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COMMITTEE ON INFORMATION FROM NON-SELF-GOVERNING TERRITORIES

Fourth session

SUMMARY RECORD OF THE EIGHTY-FOURTH MEETING

Held at Headquarters, New York,
on Tuesday, 1 September 1953, at 2.30 p.m.

CONTENTS

Cessation of the transmission of information: communication from the
United States of America concerning Puerto Rico (A/AC.35/L.121,
A/AC.35/L.147 and A/AC.35/L.148 (continued))

PRESENT:

<u>Chairman:</u>	Mr. LOOMES	Australia
<u>Rapporteur:</u>	Mrs. MENON	India
<u>Members:</u>	Mr. FRAZAO	Brazil
	Mr. LIU	China
	Miss GARCIA-SIERRA	Cuba
	Mr. DØMS-MOELLER)	Denmark
	Mr. SVEISTRUP)	
	Mr. PIGNON	France
	Miss RUSAD	Indonesia
	Mr. KHALIDY	Iraq
	Mr. SPITE	Netherlands
	Mr. SCOTT	New Zealand
	Mr. PIRACHA	Pakistan
	Mr. MATHIESON	United Kingdom of Great Britain and Northern Ireland
	Mr. SEARS)	
	Mr. FERNOS-ISERN)	United States of America

Representatives of specialized agencies:

Mr. GAVIN	International Labour Organisation (ILO)
Miss BAÑOS	Food and Agriculture Organization (FAO)
Mr. DESTOMBES	United Nations Educational, Scientific and Cultural Organization (UNESCO)
Mrs. MEAGHER	World Health Organization (WHO)
<u>Secretariat:</u>	Mr. BENSON Secretary of the Committee

CESSION OF THE TRANSMISSION OF INFORMATION: COMMUNICATION FROM THE UNITED STATES OF AMERICA CONCERNING PUERTO RICO (A/AC.35/L.121, A/AC.35/L.147, A/AC.35/L.148)
(continued)

Mr. FRAZAO (Brazil) introduced the amendments proposed by the delegations of Brazil, Ecuador and India to the New Zealand draft resolution. The purpose of the amendments (A/AC.35/L.148) was to help the Committee to reach agreement and to enable it to take note of the views expressed during the debate.

Mr. SCOTT (New Zealand) considered that, on the whole, the amendments improved the text of the draft resolution which his delegation had submitted. He wished, however, to make certain reservations. For one thing, it was inadvisable to substitute the words "The Committee on Information from Non-Self-Governing Territories" for "The General Assembly" in the first line of the draft resolution. The decision rested with the General Assembly and not with the Committee which, as a subsidiary organ, should merely submit a resolution to the General Assembly for approval.

Moreover, before accepting the words "Having examined the documentation transmitted in the light of the basic principles of Chapter XI of the Charter", he wished to know the arguments in favour of their insertion.

The amendments proposed in paragraph 4 of the draft amendments seemed to improve the original draft resolution somewhat. However he could not accept paragraph 6 of the operative part in view of his reservations with respect to the first sentence of the preamble. If the Committee decided to retain the words "The General Assembly" at the beginning of the draft resolution it could not adopt paragraph 6. That amendment would be valid only if the Committee adopted the amendment in paragraph 1 of document A/AC.35/L.148.

Mr. FRAZAO (Brazil) explained that the sponsors of the amendment to replace "The General Assembly" by the words "The Committee on Information from Non-Self-Governing Territories" had wished to invoke the precedent established in document A/AC.35/L.79 concerning the cessation of the transmission of information by the Netherlands in respect of the Netherlands Antilles and Surinam. The amendment in paragraph 6 of the operative part referred to the Committee's terms of reference, but was also intended to inform the General Assembly that the Commonwealth of Puerto Rico no longer fell within the scope of Article 73 e of the Charter. That alone was sufficient justification for its adoption.

Mr. KEALIDI (Iraq) agreed with the sponsors of the amendments that the Committee should speak on its own behalf and not on behalf of the General Assembly. He too found the amendments in paragraph 2 and 3 acceptable. The amendments in paragraph 4 were a different matter. To begin with, the words "new constitutional status" were ambiguous in that a new constitutional status did not necessarily imply self-government. They were therefore at variance with paragraphs 6 and 7 of the operative part in which the sponsors of the draft amendments stated that the information before the Committee indicated that the Commonwealth of Puerto Rico no longer fell within the scope of Article 73 e of the Charter. Paragraph 4 of the operative part appeared to be the result of a compromise and failed to give any clear indication to the General Assembly. Paragraphs 6 and 7, however, contained the categorical statement that the provisions of Article 73 e no longer applied to Puerto Rico. The words "former Administering Authority" seemed to make it clear that Puerto Rico had attained self-government. The draft amendment was a compromise but not an altogether satisfactory one. He reserved the right to return to that point later.

Mr. MATHIESON (United Kingdom) observed that the wording of the preamble of the draft resolution raised a procedural problem. The General Assembly had given the Committee a function in this matter by resolution 448 (V) but it had not intended to give the Committee the power of decision. The Committee had to submit conclusions to the General Assembly in the form of a report or a draft resolution. The General Assembly alone was competent to take final action. Hence the words "The General Assembly" should introduce the draft resolution.

He considered the first of the amendments in paragraph 3 of document A/AC.35/L.148 to be superfluous and undeserving of inclusion in the draft resolution.

To adopt the first phrase of paragraph 6 of the operative part would be to assume for the Committee a qualified power of decision. The Committee would, in effect, be exceeding its terms of reference if it adopted that wording. He therefore proposed the deletion of the words "in the limits of its terms of reference, and without anticipating the disposal of the question by the General Assembly", maintaining that the draft resolution should be worded in the form of a decision by the General Assembly, and that all redundancies in the amendments should be omitted.

Mr. FRAZAO (Brazil) felt that the draft amendments could not be criticized on the ground of ambiguity. The sponsors of the amendments had wished to reconcile the points of view expressed in the Committee. For instance, their reference to "a new constitutional status" in paragraphs 1 and 2 of the operative part merely reflected a point of view which several delegations had expressed at the previous meeting. It was not a question of expressing an opinion but of noting a fact. With regard to paragraph 6, the Brazilian delegation considered it desirable to specify that the Committee acted within the limits of its terms of reference which had been confirmed in General Assembly resolution 448 (V).

Mr. MATHIESON (United Kingdom) agreed with the Brazilian representative that the Committee should remain within its terms of reference. His remarks had referred to the procedure: the best method would be to submit proposed conclusions to the General Assembly in the hope that it would endorse them, but there was no need to make the Committee's proposed conclusions look like a Committee resolution.

Mr. SCOTT (New Zealand) said that he would abstain from voting on paragraph 3, sub-paragraph 3, of the draft amendment. He wondered whether the Brazilian representative would agree to delete the words "in the limits of its terms of reference, and without anticipating the disposal of this question by the General Assembly" from paragraph 6 of the operative part. If so, the words "The General Assembly" could be retained in the preamble of the draft resolution.

Mr. FRAZAO (Brazil) said that he was unable to accept the proposal.

Mr. MATHIESON (United Kingdom) felt that the Committee's work would be facilitated if its report mentioned the facts and conclusions which the sponsors of the amendments had wished to emphasize. The Committee would, at the same time, submit the text of a single draft resolution to the General Assembly.

Mr. LIU (China) agreed. It would be more courteous to ascribe the draft resolution to the General Assembly than to the Committee.

Mr. MATHIESON (United Kingdom) requested that the amendments should be put to the vote paragraph by paragraph.

The meeting was suspended at 3.55 p.m. and was resumed at 4.25 p.m.

Mr. PIRACHA (Pakistan) said that his delegation accepted the first three amendments in document A/AC.35/L.148 except for the paragraph in the preamble beginning with the words "Having examined..." in which it would abstain since he was not certain whether the Committee had examined the information. He would abstain from voting on paragraph 4 of the amendments, which affected the operative part, because he found it difficult to reconcile that text with his own views. He reserved his Government's position in the General Assembly.

Mr. KHALIDY (Iraq) was prepared to vote for the first three amendments, except for the paragraph of the preamble beginning with the words "Having examined" on which he would abstain, since he had seen the Committee reach conclusions, but had not seen it examine the documentation.

He would abstain from voting on the first four paragraphs of the amendments to the operative part. He would vote for paragraph 5 but, as to paragraphs 6 and 7, he had received specific instructions from his Government that the transmission of information should not cease. That opinion was based upon various considerations into which he could not enter at the moment, but which he would explain in the Fourth Committee. He thought, moreover, that, having adopted a definite attitude in the case of the Netherlands Antilles and Surinam, he must do likewise in that of Puerto Rico. He would abstain from voting on the resolution as a whole.

The CHAIRMAN put the draft resolution (A/AC.35/L.147) and amendments (A/AC.35/L.148) to the vote paragraph by paragraph.

Preamble

The first amendment proposed by Brazil, Ecuador and India was adopted by 8 votes to 2, with 5 abstentions.

The first paragraph of the preamble of the New Zealand draft resolution was adopted unanimously.

The second paragraph of the preamble of the New Zealand draft resolution, with the amendment proposed by Brazil, Ecuador and India, was adopted unanimously.

The first of the new paragraphs of the preamble proposed by Brazil, Ecuador and India was adopted by 10 votes to none, with 5 abstentions.

The second of the new paragraphs proposed by Brazil, Ecuador and India was adopted unanimously.

The third of the new paragraphs proposed by Brazil, Ecuador and India was adopted by 5 votes to 1, with 9 abstentions.

Mr. MATHIESON (United Kingdom) declared that he had abstained in the last vote because his delegation had not studied the documentation transmitted, because neither the United Nations nor any of its organs was competent to examine the constitutional instruments of its Members.

Mr. DCNS-MOELLER (Denmark) said he had voted against that paragraph for the same reason.

Mr. KHALIDY (Iraq) had abstained because the Committee had not actually examined the documents.

Operative part

The first paragraph of the operative part (A/AC.35/L.148) was adopted by 12 votes to none, with 3 abstentions.

The second paragraph of the operative part (A/AC.35/L.148) was adopted by 12 votes to none, with 3 abstentions.

The third paragraph of the operative part (A/AC.35/L.148) was adopted by 12 votes to none, with 3 abstentions.

The fourth paragraph of the operative part (A/AC.35/L.148) was adopted by 12 votes to none, with 3 abstentions.

The fifth paragraph of the operative part (A/AC.35/L.148) was adopted by 13 votes to none, with 2 abstentions.

Paragraph 6

Mr. FRAZAO (Brazil) requested that, in the French text, the end of the paragraph should read: " ... de ce que les renseignements dont dispose le Comité pourraient permettre de considérer que l'Etat libre associé de Porto-Rico ne relève plus des dispositions de l'Article 73 e) de la Charte".

Mr. MATHIESON (United Kingdom) asked for a separate vote on the words "in the limits of its terms of reference, and without anticipating the disposal of this question by the General Assembly".

Mrs. MENON (India) intimated that, should the Committee decide against the insertion of the words in question, she would be compelled to vote against the paragraph as a whole.

The words were not adopted, 6 votes being cast in favour and 6 against, with 3 abstentions.

Mr. KHALIDY (Iraq) asked for a roll-call vote on paragraphs 6 and 7 of the operative part.

A vote on paragraph 6 was taken by roll-call.

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

In favour: Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Brazil, China, Cuba, Ecuador, France.

Against: Iraq.

Abstaining: Indonesia, Pakistan, Denmark, India.

Paragraph 6 was adopted by 10 votes to 1, with 4 abstentions.

Mr. SEARS (United States of America), referring to rule 122 of the rules of procedure, asked the Committee to reconsider its decision on the phrase "in the limits of its terms of reference, and without anticipating the disposal of this question by the General Assembly". He hoped that those who had been unable to vote for the paragraph would change their position if the words were restored.

The CHAIRMAN put the United States representative's motion to the vote.

The Committee decided to reconsider its decision by 12 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the insertion in paragraph 6 of the phrase "in the limits of its terms of reference, and without anticipating the disposal of this question by the General Assembly."

The phrase was adopted by 8 votes to 1, with 6 abstentions.

Mr. KHALIDY (Iraq) pointed out that he had maintained his position by voting against the insertion of the phrase.

Mr. MATHIESON (United Kingdom) explained that he had voted for the insertion of the phrase on the second occasion out of courtesy to the Indian representative, who had made known that she would have voted against paragraph 6 had the phrase not been included, and because his delegation did not consider the point to be fundamental.

Mrs. MENON (India) thanked the United Kingdom representative.

Mr. PIGNON (France) observed that he had voted the same way on both occasions.

Mr. KHALIDY (Iraq) requested a roll-call vote on paragraph 6 as a whole.

It was so decided.

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

In favour: Australia, Brazil, China, Cuba, Ecuador, France, India, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Iraq.

Abstaining: Denmark, Indonesia, New Zealand, Pakistan.

Paragraph 6 was adopted by 10 votes to 1, with 4 abstentions.

Mr. SCOTT (New Zealand) explained that he had abstained because his delegation was of the opinion that the Assembly was not competent to decide whether the transmission of information should cease. The decision rested solely with the Administering Authority concerned.

Paragraph 7

Mr. LIU (China) agreed with the Iraqi representative that it would be better to delete the word "former".

Mr. FRAZAO (Brazil) did not object to the word being deleted.

Mrs. MENON (India) formally proposed that the word be deleted.

The proposal to delete the word "former" was not adopted, 5 votes being cast in favour and 5 against, with 5 abstentions.

Mr. TRUJILLO (Ecuador) proposed that the words "the former Administering Authority" be replaced by the words "the Government of the United States of America".

Mrs. MENON (India) and Mr. FRAZAO (Brazil) supported the proposal.

Mr. KHALIDY (Iraq) approved the proposal. If it were adopted, he would not press for a roll-call vote on paragraph 7 and would abstain.

The Ecuadorian amendment was unanimously adopted.

Paragraph 7, as amended, was adopted by 12 votes to none, with 3 abstentions.

The draft resolution as a whole was adopted by 12 votes to none, with 3 abstentions.

Mr. PIRACHA (Pakistan) observed that consistent with its views already expressed, his delegation would logically have voted against the draft resolution. He had, however, abstained out of consideration for the delegations that had submitted the draft and those that had amended it, and in order to show his appreciation for the laudable work done by the United States in Puerto Rico.

Mrs. MENON (India), explaining the votes cast by her delegation, recalled that at the end of the statement she had made the previous day, she had come to the conclusion that the Committee should examine the documentation and other information before it. Unfortunately, except for the three delegations which had submitted the amendments in document A/AC.35/L.148, the members of the Committee had made no effort in that direction. She had therefore abstained from voting on the third sub-paragraph of paragraph 3, since she regarded the objections raised in that connexion by the New Zealand representative to be justified. The Indian delegation sincerely hoped that the populations of all territories which were not yet self-governing would soon be in a position to be fully self-governing, but she doubted whether Puerto Rico had really achieved self-government yet; hence she deeply regretted that, failing a thorough study of the documentation by the members of the Committee, the United States representative had not supplied any particulars.

India would have preferred the question to be referred to the General Assembly purely and simply, but, as the resolution just adopted in no way prejudiced the decision to be taken by the Assembly, she thought that the desired object had been achieved. She had therefore voted for paragraphs 6 and 7 of the operative part; she did not, however, consider her country bound by that affirmative vote and reserved the right of her delegation to express its views when the question came before the General Assembly.

Mr. MATHIESON (United Kingdom) pointed out that he had not broached the substance of the matter during the discussion. His delegation noted with satisfaction the great progress achieved in Puerto Rico, and had no hesitation in recognizing that the Puerto Ricans were capable of exercising the powers and functions just conferred upon them. His delegation had not thought it necessary to examine in detail the documentation submitted to the Committee; it was sufficient for it to know that the United States Government had

decided, in the light of a full knowledge of the facts, that it was henceforth unnecessary to transmit information on the territory. Furthermore, the population in question had itself admitted that it was satisfied with its new constitutional status.

The drawback of the text adopted was that it appeared as a conclusion of the Committee rather than a recommendation or a suggestion intended for the General Assembly. In adopting the draft resolution, the Committee had in a sense exceeded its terms of reference. In the past, for example, in the case of Surinam and the Netherlands Antilles, the only resolutions that the Committee had adopted in its own name referred to procedure or organization of the work. As the majority of the members had seemed prepared to depart from the usual procedure and to assume heavy responsibilities, the United Kingdom delegation had not found it necessary to oppose the passages of the draft resolution that were open to criticism, and had merely abstained from voting on them in order to vote at the end on the draft resolution as a whole. But that affirmative vote should not be interpreted as meaning that, in the opinion of the British delegation, the Committee was competent to examine the Constitution of Puerto Rico, or that the United Nations had a determining voice in the decision of the United States to cease transmitting information.

Mr. PIGNON (France) observed that the text just adopted raised questions both of principle and of practice.

The questions of principle were well known, and he would hesitate to refer to them again, were they not of exceptional importance. Without wishing to revert to all the considerations which the French Government and several others had already set forth regarding the meaning and scope of Chapter XI of the Charter, he wished to reaffirm that, in the opinion of his Government, the obligations entered into in a voluntary statement were limited, under Article 73 e to transmitting "regularly to the Secretary-General for

information purposes, subject to such limitations. security and constitutional inspirations may require, the statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories which they are respectively responsible other than those territories to which Chapters XII and XIII apply". The limitative list in Article 73 was based on a fundamental rule in Article 2, paragraph 7, of the Charter which provided that nothing contained in the Charter should authorize the United Nations to intervene in matters which were essentially within the domestic jurisdiction of any State, or qualify the Members to submit such matters to settlement under the Charter. Those provisions were perfectly clear and did not call for any comment, but it had seemed advisable to restate them.

Hence, with regard to ceasing to transmit information concerning a non-self-governing territory, the Administering Authorities should transmit to the Secretary-General, for information, documentation relating to the circumstances in which they had decided to cease transmitting such information, in other words, to conform to resolution 222 (III). It could, of course, be held that the obligation was in no way mandatory and that it was based on courtesy rather than on any juridical provision. Thus, while the United States Government had acted correctly in submitting considerable documentation on the constitutional changes which had occurred in Puerto Rico, and in commenting on the situation, there was no doubt in the view of the French delegation that the Committee had not been entitled to examine the circumstances in which the United States Government had reached its decision, still less to discuss them and adopt a resolution concerning them. It might even be said that the Committee had exceeded its competence since, under resolution 448 (V), the Committee had only to examine the information and to report on it. That, however, was a point of secondary importance on which he would not dwell since he was of the opinion that resolution 448 (V) was itself unacceptable, as it exceeded the scope of the Charter.

In view of those considerations of principle, the French delegation would logically have abstained from voting on the draft resolution as a whole, had not practical considerations intervened. Most fortunately the text submitted to the Committee had, on the whole, had the merit of being factual. The practical considerations were the following: having examined the precise and honestly presented documentation submitted by the United States Government, the French delegation had come to the conclusion that not only had that Government been justified, in accordance with the spirit and the letter of the Charter, in ceasing to transmit information on Puerto Rico, but it would henceforth also be physically and legally unable to do so. It had therefore become difficult for the French delegation to ignore an obvious fact which was of capital importance in the history of the non-self-governing territories. The discussion in the Committee should never have taken place, but, since it had, it was morally incumbent to reach some conclusion. France had wished to express its confidence in the United States Government, which had followed a generous and wise policy, and to express to the Puerto Rican people its sincere interest in the progress achieved by that territory.

Consequently, in spite of its objections of principle and although it would have preferred the original New Zealand text, the French delegation had voted in favour of the amended draft resolution because it expressed the essential ideas to which the French delegation attached great importance. Moreover, its doubts had been mitigated by the fact that the United States Government had not considered that the resolution infringed its constitutional sovereignty since it had accepted it.

Finally, and to avoid any misunderstanding, he wished to make it quite clear that by voting as it had done, the French delegation had in no way recognized the principle that the General Assembly or any of its organs was competent to examine specific cases and take decisions regarding them. In that connexion, he recalled that on 19 November 1952 in the Fourth Committee, he had stated that, in the French Government's opinion, the competence of the Administering Powers with regard to States for which they were responsible could not be affected, reduced or

controlled by any decision of the General Assembly. In addition to those reservations of principle which concerned the particular case of the cessation of the transmission of information, he considered it necessary to recall the more general reservations which had been expressed in the name of the French Government at the opening of the present session.

Mr. PETHERBRIDGE (Australia) stated that, in his delegation's opinion, the United States Government had followed the correct procedure and had taken an undoubted'v sound decision.

He wished to make a number of observations on two General Assembly resolutions which had often been mentioned during the discussion, namely resolutions 222 (III) and 448 (V). The Australian delegation had abstained during the vote on resolution 222 (III), on the ground that it laid upon the Administering Powers obligations which exceeded the provisions of Article 73 (e) of the Charter. Resolution 448 (V), paragraph 2 of which defined the Committee's functions, had often been quoted during the discussion as giving the Committee competence to examine the information submitted by the United States on Puerto Rico. He had no intention of reintroducing the problem of competence but pointed out that during the discussions of questions similar to that before the Committee, the term "competence" had been understood in very different ways. In the particular case under examination, that term had a limited acceptance.

The Australian delegation had abstained from voting on resolution 448 (V) because it doubted - and on that point its position was still the same - whether the Committee was authorized to examine information, transmitted in pursuance of resolution 222 (III), which was largely of a political nature. The Australian delegation understood the word "examine" used in resolution 448 (V) in a restricted sense, and it urged other delegations to adopt a similar interpretation firstly because the Committee could not examine a large part of the information transmitted if it took into account the list of factors established by the ad hoc Committee; and secondly because some members might interpret resolution 448 (V) as widening the Committee's terms of reference and that was no light matter. When the Committee's term of office had been extended for

three years at the seventh session of the General Assembly, many delegations had urged that it should be renewed on the basis of the same principles as had governed its establishment, and in that connexion resolutions 332 (IV) and 333 (IV) had been quoted. The fact that resolution 448 (V) had not been mentioned did not of course mean that its provisions were no longer valid, but nevertheless indicated that its provisions should be interpreted with the greatest caution.

The Australian delegation attached great importance to the Committee's terms of reference and it had always opposed the view that the Committee should be empowered to examine problems of a political nature. For that reason, it had not studied in detail the documentation submitted by the United States Government in the belief that the decision taken by that Government required no justification.

Such were the considerations which had prompted the votes of the Australian delegation. It had voted in favour of the draft resolution because it approved its conclusions. It had abstained on the third sub-paragraph of paragraph 3 of document A/AC.35/L.148 for the reasons adduced by the New Zealand representative. It had also abstained on paragraph 1 because it agreed with the United Kingdom delegation that the Committee was not competent to adopt a resolution on the subject itself and should merely make a recommendation to the General Assembly.

Miss RUSAD (Indonesia) stated that she had abstained from the vote on the resolution as a whole because she wished to reserve her delegation's position until the question came before the General Assembly.

Mr. SEARS (United States of America) said that the only aim of the United States in submitting ample documentation on the question had been to assist the United Nations as far as possible in fulfilling its task, although the United States recognized no other authority in the matter than its own and that of the Puerto-Rican Government. As a matter of fact, the United States delegation would have abstained during the vote on the draft resolution had it not wished to recognize the Committee's efforts, and in particular those of the representatives of Brazil and Ecuador by voting in its favour.

Mr. DONS-MOELLER (Denmark) agreed with the representatives of the United States, the United Kingdom, France and Australia that the Charter in no way authorized the United Nations to concern itself with the constitutional affairs of any State. He associated himself with the tributes paid to the United States Government.

Mr. FRAZAO (Brazil) held that the final decision on the cessation of the transmission of information concerning Non-Self-Governing Territories rested with the United Nations. He understood the reasons which led the Administering Powers to assert their rights in that field, but he was convinced that when concrete cases arose, it would always be possible to reconcile points of view and reach satisfactory solutions for all concerned.

Mr. FERNOS-ISERN (United States of America) repeated that the Puerto Rican people understood and fully approved the decision taken on its behalf and which was justified by the fact that the territory had effectively attained full self-government.

The meeting rose at 5.50 p.m.