeting on Monday, so that members would have time to study the document.

Mr. FARRAG (Egypt) would like to hear members' views on his proposal. If it was not likely to be accepted by the majority he would prefer that a vote should not be taken and that a reference to the discussion should appear in the report.

The CHAIRMAN asked whether there were any objections to the procedure proposed by the representative of India, with which the representative of Egypt associated himself.

Mr. SOLDATOV (Union of Soviet Socialist Republics) requested that, in accordance with rule 109 of the rules of procedure of the General Assembly, a final decision should be deferred until Monday's meeting.

Mr. FLETCHER-COOKE (United Kingdom) supported the representative of India. It was for the Committee to decide whether it was competent to consider a proposal on the lines indicated by the representative of Egypt, and whether it wished to do so. As he had already stated, in the view of the United Kingdom delegation the Committee was not competent to consider such a proposal.

Mr. SOLDATOV (Union of Soviet Socialist Republics) stated that, if the majority of the members disagreed with his proposal that a decision should be postponed until Monday's meeting, he would reserve the right to make further observations on the matter later.

/Mr. RYCKMANS

Mr. RYCKMANS (Belgium) pointed out that the terms of the Charter were not entirely specific. The definition which the Egyptian delegate desired had two aspects: first, which Members of the United Nations had or assumed responsibility for the administration of territories whose peoples had not yet attained a full measure of self-government; secondly, which were the territories for which Members of the United Nations were responsible? The Assembly should come to a decision regarding both points.

Mr. FARRAG (Egypt), referring to the remarks of the representative of Belgium, said that, in order that the Committee might proceed with its work, it was essential to have a definition of the term "Non-Self-Governing Territory". It was within the competence of the General Assembly to draw up such a definition.

The CHAIRMAN proposed, unless a majority wished to proceed at once to a vote, that a decision on the Indian representative's proposal should be postponed until Monday's meeting, in order to comply with the wishes of the representative of the Soviet Union.

Mr. RYCKMANS (Belgium), Mr. FLETCHER-COOKE (United Kingdom) and Mr. SHIVA RAO (India) considered that the Indian proposal did not call for a vote.

The CHAIRMAN ruled that a vote would not be taken.

Mr. LI (China) quoted the statement of the United States Government in document A/915/Add.1 that the Panama Canal Zone "could not be considered a Non-Self-Governing Territory and that sovereignty over the Canal Zone rested in the Republic of Panama", and that for that reason the Canal Zone had been omitted from the list of territories on which information was transmitted.

In that connexion he referred to document A/908/Add.3 -- information transmitted by the Government of the United Kingdom concerning Hong Kong -- which stated that the Colony of Hong Kong comprised the island of Hong Kong, the Kowloon Territory and the New Territories. Sovereignty over Kowloon and the New Territories was vested in the Republic of China.

/If, in accordance

If, in accordance with the position taken up by the United States, the fact that the sovereignty over a territory did not belong to the Administering Authority was a sufficient reason for ceasing to transmit information, the Committee should take note of that fact with reference to Kowloon and the New Territories.

The CHAIRMAN observed that the opinion attributed to the United States in document A/915/Add.1 was in reality rather that of Panama.

The meeting rose at 12.45 p.m.