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Chairman: Mr. Djafar ABDOL (Iran).

AGENDA ITEM 62

**The question of West Irian (West New Guinea) (A/3644,
 A/C.1/L.193) (continued)**

1. Mr. BELAUNDE (Peru) regretted that, despite the high level maintained by the speakers, the debate had failed to produce any basis of agreement conducive to the re-establishment of friendly relations between the parties and to a solution of the problem.
2. Peru had warmly welcomed the admission of Indonesia to membership in the United Nations, and its faith in the new Republic had been fully justified. The people of that country, hitherto non-self-governing, had shown themselves highly competent in the political, economic and cultural spheres.
3. He also wished to stress his admiration for the Netherlands. Spain and the Netherlands had fought each other for centuries, but they had both shown an equal concern for freedom and had made great contributions to the progress of civilization. After losing many territories and its position as a great maritime power, the Netherlands had nevertheless been able to acquire an enormous moral, spiritual and cultural prestige.
4. The Spanish American countries had an approach to life which reflected Western culture, but they also had an age-old link with the Asian countries. Those two affinities both had a common bond: the Hispanic concept of universality. Consequently, it was from the universal point of view that the Peruvian delegation looked at the problem under discussion.
5. The essential issue was the obligation assumed by the Netherlands and Indonesia pursuant to the Charter of the Transfer of Sovereignty (S/1417/add.1, appendix VII), especially article 2, in which the two parties had agreed to conduct negotiations to determine the political status of West New Guinea. There was no pre-determined basis for the negotiations, no prior conditions and no agreed objectives. There were conflicting intentions and differences of view which each party had to respect; in other words the scope of the negotiations was the whole range of possibilities between two extreme attitudes. In any negotiation, the parties must be willing to bargain and to compromise. If one of them adopted an inflexible position, no further diplo-

matic negotiation was possible; then the only solution was a juridical interpretation of the treaty.

6. He did not think that article 2 of the Charter of the Transfer of Sovereignty implied a transfer of territory; he did think that the Netherlands was right in contending that, if article 2 was invoked as a basis for claiming rights or as justifying a given interpretation of the instrument, there remained only one solution: to request a legal ruling or to refer the matter to a judicial body. A legal ruling could be obtained from an ad hoc or arbitral tribunal, while a judicial decision could be requested from the International Court of Justice or another permanent court.

7. In his opinion, Article 33 of the Charter of the United Nations authorized Indonesia to say that, while it agreed that the intent of the parties was implicit in the 1949 Charter of Transfer and that there was a case of interpretation, it preferred to refer the matter to legal arbitration rather than to the International Court of Justice.

8. Indonesia's decision to amend its Constitution, in virtue of a right inherent in the personality of the Indonesian nation, had not altered the Charter of Transfer or obviated the obligation to negotiate. A country's sovereignty derived from a principle more cogent than a treaty, just as civil freedom did not derive from law. But law regulated freedom, even if freedom came before law.

9. The deadlock which the negotiations had reached could be broken by any one of several methods, provided that the two parties maintained their intention to negotiate and to respect each other's point of view. In that connexion, he cited the American Treaty on Pacific Settlement (Pact of Bogotá), which enjoined the contracting parties to enter into negotiations; if the negotiations failed, they were required to seek conciliation; if conciliation also failed, they were obliged to seek a legal solution, namely, arbitration. It was most unfortunate that at the time of signing the Charter of the Transfer of Sovereignty the parties had not provided for the possibility of the negotiations failing and established machinery for conciliation, arbitration or judicial solution.

10. He recalled that at its fifth and sixth session the General Assembly had considered the various possible ways of bringing about conciliation and had recommended the preparation of a list of conciliators from which the parties to any dispute could choose as they wished (resolution 379 (V)). That procedure could be adopted by the Netherlands and Indonesia pursuant to Article 33 of the Charter. Naturally, the choice of conciliators could not be imposed on either party.

11. Article 14 of the Charter authorized the General Assembly to recommend measures for the peaceful adjustment of any situation, but it did not say that the Assembly should specify a modus operandi; that would

be contrary to Article 33. On the other hand, if examination of the question revealed a real danger to peace, the Assembly would obviously have to refer the matter to the Security Council. If the Security Council proved unable to find a solution because of the veto, the Assembly could meet in an emergency special session to take over the functions of the Security Council and take the measures provided for in Articles 39 and 40 of the Charter, as it had already done in the past. But the Assembly could not intervene until it had been objectively established that a threat existed.

12. Consequently, the Peruvian delegation regretted that it was not in a position to support the nineteen-Power draft resolution (A/C.1/L.193), despite the praiseworthy sentiments of its sponsors. In the first place, the preamble was contrary to those Articles of the United Nations Charter which required the Assembly to submit disputes to the Security Council. Furthermore, paragraph 2 provided for a form of negotiation which would in a way impose mediation, whereas the parties had full freedom in the matter. Much as he admired the Secretary-General, he did not wish him to become a permanent organ of mediation and conciliation. Permanent organs of conciliation, as well as arbitral tribunals and courts of law, already existed.

13. In those circumstances, the question was what purpose the present discussions had served. In the Peruvian delegation's opinion, they had been very useful, indeed exemplary. The General Assembly sometimes included certain questions in its agenda only in order to satisfy public opinion by discussing them in the light of justice and truth. Furthermore, its debates brought forth ideas such as the idea advanced by the Costa Rican representative at the 908th meeting that the three territories on the island of New Guinea should be placed under trusteeship. The Peruvian delegation itself had toyed with that idea. Finally, the mere fact that many Member States had expressed their anxiety to bring about a reconciliation between the parties and to promote co-operation between the West and the East was in itself an achievement of which the General Assembly could be proud.

14. Mr. DE MARCHENA (Dominican Republic) said that his delegation doubted whether the General Assembly was competent to discuss the question of West Irian. He based his opinion on Article 2, paragraph 7 of the Charter of the United Nations.

15. The Australian delegation had given a very exact account of the situation in the Territory. He himself was in a position to say that, because he had visited the Trust Territory of New Guinea and Papua under Australian administration as far as the frontier of Netherlands New Guinea as Chairman of the United Nations Visiting Mission to Trust Territories in the Pacific, 1953. He had noted that there was very little difference between the Trust Territory of New Guinea and Netherlands New Guinea. The aboriginal races were the same and the tribal system identical, while the way of life differed only slightly. In both Territories paganism was gradually giving way before the work of Christian missionaries. There was an identity between the two neighbouring Territories which was to be found nowhere else, not even in the most backward parts of equatorial Africa. A journey into the heart of the New Guinea jungle in the regions of the Sepik and Fly river regions, where a frontier symbolically

separated western New Guinea from eastern New Guinea, revealed the same characteristics everywhere and the same race of people with a way of life that varied from Stone Age culture to semi-civilization.

16. No blame should be attached to those who for years on end had had to struggle against climatic, human, social and religious odds in an attempt to associate those communities in the developments of the civilized world. If the question of colonialism was to be raised—and the delegation of the Dominican Republic was far from defending colonialism—there was a far worse ill: anti-Christian communism.

17. The question of West Irian must not be made into a political issue for the United Nations. It was a human problem whose solution would require a great deal of time and good will, patient administration and a determination to apply the principles of the Charter, so as to allow the primitive peoples in that area, with the help of the Trusteeship System and economic resources difficult to assess, to catch up with the rest of the world and bridge the gap preventing them from enjoying the right on self-determination and withholding from them the benefits of culture and social progress.

18. Those reasons were sufficient for not altering the status of the part of New Guinea known as West Irian. At the ninth session (732nd meeting) the delegation of the Dominican Republic had maintained that the body which was competent to interpret the Charter of the Transfer of Sovereignty was the International Court of Justice, as the various parties had totally different views regarding the legal scope of that Charter.

19. His delegation wished to give formal expression to its concern regarding the statements by one of the parties, which might well create a real dispute. Doctrines and ideologies which were dangerous to mankind should not be allowed to infiltrate by taking advantage of any situation that arose.

20. His delegation hoped that the problem of West New Guinea would not give rise to a serious crisis endangering the security of the Pacific and of South-East Asia.

21. His delegation was unable to vote for the nineteen-Power draft resolution; the reasons which had justified its earlier position still held good.

22. Whatever the decision the General Assembly took at the twelfth session, his delegation appealed to reason and common sense. It hoped that consideration would be given to all that had been said during the discussion, and that a formula for agreement would be found so that the question of West Irian would no longer monopolize valuable time which the Assembly should be devoting to the more important problems of world peace.

23. Mr. NOBLE (United Kingdom) regretted that the Assembly was once more considering an item which, as his delegation had frequently pointed out since 1954, was not really a problem. The debates to which the question had given rise in the United Nations had not served the interests of the peoples concerned, and would not foster friendly relations between Indonesia and the Netherlands. Unfortunately, since the item had last been discussed, only eight months before, there had been certain developments outside New Guinea which gave cause for concern.

24. The people of West New Guinea were by geography, language, origin and culture, one with the people of the island as a whole. The contention of the representative of Indonesia that Indonesian unity had been derived through centuries of living together (905th meeting) was no doubt true of Indonesia itself, but could not be extended to West New Guinea, which had nothing in common with Indonesia and whose people had not yet reached a stage of development to enable them to decide their future objectively. Those people were at present living in peace and tranquillity under the enlightened administration of the Netherlands, which had guaranteed them the right, when the time came, to determine their own future. Only recently, the Government of the Netherlands and the Government of Australia had stated their intention of co-operating in the development of the whole of New Guinea until such time as the inhabitants of the island should in due course decide their own future. There was therefore no cause for concern on the part of the Assembly regarding the situation in that part of the world.

25. The United Kingdom delegation could not agree that Indonesia had sovereignty over West New Guinea. It was beyond doubt that sovereignty rested with the Netherlands as had been recognized in 1949 by the Government of Indonesia. Nothing had happened since then to change the situation except that Indonesia by abrogating all the Round Table Conference agreements of 1949 had torn up the only documents on which it could have based any claim to negotiate on the question. Under the terms of the United Nations Charter, the Assembly was debarred from discussing the transfer of sovereignty over the territory of one Member to another Member. It was significant that the Indonesian Government had not been willing to refer the legal position of sovereignty to the International Court of Justice.

26. In his statement of 20 November 1957 (905th meeting), the Indonesian representative had said that problems tended to lose urgency if nothing new occurred. His words seemed to have been inspired by anxiety lest the General Assembly should decide not to discuss the matter further. Clearly the Indonesian Government wished the question to remain on the agenda and the recent statements of the President of Indonesia, Mr. Sukarno, the Indonesian Minister of Information, Mr. Subidjo and others, and the anti-Dutch demonstrations in Indonesia seemed to prove that the Indonesian Government was attempting to inject artificial urgency into the matter. In addition, the Indonesian representative had made threats which could not but influence the Assembly—and that the United Kingdom delegation regretted.

27. The Government of the Netherlands on the other hand had done nothing to increase tension. Peace and tranquillity continued to reign in West New Guinea and the joint statement of 6 November 1957 by the Netherlands and Australian Governments was a further earnest of their good intentions. To suggest that that statement constituted a military pact for opposing Indonesia was an unwarranted imputation and a further attempt to stir up suspicions that were unjustified and to discredit a laudable initiative.

28. The result of that campaign by Indonesia had been to raise the political temperature to a point at which it might come to prejudice the peaceful development of the area. That campaign also invited exploitation

by mischief makers for their own ends. Consequently the United Kingdom delegation believed that the item should be removed from the agenda once and for all. He asked the Committee not to adopt any draft resolutions on the substance of the matter and urged the delegation of Indonesia not to seek once again to have the item included on the agenda. The United Kingdom delegation would vote against the nineteen-Power draft resolution.

29. Examining the draft resolution, he said that the first paragraph of the preamble was pointless since there was no "question of West Irian (West New Guinea)". With reference to the second paragraph of the preamble, it should be pointed out that it was Indonesia alone which was keeping the dispute alive and causing a rise in the political temperature. The General Assembly would be adopting a less than impartial attitude if it adopted that paragraph.

30. A similar objection was applicable to the third paragraph of the preamble. In addition, if the General Assembly adopted that paragraph, it would in fact constitute an implicit endorsement of the veiled threat made by the Indonesian representative that if the Indonesian Government failed to get satisfaction it might not on any further occasion seek to achieve a settlement through the United Nations.

31. Turning to operative paragraph 1, he said it was hardly necessary for him to do more than remind the Committee that sovereignty over West New Guinea was vested in the Netherlands and that Indonesia refused to negotiate if Indonesian sovereignty over the Territory was not recognized in advance.

32. Finally, even if the Committee considered the rest of the draft resolution to be in conformity with the facts and with the Charter, it should nevertheless ascertain the views of the Secretary-General before committing him to the task which the draft would impose on him.

33. In conclusion, he expressed the hope that the Committee would reject the draft resolution, a course which would enable the people of West New Guinea to continue their peaceful development until they could decide their future for themselves. To act otherwise would embitter relations between Indonesia and the Netherlands, prejudice Indonesian-Australian friendship, and lead to increased tension in the area.

34. Mr. CHANG (China), after giving a brief account of the origins of the question, summed up the arguments which had been advanced by the two sides in the course of the debate. No compromise solution seemed possible: the only solution which would satisfy Indonesia was possession of the island, but the Netherlands could not even consider such a transfer of sovereignty.

35. As the question was extremely complex, the General Assembly was not competent to deal with it in all its aspects. For instance, the interpretation of the Charter of the Transfer of Sovereignty was a judicial question: it had rightly been proposed that it should be referred to the International Court of Justice.

36. The imposition of alien rule on a people too weak to defend itself had been called colonialism. If that definition was accepted, the Netherlands control over West New Guinea constituted colonialism.

By the same token, however, it would also constitute an act of colonialism if Indonesia extended its sovereignty to the Territory without the consent of the inhabitants. No one was entitled to doubt the sincerity of the Netherlands authorities' statement that their ultimate objective was to prepare the people of West New Guinea to decide their future for themselves.

37. The Chinese people, having fought colonialism for more than a century, was profoundly anti-colonialist. It had learnt by experience that colonialism was not the monopoly of the West. After having fought Japanese colonialism, the Chinese people was now fighting a new form of colonialism, which was more brutal than any the world had ever seen: Soviet colonialism. Western colonialism was disappearing or had disappeared; but it was regrettable that some nationalist leaders in Asia did not realize the danger of communist colonialism, the outward appearance of which was extremely deceptive.

38. The Government of the Republic of China had consistently opposed colonialism in any country and, from 1947 to 1949, the Chinese representative of the Security Council had been one of the most ardent champions of Indonesian independence, even though Chinese nationals living in Indonesia had been the victims of Indonesian guerrilla bands.

39. He considered direct negotiations a sound way of solving international disputes; but in the particular case there was absolutely no hope of success because there was no common ground for understanding between the parties. In such circumstances, it would be difficult to put the draft resolution into effect. It would be prejudicial to the prestige of the United Nations if it adopted resolutions which could not be put into effect. Furthermore, the terms of the draft resolution were very vague. By placing the dispute on a purely political level, the Committee might be setting a dangerous precedent.

40. Mr. BOLAND (Ireland) said that the debate had served some purpose, since it had elucidated many aspects of an extremely complex problem while at the same time revealing the difficulties and dangers. It was doubtful, however, that the debate had helped to solve the problem or relieved the tension. What was the practical value of discussing territorial problems in the United Nations when the interested parties seemed so far from agreement?

41. It was very sad that the question of West New Guinea should have disappointed the hopes which had been aroused by the transfer of sovereignty in 1949. The question should have been settled by the parties at the Round Table Conference; but not only had they not succeeded in settling the political status of the Territory within the prescribed time, they had not even been able to agree on the interpretation of the first two articles of the Charter of Transfer. Hence, the question had important legal aspects which the Committee was not competent to solve and which could not, in the prevailing circumstances, be settled except by recourse to arbitration or judicial settlement.

42. Although Indonesia did not contest the fact that the question had its legal aspects, it considered that the problem was primarily political, of fundamental importance to Indonesia because it represented a struggle between colonialism and a people's aspirations to freedom. Ireland, which dated its indepen-

dence from the proclamation made by the Provisional Government of the Irish Republic in 1916 and not from the later legislative enactments, sympathized with the position of the Indonesian Government, which based its claims not only on the Charter of Transfer but also on the Declaration of Independence of August 1945. However, the Irish delegation was obliged to admit that on that point there were conflicting interpretations. The Netherlands considered that the Declaration of Independence did not apply to West New Guinea, whereas the Indonesian Government maintained that it did.

43. The Committee could not hope to solve the conflicts of legal interpretation; it derived its competence from the United Nations Charter and could intervene only to ensure observance of the principles of the Charter. The primary principle involved was that of the right of peoples to self-determination. Although the concept of self-determination was perfectly clear in itself, there was no rule that could be generally applied in the different situations that might arise. When, as in Ireland, the case concerned a historic nation which had always been united in the same territory despite an outside rule which it had never ceased to resist, its right to self-determination could not be withheld without denying the principle of the right of self-determination and the concept of democratic freedom and international justice on which the principle was based. National unity was not necessarily a matter of common language, religion or racial origin. In the absence of the historical ties which created national unity, however, the application of the principle became empirical. It was the Committee's duty to ensure that the principle was never used to divide territories or nations which were naturally united, or to incorporate peoples in larger political entities to which they did not properly belong.

44. In the nineteenth century, the colonial Powers had determined frontiers without taking into account the racial affinities or the common customs and traditions of the populations concerned. That had been an error. The consequences could still not be measured. The Irish delegation was aware that the people of the Territory of West New Guinea were politically backward and would not be able to express their will for a long time. It was also true that the Territory had been a part of the former colony of the Netherlands East Indies, and the Indonesian people seemed determined to demand that Netherlands colonialism in New Guinea should be brought to an end and that the Territory should be incorporated into Indonesia. The responsibility of the United Nations in the matter was all the greater because the population of the Territory was incapable of defending itself.

45. New Guinea was a natural geographical unit and its population was, on the whole, homogeneous. It had, however, been arbitrarily divided between the Netherlands and Australia by an artificial frontier. The Irish delegation welcomed the joint statement of the Netherlands and Australia, although it would have preferred the statement to be more specific. He interpreted it to mean that the two Governments would not hinder in any way the exercise of the right of self-determination by the people of New Guinea. It was for the whole population of New Guinea to decide its own future, and the United Nations should do nothing which might prejudice that decision or perpetuate the division of the island. The Irish delegation could not support the

incorporation of West New Guinea into Indonesia, since that act would not only perpetuate the territorial division of the island but would deny the right of self-determination to the population as a whole.

46. The Irish delegation appreciated how wounding the presence of the Netherlands in New Guinea must be to Indonesian national sentiment, but it considered that anti-colonialism should not impede the exercise of the right of peoples to self-determination. In his opinion, it was the duty of the United Nations under the Charter to ensure that the population of the whole island, and not only that of West New Guinea, might one day freely choose its destiny. As the draft resolution was based on an entirely different conception and was based on the principle that the Netherlands and Indonesia between them could determine the political future of West New Guinea, the Irish delegation would vote against that draft.

47. Mr. ZEINEDDINE (Syria) said that the arguments of Indonesia, which had been solidly established at the eleventh session, remained as pertinent as ever. The attitude of the Netherlands had been clarified since that session, particularly since the joint Australian-Netherlands statement, which declared West Irian a Netherlands possession, separate from Indonesia.

48. According to the Netherlands view, the resumption of negotiations was not justified, because the question was a legal one and fell within the competence of the International Court of Justice. In 1949, however, the Netherlands Government had been agreeable to settlement by negotiation. It was hard to understand why the Court should be asked to deal with the problem when, again according to the Netherlands, the solution lay in the exercise of the right of self-determination by the people of West Irian. It had been said that the Netherlands authorities had been entrusted with the mission of guiding the people of West Irian to a sufficient political maturity to enable them to exercise that right. In fact, however, the Netherlands had not been entrusted with the mission by anyone; it had assumed the mission unilaterally when it had invaded the Territory in 1828. History had shown how the Netherlands had carried out the mission. Moreover, the Netherlands Government and the Australian Government were to fix the date when the people of West Irian would be able to exercise their right to self-determination.

49. Instead of negotiating with Indonesia, the Netherlands had preferred to negotiate with Australia, in order to fashion the future of West Irian according to the wishes of the two Powers. That attitude represented a return to colonialist policy, directed, despite the

United Nations Charter, against a former colony which had become independent. The question was not therefore legal, but political and colonial.

50. The United Kingdom representative had said that the question of West Irian did not exist. Mr. Zeineddine disagreed. Indeed it was becoming a more and more urgent question, and the constant growth of tension in the area was due to the Netherlands' refusal to resume negotiations.

51. The Australian representative had said (910th meeting) that the United Nations should not allow itself to be intimidated by threats. But surely it was the Netherlands Government, supported by the Australian Government, which was threatening the territorial integrity of Indonesia.

52. The United Nations should act. It would be extremely serious if the United Nations was rendered incapable of taking the necessary measures owing to indulgence towards the Netherlands colonialist policy or to the contradictions in its attitude. The solution of the problem lay in negotiation. The relations between Indonesia and the Netherlands had been strained by the rejection of a very moderate draft resolution at the eleventh session. At its current session the Assembly should adopt the nineteen-Power draft resolution, which in no way prejudged the substance of the question. The Indonesian representative in his statement had expressed the sincere wish to re-establish normal relations with the Netherlands. That development would be furthered by the adoption of the draft resolution submitted by the group of African and Asian delegations, which represented more than two-thirds of the population of the world.

53. The Netherlands Government apparently allowed itself to be guided by the value of the raw materials and petroleum on the island and by its strategic importance, rather than by legal considerations. But would it not be in the economic interests of the Netherlands to conclude an agreement with Indonesia and to accept the principle of negotiation?

54. In his opinion, the arguments of the Netherlands, to which Australia seemed to give unqualified support, would inevitably harm the prestige of the Netherlands in Asia, Africa and elsewhere.

55. The Syrian delegation fully appreciated the effort of the Indonesian Republic to give the United Nations a chance to fulfil its mission. If the United Nations failed to respond, Indonesia would be entitled to resort to any other peaceful means to further its cause.

The meeting rose at 1 p.m.