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Chairman: Mr. Rodolfo MUNOZ (Argentina).

Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government: report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) (A/2178, A/C.4/L.231 and Corr.1) (continued)

[Item 36]*

1. Mr. EL-PHARAONY (Egypt) recalled that the study of the question of factors which should be taken into account in deciding whether a territory had or had not attained a full measure of self-government had originated from a proposal (A/C.4/L.37) made by the Egyptian delegation in 1949. That proposal had been prompted by the great concern with which the Egyptian delegation, among others, had viewed the fact that in 1948 the number of territories on which information was transmitted had dropped to sixty-three, whereas in 1946, according to the terms of General Assembly resolution 66 (I), the number of such territories had been seventy-four. For that reason the General Assembly had adopted resolution 222 (III), which, while welcoming any development of self-government, considered that it was essential for the United Nations to be informed of any change in the constitutional position and status of any Non-Self-Governing Territory as a result of which the responsible government concerned thought it unnecessary to transmit information in respect of that territory under Article 73 e of the Charter. Accordingly, the Members concerned had been requested in any such case to communicate to the Secretary-General appropriate information, including the constitution, legislative act or executive order providing for the government of the territory and the constitutional relationship of the territory to the government of the metropolitan country. It had become clear thereafter that certain criteria had to be taken into consideration in dealing with such situations, and resolution 334 (IV) had called for a

study of the factors which should be taken into consideration in deciding whether a territory had or had not attained a full measure of self-government.

2. The report of the *Ad Hoc* Committee on Factors (A/2178) was now before the Committee. Previous speakers had dealt in some detail with the various factors listed in the report, some emphasizing particular factors which they felt should be considered essential or decisive while others had dwelt on the report's various shortcomings. At the 273rd meeting, the Venezuelan representative had outlined the elements of the problem and had given a comprehensive analysis of the various factors and the framework within which they should be considered, and the value to be attributed to them. The Egyptian delegation endorsed his views whole-heartedly. It considered that the list of factors should not give rise to much disagreement, so long as it was clearly stated in the report that they could serve only as a guide in determining whether a territory was or was not self-governing, and that no single factor or combination of factors could be regarded as decisive in all cases, each case needing to be examined in the light of its particular circumstances. It was on that understanding that the draft resolution in document A/C.4/L.231, which the Egyptian delegation had joined in sponsoring, proposed that the list of factors should be approved as it appeared in the report of the *Ad Hoc* Committee. The Egyptian delegation was in complete agreement with the views in that regard expressed by the Cuban representative at the 273rd meeting.

3. The Egyptian delegation considered that there was one element of the utmost importance which should be decisive in all cases: the opinion of the people concerned. That was particularly true in cases of association. The natural, logical, and expected process of development was for a people placed under the domination of another to seek freedom from that domination and to proceed gradually to a full measure of self-government and, ultimately, to independence. It was the exception for people to achieve a full measure of self-government or independence through association

* Indicates the item number on the agenda of the General Assembly.

or assimilation with other component parts of the metropolitan or other country, especially when that people was of different race, language or religion, or had a distinct cultural heritage, interests or aspirations, which distinguished them from the people of the country with which they were associated. The terms "association" or "assimilation", no less than "incorporation" or "annexation", suggested a certain element of pressure, an act of authority on the part of the administering Power. That would not, of course, always be the case. However, as a general rule, the goal to be attained was independence, and other forms of self-government through assimilation or association should be covered by every possible guarantee. That was why the sponsors of the draft resolution were anxious that in the case of the assimilation of a territory, there should be assurances of the unqualified, freely expressed and unrestricted will of the people. In all such cases, the United Nations must be satisfied beyond all doubt that the will of the people had been expressed freely either by means of a plebiscite under its auspices or by some other appropriate democratic procedure.

4. The study of the factors involved in the attainment of full self-government should now be followed by an examination of the principles governing the use of those factors as a guide to action by the administering Powers and by the General Assembly. Under General Assembly resolution 66 (I), the Non-Self-Governing Territories had been enumerated on the proposal of the Administering Members concerned. The Administering Members should now be prepared to take into account any list of factors drawn up by the General Assembly when they themselves were examining the question of whether a territory had become fully self-governing. The Fourth Committee should also agree that it would take the same factors into account when it had to consider any particular case of the cessation of information. If the General Assembly made those two points clear, it would help to define the principles involved and the methods to be followed.

5. Mr. Shiva RAO (India) said that apart from its merits or demerits, the joint draft resolution before the Committee was useful in that it focused the Committee's attention on the practical aspects of the problem of factors.

6. At its first session in 1946, the General Assembly had adopted resolution 9 (I) expressing the United Nations' keen awareness of the problems and political aspirations of the peoples who had not yet attained a full measure of self-government and who were not directly represented in the Organization. The resolution went on to emphasize that the obligations accepted under Chapter XI of the Charter by all Members of the United Nations were in no way contingent upon the conclusion of trusteeship agreements or upon the bringing into being of the Trusteeship Council, and were in fact already in force. The operative part of the resolution requested the Secretary-General to include in his annual report an analysis and summary of such information as had been transmitted to him by Members of the United Nations under Article 73 e.

7. From the outset, the General Assembly had shown much practical interest in making use of the infor-

mation supplied by the Administering Members. It had discovered that no list of Non-Self-Governing Territories could be prepared by the Secretary-General because of the difficulty of defining the scope of the phrase "a full measure of self-government". It had, therefore, merely noted that information would be supplied by the Administering Members in respect of the territories mentioned in General Assembly resolution 66 (I). That resolution had not said that the list contained in it was complete; but the General Assembly had not challenged its contents and had accepted it as a working basis. In 1947 and 1948, some Administering Members had failed to transmit information in regard to certain territories without furnishing any explanation for the omission. The General Assembly had thereupon passed the significant resolution 222 (III), which had confirmed the interest of the General Assembly in the development of self-government in Non-Self-Governing Territories, and had established the validity of the contention that the General Assembly had the right to receive political and constitutional information, at least in the last stages. Lastly, the General Assembly had passed resolution 448 (V) on the development of self-government in Non-Self-Governing Territories. That resolution had linked resolution 222 (III) with the attainment of self-government by Indonesia. The preamble and the operative parts of the resolution were equally significant.

8. He did not underrate the need for a comprehensive approach which did not neglect or overlook any aspect of the problem. However, it was necessary at the same time to bear in mind the scheme of things visualized in Chapter XI and developed in practice by General Assembly resolutions over a period of six years. The objective of Chapter XI was "a full measure of self-government". Because the General Assembly had been unable to find a satisfactory definition in 1946, it had accepted from the Administering Members a unilaterally prepared list of Non-Self-Governing Territories, in order that the terms of Article 73 might be promptly fulfilled. In 1947 and 1948 that list had begun to shrink, and the General Assembly had immediately taken note of the omissions and asked for details. Resolution 222 (III) proved that the General Assembly's interest and jurisdiction were not circumscribed by a literal interpretation of Article 73 e. The territories listed in resolution 66 (I) were those territories whose peoples had not yet attained a full measure of self-government. He quoted a passage from the records of the San Francisco Conference to the effect that the word "yet" was held to apply to any degree of self-government short of full self-government, and until that had been attained, the responsibility of the Administering Member subsisted.

9. There were only two ways in which a Non-Self-Governing Territory could be removed from the list: one was by the attainment of a full measure of self-government, as in the case of the erstwhile Non-Self-Governing Territory of Indonesia, now a Member of the United Nations; and the second was by the transfer of the Non-Self-Governing Territory to the Trusteeship System. The General Assembly at no stage lost sight of a Non-Self-Governing Territory; it retained active interest in it under either Chapter XI or Chapters XII and XIII, or through its admission to full membership of the United Nations.

10. The Indian delegation found nothing to criticize in the terms of the draft resolution. It could not understand the objections raised by the Canadian representative at the 273rd meeting to the second paragraph of the preamble. It seemed obvious that the obligations of an administering Power remained in force in regard to each territory until the objectives of Chapter XI were fulfilled. As it stood, the draft resolution seemed to be an unexceptionable statement of existing facts and of the legitimate aims of the General Assembly, leading up to a suggestion of the right approach in future in all cases of Non-Self-Governing Territories regarding which Administering Members had ceased to transmit information.

11. The Indian delegation also regarded the report of the *Ad Hoc* Committee on Factors as a practical and valuable contribution to the study of a difficult problem.

12. Mr. NAUDY (France) said that the French delegation's first impression of the joint draft resolution had been that it was one of those ambitious proposals which, while claiming to interpret the provisions of the Charter, in fact violated them. It was not the first example of the light-hearted treatment of complicated and far-reaching questions in the Fourth Committee. The draft resolution also took for granted the solution of the difficulties pointed out by many previous speakers in noting the shortcomings of the *Ad Hoc* Committee's work.

13. The second paragraph of the preamble to the joint draft resolution declared that the obligation to transmit information remained in force with regard to each territory until the objectives of Chapter XI were fulfilled. As the Canadian representative had pointed out, that statement of principle was absolutely unwarranted. There were degrees and stages in the development of the Non-Self-Governing Territories towards self-government. The obligation laid down in paragraph e of Article 73, with its reservations and limitations, was the only formal undertaking which accompanied the general undertakings in Chapter XI, and it ceased when it no longer applied, that was to say, when the Non-Self-Governing Territories obtained self-government in the fields mentioned in Article 73 e. The Administering Members could not have greater obligations imposed on them than they had assumed. The transmission of information must cease when there had been sufficient development to free the administering Powers from the special obligation to transmit information; in other words, when the territory in question had reached a stage of development which, although not one of self-government, was certainly not that of a Non-Self-Governing Territory to which the provisions of Article 73 e applied. The *Ad Hoc* Committee on Factors had not studied such border-line cases or defined the criteria to be applied to them. The French delegation considered, therefore, that the problem still existed, and it could not support a proposal which merely assumed it to have been settled. Paragraph 4 of the operative part of the draft resolution was based on a similar principle, also taken for granted, which the Cuban representative had termed the indivisibility of the concept of self-government. The French delegation objected to that on the same grounds as it objected to the second paragraph of the preamble.

14. The fifth paragraph of the preamble and paragraphs 1 and 5 of the operative part assumed that the General Assembly was competent to decide whether a territory had or had not attained a full measure of self-government or to study questions arising from the cessation of the transmission of information or the obligation to transmit information. Previous resolutions adopted by the General Assembly, in particular resolution 334 (IV), had not attributed such competence to the General Assembly but had left the decision, implicitly at least, to the administering Powers. The provisions of the draft resolution tended to establish a degree of United Nations control over the Non-Self-Governing Territories which was contrary to the spirit and the letter of Chapter XI and also to the principles of Article 2, paragraph 7, of the Charter. The administration of the Non-Self-Governing Territories and the steps taken to ensure their political development came within the competence of the administering Powers, whose parliaments were the final authority in such matters. Any United Nations intervention in that sphere would constitute interference in matters within the domestic jurisdiction of the Powers concerned and would involve a dangerous and quite inadmissible duality of responsibility.

15. The French Government had made a formal reservation in that regard at the San Francisco Conference.¹ It had pointed out each year, in communicating information to the Secretary-General in accordance with Article 73 e, that the determination of territories whose populations were not yet completely self-governing came within the exclusive competence of the administering Powers. The matters of principle so light-heartedly approached in the joint draft resolution were of fundamental importance and the French delegation formally reiterated its reservations. It would oppose the joint draft resolution if it remained unchanged.

16. Mr. WINIEWICZ (Poland) said that there could be no practical answer to the problem of factors without a proper approach to two preliminary but essential considerations. First, what authority was competent to determine that a territory had reached the stage of self-government envisaged by Article 73 as a whole? He stressed the words "as a whole" because of the obstinate attempt on the part of the colonial Powers to restrict the problem of Non-Self-Governing Territories exclusively to paragraph e of that Article. Secondly, what did the Charter mean by the phrase "a full measure of self-government"?

17. During the seven years of the United Nations' existence the colonial Powers had decided by a unilateral decision to withhold information on thirteen Non-Self-Governing Territories and had merely informed the Secretary-General of that fact. The General Assembly had never been given any valid explanation for the cessation of information. The colonial Powers continued to treat the Non-Self-Governing Territories as their exclusive domain. Their attitude in that connexion was a further infringement of the provisions of the Charter.

18. The obligation to transmit information undertaken by the colonial Powers was a binding agreement,

¹ See *United Nations Conference on International Organization*, II/4/8.

and the international responsibility assumed by those Powers could be disposed of only by an international decision of the General Assembly itself. Before any Administering Member could be released from its duty to submit information under Article 73 e, the Committee on Information from Non-Self-Governing Territories must consider all the data concerning the changes in the status of the territory concerned and submit a recommendation on the cessation of information to the General Assembly, with whom the final decision lay.

19. The Non-Self-Governing Territories were not merely provinces within the sovereign power of the metropolitan country, and they were outside the scope of Article 2, paragraph 7, of the Charter. Chapter XI had been written in order to establish a special relationship between the dependent territories and the United Nations. The present and future of the dependent peoples was not the sole responsibility of the administering Powers; it was a major concern of all Member States.

20. It was instructive, in connexion with the report of the *Ad Hoc* Committee on Factors, to study the reasons given by the administering Powers for the unilateral cessation of information from certain Non-Self-Governing Territories. There were two types of explanation. The first hypocritically based the cessation of information on economic, social and educational conditions on the assertion that self-government had been established in those fields and that it was hard to see how a government could continue to be under an obligation in respect of matters for which it was no longer responsible. That argument had been reiterated by the French Government in its observations on particular factors (A/AC.58/4). It was a complete distortion of Chapter XI. Article 73 clearly stated that Non-Self-Governing Territories were those colonies whose peoples had not yet attained a full measure of self-government. The Administering Members were therefore under an obligation to transmit information until a full measure of self-government had been achieved, and alleged self-government in economic, social or educational fields did not relieve them of the duties imposed by Chapter XI or excuse the cessation of information.

21. The second excuse conceived in order to by-pass the Charter was the idea of the association of the Non-Self-Governing Territory—absorption might be a better word—with the metropolitan country, through some constitutional process. That had already occurred on several occasions and it was probable that the same device would be employed in the future, to the detriment of the dependent peoples. Whether the national identity of the indigenous inhabitants was extirpated by obviously brutal or superficially constitutional methods, such an association bore no relation whatsoever to the establishment of the full measure of self-government envisaged by the Charter and should be resisted with the whole force of the authority of the United Nations.

22. It must be emphasized that paragraph e was only one part of Article 73. In the preamble and in paragraphs a, b, c and d of Article 73 the Administering Members had undertaken to ensure, respect and promote the political advancement and aspirations of the dependent peoples, as well as their economic, social

and educational needs. The entire phrasing of Article 73 left no doubt that by "a full measure of self-government" the Charter meant political independence. General Assembly resolution 66 (I) and the other texts cited by the Indian representative all led to the same conclusion.

23. Of the Non-Self-Governing Territories on which information was no longer transmitted, only one, Indonesia, was an independent Member of the United Nations. The others had been withdrawn from any international system of responsibility and were presumably at the sole mercy of the selfish interests of the metropolitan Powers. That development had never been envisaged by the Charter or by the many subsequent resolutions on Non-Self-Governing Territories.

24. Before any dependent territory could undertake full responsibility for its independent future, it must be freed from the dominating influence and pressure of the colonial Power. Paragraph A, 4, in the list of factors indicative of the attainment of independence, given in the Committee's report, mentioned "freedom of the territory to enter into arrangements concerning its national defence". Military bases had been established in many Non-Self-Governing Territories by the colonial Powers and as long as those bases existed, no dependent people could take its future into its own hands with full freedom of action.

25. Another factor supposedly indicative of the attainment of independence was "complete autonomy in respect of economic . . . affairs". It was well known that all the Non-Self-Governing Territories were under the full economic domination of the metropolitan countries. Full economic independence could be established only if the foreign interests were deprived of their holdings. As long as they retained economic control of the Non-Self-Governing Territories there could be no freedom of action for the dependent peoples.

26. The list of factors indicative of the attainment of other separate systems of self-government referred to the "freely expressed" opinion of the population and "informed and democratic processes" for ascertaining the "status or change in status which they desired". Even in those colonial territories where the political maturity of the indigenous population had already achieved a very high level, there was nothing but a mockery of democratic processes. In the few cases where they did exist, the so-called legislative organs were only too often composed of nominated officials, the majority of whom were settlers from the metropolitan country who had nothing in common with the indigenous population. The latter longed for freedom and independence; the former were doing their best to prolong the colonial domination.

27. Paragraph A, 3, of that same list spoke of "voluntary limitation by sovereignty". Both that paragraph and paragraph C, 1, might make it appear that of their "own free will" the people of a territory might choose colonial vassalage. Acceptance of such a notion would make it possible to apply the label "self-governing" to territories on which puppet legislatures and executive councils had been imposed. The reference in paragraph C, 1, to legislatures "lawfully constituted in a manner receiving the free consent of the population" rather than to elected legislatures could imply that the members of a legislature nominated by a colonial Power were

acting with the free consent of the population. Such a meaning should be categorically rejected, since its adoption would signify United Nations agreement to the existing undemocratic system of colonial rule through nominated legislatures.

28. Adoption of the list of factors indicative of the free association of a territory with other component parts of the metropolitan or other country as binding definitions would make it possible to sanction disguised colonial subjugation as practised by the French through the French Union, attempted by the United States through the "Commonwealth" of Puerto Rico, or applied by the United Kingdom through its colonial system. If, for example, Northern Rhodesia and Nyasaland were federated with Southern Rhodesia, as proposed, the entire federation would presumably become "self-governing" and the United Kingdom Government would no longer feel called upon to submit reports on Northern Rhodesia and Nyasaland.

29. The factors submitted by the *Ad Hoc* Committee contained a significantly large number of phrases about "voluntary" limitation of sovereignty and "free" association with the metropolitan country or other colonies. Only after the colonial yoke had disappeared could the free will of the dependent peoples be fully expressed. The *Ad Hoc* Committee's report did not make that point clear.

30. The *Ad Hoc* Committee had completely failed to reappraise the essential question of the right to national self-determination, which was clearly defined in Article 1, paragraph 2, of the Charter as one of the main purposes of the United Nations. At a given historical moment, that right could be exercised by any one of the dependent peoples. They would not consult a dictionary to discover whether they satisfied all the definitions of a free nation; they would simply ask for the recognition of their right of self-determination, and their struggle for full independence rather than any mechanical classification would decide the issue.

31. His delegation was not in favour of rigid formulae to be applied to all the Non-Self-Governing Territories in all circumstances. If the General Assembly was not realistic, the cessation of information without the corresponding attainment of self-government or independence might reduce to zero the number of Non-Self-Governing Territories discussed annually by the United Nations.

32. The *Ad Hoc* Committee itself had recognized the limitations of its work in paragraph 5 (C) of its report, when it had stated that the "circumstances of each particular case" would have to be "studied separately". Harmful generalizations should be avoided and the General Assembly should analyse every case on its merits, without referring solely to factors in order to ascertain whether the territory concerned had attained a "full measure of self-government", in the terms of the Charter. The main principle was the right of national self-determination, and everything must be done to avoid weakening or distorting that right and to remove the obstacles by which the administering Powers tried to postpone the invoking of that right by the dependent peoples. The Polish delegation had some reservations with regard to the basic concept of the *Ad Hoc* Committee's report, which could be in some situations inconsistent with the right of self-determination.

33. Mr. GERIG (United States of America) said that the United States delegation would support the report of the *Ad Hoc* Committee on Factors. That report gave evidence of a close and careful study of its complex subject, and the matter had now been brought to a stage where the General Assembly might well adopt the report as representing the best consensus of opinion which could for the time being be achieved. It could of course be improved, and the United States delegation was prepared to consider any proposal to that end.

34. In supporting the report, the United States delegation did so on the understanding which the Committee itself had arrived at, namely, that no enumeration of factors could do more than serve as a guide in determining whether a territory was or was not self-governing. It also agreed with the Committee's view that each specific case would need to be determined by the circumstances of that case, while a single factor or combination of factors could not be regarded as decisive in every case. The Committee was to be commended for having avoided the adoption of over-simple conclusions which could not be helpful in seeking a standard by which to judge whether self-government had been attained.

35. The factors themselves fell into three categories: first, those which were indicative of the attainment of independence; secondly, those which were indicative of the attainment of some other separate system of self-government; and thirdly, those which were indicative of the free association of a territory with other component parts of the metropolitan or other country. The factors listed in each category were relevant in varying degrees, but there were additional points which might well merit inclusion. However, the United States delegation would not suggest any new factors, partly because there might be some danger of laying down so many that the peoples of the Non-Self-Governing Territories themselves might misunderstand the significance of the list and be somewhat discouraged by the belief that they had to qualify on too many points in order to attain the desired goal of self-government. Indeed, in examining the list of factors, the United States delegation had wondered whether some independent governments of States Members of the United Nations, could in fact qualify for self-government.

36. The United States delegation also commended the *Ad Hoc* Committee for having clearly indicated the difference between independence and self-government: while independent entities were self-governing, not all self-governing entities were independent.

37. The report also recognized clearly that the Non-Self-Governing Territories were not all moving, and might not all wish to move, in the same direction. While some were progressing towards independence, others were clearly moving towards free association with the metropolitan or other State or group of States.

38. With regard to the six-Power draft resolution (A/C.4/L.231 and Corr.1), the United States delegation was indebted to the Venezuelan and Cuban representatives for their clear explanation at the 273rd meeting of the postulates underlying it. From the terms of the draft resolution and the explanations of its sponsors, it was clear that it was based on two fundamental theories, both of which the United States Government, under its Constitution, must reject. The first was that

autonomy was indivisible and that the administering Power would therefore be required to transmit information under Article 73 e until a territory was self-governing not only in economic, social and educational but also in political matters. The second was that authority and responsibility for deciding when a territory had become self-governing and need no longer be reported on rested not with the administering Power alone, but jointly with the General Assembly and the administering Power concerned.

39. On the first point, the United States delegation believed that the people and government of a territory and the people and government of a metropolitan country could, if they wished, freely choose the nature of their mutual relationship, and that in such a freely chosen arrangement they could decide that certain matters, such as economic, social and educational matters, should henceforth be the exclusive concern of the territorial government, and certain others, political matters such as the conduct of foreign affairs and defence, should be the responsibility of the metropolitan government. Under such an arrangement, if the territorial government did not wish to submit reports on its economic and social affairs to the metropolitan government or did not wish them to be transmitted to the United Nations, it would not only be contrary to the agreement if it were compelled to do so, but would in fact be depriving the territory of much of its newly acquired self-government. It was hardly believable that that was the intention of the Cuban representative or of the other sponsors of the draft resolution, but if it was, the United States Government was unwilling to be a party to any action limiting the attainment of self-government and could not support a resolution based on such a premise.

40. On the second point, the United States delegation held that each administering Power was entitled to determine the constitutional position and status of territories under its sovereignty. The decision to cease reporting under Article 73 e on specific territories rested solely with the administering Power concerned. That was not meant to imply that the General Assembly had no part to perform. On the contrary, it could make a useful contribution by trying to determine the proper interpretation of such expressions as "Non-Self-Governing Territories" and "territories whose peoples have not yet attained a full measure of self-government". Since such expressions appeared in the Charter, their definition should be a collective rather than a unilateral matter, and the General Assembly should have authority to discuss and attempt to define those expressions and to recommend to the Administering Members in general the consideration of any definition which it might adopt. The General Assembly might further express its opinion in general terms on the principles which had guided or might guide Administering Members in deciding on which of their territories they would transmit information; but any resolution regarding the decision of an Administering Member to cease the transmission of information should not imply that that decision required the General Assembly's approval or disapproval. If the people of a territory freely chose to become a component part of another State and the Government of that State, through its constitutional processes, adopted the necessary legislation to make such union possible, that legislation could

not be made subject to further review and possible revision by the General Assembly, for the General Assembly did not enter into the legislative processes by which governments, under their constitutions, carried out the duties entrusted to them. No Member of the United Nations recognized that the Fourth Committee or the General Assembly as a whole was competent to enter into the inner legislative processes of Member States. The United Nations was not a world government. The United States had not abrogated its right to determine when a territory had advanced so far that it was qualified for statehood, nor could it yield that right to the Fourth Committee, since it was a constitutional question on which the Government could not surrender its sovereignty and right of decision.

41. For those reasons, the United States Government would be unable to vote for the six-Power draft resolution. It would be more prudent simply to adopt the report of the *Ad Hoc* Committee on Factors, which the United States would support.

42. Mr. C. LIU (China) said that, bearing in mind the objectives of Chapter XI, he considered that the joint draft resolution was a good one and that it correctly expressed the evolutionary interpretation that the General Assembly had placed on Chapter XI in the various resolutions to which previous speakers had referred.

43. Nevertheless, paragraph 3 of the operative part of the draft resolution was somewhat obscure. He could not conceive that the factors could be interpreted as "a hindrance to the attainment of a full measure of self-government". That could only be hindered by the actions of the indigenous population, the administering Power or other interested parties. He would like some explanation of that paragraph.

44. Paragraph 2 was virtually a repetition of the second sentence of paragraph 5 (C) of the *Ad Hoc* Committee's report and, as such, should logically be combined with the last paragraph of the preamble; those two paragraphs were two facets of a single idea and should not be separated.

45. The relation between the terms "self-governing" and "self-government" in paragraph 4 was rather confusing. The Cuban representative had pointed out that paragraph 4 was intended to stress the indivisibility of all aspects of self-government. That idea might be more clearly expressed if the words "in the political field" were added after the word "self-government".

46. He would not insist on the amendments he had suggested and would in any case vote in favour of the joint draft resolution.

47. Sir Alan BURNS (United Kingdom) said that his delegation had never felt that the question of factors had any great relevance to the principles and purposes of Chapter XI, and had therefore taken no prominent part in the debate on the subject. Nevertheless, in response to General Assembly resolution 567 (VI), it had submitted its considered views to the *Ad Hoc* Committee. It was regrettable that the United Kingdom memorandum (A/AC.58/1/Add.3), with other closely argued memoranda submitted by various Members of the United Nations, had not apparently received the thorough attention they deserved from the *Ad Hoc* Committee, whose report would have been of much greater value had those memoranda been annexed in full for the consideration of the Fourth Committee. It

was quite evident from some of the statements made in the Fourth Committee that the views expressed in the memoranda had not been fully taken into account.

48. Turning to the draft resolution, he pointed out that the obligation to transmit information referred to in the first two paragraphs of the preamble was subject to such limitations as security and constitutional considerations might require. Subject to those limitations, his delegation would agree that the obligation to transmit information remained in force with regard to each territory until the obligations of Chapter XI had been attained in relation to that territory.

49. The wording of the final paragraph of the preamble glossed over some of the complexities of interpreting the Charter. The problem in relation to Chapter XI was to decide whether a territory was or was not a territory whose peoples—that was the operative word—had not yet attained a full measure of self-government. Some confusion was evident in the *Ad Hoc* Committee's report: some of the items referred to the features which would be exhibited by a fully self-governing territory, and some to the features which would be exhibited by a fully self-governing people. It would have been prudent for the *Ad Hoc* Committee to define the words "territory" and "people". Definitions, however, had apparently been shirked by the Committee.

50. The same confusion between "a territory" and the "peoples" of that territory was apparent in paragraph 1 of the draft resolution. The General Assembly, if indeed it ever had to consider the question at all, was presumably interested in the existence of people who did not enjoy a full measure of self-government. That question affected not only the cessation of information but also the recognition of obligations on the part of other States which had not hitherto regarded themselves as having any commitments under Chapter XI.

51. The United Kingdom would have little difficulty in deciding whether any of its territories had or had not attained a full measure of self-government and his Government had no need to approve the list of factors in question. For example, if the United Kingdom decided to accord the peoples of a Non-Self-Governing Territory for which it was responsible a full measure of self-government, an order-in-council could be promulgated precisely to that effect. Such an instrument would be internationally valid in removing the territory in question from the category of territories to which Chapter XI applied. It was quite possible that the political advancement of the population would not be sufficient to enable them to decide the future destiny of the territory with due knowledge, and they might not have had an opportunity to express their opinion, by informed and democratic processes, as to the status or change in status which they desired. Nevertheless, their status would be effectively established in international law by the instrument to which he had referred. Under his country's constitutional practices, therefore, the list of factors would have little real relevance to the basic issue of the status of the territory, either in international law or in relation to Chapter XI.

52. Paragraph 2 of the draft resolution was wise and in accord with his Government's invariable practice. He welcomed paragraph 3, since it would help to dissipate the growing feeling in the Non-Self-Governing Territories that the United Nations would hesitate

to recognize the political advancement of such a territory unless sixty nations could be convinced, through the application of a series of almost incomprehensible criteria, that a level of development had been reached far surpassing that to be found in the majority of Member States.

53. He did not understand the phrase "its people shall have attained a full measure of self-government as referred to in Chapter XI of the Charter" in paragraph 4. The *Ad Hoc* Committee's report contained no definition of "a full measure of self-government". His Government would deem a country self-governing in economic, social or educational affairs when its legislature and executive took independent decisions on those matters. He had no doubt that the sponsors of the joint draft resolution would be able to suggest a definition.

54. He endorsed the last clause of paragraph 5, which clearly recognized the need to admit that there were more than eight Members of the United Nations on whom the obligation to transmit information might well devolve.

55. His delegation felt unable to vote in favour of the draft resolution or to approve the *Ad Hoc* Committee's report. Much remained to be done before the question could be considered as even provisionally elucidated. Many doubts had been expressed regarding the real value of the existing list of factors and many new elements had been brought into the discussion. The thoughtful memoranda submitted by several Governments had been examined in a most cursory way, and virtually all the essential terms remained undefined. He therefore suggested that it might be wise for the Committee to invite the Secretary-General to prepare a further comprehensive study on the subject in the light of all the elements to which he had referred and to submit it to the eighth session of the General Assembly. In the past the General Assembly had appeared to attach great importance to the study of factors, which it was now dismissing in a most light-hearted way.

56. He would not obstruct any attempt to remove a somewhat unreal problem from the agenda by means of the joint draft resolution. Before any vote was taken, however, he fully reserved his Government's position in relation to any claims which might be deemed to be put forward on behalf of the General Assembly in the draft resolution, and in the event of its adoption and a subsequent urging of any claims, his delegation would be obliged to draw attention to that express reservation.

57. Mr. DE MARCHENA (Dominican Republic) said that his delegation had always supported the idea that the General Assembly was competent to decide when a territory was or was not self-governing and, consequently, whether or not information should continue to be transmitted in respect of that territory. Chapter XI was a declaration by the administering Powers, but it was also a treaty between those Powers and the international community represented by the United Nations. In conformity with Article 10 of the Charter, the General Assembly was certainly competent to discuss Chapter XI and to interpret the obligations of the administering Powers thereunder. His delegation had therefore supported the setting up of the *Ad Hoc* Committee on Factors and had co-operated in its work. It was convinced, as the Dominican representative had stated in the General Assembly at the 396th plenary

meeting, that the principle of self-determination was a sacred principle and an integral part of international law, unreservedly recognized in the United Nations Charter.

58. Although his delegation had always maintained that it was very difficult to determine absolute criteria of self-government, it had nevertheless replied to the Secretary-General's request for comments on the proposed list of factors. Only about a third of the Member States, however, had felt able to submit such comments; several States had reserved their opinion until they had seen the *Ad Hoc* Committee's report and several States still reserved their opinion. It was obvious that many Member States still retained considerable doubts regarding the proposed list of factors and it therefore seemed highly questionable whether the General Assembly should adopt that list as a conclusive study at the present juncture.

59. He agreed with those representatives who had referred to the political aspects of the question. Nevertheless, it had always been presented to the Committee as a legal problem, and it must be solved by legal formulae derived from international public law. The constitutional provisions governing the relations between a metropolitan country and the Non-Self-Governing Territories for which it was responsible obviously involved far-reaching legal problems. That was why, at the sixth session (216th meeting), his delegation had suggested that the study of factors should be entrusted to the International Law Commission. It still held that view. The *Ad Hoc* Committee's report should be submitted to a technical body for further analysis and in order to bring its terminology more into line with the legal requirements of the problem. Such a step was particularly necessary in the case at issue, since the list of factors would be a document of decisive importance when any revision of the Charter was undertaken. He would therefore support any suggestion for further study, particularly by the International Law Commission, and reserved his right to submit a draft resolution to that effect.

60. The *Ad Hoc* Committee's report was guilty of one major omission: it contained no definition of self-government. His delegation had stated at the 216th meeting of the Fourth Committee that prior to any determination of factors, the principle of self-government from the standpoint of international law must be defined as it derived from the application of constitutional law to international public law. The ambiguity of Chapter XI, especially Article 73 b, in that respect had been repeatedly emphasized by such commentators on the Charter as Hans Kelsen and Lauterpacht. In the French and Roman legal codes, the definition of any crime, for example, always specified the elements of the crime itself. In the same way, any definition of self-government must specify the elements of self-government, that was to say, the factors. There seemed to be a tendency in the Fourth Committee to claim that the General Assembly should first establish the factors and then, at a later stage, define self-government. There seemed to be no reason why those processes should not be undertaken simultaneously; indeed that might be preferable. His delegation had previously suggested that self-government might be defined as the fact of a people or group making its institutions completely independent of the metropolitan country to which it had been legally

and politically linked. It was a prerequisite of any definition of self-government that it should embody the principle of self-determination.

61. Both the *Ad Hoc* Committee's report and paragraph 2 of the draft resolution recognized that no enumeration of factors could do more than serve as a guide. Since, therefore, many other formulae might solve the ambiguities of Chapter XI, his delegation would adopt an intermediate position with regard to the draft resolution.

62. The preamble to the draft resolution was acceptable, since it merely listed the consequences of earlier General Assembly resolutions. The opening statement in paragraph 1 was correctly formulated, but, as he had stated, it would be premature to approve the list of factors as a final study. It should be given further consideration by a re-established *Ad Hoc* Committee or by the International Law Commission. The very vague phrasing in paragraph 2 detracted from the merits of the draft resolution as a whole. Paragraph 4 was apparently a formal declaration by the General Assembly enunciating a formal principle with regard to self-government, namely, that there could be no economic, social and educational self-government without political self-government. That was acceptable as a principle, but in practice it would, if approved, render the entire list of individual factors unnecessary. If the General Assembly wished to make such a declaration, it might do so in a separate resolution. He was not at all sure, however, that such a declaration would not violate Chapter XI of the Charter. As stated in paragraph 4, the idea introduced a fundamental, new element with the gravest legal and political implications. In his opinion, it would be premature at the present juncture for the General Assembly to adopt what was, in essence, a revision of Chapter XI, and he would therefore be unable to vote for paragraph 4.

63. To sum up, his delegation was not against the draft resolution, but felt that it was premature. It would therefore abstain in the vote on the resolution as a whole, but might request a separate vote on certain paragraphs and would vote against those paragraphs.

64. Mr. RYCKMANS (Belgium) wished to remind the Committee of some points that had apparently been overlooked by other speakers. The question before the Committee was not the determination of the conditions under which the cessation of the transmission of information could be allowed; it was merely the determination of the territories in regard to which information should be supplied. Texts to be submitted to the General Assembly must be precise. The question was, therefore, which were the territories whose populations had not yet attained a full measure of self-government.

65. Secondly, every State had sovereign discretion to decide what territories under its administration came within the scope of Chapter XI. It decided in regard to which territories information should be supplied and in regard to which territories circumstances were such that information need no longer be transmitted.

66. The Belgian delegation had grave doubts as to the value of the list of factors drafted by the *Ad Hoc* Committee. That list seemed to have been drawn up in a somewhat random fashion: certain suggestions had been put before the Committee, others had been added,

some had been dropped, other retained. He was sure that no member of the Committee could feel that the problem had been thoroughly sifted. The Committee had not performed what should have been its primary task, namely, giving a definition of what self-government in fact was.

67. His delegation was not, however, taking a stand with reference to the list of factors. All of them were worthy of consideration, though neither any one of them singly nor all of them together could offer an automatic criterion for determining whether a territory did or did not come within the scope of Article 73 e.

68. Nevertheless, the list of factors did confirm the Belgian delegation's opinion that there were many peoples to which the criteria applied and on which information was not transmitted. There were two alternatives: either the criteria were valid, in which case information must be transmitted with regard to all the territories to which they applied; or else they applied to certain territories in regard to which the administering Power concerned or, as some held, the General Assembly, considered that there was no need to transmit information, in which case they were not valid.

69. He would give some examples of territories to which, in the opinion of his delegation, the factors undoubtedly applied. The factors indicative of the attainment of self-government included the opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desired; the extent to which the relations of the territory with the capital of the central government might be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles; and the extent to which the population were of different race, language or religion or had a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associated themselves.

70. In that connexion he referred to the report of the first session of the Committee of Experts on Indigenous Labour of the International Labour Organisation, held at La Paz in 1951, which described the conditions under which the Indian population lived in Brazil. According to that report there were three categories of Indians: the first living in the same communities as civilized people, the second consisting of tribes which maintained peaceful relations with the civilized people but inhabited remote territories near the sources of the rivers, and the third composed of completely savage tribes which lived in isolation in inaccessible territories and offered armed resistance to any attempt by civilized people to make contact with them.

71. In Venezuela, a report published by the Government for the year 1949-1950 stated that attempts were being made to incorporate the Indians of the upper reaches of the Orinoco into civilized life by teaching them religion, Spanish, agriculture and trade and instructing them in hygiene and public health. In a report for 1950-1951 it was stated that the Government, desirous of improving the conditions of the Native populations in distant and inaccessible parts of the country, had entrusted Catholic missions with the task of winning the Indians over to civilization, and that notwithstanding the difficulties the missionaries were making progress.

72. According to a Venezuelan law of 1882, the special system under which the Native communities were administered by the Federal Government would continue until it should be appropriate to raise them to a different status. The legislation which applied to those communities was therefore different from that which applied to the majority of the inhabitants of Venezuela. A law of 1915 had established a number of missions for the purpose of introducing the uncivilized groups which still survived in various areas of the republic to urban life and of settling the more uninhabited parts of Venezuela. The missions were granted authority to maintain order among the Indians and to call on the Federal Government to intervene when important measures were required. Indians who were willing to renounce their nomadic existence would be taught in educational centres how and where to settle permanently. The decision where they should settle would be taken by the head of the mission.

73. He assured the Committee that in speaking of countries within whose boundaries non-assimilated inhabitants dwelt he intended no criticism. Belgium was not ashamed of having semi-civilized peoples under its sovereignty and could sympathize with other countries that faced the same problems. The administering countries were not responsible for the problems, but only for the way in which they endeavoured to solve those problems.

74. In December 1951 a report from the Commissioner of Scheduled Castes and Tribes of the Government of India dealt with the demand for independence of the Naga tribe—a situation of which the Members of the United Nations were aware, since they had received a petition on the subject from that tribe dated November 1949. The Naga people claimed that they had never lost their independence and that they were determined to maintain it. The Naga had recently carried out a raid, and Mr. Nehru, the Prime Minister, had said in Parliament that the territories in question were not administered by the Indian Government or any other government; they were completely unadministered and left to their own resources except when trouble occurred.

75. Mr. Ryckmans could see no good reason why information could not be submitted on all the peoples to which he had referred. The factors in the Committee's list applied to them quite as much as to the peoples in the Non-Self-Governing Territories concerning which information was transmitted in accordance with Article 73 e.

76. He had already mentioned at the 259th meeting the example of Liberia. He did not wish to imply that the Liberian officials were less competent or less devoted to the interests of the population than the French officials of the Ivory Coast, but there appeared to be no good reason why Liberia should not supply information on the peoples inhabiting the adjacent frontier area.

77. Another instance was the Somali nation, which was divided into several parts. Information was supplied annually to the United Nations concerning Somaliland under British administration, Somaliland under French administration and Somaliland under Italian administration. The Somali whose territory had been conquered by the Ethiopians, however, were presumably not self-governing, and therefore information should be

submitted concerning them. It was difficult to see why Ethiopia should be less bound by that obligation than the United Kingdom, France or Italy.

78. According to a book, *Government and Nationalism in Southeast Asia*, published in New York in 1942 by the Institute of Pacific relations, in various parts of the Philippines there were backward tribes living in the mountains and the bush. So far they had been left alone by the Spanish-speaking settlers owing to their fighting prowess and the fact that their territory had no resources which would repay the cost of military operations. The book stated that the tribesmen disliked the Philippine officials and that the latter regarded them as barbarians. While on the subject of the Philippines, he pointed out that the Moros did not have officials elected in the same circumstances as prevailed in other parts of the country. The factors suggested by the *Ad Hoc* Committee applied to their territory and to that of the other tribes in the Philippines.

79. Another case in point was that of the Dyaks in Borneo, on whom the Netherlands Government had supplied information in 1947, 1948 and 1949. According to that information some of the tribes in that part of Borneo were completely isolated and very backward and primitive, and some of them still engaged in head-hunting. It could not be claimed that those peoples enjoyed full self-government under the terms of the Charter.

80. No doubt it would be objected that the Charter did not speak of populations but of ~~territories~~ ^{peoples}; he had shown, however, that many such populations inhabited territories which were distinct and clearly defined and yet did not enjoy self-government. There were other territories which were separated by sea from the country which administered them. The peoples of the Andaman and Nicobar Islands, for instance, did not enjoy full self-government, and Easter Island was under Chilean sovereignty, yet India and Chile did not submit information concerning them.

81. It had been contended that the Belgian thesis was contrary to the sovereignty of States and would universalize colonialism. The word "colony" did not however appear in Chapter XI nor in Article 23 of the Covenant of the League of Nations, under which the Members of the League had undertaken to secure just treatment of the native inhabitants of territories under their control. No distinction had been made in that connexion between so-called metropolitan countries and colonial territories.

82. The principle of domestic jurisdiction had also been invoked. He could not see what that had to do with territories which were not within the boundaries of the metropolitan country.

83. Most of the States that objected to the Belgian delegation's thesis had been Members of the League of Nations, and they did not explain why the obligation imposed by Article 23 of the Covenant, which had been admissible twenty-five years previously, was inadmissible today. The argument that Article 73 applied to territories and not to peoples was a mere legal quibble. The territories were important because they were inhabited by human beings. Belgian public opinion would be unable to believe in the sincerity of those who engaged in such sophistries and at the same time expressed pious sentiments about the welfare of the non-self-

governing peoples and appealed to the spirit of the Charter, the spirit of international co-operation, and so forth. Belgium would never admit that Chapter XI applied only to the populations of territories in regard to which information had been freely supplied by only eight States. Those eight States had in reality shown a greater spirit of international co-operation than all the rest of the Member States. At least half the Member States of the United Nations contained populations in regard to which information ought to be supplied under Chapter XI, and the refusal to do so resulted in discrimination against the eight Powers in question, the so-called colonial Powers, which in the long run would seriously affect the functioning of the Organization.

84. Mr. CALERO RODRIGUES (Brazil) said that the subject of the Belgian representative's remarks was irrelevant to the question before the Committee. It was true that three were Indians in Brazil. The Brazilian Government co-operated with international institutions, both inter-American organizations and such organizations as the ILO and UNESCO, in matters concerning their interests, but it held that problems concerning them were not the concern of the Fourth Committee. If the question was raised again, he would be compelled to raise a point of order. The Brazilian delegation had no objection to discussing the ethnic, social and cultural problems of the indigenous peoples, but it considered that they were out of place in the Fourth Committee.

85. Mr. RIVAS (Venezuela) said that the history of the question was well known to the Belgian delegation. The population of the territories or provinces of Venezuela inhabited by backward peoples was not large enough to justify the election of a senator. That however was a very different matter from a territory, within the meaning of the Charter. Non-Self-Governing Territories like the Belgian Congo had never been a legitimate part of the territory of the metropolitan country; they were provisionally under the authority of the metropolitan Powers until they became self-governing. The areas of Venezuela that had been referred to had been part of Venezuelan territory since the country had achieved self-government.

86. The CHAIRMAN said that it had been clear from the outset of his statement that the Belgian representative had gone deeply into certain questions affecting a number of sovereign States, most of which were represented in the Fourth Committee. Representatives of those States would wish to comment on those matters, and would undoubtedly do so with their usual knowledge and ability. He might have interrupted the Belgian representative in order to ask him to be more brief, and not to reopen an argument which he had already advanced in connexion with the first item of the agenda, since that would in no way help the Committee in its consideration of the item now before it. He had refrained from doing so because he felt that the Belgian representative should be given every opportunity, as would other representatives, to express his views, because he had wished to extend him every courtesy, and because he had not wished to appear to show prejudice in favour of the countries to which the Belgian representative had referred in his statement. In any event, however, representatives had the right to raise points of order and could do so at any time.

The meeting rose at 6.30 p.m.