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Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

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/2428, A/C.4/L.272, A/C.4/L.273) (*continued*)

[Item 33]*

1. The CHAIRMAN invited the Committee to continue the discussion of the report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) (A/2428). A number of amendments to the Brazilian draft resolution (A/C.4/L.272) were proposed by the delegations of Bolivia, Egypt, Guatemala, Indonesia, Iraq, Mexico, Saudi Arabia, Syria, Venezuela, Yemen and Yugoslavia and were set out in document A/C.4/L.273. Delegations wishing to propose further amendments could do so until the close of the following meeting.

2. Ato Katama ABEBE (Ethiopia) considered that all Member States which had subscribed to the Charter had thereby undertaken to co-operate with a view to ensuring that the peoples of the Non-Self-Governing Territories gained the freedom and political independence promised them in Chapter XI. The Administering Members were therefore not competent to take unilateral decisions in the matter. The aspirations of the peoples for complete self-government were still far from satisfied in full; the establishment of the list of factors was one of the stages in the process which was to lead to a full measure of self-government for all the peoples of the world.

3. His delegation regretted that the *Ad Hoc* Committee had failed to find a satisfactory definition of the concept of a full measure of self-government within the meaning of Chapter XI of the Charter; it agreed, however, that the absence of such a definition was not a serious disadvantage, since in the examination of any particular case the concept would emerge in its practical application to the facts of that case.

4. As regards the right of peoples to self-determination, point E of paragraph 15 of the *Ad Hoc* Committee's report was very important since an assurance that the views of the population concerned would be respected could alone guarantee the full exercise of that right.

5. Some Administering Members had declared that they had granted self-government to some of the territories under their control and that they therefore no longer had the responsibility of transmitting the information referred to in Article 73 e of the Charter. In such cases, well-defined criteria were necessary to determine whether or not a territory really had attained a full measure of self-government. It was also essential that the United Nations should have not only the right but the duty to apply those criteria to each individual case and then to reach a decision.

6. His delegation wished, furthermore, to refute the argument that the provisions of Chapter XI could apply to the metropolitan territories of sovereign States.

7. In conclusion, he considered that the existing list of factors constituted a satisfactory body of guiding principles. It would only be necessary to apply those principles to discover whether modifications were necessary. There was therefore no reason why the Committee should not adopt the list without further delay.

8. The Ethiopian delegation would support the Brazilian draft resolution (A/C.4/L.272) or any similar draft resolution.

9. Mr. RIVAS (Venezuela) deplored the fact that two opposing groups, apparently irreconcilable in their views—at any rate on the question of defining the concept of a full measure of self-government and of determining whether it was for the General Assembly to decide that a territory had attained self-government—were engaged in controversy in the Committee, thereby weakening that spirit of unity without which Chapter XI could not have been drafted at the San Francisco Conference. Abandoning the sensible and generous attitude they had adopted during the drafting of the Charter, the administering Powers were endeavouring to introduce a narrow interpretation of the provisions of Chapter XI for which there was no justification either in the letter or in the spirit of that Chapter. It was legitimate, therefore, to conclude that the administering Powers were actuated by motives alien to the Charter and because of them were advancing once again arguments regarded as completely outworn: self-government alone would not ensure the well-being of the peoples of a territory, while independence could be a disaster for countries not yet able to enjoy it. Forgetful of the great danger which had threatened their own independence during the Second World War, those Powers appeared bent on infringing the independence of certain sovereign States which they did not hesitate to place on the same plane as colonies or protectorates. That survival of colonialism was directly contrary to the provisions of Article 2, paragraph 4,

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

of the Charter. Moreover, in invoking Article 2, paragraph 7, of the Charter to deny the United Nations any competence in matters concerning the fate of a Non-Self-Governing Territory, the Administering Members were ignoring the fact that when Chapter XI had been adopted, it had been understood that matters relating to the Non-Self-Governing Territories did not come within the scope of that paragraph.

10. Nothing could demonstrate more clearly the fallacy of the argument that self-government in the economic, social and educational spheres constituted a full measure of self-government within the meaning of Chapter XI than the conclusions reached by the various committees that had studied the question in 1951 and again in 1952 and 1953. Each of those committees, composed of an equal number of administering and non-administering Powers—a fact which set a valuable seal of impartiality on their views—had declared that a territory which enjoyed self-government in all spheres of public life except the political sphere could not belong to any of the three categories into which territories which had attained a full measure of self-government were divided. Moreover, in 1953 the *Ad Hoc* Committee on Factors had stated, in reply to a question by the Netherlands Government, that there could be no provision for a fourth category of completely self-governing territories to include territories which did not enjoy self-government in the political sphere though enjoying it in economic, social and cultural matters. The reason for that was clear: so long as a territory did not satisfy the conditions laid down in paragraphs a, b, c, d and e of Article 73 it could not be considered to have attained a full measure of self-government and the Administering Member responsible for it continued to be bound by its obligations under Chapter XI. Those obligations were not, as certain Powers would make out, either unilateral or exclusively moral. It was anachronistic in the twentieth century to believe that an agreement could be concluded with an abstract entity; to be objective and valid, international law had to be applied and enforced by a concrete agency which, in the case in question, was the United Nations. Consequently, the United Nations General Assembly was competent to determine in each individual case whether a territory continued to come within the scope of Chapter XI or had attained a full measure of self-government. According to certain delegations the fact that the Administering Members had been instructed to draw up the list of territories contained in General Assembly resolution 66 (I) proved that the General Assembly had recognized the exclusive competence of those Powers. That list, however, had been purely provisional until the General Assembly had confirmed it in its resolution 66 (I); it was designed merely to facilitate the Assembly's work. It was significant that that list included only the territories with regard to which certain stronger, more ingenious States had assumed exclusive competence, without granting them the same rights as the metropolitan territories.

11. It was to those less fortunate countries that the provisions of Chapter XI applied: they could not be extended to other territories without endangering the security and sovereignty of the small countries. It was to avert that threat that at Bogotá in 1948 the Ninth International Conference of American States had adopted resolution XXXIII in which it declared that the process of the emancipation of America would not be complete so long as there remained on the continent a vestige of the European colonial régime. There

could be no question that in other parts of the world where colonies and protectorates still existed the small Powers shared the same views, if not the same apprehension. It was undeniable also that those Powers would be able to co-operate much more fruitfully with the United Nations if the great Powers, and more especially the European Powers, approached that political problem in the spirit of good faith and constructive co-operation which had inspired them at San Francisco.

12. Since the First World War a number of Powers had conquered defenceless peoples or had created States whose independence was wholly fictitious. At the present time, however, the world realized much more clearly than at the time of the League of Nations that the task of promoting the advancement of the peoples of territories other than sovereign States was a matter for the whole body of civilized nations which were Members of the United Nations. As Marshal Smuts had declared at San Francisco, the international Organization's right of supervision should extend even to the colonies and protectorates of the countries which had vanquished the Axis Powers.

13. Chapter XI of the Charter represented an important stage in the process which was to lead all the peoples to freedom, since it was inconceivable that weak countries should be converted into colonies.

14. It was time to conclude the study of factors. The current list was virtually identical with that drawn up in 1952 (resolution 648 (VII), annex). Any prolongation of the discussion gave the Administering Members the opportunity to make statements threatening the independence of the small countries which were still struggling to throw off the last vestiges of colonialism. The amendments contained in document A/C.4/L.273 were based exclusively on the principles proclaimed in the Charter; hence, they could not fail to win the approval of those Member States which did not wish to go beyond the scope of the international convention they had signed.

15. In conclusion, he pointed out how dangerous it might be to delay the solution of certain problems, and especially that of the political development of the peoples of the Non-Self-Governing and Trust Territories, since those problems might then become acute and provoke grave crises.

16. Mr. JUSTINIANO (Chile) said that his delegation congratulated the *Ad Hoc* Committee and unreservedly approved its report. It was ready to accept any proposal enabling the provisions of the Charter to be applied more effectively. Despite what some delegations had said, the Charter, and in particular Chapter XI, clearly defined the obligations of the Administering Members, and there was not the least doubt that those obligations were legal and not merely moral. Chapter XI of the Charter also made unequivocally clear that the Administering Members were not exclusively entitled to decide whether a territory had or had not obtained a full measure of self-government.

17. The Chilean delegation regretted that some Administering Members, through an unjustified interpretation of Chapter XI, were attempting to extend the provisions of that chapter to countries which were formerly colonies. He referred especially to the arguments of the Belgian representative, in paragraph 40 of document A/2428. At the end of the First World War, the possessions of Germany and Turkey had lost their status as colonies and had been entrusted to the victor nations in order to put an end to the

partitioning of Africa and certain areas of Asia. Those former colonies had been made mandated territories, which had been designed as "A", "B" or "C" mandates according to the level of civilization attained by the people. The level of civilization existing in a sovereign State or a part of its territory could not be adopted as a valid basis for asserting that such State came under the provisions of Chapter XI of the Charter. The Chilean delegation accordingly rejected any attempt to set up a comparison between the populations of Non-Self-Governing Territories and the indigenous populations of Latin America, irrespective of the level of civilization of the latter. In Chile, moreover, the problem of indigenous populations did not exist.

18. Lord HUDSON (United Kingdom) said that in the opinion of his delegation the report of the *Ad Hoc* Committee should be accepted and that no further study of the list of factors should be entrusted to a specially appointed body. The Brazilian draft resolution, to the extent that it set out the same conclusions, could be supported by the United Kingdom delegation, but that draft unfortunately contained a number of elements which the United Kingdom Government could not accept.

19. There was room for doubt, for example, concerning the true meaning of the statement in paragraph 6 of the operative part that "it is essential that its people shall have attained a full measure of self-government," because the *Ad Hoc* Committee had not succeeded in satisfactorily defining the term "a full measure of self-government". There was a danger that that paragraph could in practice support interpretations which the Government of the United Kingdom could not accept. When an administering Power and the people of a Non-Self-Governing Territory, by processes well established in law, jointly agreed that the government of the territory should take over full responsibility for certain fields of administration, or that the territory should become self-governing or independent, then that decision should be accepted as final, and it entailed as a necessary consequence that the transmission of information under Article 73 e should cease, since the relationship between the territory and the metropolitan government was no longer governed by the provisions of that article. In the case, moreover, of a territory attaining self-government by stages, a point might be reached when information to be transmitted under Article 73 e would relate to fields that were no longer within the jurisdiction of the administering Power, but it was unlikely that in the circumstances the administering Power would maintain that the territory is in question for that reason no longer fell within the scope of the remainder of Article 73. That was the main objection of the United Kingdom delegation to the Brazilian proposal.

20. He added that despite the skill with which paragraph 3 had been drafted, the United Kingdom delegation could not accept the principle that a decision whether a territory did or did not come under the provisions of Chapter XI of the Charter rested equally with the Administering Member and the Assembly. It was quite clear that the Administering Member should take the initial decision; the General Assembly would be wise to accept that decision after due explanations had been given. It was true that the objectives of the Administering Members and of the General Assembly with regard to Chapter XI were identical, but, in spite of the provisions of paragraph 5, it was to be feared that the Brazilian draft resolution would create the

impression that the Assembly was seeking to interpose some veto on the attainment of self-government by Non-Self-Governing Territories.

21. The United Kingdom delegation also regretted the inclusion in paragraph 4 of the words "the people concerned has exercised its rights to self-determination". That phrase was ill-defined and should be deleted.

22. It was, moreover, superfluous that the Committee on Information from Non-Self-Governing Territories should be permanently entrusted with studying relevant documentation in the light of the list of factors, as was proposed in paragraph 7.

23. The United Kingdom delegation would vote on the various paragraphs of the Brazilian draft resolution and on the resolution as a whole in the light of the views just expressed.

24. Mr. KAISER (Czechoslovakia) said that the arbitrary decision by the Administering Members to cease transmitting information on conditions in some Non-Self-Governing Territories and the frequent violation of the principles of the Charter, especially of Article 73 e, by those Members had obliged the General Assembly to seek some means of preventing them from taking unilateral decisions in the matter at hand. The means had been the list of factors.

25. The Czechoslovak delegation believed that such a list would never have more than a somewhat theoretical value, even though it were faultless in all respects. It would be productive of practical results only through the concrete application of the factors in each particular case in the light of the objective to be attained, namely the realization of the incontestable right of the people to self-determination. As clearly indicated in resolution 648 (VII), the list of factors was not intended to prevent Non-Self-Governing Territories from attaining a full measure of self-government but, on the contrary, was designed to serve as a guide capable of furthering progress towards self-government and independence and to prevent the administering Powers from arbitrarily and unilaterally changing the status of the Non-Self-Governing Territories. That was why the Czechoslovak Government regarded the drafting of a list of factors as a relatively useful idea.

26. The Czechoslovak delegation had carefully examined the list of factors prepared by the *Ad Hoc* Committee, as provided in resolution 648 (VII). It noted with regret that the so-called new list differed very little from the old one, and thought it should try to find out why that was so. The ten members of the *Ad Hoc* Committee included five administering Powers who, as document A/2428 proved, had exerted considerable effort to weaken the meaning and scope of the factors as much as possible. The membership of the *Ad Hoc* Committee had thus been one of the principal obstacles preventing the Committee from working more efficiently and obtaining more satisfactory results.

27. The Czechoslovak delegation did not regard the list of factors as a rule which could be applied automatically. It regarded the list as a sort of guide, and had observed during the lengthy debate on the question in the Fourth Committee that the same opinion was shared by most delegations, with the sole exception of the Administering Members.

28. The Czechoslovak delegation believed, like several other delegations, that Article 73 of the Charter formed a unit and as such constituted an obligation upon all

Member States without exception. The Administering Members were therefore not justified in regarding paragraph e of that article as merely a formal declaration, because it was a positive rule of law and consequently binding on them.

29. It logically followed that the decision whether a territory referred to in Chapter XI of the Charter had or had not attained a full measure of self-government did not rest exclusively with the Administering Members. The taking of such a decision was, first and foremost, the right and duty of every Member of the United Nations. The list of factors would accordingly be useful in enabling the General Assembly to take decisions of that kind, which it, and it alone, should take.

30. Passing on to a detailed examination of the list of factors set out in document A/2428, he found it necessary to object to some points.

31. The title of the second part contained the words "continuing association" of the territory with the metropolitan country. Resolution 648 (VII) stated clearly, however, that the list of factors should in no way be a hindrance to the attainment of self-government by the territories. The word "continuing" used in the title was neither logical nor appropriate, because in some cases its interpretation might be a hindrance to the attainment of self-government by a particular territory. Even taking for granted the improbable case in which the people of a Non-Self-Governing Territory would, without intervention or pressure, freely renounce their complete independence in order to be freely associated with the metropolitan country, it was inconceivable that the people in question could agree that the association should have a continuing character, because they would thus be renouncing independence for all time.

32. The Czechoslovak delegation could not unreservedly accept factor A.1 of the second part of the list of factors. The drafting of that factor was also inappropriate, since the fact that the people of a territory were asking for self-government and independence was in itself sufficient evidence of their political maturity and any criterion other than a freely expressed desire for a full measure of independence and self-government which might eventually be used for interpreting factor A.1 could easily be a hindrance to the attainment of self-government and independence by the territory concerned.

33. The second and third parts of the list of factors contained criteria which permitted interference by one country in the internal affairs of another. Such criteria were in contradiction with the right of self-determination of peoples and with the concept of a full measure of self-government, a concept for which the *Ad Hoc* Committee, as stated in paragraph 11 of document A/2428, could not find a satisfactory definition.

34. He wondered whether the factors presented by the *Ad Hoc* Committee could not be improved through a more thorough study by a body which could provide a better guarantee of impartiality. The various delegations which had participated in the debate had, by their statements, already shown that such a procedure was possible. In those circumstances the Czechoslovak delegation would support any proposal to improve, revise and clarify the factors before finally adopting them.

35. Thus his delegation was prepared to accept the first part of the list of factors proposed in document

A/2428, but it could not accept the second and third parts of that list; it asked, therefore, that the three parts of the list should be voted upon separately.

36. With regard to the draft resolution submitted by the delegation of Brazil the Czechoslovak delegation likewise requested that each paragraph should be voted upon separately. It was prepared to vote for paragraphs 1, 4, 5, 6 and 8 of the operative part, but would be obliged to vote against paragraphs 2, 3 and 7, because the second and third parts of the list did not seem to accomplish their purpose. It accepted the first three paragraphs of the preamble but objected to the fourth, because the list of factors presented did not seem to correspond satisfactorily with the intentions of the General Assembly as expressed in resolution 648 (VII), especially paragraphs 6 and 7 of that resolution.

37. The Czechoslovak delegation therefore requested that the draft resolution submitted by Brazil (A/C.4/272) should be voted upon paragraph by paragraph.

38. Mr. ITANI (Lebanon) felt that it was not surprising that all the previous speakers had stressed the exceptional importance of the question of factors, since it was so closely connected with the freedom of peoples generally. Lebanon, which had always defended the right of peoples to self-determination and raised its voice in support of freedom for all the countries of the world, was bound to adopt a position in keeping with its past and its traditions.

39. The study of factors had been decided upon by the General Assembly because certain Administering Members had ceased to transmit information on thirteen Non-Self-Governing Territories. Those Members had thus taken a unilateral decision in regard to those territories, although the responsibilities they had assumed were of an international character and could not legally be discontinued except in pursuance of a decision of the General Assembly.

40. The purpose of Chapter XI of the Charter was, above all, to determine the special relations which must exist between the United Nations and the Non-Self-Governing Territories. Unless one wished to depart from the letter and spirit of Article 73 of the Charter, the Administering Members were far from exclusively competent to decide whether a Non-Self-Governing Territory had attained a full measure of self-government.

41. Turning to the list of factors proposed by the *Ad Hoc* Committee, he said that the Lebanese delegation wished to make certain general comments, while reserving its Government's position in relation to any amendment or proposal which might come before the Committee.

42. First, the opinion of the inhabitants of the Non-Self-Governing Territories should be the deciding factor. For that reason, the Lebanese delegation expressed formal reservations in regard to such expressions as "association", "assimilation", "incorporation" or "annexation", particularly where there were differences of race, language, religion, culture and so forth.

43. Secondly, it was of paramount importance to specify the procedure which had to be followed in applying the list of factors; indeed, if the Administering Members did not declare that they were immediately ready to respect the decisions of the Assembly, in accordance with the list, all the work of the *Ad Hoc* Committee would have been a sheer waste of time, and

the prestige of the United Nations would have been severely lowered.

44. Thirdly, it was very difficult, if not impossible, to frame a complete and final definition of the notion of full self-government. For that reason the list of factors was merely an indication and guide, which it was for the Assembly to complete when fresh circumstances so required.

45. Fourthly, though conscious of the need to introduce certain additional elements into the list, the Lebanese delegation wished to thank the *Ad Hoc* Committee for the efforts which the latter had made and which had resulted in the document before the Fourth Committee.

46. Fifthly, the Lebanese delegation called on the Members concerned, in conformity with their liberal traditions, not to fail in the obligations they had assumed when they had acceded to the Charter, but to endeavour to strengthen international collaboration, the brotherhood of peoples and the prestige of the United Nations. If they did so, it would be possible to end the present deadlock and to attain the objective of Article 73 of the Charter.

47. He did not wish to enter upon a detailed examination of the proposed factors because that list required improvement. He considered that the essential condition was to give proof of good faith, and show a sincere desire to solve the question in accordance with international law and the right of peoples to self-determination, setting aside all economic and political interests which might prevent the complete, sincere, and resolute application of Article 73 of the Charter.

48. Mr. NAUDE (Union of South Africa) said that his delegation had not intended to take part in the present debate, but in view of the discussion which had taken place, he felt bound at least to compliment the *Ad Hoc* Committee on the work which it had accomplished, particularly since the notions with which it had had to deal were not capable of definition.

49. His delegation had hoped, after the view originally expressed, that it would not be necessary to propose that the General Assembly should take a formal decision on the list of factors. Unfortunately, the question of competence had been introduced and, in the view of his delegation, had become the principal element in the discussion. The proposed amendments to the Brazilian draft resolution confirmed that opinion.

50. In the present circumstances, his delegation felt that the tendency to introduce the question of competence was not likely to assist the Fourth Committee in successfully completing its work by drafting a text acceptable to all.

51. In the past the South African delegation had on many occasions been obliged to draw attention to the dangers of submitting amendments by interpretation. He regretted that the Fourth Committee was now faced with a case of that nature. It was a serious situation.

52. The Union of South Africa considered that it was exclusively for the Administering Members to decide whether the territories administered by them had attained self-government in the matters listed in Article 73 e. His delegation understood the lofty ideals inspiring those delegations which desired a specific list of factors. It was, however, worth observing that the United Nations was not a world parliament. Nevertheless, the law which governed the

Organization, namely the Charter, seemed to his delegation to be as clear as possible.

53. It was therefore important that the Fourth Committee should give the matter mature consideration, before reaching any decision as to the action to be taken to implement the submitted list of factors.

54. Mr. WORM-MULLER (Norway) stated that the Norwegian Government regarded the development of self-government in Non-Self-Governing Territories as a question of primary importance, and public opinion in Norway strongly supported the emancipation of the peoples of those territories. It was therefore incumbent on the Assembly to take every appropriate step to speed such development.

55. The matter should be regarded from a practical angle. The first step had been taken in San Francisco when Chapter XI was drafted. Under that chapter the Administering Members had accepted a sacred trust. The obligation to transmit information in accordance with Article 73 e provided an incentive to improve conditions in the territories administered. Every Administering Member felt in honour bound to prove that constructive steps had been taken to that end.

56. It was in the interests of the Non-Self-Governing Territories that there should exist a feeling of mutual confidence between the Administering Members and the organs of the United Nations which dealt particularly with those subjects. If there were distrust, the Non-Self-Governing Territories would derive little benefit.

57. It appeared evident that there were sharply divided opinions in the Fourth Committee, and that the Administering Members could not be expected to vote for the draft resolution submitted by the Brazilian delegation. He referred in particular to the statement made earlier in the meeting by the representative of the United Kingdom.

58. Since it had not been possible to find a generally acceptable compromise resolution, it seemed best for the continued close collaboration within the Committee and in the interests of the Non-Self-Governing Territories to lay aside the controversial questions of principle and to proceed to take appropriate decisions concerning the report on factors which had been submitted to the Committee.

59. His delegation could not, therefore, vote for the draft resolution submitted by the Brazilian delegation.

60. Mr. RYCKMANS (Belgium) said that he wished to remove the misunderstanding which seemed to have arisen at the previous meeting, particularly between the representative of Bolivia and himself.

61. The Bolivian representative had pointed out what he regarded as a contradiction in the reservations made by the Belgian representative in the *Ad Hoc* Committee on Factors. According to the former, the Belgian representative had admitted in paragraph 40 (a) of document A/2428 that Chapter XI of the Charter applied only to colonies and protectorates, but had said in paragraph 40 (e) that the same chapter applied to many peoples in sovereign territories.

62. In fact, the Belgian reservations did not state that Chapter XI applied only to the peoples of colonies and protectorates. On the contrary, the very object of those reservations had been to point out that the expressions "territories whose people have not yet attained a full measure of self-government" on the one hand, and "colonies and protectorates" on the other, were not synonymous. The only definition which the

Charter gave of the peoples to whom the protection of Chapter XI extended was in Article 73. The words "colony" and "protectorate" were not to be found in that article, which simply said: "territories whose peoples have not yet attained a full measure of self-government", without making any further distinction. That article could be given a wide interpretation, and also a narrow one. The wide interpretation extended the protection of the Charter to the peoples of all territories whose inhabitants had not a full measure of self-government, whether such territories were included within the continental boundaries of a state or situated overseas. It was that wide interpretation which Belgium adopted and proposed. The other interpretation was restrictive. It limited the application of Chapter XI to the overseas territories of certain so-called "colonial Powers". It deprived all other backward peoples of international protection.

63. None would dispute that there were non-self-governing peoples outside of the colonies, protectorates, and Trust Territories. The memoranda submitted by the Belgian delegation (A/AC.58/1, A/AC.67/2) had listed an impressive number of such peoples. For example, it was beyond doubt that peoples living in a state of complete savagery, without any contact with civilized peoples, were not enjoying full self-government within the meaning of the Charter.

64. The representative of Uruguay had said, at the previous meeting, that the authors of the Charter had never intended Chapter XI to extend to peoples who were not fully self-governing but lived within the frontiers of sovereign States.

65. That was not the right approach to the question. Indigenous peoples, in all territories without distinction, had been included in the protective provisions of the Covenant of the League of Nations. All the Members of the League had solemnly undertaken to ensure fair treatment for all indigenous peoples living throughout their territories, whether metropolitan or colonial, continental or overseas. The wide interpretation of Article 73 maintained that notion of universal protection of indigenous peoples; the restrictive interpretation withdrew it from a large number. The question, therefore, was whether the supporters of the restrictive interpretation wished to exclude from the protection of the Charter peoples who had for twenty-five years enjoyed the protection guaranteed by Article 23 of the League of Nations Covenant, and whether those among them who had also signed that Covenant wished to repudiate their solemn undertakings and refuse to accept the same obligations under the United Nations Charter. If the answer was in the affirmative, his delegation asked that they should admit it. It would also ask them to explain the reason for that retrograde step. Had the indigenous peoples in metropolitan territories been less worthy of interest in 1945 than in 1919? Had the United Nations wished to deprive them of the protection which the League of Nations had accorded them? In the Belgian delegation's view, the answer to both questions was in the negative. The restrictive interpretation of Article 73, imputing to the words "territories whose peoples have not yet attained a full measure of self-government" the meaning of "peoples of colonial territories alone", gave an affirmative answer. His delegation asked each Member State to make its choice.

66. At the previous meeting, the Syrian representative had asked, with irony, whether the Belgian delegation had in mind those dependent territories which

were falsely represented as self-governing. His reply, without irony, was that it referred to all territories, whether dependent or not, whose peoples had not attained full self-government, and concerning which the Secretary-General of the United Nations received no information.

67. The Bolivian representative had said at the same meeting that he could never permit his country to be considered a colony. He felt bound to answer that if, in the light of the work of the *Ad Hoc* Committee on Factors, a State conceded that Chapter XI of the Charter applied to certain peoples for which it was responsible, and decided, without any pressure from the Assembly, to transmit the information specified in Article 73 e, all would admire the generosity thus displayed through its liberal interpretation of the Charter. None would dream of disputing the full sovereignty of any such State or of regarding it as a colony.

68. As for the documents before the Committee, he was of the opinion that the Fourth Committee should take note of the meritorious work accomplished by the *Ad Hoc* Committee on Factors.

69. The Belgian representative would abstain from voting on the paragraph of the draft resolution which approved the list of factors proposed by the Committee. It would be forced to vote against all those paragraphs of the draft resolution and all those amendments which, either expressly or by implication, recognized the competence of the Assembly, supported the theory, contrary to reality and facts, of the indivisibility of self-government, or set up some distinction, not justified by the Charter, between the duty to continue to transmit information and the duty to begin transmitting information where that had not previously been done.

70. Mr. LAWRENCE (Liberia) said that his delegation had listened with interest to all that had been said by the various representatives who had participated in the current discussion, many of whom had expressed opinions which he shared.

71. He wished to congratulate the *Ad Hoc* Committee, whose efforts had resulted in the report contained in document A/2428. His delegation agreed with the delegations which considered that the proposed list of factors could serve only as a guide and that each specific case had to be considered in the light of the particular circumstances of that case.

72. One question which had been the subject of particularly lively discussion was that of the procedure to be adopted in applying those factors to a particular territory. The Administering Members had argued that they alone were competent to apply them. An Administering Member could not, however, legally revoke or change the status of a territory unilaterally without reference to the General Assembly. Under the Charter, the General Assembly alone had the power to say whether the people of a territory had attained a full measure of self-government.

73. There was, however, a new difficulty: the meaning of "a full measure of self-government". Two views had been expressed in the Committee: that of the Administering Members and that of the non-administering Members. The former thought that peoples could achieve a full measure of self-government while remaining firmly attached to the administering Power, whereas the latter felt that the well-being of the peoples of those territories should be paramount and that

their desires should receive free expression in connexion with any proposed change in the form of their government.

74. While fully appreciating the high ideals which had always inspired the administering Powers where the well-being of the peoples of those territories was concerned, his delegation felt that the desires and aspirations of those peoples should be determined through the good offices of the General Assembly.

75. His delegation was concerned about another point of procedure, the time when the factors could be applied. From the discussion, it appeared that the factors should, in the opinion of some delegations, be applied after an Administering Member had reported a change in the status of a territory and had then ceased to transmit information, thus presenting the United Nations with a *fait accompli*.

76. His delegation wondered how the ideals of peace, well-being and liberty, which had impelled the governments of Member States to send representatives to the General Assembly, could be achieved as long as millions of human beings throughout the world were exposed to oppression, misery and suffering. The problem could not be solved by avoiding it. On the contrary, the situation must be faced and a solution must be sought conscientiously and with determination.

77. The General Assembly must not be presented with a *fait accompli* by the Administering Members; on the contrary, whenever an Administering Member thought that the people of a given territory had really attained a full measure of self-government, it should so inform the General Assembly so that the latter could take the necessary steps to ascertain whether that was the case and could declare accordingly.

78. Mr. ARAOZ (Bolivia) said that the Belgian representative had again resorted to sophistry in an attempt to misrepresent the statements of certain delegations and to argue that the talk of colonies and protectorates concealed an intention to return to the colonial system. That might be the objective of the administering Powers, but it was certainly not that of the Committee.

79. He had given an outline of developments in Bolivia because he had considered it useful to show how a country which was still struggling for complete independence in certain fields had succeeded in achieving national unity; in so doing, he had hoped that the discussion would be concentrated on a number of specific points. In Bolivia no group was subject to discrimination. The economic, educational and land reform programmes involved the whole population, and the results would bring benefits to all without distinction. If the Belgian representative visited Bolivia he would be able to verify the truth of that statement for himself. He would see a united people working to knit even closer together the various groups of the population and would find evidence of the high cultural values which were the age-old inheritance handed down by the various races that had inhabited Bolivia.

80. The Bolivian delegation was participating in the Committee's discussion in a constructive spirit motivated only by its desire to help the dependent peoples to attain self-government. It would always be ready to defend the fundamental principles which must govern the progress of mankind. His delegation had not objected to the Belgian representative's reservations because it had been offended by the comparison of Bolivia to a colony. On the contrary, the Bolivian

people, formerly scorned and oppressed, was proud that it had freed itself from that oppression and was now ruled by a truly representative government. Bolivia was not ashamed of the semi-feudal situation which still prevailed there, because it was proud of the efforts undertaken to abolish it. The example of Bolivia could appropriately be cited in a discussion on Non-Self-Governing Territories, the peoples of which had the right to determine their own fate in accordance with the wishes of the great majority and not those of an oligarchic minority representing foreign interests.

81. Finally, he maintained his opinion about the contradiction which he had indicated in the Belgian representative's reservations. Those reservations were intended only to divert the Committee from what should be its main task, that of promoting the progress of the dependent peoples towards complete self-government.

82. Mr. TRIANTAPHYLLAKOS (Greece) congratulated the *Ad Hoc* Committee and was prepared to accept the list of factors it had prepared, with two reservations. First, it must be clearly understood that the list could serve only as a guide to assist in the examination of each case in the light of the particular circumstances of that case. Secondly, as the Guatemalan representative and other delegations had pointed out, the word "continuing" used to describe the association of the Non-Self-Governing Territories with the metropolitan country in the title of the second part of the list of factors should be deleted. It was in the light of those considerations, and taking into account the primary need to maintain co-operation among all the parties concerned in order to ensure the implementation of Chapter XI, that the Greek delegation would decide on the Brazilian draft resolution and the amendments thereto.

83. Mrs. BOLTON (United States of America) paid a tribute to the effort made by the Brazilian representative to frame a draft resolution that would be generally acceptable. Her delegation could not, however, accept the principle underlying paragraph 3 of the operative part of that draft. No Member State, whether or not responsible for the administration of a Non-Self-Governing Territory, could relinquish its right to determine the constitutional status of a territory under its sovereignty. It was, therefore, for the Administering Member concerned alone to decide whether to stop transmitting information under Article 73 e.

84. It did not follow that the General Assembly had not a useful part to play. On the contrary, the General Assembly had already done valuable work in that connexion. Under Article 10 the General Assembly was entitled to study the concept of Non-Self-Governing Territories and of territories whose people had not attained a full measure of self-government, and to try to find a definition. The Assembly also had the right to recommend that Member States should study any definition which it might adopt and even to express in general terms its opinion regarding the principles on which the Administering Members might base or might have based their decision to cease transmitting information on the territories under their administration. The Assembly's resolution should not, however, imply that the decision of the Administering Members must be approved or disapproved by the General Assembly.

85. Her delegation would therefore be obliged to vote against the Brazilian draft resolution and against any other proposal which contained the same implications.

86. Mr. PIGNON (France) felt that it was unnecessary to restate the French Government's position, which had already been clearly enough defined; but he proposed to examine the legal theories that had been put forward during the discussion. The French delegation had listened to those theories with interest but had not been, and could not be, convinced by them because they were based on an erroneous interpretation of a treaty, in the case in point, the Charter. To interpret a treaty, it was necessary to determine, by referring to the preliminary work on it, and in particular to the records of the discussions, the intention of its authors—in the present case, the intention of the co-signatories to the Charter—just as in interpreting a law, reference was first made to the records of the parliamentary debates. It was quite clear that the authors of the Charter had neither foreseen nor desired the developments and additions which an attempt was now being made to introduce by means of resolutions.

87. The history of the question of the cessation of the transmission of information showed that that was the case. At its third session the General Assembly had felt so uncertain of its ground and its rights that in resolution 222 (III) it had merely stated that it was essential that the United Nations should be informed of any change in the constitutional position and status of any 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. Memories of San Francisco had still been too fresh in representatives' minds for an attempt to be made to question the exclusive competence of the Administering Member. With resolution 334 (IV) the General Assembly had taken a further step and had considered that it was within the responsibility of the General Assembly to express its opinion on the principles which had guided or which might in future guide the Members concerned in enumerating the territories in question. Even at that stage the Assembly had shown a tendency to limit the freedom of judgment of the responsible governments, but it had asserted its competence only with regard to principles; the power of decision in each particular case had continued to be vested in the Administering Member. At the fifth session, by resolution 448 (V), the Assembly had deliberately gone beyond questions of theory and had requested the Special Committee on Information transmitted under Article 73 e of the Charter to examine such information as might be transmitted in future to the Secretary-General in pursuance of General Assembly resolution 222 (III) and to report thereon to the General Assembly. With that resolution, the frontiers which had until then been respected had been crossed, and the Assembly had assumed the right not only of expressing opinions of a general nature but of examining and discussing each particular case. At its sixth session, the Assembly had been too preoccupied with the list of factors to explore further the dangerous field of competence. However, in resolution 568 (VI) it had reaffirmed the principles laid down in resolution 448 (V). The decisive step had been taken at the seventh session when the Assembly had asserted its competence as being self-evident without seeking to base it on any considerations of law or of fact.

88. That history of the successive conquests of the majority showed clearly that the legal construction in question had not been based upon a strict interpretation of the Charter. At its third session the Assembly would not have hesitated to affirm its competence in the particular case then before the Fourth Committee if it had thought it possible to do so in accordance with the Charter. Already, fired with enthusiasm which made them forget the starting point, some representatives were considering further steps. Certain delegations had proposed that only the first part of the list of factors should be retained; others had stated that the notion of full self-government laid down in the Charter could only mean independence. It should not be forgotten, however, that the legal construction which the majority seemed to think required only improvements of detail would remain without foundation and without legal effect until it was embodied in a new treaty or an addition to the Charter in the manner provided in Article 109.

89. The French delegation had listened with great interest to the argument concerning the responsibility of the Administering Members developed by the Ecuadorian representative. The Administering Members did not deny that responsibility, but accepted it unreservedly. However, it remained a moral responsibility without legal consequences because any form of supervisory machinery or specialized jurisdiction which would make that responsibility legal in character had been expressly and intentionally excluded from the Charter. Certain delegations might regret what they considered to be an omission, but they should also understand that it was not in their power to try to remedy it through the inappropriate and ineffective medium of recommendations.

90. The French delegation could not, therefore, support the Brazilian draft resolution although it appreciated the sincere efforts the Brazilian representative had made to end the present deadlock in the Committee's work. Paragraph 3 of the operative part of the resolution in effect reaffirmed the competence of the General Assembly. The same objection applied to paragraph 4, since the Assembly would obviously have the ultimate responsibility of deciding whether evidence that the people concerned had exercised its rights to self-determination had been furnished. Paragraph 6 reintroduced the difficulties of interpretation which an attempt had been made to eliminate by establishing a list of factors. "A full measure of self-government" had still not been defined and although some delegations had made up their minds without hesitation their opinion was not equivalent to a decision. Finally paragraphs 7 and 8 conferred on the Committee on Information powers which the French delegation considered unacceptable and contrary to the compromise which had enabled it to continue to take part in the work of that body. For the same reasons, the French delegation would oppose the amendments submitted jointly by the eleven delegations (A/C.4/L.273). The very fact that those amendments had been submitted gave added force to his argument and fully justified, if further justification were necessary, the French Government's position. Those amendments had systematically eliminated all that was conciliatory in the original Brazilian draft resolution. At least there now remained no doubts or misunderstandings.

91. In view of the importance of the problem the French delegation would not be satisfied merely with registering a negative vote. In accordance with the

formal instructions from its Government it was compelled to repeat explicitly the reservations which it had made on resolution 647 (VII) and which were contained in the summary record of the 279th meeting of the Fourth Committee (A/C.4/SR.279, para. 1 to 3). The French Government had not accepted resolution 647 (VII) as binding in any way whatever, and it would not accept the Brazilian draft resolution as binding if, as was probable, it was adopted. The French delegation felt the more justified in making that statement since, at San Francisco it had taken the precaution of making a reservation on the question of competence; that reservation could be found in the report of Committee 4 of Commission II and in annex D of that report, dated 20 June 1945.¹ Nobody could therefore express surprise at or take exception to an attitude which remained constantly clear, frank and consistent. The French delegation regretted, however, that it was forced to take that negative and defensive position. It was certainly not along those lines that it had envisaged collaboration with the United Nations. It was still possible for the Committee to start afresh and discover ways and means of accomplishing fruitful work. Several days previously, Mr. Maurice Schumann had informed the General Assembly at its 445th plenary meeting that the French Government fully and unreservedly accepted the aims of Chapter XI of the Charter. In the Committee itself the United Kingdom representative had stressed the identity of aims which should unite Committee members. It was sufficient to attempt to apply the Charter without seeking at the moment to supplement or modify it. The French Government had given numerous examples of its good faith; it was ready to make new efforts but it could not remain satisfied with appeals for conciliation which lacked any tangible expression of comprehension and which still presupposed that the administering Powers had to obtain forgiveness for some kind of original sin.

92. The reasons underlying the French Government's position were evident. The French delegation could not admit that the General Assembly should discuss the constitutional development of territories administered by France for the simple reason that such a discussion would involve constitutional questions which were matters of domestic policy and were the exclusive prerogative of the legislature. The French Constitution strictly limited the powers of the executive. In international affairs, the Government could negotiate and undertake commitments subject to the subsequent approval of Parliament. With regard to the status of territories, Parliament held the right of decision, and neither the French Government nor the French delegation could waive in any way whatever the sovereignty of Parliament. It was easy to foresee the consequences of the process which had been set in motion and the increasing demands that would be made to subject the administering Powers to still stricter control by the United Nations. A moment's reflection would suffice to reveal the dangers which would result, in the domestic field, from interference by an international organization which eventually would meddle arbitrarily with internal policies, whether with good intentions or not. Similarly, in the present disturbed international situation such interference would create a situation of constant inferiority at the international level by making possible blackmail and manoeuvres which would serve neither the cause of peace nor that of co-operation between

nations. What the French Government once more requested was that certain members of the Committee should take the trouble to put themselves from time to time in the French Government's place and judge the situation objectively. Whatever the Committee's decision on the Brazilian draft resolution, the discussions which had taken place would have had the great merit of enabling the Committee to discuss the substance of the problem. The Committee had reached the stage where ideological conceptions were clashing with the facts. It should decide whether it should continue to take theoretical decisions or whether, realizing the futility of such an undertaking, it should direct its attention resolutely towards its proper functions.

93. Mr. LOPEZ (Philippines) said that the Philippines, which, after four centuries of oppression, had become an independent State after the Second World War, was deeply interested in the question of factors and in the broader question of Non-Self-Governing Territories.

94. At the San Francisco Conference, the Philippine delegation had argued that the word "self-government" should be replaced, or at least supplemented, by the word "independence" in all the provisions of the Charter where it appeared. His delegation had been afraid that if the notion of independence were replaced by the vaguer notion of self-government, misunderstandings might arise. Experience had shown that those fears were justified. The Philippine delegation had not pressed its suggestion at San Francisco because the administering Powers had given it an assurance that self-government was synonymous with independence and that it was in that way that the notion of self-government would be interpreted in practice. It had been found, however, that the vagueness of the expression "self-government" was the source of many misunderstandings and had led to lengthy studies and prolonged discussions. It had been illogical to speak only of self-government in Chapter XI when in Chapter XII the word "independence" was also used. In any case, the time had come to clarify the notion of self-government. In that respect, the work of the *Ad Hoc* Committee was extremely valuable.

95. Mr. López paid a tribute to the *Ad Hoc* Committee and agreed with the Venezuelan representative that further studies should be suspended. It was time to apply the factors which the *Ad Hoc* Committee had listed. That would be possible only if there was sincere co-operation between the Administering and the non-administering Members. He was convinced that the members of the Committee could resolutely set aside controversial subjects and agree in recognizing that it was necessary to hasten the progress of the peoples of the Non-Self-Governing Territories in order to maintain peace, a purpose which concerned all States, whether they administered Non-Self-Governing Territories or not. The Administering Members should understand that by basing their claim to exclusive jurisdiction on Article 2, paragraph 7, they gave the impression of wanting to keep at all costs what they regarded as their property. If they recognized that the character of the colonial problem had been changed since the Charter had made the future of the Non-Self-Governing Territories an international problem, it would be possible to proceed to practical action.

96. If an area of agreement was to be found, the principle must first be established that the Administering Members could not decide unilaterally whether a territory had become self-governing, and that such

¹ See *United Nations Conference on International Organization*, II/4/44 (1) (a).

decisions must be made by agreement by those Members and the General Assembly after appropriate consultations. The list of factors was valuable only as a body of general rules the application of which would depend upon political realities varying from territory to territory.

97. He was also of the opinion that the problem of the cessation of the transmission of information had two aspects. In some cases, the Non-Self-Governing Territories might think that by continuing to communicate information about them the administering Power was casting doubts on the reality of their self-government, which might hurt the national feelings of the peoples concerned. In other cases, the administering Powers might seek by that means to conceal the real situation in the territory which they claimed had become self-governing.

98. The Philippine delegation believed that the Brazilian draft resolution provided the framework within which agreement might be reached. It hoped the draft resolution would be studied sympathetically and that the difficulties of principle raised by paragraph 3 might thus be overcome.

99. In conclusion, he emphasized that the Committee's decisions could be fruitful only if an agreement based on political realities was reached.

100. The CHAIRMAN closed the list of speakers in the general discussion. He invited delegations which wished to explain their vote to place their names on the list.

The meeting rose at 1.20 p.m.