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Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

Cessation of the transmission of information under Article 73 e of the Charter on Puerto Rico: report of the Committee on Information from Non-Self-Governing Territories (A/2465, A/C.4/L.300, A/C.4/L.301) (*continued*)

[Item 34 (b)]*

1. Mr. JUSTINIANO (Chile) said that he would not go into the constitutional aspects of the question but would confine himself to a few general remarks about the new status of Puerto Rico.
2. Puerto Rico had clearly attained self-government, for it had chosen to become a Commonwealth, not only quite freely but also on its own initiative. In the case of the Netherlands Antilles and Surinam the United Nations should not have released the Netherlands from its obligation to transmit information, for those two territories had not yet achieved a full measure of self-government; but the situation with regard to Puerto Rico was quite different: the island enjoyed that measure of self-government without which the transmission of information could not properly be discontinued.
3. It was futile and arbitrary to try to distinguish between degrees of self-government and to claim, as some delegations had done, that Puerto Rico had not attained a degree which justified the United States Government's decision. It had also been contended that the status of Puerto Rico did not coincide with any of the forms of statehood which were recognized in international law. Arguments of that kind would not sway the Chilean delegation, which was convinced that the association of Puerto Rico with the United States was very much to the former's advantage, strengthened the bonds between the countries of the American continent and so contributed to the maintenance of international security. Similarly, the limitations affecting Puerto Rico under the Constitution it had recently adopted were inherent in the interdependent relationship with the United States which Puerto Rico had decided to maintain and in no way infringed the freedom with which it had chosen that form of association.

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

4. The failure of the United Nations to acquiesce unreservedly in the United States Government's decision to cease transmitting information on Puerto Rico, which the Chilean Government sincerely wished all prosperity, would be incompatible with the right of peoples to self-determination.

5. Mr. FERREIRA DE SOUZA (Brazil) recalled that the Brazilian Government, which had previously stated its position in the Committee on Information from Non-Self-Governing Territories, attached special importance to the question of the cessation of the transmission of information on Puerto Rico. His Government remained loyal to its anti-colonialist traditions; it respected the rights of individuals and nations and repudiated the pretension that the more highly developed peoples were superior to the rest of mankind. It was, too, anxious to bear witness to the deep sympathy it felt for a Latin-American people belonging to the same ethnic group and the same ideological world as itself and sharing the same faith.

6. As certain delegations had pointed out, there was reason to fear that should the United Nations fail to take, in the case of Puerto Rico, an objective decision, free from all personal prejudice and all extraneous considerations, Chapter XI of the Charter might become a dead letter and the Non-Self-Governing Territories be deprived of the international protection promised them therein.

7. Certain delegations which had examined the problems arising under Chapter XI in statements which might be likened to a course in law had been criticised for pushing legal logic to the extreme limit. But, surely, that was completely justified when the document being studied and interpreted was the Charter of the United Nations. Only strict adherence to the rules of logic could prevent confusion and hold demagoguery in check.

8. The Charter had transformed the former colonies—which had previously been units coming under internal political law with whose situation the international community had had no authority to concern itself legally—into territories placed under the aegis of the United Nations; they had ceased to be under the exclusive authority of the administering Powers, whose sovereignty had thus been restricted, although that restriction took due account of the vested interests of the administering Powers and did not challenge the legitimacy of their rights. In exercising international protection on behalf of the Non-Self-Governing Territories, the United Nations might find it necessary to make certain recommendations and suggestions as to the way in which they should be administered. Its protection should only lapse when the territory ceased to be non-self-governing, either by becoming an individual sovereign State or by joining other States or other territories and so forming a new State, or by becoming voluntarily incorporated in another State as a unit having the same rights and prerogatives as the

other political and administrative divisions of that State or, lastly, by entering into a form of association that conferred on its inhabitants the right to manage their own affairs in all respects. There was nothing in Chapter XI to rule out the possibility of a political unit enjoying complete self-government in internal affairs but not possessing full legal capacity in international affairs—always provided that the limitation had been freely accepted. As the list of factors (A/C.4/L.279) for instance, showed, such a unit would occupy a position half way between that of an independent, fully sovereign State which had reached the highest rung on the ladder of political development and possessed legal capacity both in internal and in international law, and the Non-Self-Governing Territories coming under Article 73 e of the Charter.

9. If the association agreed upon between Puerto Rico and the United States did not exactly accord with the classic definition accepted in private law, which presupposed an agreement on the part of two freely assenting, absolutely independent and equal parties, with a view to the formation of a new unit or the satisfaction of common interests, that was no reason for rejecting it on the ground that only one of the two parties in question possessed the right of international representation—which would be tantamount to a refusal to recognize any form of association except confederations, unions, or collectivities similar to the British Commonwealth—since that association, having been freely chosen and requested by Puerto Rico, was evidence that the island had become self-governing and, accordingly, a State; the final act by which that association was established was a bilateral convention which upon acceptance by the United Nations would be converted into an international convention.

10. Before taking note of an agreement of that kind, the United Nations should, of course, in keeping with the right of peoples to self-determination, be satisfied that the territory had evolved towards self-government and that the powers implicit in internal sovereignty had been transferred to the population of the territory in question. The degree of self-government could be measured indirectly by reference to Article 73 of the Charter; indeed, any people, administered by a freely elected government and invested with the political power necessary to work out its own progress and well-being, could be regarded as self-governing. Obviously the administering Power could not thereafter furnish the information referred to in Article 73 of the Charter, since its competence for the internal affairs of the territory had ceased. Furthermore, it would be a grave error not to recognize that the creation of such political and juridical entities marked the end of the colonial régime and thus corresponded fully to the purposes of the Charter. The Charter must not be interpreted in a sense incompatible with the right of peoples to choose their political institutions, for the United Nations had no power to draw up political systems and impose them on the peoples concerned.

11. Those were the considerations which had to be borne in mind before any decision was taken on the cessation of the transmission of information relating to Puerto Rico. It was true that that former colony had not asked for complete independence but had preferred a form of association under which it did not acquire full legal capacity in international affairs. But the fact remained that the Puerto Rican people already possessed the attributes of sovereign power in internal

affairs and that its government could freely lay down policy concerning the island's cultural, economic and social development in order to safeguard the political aspirations of the inhabitants, foster the development of free political institutions and assure the rights of individual citizens.

12. The Constitution chosen by the Puerto Rican people within the framework of association with the United States was a guarantee that a democratic régime would flourish among a people which had attained political maturity. The Constitution defined the individual prerogatives in such a way as to demarcate the scope of the public power with respect to individuals, and clearly indicated the structure of the different organs of the State. In accordance with Western methods, the people participated directly in the election of the members of the Legislative Assembly and of the Chief Executive. The judges were appointed by the Executive in agreement with the Senate. Each of the three powers acted in its own sphere without encroaching on the province of another authority. The Puerto Rican people were free to determine the island's taxation system, fix the budget, authorize public expenditure and enact legislative provisions relating to property. Public Law 600, the enactment governing the association, had become a treaty amendable only by the mutual consent of the contracting parties. The fact that amendments to the Puerto Rican Constitution had to comply with the provisions of that law was a natural corollary of the association. The character of the contractual agreement was also responsible for the limitations in the international sphere accepted by Puerto Rico, so that the restrictions in the matter of customs duties were merely the result of those freely accepted limitations. It was not for the United Nations to express an opinion on that decision of the Puerto Rican people. It was enough for it to know that the decision had been taken in complete freedom.

13. He concluded from his analysis of the legal situation that the Puerto Rican people had attained self-government, that the elections had not been conducted under pressure and that consequently the electors had chosen the status of a Commonwealth in full freedom and sovereignty.

14. In view of those considerations, his delegation had joined with the delegations of Chile, Colombia, Costa Rica, Ecuador, Panama and Peru in submitting draft resolution A/C.4/L.300, no provision of which denied the Puerto Rican people's right to aspire to complete independence and to representation in the United Nations. The authors of the draft had merely wished to recognize an existing position which was in conformity with Chapter XI of the Charter.

15. His delegation was sure that those nations on the American continent which did not yet enjoy complete independence were daily acquiring a deeper consciousness of their rights. To be fair, he noted that the administering Powers, true to the civilizing mission which they had assumed, were realizing that the time was approaching when the peoples administered by them would receive the freedom which they still lacked. All political parties in Brazil were strongly anti-colonial and his country's international policy owed its cohesion and unity to that fact. At the commemoration of the discovery of America, the President of the Brazilian Republic had stated that if America was to become a bulwark against ideological imperialism, it could not remain indifferent to the aspirations to political and

social emancipation which were appearing in the modern world and that it must be hoped that pacific development, with the assistance of the metropolitan Powers, would before long enable those American peoples which were still dependent to take their rightful place in the community of nations and co-operate with the rest of the world towards the happiness of mankind.

16. The case of the Netherlands Antilles and Surinam was completely different from that of Puerto Rico. He did not doubt that the Netherlands Government intended to carry through the developments which would lead the Netherlands Antilles and Surinam to complete self-government, but in his opinion those two territories had not yet attained the measure of self-government enjoyed by Puerto Rico, whose people were freer under their present status than those of many other independent and sovereign countries.

17. He reserved the right to speak later on the Indian amendment (A/C.4/L.301).

18. Mr. BELAUNDE (Peru) said his country had always felt the greatest sympathy for the Puerto Rican people. While in many instances geographical factors had produced differences between the various nations of Latin America, those nations, whether they belonged to the Caribbean or to the Andean region, were still bound by an indivisible unity which had a cultural basis. A true Spanish-American culture, the real soul of Latin America, had crystallized around that unity. Puerto Rico, and Cuba for that matter, had always been within that cultural family.

19. His delegation shared the Brazilian representative's views on the question before the Fourth Committee. The economic factor should not be neglected in the study of that question since it accounted for the slowness of Puerto Rico's development and explained why the Puerto Rican people could not or did not wish to have complete independence immediately.

20. The responsibility which the Fourth Committee would assume in giving a ruling on the application of Article 73 continued to cause concern to his delegation. When it had been announced at the San Francisco Conference that a new system would replace the old system of mandates and extend collective protection throughout the world to territories which were still dependent on certain States, the Conference had been deeply moved. As the Brazilian representative had rightly said, that point had marked the end of colonialism, since administering Powers had been charged with a moral obligation embodied in the Charter in the words "sacred trust". That expression not only indicated that a mandate had been given to those Powers by the whole human race, but set the general interests of mankind above those of the administering Powers. Those States had become the protectors and teachers of the peoples in question when they undertook responsibility not only for the economic progress but also for the political, cultural and intellectual development of those populations.

21. Besides that sacred trust the administering Powers had a secondary but important obligation: to transmit regularly to the Secretary-General information on the economic, social and educational conditions in the territories for which they were responsible. That was definitely an obligation, a duty which the administering Powers could not relinquish. It was possible to waive a right, but not an obligation. However, in paragraphs a and b of Article 73 the authors of the Charter had set a limit to the term of that obligation. The in-

formation had to be transmitted for so long as the territories in question had not attained a full measure of self-government.

22. At the San Francisco Conference there had been two schools of thought: one argued that the limits imposed on the sovereignty of the administering Powers should be reduced to a minimum, whilst the other had contended that the General Assembly should receive a very wide competence. As had been feared, the Charter reflected those two points of view; consequently, two opposing theories were involved in any attempt to answer the question who should determine when a territory had attained full self-government and the obligation to transmit information had lapsed. The exponents of the first theory placed the decision with the administering Power, as having a more direct knowledge of the situation, though the administering Power could not be impartial. The exponents of the second theory claimed that the United Nations, which knew the situation less well but which was more impartial, was competent to decide that point. His own delegation agreed with the second theory, under which the General Assembly of the United Nations was competent.

23. The question was a diplomatic one, however, since the United Nations was a political body; and whenever possible, differing views concerning the legal situation should be reconciled lest the Organization should be disrupted. Every effort should be made to solve disputes in an atmosphere not of antagonism or rivalry but of understanding and freedom from political feeling. Questions of the kind before the Committee should therefore be discussed dispassionately and due heed paid to the official opinion of the responsible State, without infringing the General Assembly's prerogatives. The good faith and integrity of the government transmitting information had to be assumed; in that matter, he agreed with the Brazilian representative.

24. Puerto Rico's political and economic development was due to an irresistible impetus towards freedom which the United Nations could not ignore since it was written in the pages of history.

25. In 1897, Spain had conferred on Puerto Rico a status which marked an important stage in the history of the country's development. After a short military occupation, the United States had endeavoured to give the former colony a legal status and had used the significant term "People of Puerto Rico". Municipal self-government had followed; the Resident Commissioner for Puerto Rico was elected by popular suffrage and land reform had been undertaken.

26. Unfortunately, the effects of a series of international events had then retarded the development of Puerto Rico; but in 1917, the situation had changed and a law had been enacted to grant the Puerto Rican people the right to elect members to the Senate, which replaced the former upper house of the legislature. Under that law, executive and judicial power had continued to be vested in the metropolitan Power, but Puerto Rico afforded living proof of the sociological law that life developed more quickly than legislation and rectified and tended to adjust the law. For example, it might be said that the Puerto Ricans had designated their own judges, for the President of the Senate, who appointed them, had been regarded as the Prime Minister of Puerto Rico.

27. Despite the economic crises and wars which marked the period between 1917 and 1948, Puerto Rican development had continued and efforts had been

made to complete the land reform by means of limitations affecting large holdings. Exploratory work had been undertaken in a number of fields, and public health and education developed; the proportion of illiterates in Puerto Rico had fallen to 20 per cent.

28. Such guarantees of their physical well-being had opened up new prospects of political development for the people. In 1947, a law had been passed whereby the Governor of Puerto Rico was no longer nominated by the metropolitan Power but elected by the people. That stage had marked the disappearance of an important factor in the colonial system and had been a considerable advance towards self-government.

29. The final stage of development had occurred in the Puerto Rican election of 1948, when the people had voted on clear and definite national programmes and, of the three possible courses—complete independence, federal status within the United States and association with the United States as a Commonwealth—had chosen the latter.

30. Had Puerto Rico become integrated into the United States, it would have obtained certain advantages and would, for example, have been able to influence general United States policy through its representatives and senators in Congress. On the other hand, it would have lost its identity, which would have become merged with that of the United States following a union from which Puerto Rico would have been juridically unable to withdraw. That solution had been rejected by the Puerto Rican people in favour of an association giving it the possibility of obtaining independence and retaining its identity. The Puerto Rican people had made its choice by means of elections followed by a referendum, and had thus exercised its right to self-determination. Its decision constituted the juridical act on which the Committee was required to pass an opinion.

31. Mr. Belaunde then reviewed the different phases of that evolution. First, the Puerto Rican people had expressed its will at elections in which exponents of three points of view had stood as candidates, and the party which favoured the setting up of a Commonwealth associated with the United States had won by a huge majority, carrying seventy-six out of seventy-seven municipalities of Puerto Rico. Secondly, in response to the desire thus expressed by the Puerto Rican people, the United States had prepared draft legislation for the formation of a constitutional system of government in Puerto Rico. Thirdly, that draft had been submitted to a referendum of the Puerto Rican people, who as a sovereign body had approved it by an overwhelming majority and approved also all the conditions contained in it; then, as agreed with the United States Government and confirmed by the referendum, elections for the Constituent Assembly had taken place in August 1951; the party that favoured a Commonwealth of Puerto Rico had again been successful. Finally, by another referendum the Puerto Rican people had approved the Constitution drawn up by that Assembly.

32. Hence, beyond all dispute, the Puerto Rican people had given its verdict in accordance with the most democratic methods known to modern law. Indeed, except for the Czechoslovak representative, none of the speakers who had taken part in the debate had cast doubts on the legality of that decision. In expressing an opinion on the legal process which had already brought Puerto Rico to self-government and which would probably lead it to independence, the Committee

had therefore to choose between two assumptions: one which was unmistakably obvious from a study of the facts and from the opinions expressed both by the Government of the United States and the Puerto Rican people, and another—the personal assumption of the Czechoslovak representative—which was quite baseless. The Peruvian delegation had chosen without hesitation; that was why it had associated itself with the joint draft resolution (A/C.4/L.300).

33. Without recapitulating the detailed provisions of that draft resolution, he would merely say, as was stated in the last paragraph of the preamble, that the agreement reached by the United States and the Commonwealth of Puerto Rico respected the individuality and the cultural characteristics of Puerto Rico, maintained the spiritual bonds between Puerto Rico and Latin America and constituted an additional link in the continental solidarity. The point was one to which the Peruvian delegation attached a very great importance: respect for the cultural and spiritual individuality of every State was a principle which had inspired the countries of Latin America at the Ninth International Conference of American States, just as it had inspired the Charter of the United Nations. Commenting on operative paragraph 9 of the resolution, he said that imperialism was a philosophy alien to the Government of the United States, which had devoted its immense resources not to subjugating peoples or conquering territories but to taming nature in order to make it contribute to the prosperity of mankind. Cuba and the Philippines, former dependencies of the United States, had become free and sovereign States. The Peruvian delegation was convinced that, in its relations with Puerto Rico, the United States would continue to be guided by its traditionally liberal principles.

34. It was not for the Committee to say whether Puerto Rico had acted rightly or wrongly in choosing the status of a Commonwealth. If the United States Government and the Puerto Rican people, which were directly acquainted with the realities of the situation in the island, stated that the territory had become self-governing, the Committee could not claim to know better than they did. It had no right to relegate Puerto Rico to the category of a Non-Self-Governing Territory, nor had it the right to decide that one particular form of constitution or organization was superior to all others and should alone be chosen by non-self-governing peoples. The Peruvian delegation had enthusiastically welcomed the birth of the sovereign States of India and Indonesia but it did not believe that their constitutional forms, or those of other States, were necessarily the yardstick for measuring the degree of self-government attained by other territories. The Peruvian delegation's attitude with regard to Puerto Rico was a matter of conscience; it believed in progress, in right and in the destiny of the United Nations.

35. Mr. GHASSEMZADEH (Iran) recalled that long before the signing of the Charter, even before the entry into force of the Covenant of the League of Nations, Article 22 of which related to colonies, Puerto Rico had enjoyed a measure of internal self-government under the Organic Law of 1917, amended in 1927. Since then the legislative power had been exercised by the Legislative Assembly, whose members had been neither nominees of the colonial Power nor ex-officio representatives, as in certain other countries, but had been elected by the population. The Legislative Assembly had legislated in the name and in the interest of the people.

36. Between the time when Puerto Rico passed under United States administration and the creation of the Commonwealth, the United States Government had rendered immense services to the Puerto Rican population in education, public health and agricultural and industrial production, thanks to its undeniable efficiency and almost inexhaustible resources. During the fifty years or so of United States administration, thousands of low-cost houses for the low-income group had been built, producers' and consumers' co-operatives and credit associations had been formed and measures of social security, unknown not only in the majority of Non-Self-Governing Territories but also in a considerable number of fully sovereign States, had been introduced for the benefit of the population. Viewing the balance sheet of the United States administration, one could not help realizing how much the United States and many individuals had done for the island.

37. The Iranian delegation had welcomed with keen interest the news of the adoption by referendum of the Constitution of the Commonwealth of Puerto Rico as the result of an evolution which he briefly reviewed. That Constitution was based on the principle of the national sovereignty of the country. The legislative power was vested in the House of Representatives and the Senate, but elected by universal suffrage and secret ballot. The Governor who held the executive power and who was in control of the Puerto Rican militia, was freely elected by the people. The judicial organization culminated in the Supreme Court, which formed one of the checks on the legislature since it could declare laws enacted by the Legislative Assembly unconstitutional. Martial law could only be proclaimed by the Governor if the Legislative Assembly confirmed his decision. Article II of the Constitution guaranteed individual rights. It was clear then that even if the Constitution was not that of a completely independent State, it none the less guaranteed complete self-government for Puerto Rico.

38. During the Committee's study of the question of factors, the Iranian delegation had had occasion to state (328th meeting) that independence represented the final stage of the economic, social, cultural and political evolution of Non-Self-Governing Territories, subject always to the proviso that independence was asked for by the people. In fact, respect for the right of peoples to self-determination was not always necessarily expressed by the grant of complete independence, for in certain cases, as in that of Puerto Rico, an association with the metropolitan country under which the territory was free to manage its internal affairs whilst the conduct of foreign relations and national

defence were reserved for the metropolitan Power was more likely to serve the material, economic and political interests of that territory. It went without saying that the association had to be the direct consequence of the freely expressed will of the people, the indispensable condition for the creation of a Commonwealth.

39. The Iranian delegation had studied the case of Puerto Rico from that point of view and was ready to support the joint draft resolution (A/C.4/L.300). He added that institutions evolved in keeping with changes in the social and moral conditions of peoples. A parallel evolution had earlier led the United States to recognize the complete independence of the Philippines. He hoped that the United States would similarly recognize the complete independence of Puerto Rico as soon as the Puerto Rican population expressed a desire for it.

Programme of work

40. The CHAIRMAN pointed out that the General Assembly had fixed a target date for the close of its eighth session and asked the Committee to hold as many meetings as possible.

41. Mr. PIGNON (France) mentioned the difficulties which arose from the great number of meetings; it would be more effective if delegations could have ample time for reporting to their governments, studying the documents and preparing their speeches; in return, delegations might be asked to speak at the precise time indicated on the agenda and in the order in which they appeared on the list of speakers. If any delegation was not ready at the proper moment, it should perhaps waive its turn.

42. He then made a formal proposal that the meeting arranged for Saturday, 7 November, should be cancelled.

43. Mr. L. S. BOKHARI (Pakistan) and Miss ROESAD (Indonesia) supported the French representative's proposal.

44. Mr. DE MARCHENA (Dominican Republic) also supported that proposal. He asked if the Committee might perhaps meet at night, three times a week.

45. The CHAIRMAN said a decision on the French proposal might be held over till the afternoon meeting on Friday, 6 November. The Secretariat would inquire whether it was possible to comply with the request of the representative of the Dominican Republic and would supply all information necessary.

It was so decided.

The meeting rose at 1 p.m.