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Chairman: Mr. Thanat KHOMAN (Thailand).

Requests for hearings (continued)

REQUESTS CONCERNING AGENDA ITEM 13 (REPORT OF THE TRUSTEESHIP COUNCIL (continued))

1. The CHAIRMAN announced that a request for a hearing had been received from Mr. Ouandié, who wished to speak on behalf of the Union des populations du Cameroun. He proposed that the text of the request should be circulated to the members in accordance with the Committee's practice.

It was so decided.^{1/}

AGENDA ITEM 35

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (A/3601 and Corr.1 and Add.1, A/3602, A/3603, A/3604, A/3605, A/3606/Rev.1, A/3607, A/3608, A/3609, A/3647 and Corr.1, A/C.4/360) (continued):

(c) General questions relating to the transmission and examination of information (A/C.4/357/Rev.1, A/C.4/359 and Add.1, A/C.4/L.504/Rev.2)

GENERAL DEBATE AND CONSIDERATION OF DRAFT RESOLUTION (A/C.4/L.504/REV.2) (continued)

2. The CHAIRMAN asked the Committee to resume consideration of sub-item (c) of the item under consideration. He drew attention to the revised text of the joint draft resolution on the transmission of information under Article 73 e of the Charter (A/C.4/L.504/Rev.2) and the amendment submitted by the Dominican Republic (A/C.4/L.505).

3. Mr. NOGUEIRA (Portugal) observed that whereas sub-item (c) was entitled "General questions relating to the transmission and examination of information",

^{1/} The text of the request was subsequently circulated as document A/C.4/355/Add.3.

it was apparent that all the representatives who had spoken on the subject had had in mind the letter addressed to the Secretary-General by what some delegations had referred to as "a certain country" or "a certain Government". His delegation was therefore obliged to conclude that the Committee was dealing with one specific question only. There could be no doubt regarding the identity of that country and Government. At the 687th meeting the representative of Iraq, for example, had quoted a statement made by the Iraqi delegation during the previous session at the Committee's 615th meeting, concerning the importance of the question at issue; a subsequent passage from that same statement, which the representative of Iraq had not quoted, had referred specifically to the situation in the countries administered by Portugal as part of its domain. Hence it was obvious that the Iraqi delegation's intervention in the present discussion was simply an attempt to reopen a problem on which the Assembly had taken a final decision at the 657th plenary meeting held during its previous session. Furthermore, the representative of Iraq had spoken of the "unfinished task" of last year and when asked, at the 689th meeting, by the Dominican representative whether the draft resolution before the Committee was intended to complete that task had replied that the two were directly related.

4. Similarly, the Indian representative had said at the 687th meeting that the Committee was faced with unfinished business. Such a statement naturally gave rise to the question what was meant by unfinished business. There could be no two opinions on that question: a matter could be regarded as unfinished only if there had been no time to discuss it or if no decision with respect to it had been taken. Neither of those circumstances existed in the present case. The matter had been fully debated at the previous session, a draft resolution had been submitted (A/3631 and Add.1, para. 63, draft resolution VI) and had been rejected by the General Assembly at its 657th plenary meeting, failing to gain even a simple majority, much less the two-thirds which the Assembly had decided was necessary. His delegation considered that result conclusive. The Indian representative had said that the vote in the Committee itself (623rd meeting) was conclusive, yet the result of that vote had been 35 in favour, 33 against and 4 abstentions, which meant that a majority had had serious doubts concerning the wisdom and legality of the step envisaged. In his view the vote in the Committee was merely interlocutory, the only conclusive vote being that taken by the General Assembly in plenary session.

5. To regard as unfinished business a matter on which the General Assembly had taken a final decision would be to establish a most dangerous precedent, opening the door to an entirely new procedure, namely the rejection of decisions adopted by the General Assembly and the possible revision of all the work it

had done in the past twelve years. It was obvious that some delegations would like to represent as unfinished business any decision with which they were not in agreement. The Committee would do well to consider what would be the result if delegations were encouraged to adopt such an attitude. His own delegation's view, which he wished to make absolutely clear, was that the Committee was discussing a matter which had already been disposed of and that questions on which the General Assembly had taken a final decision could not be reopened.

6. Replying to comments made by earlier speakers with regard to the draft resolution, he recalled that the Indian representative had said that the constitutional limitation referred to in Article 73 e of the Charter had a bearing not on the constitutions of Member States but rather on the constitutions of the Non-Self-Governing Territories themselves. Yet the entire text of Article 73 was addressed to States Members of the United Nations, as its first words indicated, and those Member States alone had the power to make statements as a consequence of which they might accept certain obligations such as that of transmitting information to the Secretary-General. If the constitutional limitation referred to in that Article derived from the constitutions of the Non-Self-Governing Territories themselves, then the security limitation mentioned in the same sentence would likewise derive from them and the corresponding responsibilities would be assumed by the Non-Self-Governing Territories rather than by the Member States concerned. That was clearly not what was intended, for the obligations and responsibilities assumed under the Charter could not be separated from the rights which the Charter recognized. If Member States alone assumed the obligations set forth in Article 73, they alone had the power to determine, in accordance with their own constitutions, the constitutional limitation which might exist. It might well be asked, moreover, how the United Nations could accept and recognize decisions other than decisions of Member States. Hence the only logical conclusion was that the expression "such limitation as... constitutional considerations may require" referred to the limitations set forth in the fundamental laws of Member States and determined exclusively by them.

7. The Indian representative had likewise expressed the view that the obligations assumed under the Charter superseded constitutional law. Such an opinion was tantamount to regarding the United Nations as a world government with the power of defining the basic structure of its Member States. While it was true that upon being admitted to membership of the United Nations States undertook to discharge the obligations imposed upon them by the Charter, it was also true that their admission implied that the United Nations had accepted them as they were, recognizing their constitutions and basic structure. The United Nations might refuse an application for membership, but it could not ask a Member State to change its basic laws and alter its fundamental structure, particularly when that structure had existed long before the United Nations had come into being. To deny that contention would be, in effect, to call for the deletion of Article 2, paragraph 7, of the Charter and the examination of the constitutions of all Member States to determine whether they were in conformity with a standard which had not yet been established. The Charter itself recognized the

diversity of constitutional systems, as paragraphs 1 and 7 of Article 2 made clear.

8. He was therefore obliged to reaffirm his delegation's view that Article 73 of the Charter did not apply to Portugal. He would like to ask the sponsors of the draft resolution a number of questions. Firstly, on what grounds was General Assembly resolution 334 (IV) invoked as the precedent on which the operative part of the draft resolution was based? Secondly, was the draft resolution intended by its sponsors to apply to all non-self-governing peoples, regardless of their geographic situation? Thirdly, was it intended to apply to all non-self-governing peoples regardless of their standard of civilization or was there any intention of making distinctions in accordance with that standard, even in the case of territories which had once been independent States? Finally, was it the intention of the sponsors that the replies of all Member States should be examined and possibly revised or did the draft resolution refer solely to replies which might be submitted in the future by new Members or by the thirty-three countries which had so far given no reply?

9. The draft resolution called for detailed comment and he would reserve his delegation's right to speak further on the subject after the sponsors had replied to his questions and other delegations had offered their comments.

10. Mr. RYCKMANS (Belgium) said that for a number of reasons it would be impossible for his delegation to vote in favour of the draft resolution or even to abstain.

11. In the first place, the text was manifestly inconsistent. The second paragraph of the preamble, which recalled General Assembly resolution 334 (IV), was contradicted by the third paragraph of the preamble, which noted that Members of the United Nations had expressed differing opinions regarding the application of the provisions of Chapter XI to Territories whose peoples had not yet attained a full measure of self-government, which was apparently one reason why the proposed study of the question was considered necessary. He would point out, however, that even before the adoption of resolution 334 (IV) there had been widely differing opinions concerning the competence of the General Assembly. In drawing up the third paragraph of the preamble the sponsors appeared to have conveniently overlooked the fact that the General Assembly had already come to a decision on the subject at its previous session, when it had rejected an earlier draft resolution. They were apparently prepared to acknowledge only those decisions of the General Assembly which met with their approval.

12. In the fourth paragraph of the preamble resolution 334 (IV) was misquoted. That resolution stated that it was within the responsibility of the General Assembly to express its opinion on the principles which had guided or might in future guide the Members concerned in enumerating the territories for which the obligation existed to transmit information under Article 73 e. That was a very different matter from "the principles which underlie the enumeration....", as the draft resolution put it.

13. With regard to paragraph 1 of the draft resolution, he entertained serious doubts about the wisdom of asking the Secretary-General to prepare a summary. If such a study was to be made it should be a thorough

study, reflecting all points of view. The preparation of a summary would lay the Secretary-General open to the criticism that he had neglected one or another point of view.

14. His delegation might be accused of inconsistency in view of its attitude at the previous session in supporting the Tunisian amendments (A/C.4/L.468) to the draft resolution then before the Committee (A/C.4/L.467). That had been because his delegation considered it intolerable that the reply of one Member State should be singled out for discussion. It had in any event voted against the draft resolution as a whole.

15. The Belgian delegation had frequently agreed to take part in the studies on the principles which should guide the Administering Members in establishing a list of territories on which information should be transmitted. It recognized that the Belgian Congo was a Non-Self-Governing Territory coming within the scope of Article 73e; its own interests were therefore not involved in the matter. Moreover, the Belgian Government was of the opinion that many States which had not answered the Secretary-General's letter (A/C.4/331, para.1) or which had not acknowledged that they administered territories envisaged in Article 73e were not fulfilling their obligations. There were a number of Non-Self-Governing Territories on which the General Assembly had never received information; it had never asked for it, except in the case of Portugal. It had confined itself to taking note of the information transmitted by the Administering Members on the Territories they had enumerated as coming within the scope of Article 73e.

16. At the previous meeting the representative of Guatemala had quoted from the document submitted by the Indian representative to the Special Committee on Information transmitted under Article 73e of the Charter (A/AC.17/W.10), in which an attempt had been made to define the term "non-self-governing people". He felt that careful examination of that definition would show that it applied perfectly to the Andaman and Nicobar Islands.

17. His delegation had always maintained that the General Assembly was not competent to judge of the constitutional ties between a Member State and a part of its territory; it held that Member States should examine their consciences and decide for themselves whether they had any territories upon which it was their duty to transmit information. If it was decided that the General Assembly was competent to make that decision in the case of Portugal, then it should be recognized that that competence extended to all the eighty-two Member States—to those which had not replied to the Secretary-General's letter and to those which had.

18. In conclusion, he expressed the hope that before voting on a draft resolution of such importance, the Committee would carefully weigh the consequences of its decision. The question affected not only Portugal but very many Members of the United Nations. If the General Assembly decided that it was competent to complete the list of Non-Self-Governing Territories the Belgian Government would have a list of such territories to submit.

19. Mr. CHAMANDI (Yemen) observed that the whole debate in the Fourth Committee on the question of the transmission of information concerning Non-Self-

Governing Territories turned on one point: the precise definition of a Non-Self-Governing Territory.

20. Every member of the Committee knew that a dependency could never be regarded as a self-governing territory. Consequently information concerning such dependencies must be transmitted to the United Nations by the Administering Members. A number of such dependencies were, however, regarded by the Administering Members as not falling within the scope of Chapter XI. On that point there was a difference of opinion between the Administering Members and the United Nations, which considered that all dependencies, no matter what their status, came within the scope of Chapters XI and XII of the Charter. Those Administering Members which declined to transmit information concerning their dependencies based their refusal on the contention, firstly, that the dependencies they administered were part of the metropolitan country and, secondly, that their admission to the United Nations should not be tied to any specific condition.

21. In connexion with the first of those arguments he would merely ask whether the dependencies upon which the Administering Members declined to transmit information really enjoyed full political, social and economic equality with the metropolitan countries and would leave it to the Administering Members to answer the question.

22. With regard to the second point, he could not believe that any State applied for membership in the United Nations without understanding the full meaning of the provisions of the Charter, including of course those of Chapter XI.

23. The draft resolution was a simple one and he could see no reason why any delegation should vote against it. His delegation would vote in favour of the draft resolution and of any amendments to it that might be introduced.

24. Mr. CARPIO (Philippines) said that his delegation had joined in sponsoring the draft resolution on the understanding that it would be applicable to all Members of the United Nations. He could not understand how anyone could interpret it in any other way unless in a deliberate attempt to distort its meaning.

25. Mr. KADRY (Iraq) reserved his right to comment on the references made by the representative of Portugal to statements made by the delegation of Iraq during the present session and at previous sessions of the General Assembly.

26. He regretted that the representative of Portugal—a country with which Iraq had historic ties of friendship—had interpreted his delegation's statements as evidence of discrimination against that country. In the past the delegation of Iraq had differed with the delegations of other Member States with regard to the interpretation of the obligations of Members under Chapter XI of the Charter, but none of those delegations had ever accused him of discrimination. As he had said previously, his delegation had taken a consistent stand from the very inception of the United Nations, with a view to establishing the most scrupulous adherence to the letter and spirit of the Charter. He had also expressed confidence that other States would appreciate the fact that his delegation felt it was discharging its duty and that it always maintained the greatest esteem for them.

27. Mr. DE MARCHENA (Dominican Republic) pointed

out that his delegation had not yet received any reply to the question it had put several days previously concerning the manner in which the Secretary-General would prepare a summary of the opinions expressed in the deliberations of the General Assembly or of the Committees concerned and in the relevant treatises on the interpretation of the Charter.

28. He asked whether the sponsors would be willing to redraft paragraph 1 to read: "Invites the Secretary-General to prepare a summary of the opinions as furnished (a) in the replies of Members to the communications of the Secretary-General regarding the transmission of information; (b) in the plenary meetings of the General Assembly or of the Committees concerned; (c) in the relevant legal treatises on the interpretation of the Charter". He thought that wording would make the paragraph clearer and would assist the Secretary-General in preparing his summaries.

29. His delegation felt that the amendment (A/C.4/L.505) it had submitted to operative paragraph 2 of the resolution would be an improvement on the original text, since experience had shown that the establishment of new committees frequently raised difficulties. The proposed six-member committee would be contrary to the very purpose of the draft resolution in that it would have a political rather than a legal origin. The Committee on Information from Non-Self-Governing Territories, on the other hand, had proved its worth over a long period of years and his delegation considered it to be the organ best fitted to undertake the desired study.

30. If his amendment was not accepted by the sponsors he would withdraw it in due course. His delegation's only desire was to co-operate and to steer a middle course between the two extremes. Questions relating to the substance of Chapter XI were extremely delicate and he was therefore strongly of the opinion that the Committee on Information would be in the best position to study the Secretary-General's summary. At the Committee's 215th meeting, held during the sixth session of the General Assembly, his delegation had urged that, before attempting to draw up a list of factors to be taken into account in deciding whether a territory was or was not fully self-governing, the Committee must first define the concept of self-government. The lack of any such definition was a serious gap in Chapter XI. The proposed study might eventually lead to the establishment of such a definition, which should not be confined to the question of the transmission or the cessation of the transmission of information but should cover the whole subject.

31. Mr. COHEN (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) said that the Secretary-General would be unable to adopt a definitive position with regard to the nature of the work required of him under the draft resolution so long as amendments to that resolution were still pending. It would be extremely difficult for the Secretary-General to play the impartial role required of him if he were asked to draw up summaries and analyses of a political nature. While it would be comparatively easy to summarize the contents of the replies furnished by Member Governments and to conduct research into the relevant treatises on the interpretation of the Charter, it would be a very different matter to draw conclusions from the summary records of the Committee's meetings, which of necessity gave only an

abbreviated account of the debate. In view of the controversial nature of the question, which involved the interpretation of the Charter, the Secretary-General would await the final draft of the resolution before announcing whether or not he could assume such a responsibility.

32. Mr. JAIPAL (India) objected to the Belgian representative's reference to the Andaman and Nicobar Islands, which was wholly irrelevant to the discussion. Those islands were an integral part of India, being federally administered by the Indian Government.

Question of the circulation of statements

33. The CHAIRMAN recalled that the question of the circulation of statements by members of the Committee as documents had again been raised at the previous meeting. He had then stressed that it was for the Committee to decide whether to accede to a member's request for statements to be circulated as documents but had pointed out that in that connexion the Secretary-General was bound by other decisions of the General Assembly and had appealed to the members to bear that consideration in mind before asking the Fourth Committee to take such a decision. He asked the Under-Secretary to explain the position.

34. Mr. COHEN (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) pointed out that only a few days previously the Fifth Committee, at its 617th meeting, had adopted a draft resolution stressing the need to cut down documentation. Requests for additional documentation placed the Secretary-General in a difficult position inasmuch as increased costs would eventually oblige him to ask the General Assembly for supplementary appropriations to meet a deficit in the budget. The question was not whether one or another statement made in the Fourth Committee or any other organ of the United Nations should be circulated; it was a matter of general administrative policy. Requests for the additional reproduction of documents over and above the summary records placed the Secretariat in a difficult position. The Secretary-General would appreciate any effort the Committee might be able to make to limit its requests for documentation.

35. Miss BROOKS (Liberia) thanked the Under-Secretary for his explanation. She agreed that it would be unwise for the members of the Committee to ask that the complete text of every statement made should be circulated; she felt, however, that there were cases where it was necessary and she hoped that in such cases the Secretariat would be able to comply with the request. It was in that spirit that she had asked for the circulation of the statement made at the previous meeting by the representative of Guatemala.

36. Mr. BOZOVIC (Yugoslavia) said that his delegation was of course always ready to heed the opinion of the Under-Secretary with regard to the distribution of documents. At the same time it did not renounce its right to ask for the circulation of members' statements in full when it thought that necessary.

37. Mr. CARPIO (Philippines) observed that his delegation had always considered it unfair that some statements should be circulated in full as official documents and that others should only appear in summary form. He therefore felt that in the future it would be in the best interests of all concerned that any request for the

full text of a speech to be distributed should be addressed to the delegation concerned. He could not see why any part of his country's contribution to United Nations finances should be used to give preferential treatment to the statements made by certain delegations.

38. The CHAIRMAN pointed out that it was not a question of whether the Committee had the power to decide that statements should be circulated but of the facilities available to the Secretariat. If those facilities did not meet with the approval of the members of the Committee they would have to raise the matter in the Fifth

Committee and provide additional funds to enable the Secretariat to cope with the requests. If any such requests were made in the future he would have to submit the question to the Secretariat which was bound by the limitations of the budget.

39. Mr. ROLZ BENNET (Guatemala) said that his delegation agreed that the documentation should be kept within reasonable limits. Nevertheless it felt that it should always be possible for documents to be circulated which the Committee itself felt to be of importance for its deliberations.

The meeting rose at 4.55 p.m.