

# GENERAL ASSEMBLY

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Chairman: Mr. Thanat KHOMAN (Thailand).

## AGENDA ITEM 35

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/3601 and Corr.1 and Add.1, A/3602, A/3603, A/3604, A/3605, A/3606/Rev.1, A/3607, A/3608, A/3609, A/3647 and Corr.1, A/C.4/360) (continued):

(c) General questions relating to the transmission and examination of information (A/C.4/357/Rev.1, A/C.4/359 and Add.1, A/C.4/L.504/Rev.1)

## GENERAL DEBATE AND CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.504/REV.1) (continued)

1. Mr. BOZOVIC (Yugoslavia) said that sub-item (c) "General questions relating to the transmission and examination of information" included the question of the application of Chapter XI of the Charter and of the endeavours made by certain of the Administering Members to free themselves, by unilateral action, from the obligations which they had assumed under the Charter. Chapter XI brought the relations between the so-called colonial Powers and the dependent peoples within the realm of international affairs. The fate of those people was no longer exclusively within the competence of the Administering Members. A great step towards the removal of certain causes of international disputes had thus been taken. If Chapter XI did in a sense sanction the administration of the Non-Self-Governing Territories by certain Powers, it at the same time emphasized the temporary nature of that administration and laid down the principles which must govern the political, economic and social development of the dependent peoples. Failure to observe those principles was a source of disputes and friction which were a threat to international peace and security. Consequently, the international community could not regard those matters as within the sole jurisdiction of the Administering Members.

2. From the juridical angle, his delegation thought of Chapter XI as forming part of the multilateral treaty

which the Charter constituted. It was a binding agreement and in applying it the Administering Members could not take unilateral action, except in so far as any such action was in conformity with the obligations incurred and the aspirations and interests of the dependent peoples. Particular considerations derived from legislative or constitutional provisions which would render any part of the Charter inoperative could not be entertained. It was for the other contracting party, in other words the General Assembly, to estimate the validity of the arguments which an individual State might put forward.

3. That should be the attitude adopted towards the Government of Portugal, which had replied to a communication from the Secretary-General that it did not administer any territory covered by Chapter XI of the Charter (A/C.4/331, para. 2). That was completely at variance with the facts, and Portugal, when it signed the Charter, had undertaken the clearly defined obligations set out in Chapter XI.

4. In justification of Portugal's attitude it had been maintained that there had been no question at the time of its admission to the United Nations of making that admission conditional on an official declaration by Portugal whether or not it possessed territories covered by the provisions of Chapter XI. However, as the Charter was a whole, specific questions on a point of that kind could not be put to a State which appeared to meet the requirements of Article 4. To have done so would have meant accusing that State of bad faith.

5. To admit that Portugal did not administer Non-Self-Governing Territories amounted to accepting the argument of the Administering Members that the fate of the dependent peoples was exclusively within their competence. The statement of the representative of the United States at the 674th meeting, emphasizing the importance of Chapter XI and of the question of the competence of the General Assembly, was worth recalling. The delegation of Yugoslavia, for its part, believed that the competence of the General Assembly extended to the actions of the Administering Members in the Non-Self-Governing Territories and it wished to point out that that right had been exercised on several occasions: in connexion with Puerto Rico, Greenland, Surinam and the Netherlands Antilles, the Administering Members had accepted the decisions of the General Assembly on the suspension of the transmission of information. Each of those decisions of the General Assembly had been preceded by a lengthy consideration of every side of the question. Special committees had been established, their conclusions had been studied and finally adopted.

6. The complicated nature of the questions involved in applying Chapter XI raised very delicate issues. The matter before the Committee called for detailed study, and goodwill and good faith on the part of everyone would be necessary for its solution.

7. In co-sponsoring the draft resolution before the Committee (A/C.4/504/Rev.1), his delegation was anxious that the General Assembly should be in a position to approach the question with a better understanding of the different points of view, so that a solution could be found which would take into account the interests of all.

8. Mr. ROSSELLI (Uruguay), commenting on the draft resolution, said that Chapter XI of the Charter was one of the corner-stones of the United Nations. The debates to which it had given rise in the General Assembly revealed the importance which the Organization attached to the Non-Self-Governing Territories. His delegation thought that it was within the responsibility of the General Assembly to decide whether a territory was or was not self-governing and whether information concerning it should be transmitted. The transmission of information was a legal obligation, binding the Administering Members and resulting, not from any unilateral act, but from a contract between several parties.

9. In view of the fact that divergent and frequently contrary opinions were advanced every year, both in the Committee and in the plenary meetings of the Assembly, his delegation thought that an end should be put to those differences by an appropriate study; it had accordingly become a sponsor to the joint draft resolution contained in document A/C.4/L.504/Rev.1.

10. Miss ROESAD (Indonesia), in answer to questions concerning the draft resolution raised by the Philippine representative at the previous meeting, said that the representative of India had already replied to some of those questions and that the Philippine representative's suggestions had been incorporated by the sponsors of the draft resolution in the new text (A/C.4/L.504/Rev.1). The third paragraph of the preamble was now much clearer and under paragraph 1 of the operative part the opinions reproduced in the summary should not be attributed to given delegations, but indicated in a general manner.

11. Mr. SULTANOV (Union of Soviet Socialist Republics) noted that the transmission of information required under Article 73 was not proceeding satisfactorily. Every year many delegations stressed the fact that the information transmitted was inadequate and fragmentary, and did not permit a proper appreciation of the situation nor allow for proper comparisons. The representative of Belgium had himself pointed out the fragmentary nature and inadequacy of the information transmitted when he criticized the work of the Committee on Information from Non-Self-Governing Territories. Not only was the information inadequate, it arrived late; the General Assembly had to examine information two to three years late. Finally, it sometimes happened that the countries concerned did not send any information at all. Thus the Committee on Information had stated in its report (A/3647) that it had received no information from France or Belgium, and the members of the Fourth Committee had not yet received, up to the present date, information concerning the Belgian Congo.

12. The situation thus seemed unsatisfactory and the Assembly should remind the Administering Members that they should fulfil in good faith their obligations under the Charter to transmit information. The assertion by the Belgian representative that the data transmitted by the Administering Members was only for information purposes did not stand serious considera-

tion. The United Nations had under the Charter certain obligations concerning Non-Self-Governing Territories and the Charter put certain obligations upon the Administering Members. Information submitted under Article 73 e was meant to make it easier for the United Nations to fulfil its obligations under the Charter.

13. Speaking about the position taken by the Governments of Portugal and Spain, he pointed out that those countries possessed colonies whose indigenous inhabitants—about 12 million in the Portuguese colonies and 400,000 in the Spanish colonies—were subjected to severe colonial exploitation and were deprived of their right to decide their own affairs. The provisions of the Charter applied to their territories as well as to other Non-Self-Governing Territories. Portugal and Spain had signed the Charter and were obliged to fulfil their obligations. Assertions by the representatives of the Administering Members to the effect that it was for the Administering Members themselves to decide which territories were covered by Chapter XI were not in conformity with the Charter. Chapter XI referred to all territories whose peoples had not yet attained a full measure of self-government. In violation of the Charter Portugal used a pretext for non-compliance with the provisions of the Charter, viz. the Act of 11 June 1951, under which its colonies had been declared an integral part of the metropolitan country. But that Act did not change the colonial nature of the administration and economy of the territories, nor had the population received full self-government. The actual situation in the Portuguese territories testified to that effect. It was the duty of the General Assembly to condemn the attitude of the Portuguese Government and to see that the provisions of the Charter were respected. Nor had Spain so far fulfilled its obligations under Article 73: not only had it sent no information concerning its colonies to the General Assembly, but it had not even replied to the Secretary-General's communication (A/C.4/331, para. 1). The Spanish representative on the Fourth Committee had announced at the 670th meeting that a reply would shortly be forthcoming, but the Assembly was for the second year deprived of the opportunity to consider information about Spanish colonies. The General Assembly should demand that Spain strictly fulfil its obligations under the United Nations Charter.

14. Mrs. FLOURET (Argentina) regretted that doubts should be cast on the Spanish Government's good faith. Her delegation did not doubt that Spain had given due and proper attention to the question and that its reply would be in conformity with its obligations under the Charter. The Spanish delegation had made a statement to that effect in announcing to the Committee that a reply was forthcoming. The Argentine delegation would join with those who had expressed during the debate, their faith and confidence in Spain.

15. Mr. NOGUEIRA (Portugal) protested against the USSR representative's comments, which implied harsh criticism of the statement made by the Spanish delegation. He would not defend Spain, as that proud and noble country had no need of defence. The statement made by the Spanish delegation had been clear and full; it had set forth in detail the very good reasons why the Spanish Government had not so far been in a position to reply to the Secretary-General and it had given all possible assurances that the Spanish Government's reply would arrive at the proper time and would be in conformity with the Charter. The remarks

of the USSR representative were therefore entirely out of order; they implied doubt of the word of a Government, whereas the words of all Governments should be respected.

16. He took note of the statement made by the USSR representative that the General Assembly should condemn the Portuguese Government.

17. Mr. BOZOVIC (Yugoslavia) said that in the opinion of his delegation the statement made by the Spanish representative, like the statements of representatives of other Member States, could and should be subjected to examination by the Committee.

18. Mr. CARREÑO MALLARINO (Colombia) associated himself with the comments made by the representatives of Argentina and Portugal. Colombia, when it had been a Spanish colony, had been subject to the "Laws of the Indies" (*Leyes de Indias*), a circumstance which had considerably promoted its progress, and it felt nothing but gratitude to Spain.

19. Mr. RYCKMANS (Belgium) reminded the USSR representative that Belgium was not required to transmit information to the General Assembly, but to the Secretary-General. He drew attention to document A/3601/Add.1, of 18 October 1957, which contained the information transmitted by Belgium concerning the Belgian Congo in 1955.

20. Mr. WESTERMAN (Panama) said that the delegations sponsoring the joint draft resolution (A/C.4/L.504/Rev.1), which included his own, represented nearly all the regions of the world and that they hoped that their text, which was simple, would satisfy even the Administering Members. The matters to be solved were important issues of principle, which, although they directly affected a few Member States only, were, nevertheless, of concern to all Member States, since it was a question of interpreting the Charter, a multilateral instrument binding on all. The debates at the preceding session had been complicated by claims that the proposed solutions contained elements of discrimination. The delegation of Panama did not hold that opinion, and, in joining the other sponsors of the joint draft resolution, it had acted so as to prevent the revival of any suggestion of that kind.

21. Mr. AMEGBE (Ghana) said that his delegation's attitude with regard to the Non-Self-Governing Territories was based on the principle enunciated by Mr. Nkrumah, the Prime Minister of Ghana, that the independence of Ghana would have no meaning unless it was accompanied by the rapid liberation of all the African peoples and of all the populations of African origin, wherever they might be. Ghana did not administer any territory coming under Chapter XI but, like all Member States, it was bound to do its part in ensuring the proper application of Chapter XI to all the Non-Self-Governing Territories. It would be guided by those considerations in answering the question contained in the Secretary-General's letter of 13 August 1957.<sup>1/</sup>

22. At the 673rd meeting the delegation of Ghana had mentioned certain parts of Africa which it considered as territories coming under Chapter XI; it had also taken note of the protest made by the Portuguese delegation on that point. Nevertheless, it maintained its attitude that those areas of Africa which were

inhabited by peoples who were still governed by overseas countries and were not completely self-governing came within the scope of Chapter XI.

23. The delegation of Ghana, like that of the United States, believed in the virtues of mutual co-operation and understanding. It was convinced that the African peoples would achieve complete self-government within appropriate national frontiers. Until they did so, all the Member States concerned were bound to respect Article 73 of the Charter and transmit the information required. That was the spirit in which Ghana had associated itself with the other co-sponsors of the draft resolution. The question must be thoroughly examined as soon as possible in the interest of the good reputation of the Organization and that of its Members.

24. Mr. CARPIO (Philippines) thanked the sponsors of the draft resolution for having accepted his suggestions.

25. The Philippine delegation had always attached great importance to the question under discussion. At the San Francisco Conference, it had emphasized that independence should be included among the purposes listed in Article 73. The prosperity of the dependent peoples depended on that Article being carried out. It was therefore important to lay down the principles which would permit a clear statement of what was meant by a Non-Self-Governing Territory.

26. He thought that the text might be further improved by inserting in operative paragraph 1, after the words "in the relevant deliberations", the words "of the plenary meetings of the General Assembly or", as the Assembly had also discussed the question and it would be of interest for the summary to include the views expressed during those debates also.

27. It would also be advisable to add to operative paragraph 2, after the words "to study the Secretary-General's summary" the words "to consider the question of the transmission of information under Article 73 e of the Charter". Thus, if there were gaps in the Secretary-General's report, the committee's terms of reference would be wide enough for it to fill them.

28. The Philippine delegation would be happy to co-sponsor the draft resolution if the amendments it had proposed were included. The draft resolution would then satisfy the three criteria of conformity with the Charter, clarity of purpose and service to the cause of the United Nations.

29. Mr. BOZOVIC (Yugoslavia), speaking on behalf of the co-sponsors of the draft resolution, accepted the amendments proposed by the representative of the Philippines.

30. Mr. ROLZ BENNETT (Guatemala) said that the problems relating to the transmission and examination of information from Non-Self-Governing Territories could not be properly considered unless they were viewed in the context of Chapter XI of the Charter. That Chapter, together with Chapters XII and XIII, embodied the provisions specifically relating to the so-called colonial problem and had given rise to discussions from which had emerged the idea that the colonial Powers were responsible to the international community for the administration of the dependent peoples in their charge. Those discussions had also led to the establishment of procedures for giving effect to the idea of international co-operation in the consideration of matters relating to non-self-governing peoples.

<sup>1/</sup> See A/C.4/357/Rev.1, para. 2.

31. Before the Second World War about a third of the world's population had been subject to colonial domination; the situation had changed little by the time the San Francisco Conference had been held in 1945, but the effects of the war and the efforts of the nations which were seeking to free themselves from foreign rule had brought the problem of Non-Self-Governing Territories to the forefront. Since then many countries had obtained independence and had been admitted to the United Nations.

32. It was only since the Treaty of Versailles that the international community had begun to play its proper role in the advancement of dependent peoples. That Treaty and the Covenant of the League of Nations had instituted the Mandates System for the former possessions of Germany and Turkey, and in Article 23 of the Covenant the signatory Powers had undertaken to "secure just treatment of the native inhabitants of territories under their control", which meant not only mandated territories but also colonies. At the San Francisco Conference, following the adoption of Chapters XI and XII of the Charter, the administration of dependent peoples had ceased to be the exclusive concern of the administering Powers and had become a matter of interest to the international community, represented by the United Nations.

33. The problems involved in the interpretation of Articles 73 and 74 were not simple, but in analysing those problems the Committee should not lose sight of the fundamental purpose of Chapter XI. That Chapter was an integral part of the Charter and its provisions bestowed rights and imposed obligations on all States Members of the United Nations. The colonial Powers did not own the Territories; they were only temporary administrators of the interests of the people of the Territories until such time as they attained self-government. From the moment a new Member was admitted to the United Nations it formally accepted the terms of the new relationship between administering Power and dependent territory, as also the obligations arising out of the principle that the interests of the inhabitants of those Territories were paramount. It was the duty of the Administering Members to transmit regularly information on the Territories for which they were responsible and such information was obviously transmitted for purposes of examination. The General Assembly had not only the competence but also the duty to ensure that the obligations assumed by the Administering Members were fulfilled.

34. Owing to ambiguities in their text, Articles 73 and 74 had given rise to problems which would have to be settled by interpretation. It was to the General Assembly's credit that the resolutions through which it had given effect to the provisions of Chapter XI had been consistently moderate. Methods of examining the information received under Article 73 e had become more and more satisfactory and enabled the Administering Members fully to explain the objectives and accomplishments of their administration. The international responsibility that devolved upon the Administering Members had undoubtedly helped to make them carry out their task with greater care.

35. A major problem that had arisen was that of the principles which should serve as a basis for determining what Territories were covered by Chapter XI of the Charter and who was competent to lay down those principles. Since the Administering Members had

transmitted to the Secretary-General, in 1946, a list of the Territories concerning which they would transmit information,<sup>2/</sup> the question had been relegated to the background for a time; but when some Administering Members had announced their intention to cease transmitting information about certain Territories, it had become necessary to try to determine when a Territory ceased to be non-self-governing. Although the Fourth Committee had not succeeded in defining the term "Non-Self-Governing Territories", there had never been any doubt of the Assembly's competence to study the question and the Assembly itself had declared, in resolution 334 (IV), that it was within its responsibility to express its opinion on the principles which had guided or which might in future guide the Members concerned in enumerating those Territories. Whatever opinions might be held with regard to the possibility or even the advisability of establishing a definition of "Non-Self-Governing Territories", there could be no doubt about the necessity of at least determining those principles. There was already a considerable body of material on the question, accumulated over the years. He quoted the opinions various Governments had expressed on the subject.

36. There were many other questions connected with Chapter XI which called for elucidation and it might be well to ask the International Court of Justice for an advisory opinion which would throw light on the points which had occasioned so much controversy: for example, the meaning and scope of the limitation implied by the "constitutional considerations" to which Article 73 e referred; the question whether Chapter XI applied to territories which formed an integral part of the metropolitan country; the question whether the General Assembly had the right to decide that the people of a territory had not yet attained self-government; and the question what action the Assembly could take to secure transmission of information by a Member State.

37. The Committee should discuss the questions relating to the interpretation of Chapter XI in a spirit of co-operation and the United Nations should be given an opportunity to examine some of those questions, taking into account the following three principal sources of information on the subject: the replies of Member States to the Secretary-General's communications on the transmission of information, the discussions that had taken place in various United Nations organs on the question and the commentaries of jurists who had studied the United Nations Charter.

38. The Secretary-General was the best qualified to prepare a summary of that material and it was for that reason that the sponsors of the draft resolution (A/C.4/L.504/Rev.1) had proposed that he should be invited to do so. They had also proposed the establishment of a committee to be elected by the Fourth Committee, to make a preliminary study of the summary in order to facilitate its examination by the General Assembly. He hoped that a searching study of the problems before the Committee would yield solutions acceptable to the great majority, and perhaps even all, of the Members of the United Nations.

39. Miss BROOKS (Liberia) asked that the statement by the representative of Guatemala should be circulated as an official document.

<sup>2/</sup> See General Assembly resolution 66 (I).

40. Mr. RYCKMANS (Belgium) said he had thought the Committee had decided not to ask again for the distribution of the text of speeches. It appeared to him a regrettable practice, likely to offend the susceptibilities of some.

41. Miss ROESAD (Indonesia) supported the request made by the representative of Liberia.

42. Mr. KANAKARATNE (Ceylon) said that he was ready to support that request also but he would like to know whether the Committee had really decided that no more texts of speeches should be distributed.

43. Mr. HIMIOB (Venezuela) felt that the Committee should have as much information as possible but he wondered what the Secretariat's position was.

44. The CHAIRMAN replied that it was for the Committee to accept or reject a request for distribution.

It was decided that the complete text of the Guatemalan representative's statement should be circulated as an official document.<sup>3/</sup>

The meeting rose at 12.55 p.m.

<sup>3/</sup> See A/C.4/368.