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1. The PRESIDENT: Before continuing with the consideration of the draft resolutions recommended by the Fourth Committee in its report on agenda items 34 and 35 [*A/3531 and Add.1, para. 63*], the Assembly must take action on the motion submitted by the representative of Sweden to the effect that draft resolution VI should be considered an important question within the provisions of Article 18, paragraph 2, of the Charter, requiring the affirmative vote of two-thirds of the Members present and voting.

2. I call on the representative of Iraq.

3. Mr. PACHACHI (Iraq): I have asked for the floor in order to oppose the motion presented this morning by the representative of Sweden.

4. It has been established beyond any doubt that matters relating to Non-Self-Governing Territories—that is to say, matters falling within the scope of Chapter XI of the Charter—should be decided by a simple rather than a two-thirds majority vote, irrespective of whether the question under consideration is important or not. This opinion is based on legal texts, on precedent, and—we submit, in all humility—on common sense.

5. It will be recalled that the same problem was raised and discussed at great length at the eighth session. The results of that historic debate are known to all the Members of this Assembly. Today my delegation is more convinced than ever that the position we took at that time was the right one, and it is our sincere hope that the majority that sustained that position in 1953 will do likewise at this session.

6. The arguments that I submit for the consideration of the Assembly are substantially the same ones as those that were advanced in 1953 by many representatives—notably the representative of Mexico who, I am glad to say, is among us now, and also the representative of Yugoslavia, Ambassador Mates. However, in view of the importance of the question, I shall take the liberty of reiterating the main lines of those arguments.

7. Let me take first Article 18, paragraph 2, of the Charter. It is our contention that the list of categories of questions enumerated in that paragraph is exhaustive, despite the appearance of the unfortunate word "include". This word has created some confusion in the past—as, indeed, it still does today. Doubts have arisen whether the enumeration appearing in paragraph 2 of Article 18 provides a definition of the term "important questions" or merely gives examples of some—but not all—of the categories of "important questions". This confusion and these doubts disappear, however, when we look at the French text—which, I understand, the representative of Yugoslavia read at the 656th meeting.

8. As the representative of Yugoslavia said on a similar occasion more than three years ago, in choosing between two equally authentic texts, the text that is more precise should be preferred over the doubtful and ambiguous text—which, in this case, is the English text.

9. If any doubt still remains on this point, it should be dispelled by reading paragraph 3 of Article 18. It will be noted that the reference in this paragraph is not to other important questions, but rather to other categories of questions which may be voted on by a two-thirds majority if the Assembly so desires. That is to say, the Assembly, in taking such a decision, will not be called upon to pronounce on the importance of any question, because in reality it cannot justifiably do so, since the question of importance is necessarily a relative one and is often a matter of individual opinion. What is important to us might be less important to others—and vice versa.

10. Furthermore, as Professor Hans Kelsen said,[1] everything that is considered by this world organization is important, and the distinction appearing in Article 18 was not due to a desire to differentiate between important and unimportant questions, but rather "to differentiate decisions which require a two-thirds majority and decisions which require only a simple majority". Therefore, a decision taken in accordance with Article 18, paragraph 3, will not and cannot be a decision on the relative importance of single questions; it is a decision on whether additional categories of questions other than those specifically mentioned in paragraph 2 of Article 18 shall be subjected to the two-thirds majority rule.

11. Two main conclusions must be drawn from reading these texts. First, the only questions automatically requiring a two-thirds majority are those enumerated in paragraph 2 of Article 18. It is useful to recall that this view was shared by the Administering Powers as well as the non-administering Powers. May I refer again to the debate at the eighth session, in 1953, when the representative of Belgium, Governor-General Pierre Ryckmans, said:

> ". . . all questions submitted to the General Assembly, except important questions, are subject to simple majority decisions, and the important questions are those mentioned in Article 18, paragraph 2, of the Charter . . ."[2]

The second conclusion is that, by deciding not to invoke the two-thirds majority rule, the Assembly would not be pronouncing itself on the importance of the question under discussion, but would merely be determining whether or not an additional category should come under the two-thirds-majority rule. It is therefore wrong to claim that, merely because a question is regarded as important, it should be decided by a two-thirds majority, so long as it is not specifically mentioned in Article 18, paragraph 2. Our attitude on this, I submit, should be based on past experience.

12. Let us look now at the precedents which we have. The debate at the eighth session provides us with a clear and useful guide. Despite the admitted importance of the questions discussed during that session of the General Assembly, namely the question of the factors that should be taken into account in determining whether the people of a Territory had or had not attained a full measure of self-government, and the question of the cessation of the transmission of information on Puerto Rico, these two questions were decided by a simple majority, although their importance and significance could not have escaped the attention of the majority of the Assembly that voted in favour of the simple-majority rule. In its wisdom, the Assembly decided that, since those questions did not belong to any categories specifically mentioned in Article 18, paragraph 2, there was no reason why it should restrict its rights and freedom of action by invoking the two-thirds-majority rule.

13. It is hard for us to believe that the Assembly should deviate from this wise course now and change its opinion with regard to the draft resolution now before the Assembly [*A/3531 and Add.1, para. 63, draft resolution VI*].

14. If it is a question of importance, then surely no one, and least of all the proposer of the motion, can seriously claim that a procedural act such as the setting up of an *ad hoc* committee is more important than the adoption of the list of factors, or a decision on whether the people of a Non-Self-Governing Territory have attained a full measure of self-government.

15. Let us look at the draft resolution before us, particularly with the inclusion of the amendments submitted by the four Powers [*A/L.222*]. In it, the General Assembly recalls certain resolutions which have been recalled many times in the past. It decides to set up an *ad hoc* committee for the sole purpose of studying—and I stress the word "studying", because there is nothing in the draft resolution that gives the slightest hint or indication of anything other than a study—the application of certain provisions of the Charter which, it is commonly agreed, need further elucidation. In the name of logic and common sense, how can anyone suggest now that this simple, straightforward and entirely procedural draft resolution should be considered as more important than the two resolutions, one on factors and the other on Puerto Rico, which were adopted at the eighth session [*459th meeting*]? I feel sure that all of the thirty-four delegations which voted for the simple-majority procedure at the eighth session will have even more reason to do so at this session in respect of a draft resolution that is admittedly less important than the two which were adopted at the eighth session.

16. The inescapable conclusion is that the proposer of the motion is not really interested in deciding whether this is an important question or not. The aim is clear and simple in all its naked crudeness. It is to defeat the draft resolution and thus frustrate and obstruct the will of the majority of the Assembly. The important question, and, indeed, the ultimate aim, is to paralyse the Assembly and place its future decisions on Chapter XI at the mercy of a minority which has consistently denied the rights of the Assembly and viewed colonial questions as, rather, the exclusive concern of the Administering Powers.

17. I need hardly stress the importance of the decision we are about to take on this procedural matter. The consequences for Chapter XI, and all the machinery so elaborately constructed over the years, might well be catastrophic. Therefore, I appeal to all those who have laboured continually to breath life into the declaration regarding Non-Self-Governing Territories, to all those who have upheld the rights and prerogatives of this Assembly, to all those who believe that the United Nations has an important and constructive role to play in the progress of dependent peoples—I appeal to them all to reject this proposal.

18. The representative of Sweden this morning quoted some passages from the speech which I had made in the Fourth Committee. I admit that the debate we had in the Fourth Committee was of crucial importance; but I have said that neither the question of importance nor that of a lack of importance is an issue—it is irrelevant. Yet, in the draft resolution before us the Assembly is not called upon to take a decision on important questions; it is merely to set up certain machinery—as the Assembly is entitled to do—in order to clarify questions and study certain difficult problems. Therefore, this draft resolution cannot be considered, in any way, as constituting an important decision on the part of the Assembly. The debate in the Fourth Committee was indeed important; but the draft resolution that emanated from it is, I repeat, merely procedural in character. Its purpose is merely to assist the Assembly

[1] Hans Kelsen, *The Law of the United Nations* (Frederick A. Praeger Inc., New York, 1950), p. 181.

[2] *Official Records of the General Assembly, Eighth Session, Plenary Meetings*, 459th meeting, para. 132.

in studying the problem further in order to reach whatever conclusions it may deem suitable in the future.

19. The PRESIDENT: I call on the representative of Belgium on a point of order in reply to a reference made by the representative of Iraq.

20. Mr. CLAEYS BOUUAERT (Belgium) (*translated from French*): I am grateful to you for giving me the opportunity of clarifying a point concerning the position taken by the Belgian delegation at the eighth session, in 1953, on a similar question.

21. The representative of Iraq referred to the statement of the representative of Belgium on that occasion. However, I believe that the quotation should have been completed, and I have asked for the floor in order to complete it. This is what Governor-General Ryckmans said in 1953:

> ". . . all questions submitted to the General Assembly, except important questions, are subject to simple majority decisions, and the important questions are those mentioned in Article 18, paragraph 2, of the Charter and those which the General Assembly may decide, by a simple majority vote, to classify among the important questions".[3]

At the same meeting, Mr. Ryckmans went on to say:

> "The Charter states that all questions are to be voted by a simple majority, with the exception of important questions such as the questions classified as important in Article 18, paragraph 2, of the Charter as well as the questions which the General Assembly itself decides are important. That is how this term has been constantly interpreted since the United Nations was first set up."[4]

22. In conclusion, I believe that at the eighth session the Belgian delegation was upholding the same view as the Swedish delegation is supporting today, a view in conformity with the ruling the President gave this morning.

23. Miss BROOKS (Liberia): Since we are now discussing the Swedish proposal, I should like to reserve the right of my delegation to speak on the draft resolution [*A/3531 and Add.1, para. 63, draft resolution VI*] before it is voted upon.

24. As the Yugoslav representative, in his speech at the last meeting, and the representative of Iraq, at this meeting, have mentioned the essential points which I want to emphasize in connexion with the Swedish proposal, my delegation would only like to ask two preliminary questions before the vote is taken on the Swedish proposal. The first question is whether draft resolution VI is one of procedure or one of substance. It seems to me that this question must be settled before a vote can be taken on the Swedish proposal.

25. My second question is as follows. At the 459th plenary meeting on 27 November 1953 the representative of Mexico proposed that in all questions relating to Non-Self-Governing Territories the simple-majority rule should apply. At that session that proposal was adopted. In my opinion it did not apply to any particular case that was being discussed at that time but it did apply to all questions relating to Non-Self-Governing Territories. Since the representative of Mexico is here today, he might be able to throw some light on this matter. If it is true that the General Assembly adopted a procedure for dealing with all subjects relating to Non-Self-Governing Territories, can this rule be dispensed with without our first deciding whether or not the rule should stand?

26. Sir Leslie MUNRO (New Zealand): I have asked for the floor only because the proposal of the representative of Sweden—that draft resolution VI should be treated as involving an important question—has been challenged. But before I proceed to develop my argument I think I should make a reference to what has just been said by the representative of Liberia.

27. At the 460th meeting, Mrs. Pandit, the representative of India, confirmed a certain decision. She made this statement, which I think the representative of Liberia might take into consideration:

> "A reading of the verbatim record will confirm that the question of voting procedure yesterday was related only to the draft resolution actually before the Assembly, and we were defining voting procedures only as related to draft resolutions I to VII inclusive contained in document A/2556."[5]

28. I have spoken from this rostrum before in a debate about the importance of questions arising under Chapter XI of the Charter. My delegation has voted in favour of applying the two-thirds-majority rule on several occasions when the Assembly has agreed to do so. In none of these cases has the issue been of the clear importance of the present one. The implications of the decisions that the Assembly will take, one way or another, on draft resolution VI [*A/3531 and Add.1, para. 63*] are very far-reaching indeed. I think there is no doubt of that.

29. It is not my intention to deal with the substance of the matter but merely to point to the evidence for regarding this particular question as important. The evidence is to be found, first of all, in the statements of the protagonists in the debate. These have been effectively quoted by the representative of Sweden but I will cite again the statement made by the representative of Iraq. This was the opening statement, and I think I might call it the keynote speech of the debate in the Fourth Committee which led to the adoption of the draft resolution before us.

30. Mr. Pachachi said, in part:

> "We are beginning a debate of a crucial and perhaps unparalleled importance. Rarely has the Fourth Committee been faced with a question that raises such vital and far-reaching issues . . . The problem before us, therefore, goes beyond the immediate interests of one or more Member States. It touches on matters of fundamental principles and affects every aspect of the work that has been accomplished in the last eleven years." [*A/C.4/345.*]

Those are Mr. Pachachi's words and they stand by themselves.

31. The delegation of Iraq gave its warm support to the draft resolution before us. Can it be reasonably supposed that an unimportant draft resolution would have satisfied a delegation that placed such emphasis—couched in the words which I have just read—on the issue which it was responsible for introducing to the Committee? It seemed to me that when the representative of Iraq was not endeavouring to extricate his delegation from the situation in which his first statement had placed it, his statement this afternoon was directed mainly to a point on which the President had ruled this morning. I will not therefore pursue his argument.

[3] *Ibid.*
[4] *Ibid.*, para. 139.
[5] *Ibid.*, 460th meeting, para. 1.

32. The statement has frequently been made, and it has been repeated here, that this is a procedural draft resolution because it establishes a procedure, in this case an *ad hoc* committee. But the importance of the draft resolution obviously lies in what the committee is called upon to do. The committee clearly has functions which are substantive. They are mainly *carte blanche* to make recommendations on a matter regarded by the Fourth Committee as of such magnitude as to require nine meetings for its discussion, and capable of dividing an unprecedentedly large vote almost equally between those for and those against the action proposed by the sponsors.

33. Nor can this procedural argument be sustained in the face of the precedents. At its second session, the General Assembly established under resolution 146 (II) a special committee on information transmitted under Article 73 e of the Charter. But it was formally decided by the Assembly that the establishment of that Special Committee was an important question. At the third session, the Assembly, at the instance of the Rapporteur, decided, without objection, that the question of the renewal of this particular Committee required a two-thirds-majority vote. Each time the Committee has been renewed, it has obtained the required two-thirds-majority vote, and it may be presumed that it is established as a category of the questions regarded as important and requiring a two-thirds majority in the terms of Article 18 of the Charter.

34. A second comparable case is provided by the *Ad Hoc* Committees on Factors, each of which was set up by a vote in excess of a two-thirds majority. On the second occasion when that *Ad Hoc* Committee was set up, namely, at the seventh session, the vote on resolution 648 (VII) was formally agreed to be subject to Article 18, paragraph 2. Is it claimed that resolutions 567 (VI) and 648 (VII) were procedural because they established *ad hoc* committees? The Assembly did not think so, for it agreed that those were important questions. The main function of the Committees on Factors was to examine the factors which should be taken into account in deciding whether any territory was, or was not, a territory whose people had not yet attained the necessary measure of self-government. Can it be seriously argued that this was a more important and far-reaching function than the one to be given to the proposed *ad hoc* committee, which will study the application of the provisions of Chapter XI of the Charter in the case of Members newly admitted to the United Nations, and make recommendations on the basis of this study?

35. I will not comment on the amendments [*A/L.222*], which in no way affect the intention of the draft resolution: they merely emphasize, in the view of my delegation, the central importance of operative paragraph 1.

36. In our view, the precedents, the scope of the draft resolution, and the controversy which surrounds the question before us, whether taken singly or in combination, leave no room for doubt that this vote should be subject to the provisions of Article 18, paragraph 2, of the Charter. I therefore warmly support the request of Sweden that it be so decided by this Assembly.

37. Mr. JAIPAL (India): I do not propose at the moment to speak on the report of the Fourth Committee on the item concerning information from Non-Self-Governing Territories [*A/3531 and Add.1*]; I should like, on behalf of my delegation, to reserve the right to speak on the report at a later stage. For the present, I shall confine my remarks to the motion made by the representative of Sweden concerning the application of the two-thirds-majority rule to draft resolution VI contained in the report [*A/3531 and Add.1, para. 63*] on the ground that, in her opinion, this draft resolution raises an important question.

38. In order for the question to be important, it must be one of substance; it should not be just a procedural question, or a question involving the competence of the General Assembly. I may say at the beginning that we do not agree that draft resolution VI raises a question of importance; what is before us is the decision of the Fourth Committee to set up an *ad hoc* committee to study the application of Chapter XI in the case of certain Member States. That, in our opinion, is not a question of substance, for the draft resolution does not express an opinion on the substance. It is largely a procedural question. All it does is to set up the machinery for undertaking certain studies.

39. The question, then, is: Can we decide to set up an *ad hoc* committee or can we not? This is a question involving the competence of the General Assembly and yet the representative of Sweden says that this is an important question. In our opinion, all questions involving the competence of the General Assembly are of the same degree of importance and they are all decided by a simple-majority vote. The Swedish motion, then, is virtually a motion calling for a decision on the competence of the General Assembly to establish an *ad hoc* committee and, as such, in our opinion, it falls under rule 81 of the rules of procedure, which deals with decisions on competence.

40. Many Member States, mainly Administering Powers, have already challenged the competence of the General Assembly in this regard. In order to decide whether a question is important or not, it is necessary to determine whether or not it is a question of substance; and I submit that draft resolution VI does not contain any question of substance. As we see it, the draft resolution raises only a question of competence and it is very odd indeed to apply the two-thirds-majority rule to a question involving the competence of the General Assembly. This, in our opinion, is contrary to past practice and procedure, for, under rule 87 of the rules of procedure, decisions on competence are taken by a simple majority vote.

41. We shall, therefore, vote against the Swedish motion.

42. Mr. NASH (United States of America): In the view of the United States delegation, the two-thirds-majority rule should, as a general practice, be applied very sparingly. Many of the resolutions falling under Chapter XI of the Charter have, in past practice, been subject to a simple majority. On other occasions, however, there have been resolutions with regard to Non-Self-Governing Territories which, because of their far-reaching significance, have been deemed to require a two-thirds majority.

43. Draft resolution VI [*A/3531 and Add.1, para. 63*] is, in our view, one of the draft resolutions which warrants a two-thirds majority. The reasons for this have been ably stated by the representatives of Sweden and New Zealand, and I will not repeat their arguments.

44. Nevertheless, reference has been made to the argument advanced at the 459th meeting of the General Assembly, in November 1953, that all questions relating to Non-Self-Governing Territories, whatever their importance, should be decided by a simple-majority vote, and never by a two-thirds majority. In our view, that argument is invalid. It did not prevail at the time as

has just been pointed out by the representative of New Zealand—and it should not prevail now. Certain questions are more important than others, and some of these, in past judgements of the General Assembly in the case of Non-Self-Governing Territories, have been classified as specially important and therefore subject to the two-thirds-majority rule.

45. It may be argued that the drafters of the United Nations Charter at San Francisco were not entirely wise in placing all trusteeship questions among those requiring a two-thirds majority, as stipulated in Article 18, paragraph 2. As we all know, it is easy to be wise *a posteriori*. That argument has been advanced on the basis of later experience, which has shown that not all trusteeship matters are of equal importance. However, from the fact—and it is a fact—that the two-thirds-majority rule is required by the Charter with respect to all trusteeship questions, even though the Trust Territories are by common consent not under the sovereignty of the nations that administer them, it seems to us an inescapable conclusion that, with respect to Non-Self-Governing Territories, which are under the sovereignty of their respective *metropoles*, certain questions at least, such as the one now before us, are, in the judgement of my delegation, of such great importance as to require the application of the two-thirds-majority rule. Records of the debates at the San Francisco Conference show that it was never envisaged that the ever-widening machinery which has come into existence under Chapter XI would come into existence. Nor was it envisaged that this proliferation of activity would result in the type of resolution now before us. Had this been foreseen, it is a fair assumption that with respect to Non-Self-Governing Territories falling under the sovereignty of Member States the Charter would have prescribed the same voting procedure as now applies to all trusteeship questions. In other words, the two-thirds-majority rule would have been made applicable in all cases under Chapter XI.

46. Of course, the Charter is not a rigid and inflexible instrument. Experience has shown that there is a very desirable flexibility in its application and interpretation. This has proved to be a most valuable feature of the Charter. I would appeal to all Member States not to press this feature of flexibility to an extreme where Member States might be obliged to fall back on assertions of the sovereign equality which is guaranteed to them under the Charter. There is a delicate balance between rigidity on the one hand, and flexibility on the other, a balance which we believe should be respected in order that the United Nations under its Charter, may grow and develop in order to meet changing needs and conditions. This balance will enable us to exercise the greatest degree of international co-operation possible at any given time.

47. Today we are urging the Assembly to apply the two-thirds-majority rule to a question which, as shown in the debates of the Fourth Committee, involves the constitutional status and relationships of Member States. It may be argued—it has been argued—that the setting up of an *ad hoc* committee to study the application of Chapter XI of the Charter is a mere procedural matter. As the debates of the Fourth Committee show very clearly, however, the terms of reference of this *ad hoc* committee are the really important matter. These terms of reference, as can be seen from even a casual reading, would authorize the *ad hoc* committee to deal with an entirely new and unprecedented situation in regard to Non-Self-Governing Territories.

48. If there are some representatives in this Assembly who, because they have not participated in the debates of the Fourth Committee, still regard this as merely a procedural matter, I invite them to read the summary records of those very lengthy debates,[6] from which extensive quotations have already been made by representatives who have spoken before me. If the representatives who still have doubts in this matter do read the summary records of those discussions, they will see that for more than a week the Constitution of one Member State was subjected to a most detailed and searching dissection and examination. As a matter of courtesy, but not in the way of the concession of a right, that particular delegation gave detailed answers to those questions in the Fourth Committee. But many delegations felt that this practice was going far into dangerous territory, and indeed, when references were made in several instances to other constitutions, there were prompt interruptions on points of order.

49. Therefore, in the view of the United States delegation, it would be a grave mistake to launch such an unprecedented action unless there was much greater support than has been evidenced by the narrow majority vote that was cast in the Fourth Committe—indeed, the margin was one single vote. Indeed—and this is perhaps the most important point which I should like to make—we very much fear that insistence upon the adoption of this draft resolution by a simple—bare—majority, may even ultimately destroy the very good work which, from year to year, the Assembly has been able to achieve under Chapter XI of the Charter. Precedents exist to show that both the simple-majority and the two-thirds rule have, on various occasions in the past, been applied to Non-Self-Governing Territories. As was well pointed out by the representative of New Zealand, the confusing experience of the Assembly in November 1953 on this question caused the then President to explain that the action taken on the seven resolutions then adopted by a simple majority was not to be regarded as establishing a rule for the future, but for that particular action only.

50. In several other cases in this area, which seem to my delegation closely analogous to the present situation, the two-thirds-majority rule has been applied. Therefore, it seems clear that this Assembly, in the light of its past actions, is not bound by any precedents, either for or against the application of the two-thirds-majority rule. As the President said this morning, it is a matter in which this Assembly is the master of its own procedure. In the opinion of my delegation, the President's ruling was entirely correct.

51. In conclusion, therefore, my delegation appeals to the common sense and good judgement of all of the Members of the Assembly to act in a way which will not destroy the good work which the General Assembly has accomplished in the past decade in a new and untried field. Let us respect each other's sovereignty and constitutional positions. Once attempts are made to invade these fields by proposals such as the one involved in the draft resolution before us, the outcome will be fraught with grave danger and with the possibility of serious setbacks in the progress which all of us wish ultimately to achieve.

52. Mr. RIFAI (Syria): I do not propose to make a speech on this point of order. The representatives of Yugoslavia, Iraq and India have already argued the legal points involved most cogently. I wish to take

[6] *Ibid., Eleventh Session, Fourth Committee*, 611th to 623rd meetings.

this opportunity to associate my delegation with the views advanced by the aforementioned representatives.

53. At this point, I wish simply to register the strong objection of my delegation to the proposal that we should apply the two-thirds-majority rule in the voting on the draft resolution now before us [*A/3531 and Add.1, para. 63*]. We refuse to be a party to such a proposal, which will have the effect of permitting two types of voting procedures with regard to the same kind of problems, depending on the interests involved.

54. The representative of Sweden, who asked this Assembly to resort to such a procedure, must have forgotten that we have taken simple-majority votes here with regard to questions of the same nature, namely, on the cessation of the transmission of information concerning Puerto Rico, Surinam and the Netherlands Antilles and, most important of all, with regard to the list of factors.

55. The representative of New Zealand reminded us of other decisions which the General Assembly has taken, using the two-thirds-majority rule. We are not unaware of those decisions. However, we believe that the Committee on Information from Non-Self-Governing Territories and the Committee on Factors were of a different nature. The scope of the terms of reference of those two Committees, to say the least, was much wider than that of the *ad hoc* committee the establishment of which is proposed in the draft resolution before us. I believe that this is an important element which must always be borne in mind.

56. I recall that when the question of Puerto Rico came before this Assembly the Assembly took a clear decision that the voting on it would proceed according to the simple-majority rule. This, however, is not all. The draft resolution which is before the Assembly today is, clearly, of a procedural character, for the establishment of an *ad hoc* committee to prepare a study on certain legal matters which involve the obligations of States Members of the United Nations can hardly be viewed otherwise. This is an additional reason why the proposal to apply the two-thirds-majority rule to the voting on the proposal before us should be dismissed as unacceptable by this Assembly.

57. We maintained in the Fourth Committee, and we continue to maintain, that the draft resolution under consideration is not of a substantive character. The *ad hoc* committee will not take decisions which will be binding on the Assembly next year. It will be for the Assembly to take the final decision as to the scope of the application of Chapter XI of the Charter to Members of the United Nations. The *ad hoc* committee will only prepare the ground for the final decision. In view of the above, can anyone rightly argue that we have before us a draft resolution dealing with substance? We submit that this is not the case.

58. Mr. SERRANO (Philippines): I understand that we are confined to the procedural question whether the draft resolution presented to this Assembly by the Fourth Committee should require a simple-majority or a two-thirds-majority vote. In order to settle this procedural question we must determine whether the question to be decided upon is important or not, within the meaning of Article 18 of the Charter.

59. I must state that I approach this procedural question with great caution, even with trepidation. I have noted with deep regret certain statements made by our colleagues in this Assembly to the effect that those who are taking the position that this matter requires a two-thirds-majority vote, appear to be taking a step that would frustrate the obligations to be assumed by an Administering Power in connexion with a Non-Self-Governing Territory. I hope that this question, although procedural, will be viewed with great objectivity and that any accusations with regard to the existence of ulterior motives as far as the vote is concerned, will be completely dismissed.

60. As far as my delegation is concerned, we view with great concern the question of the responsibilities of an Administering Member in so far as a Non-Self-Governing Territory is concerned. But, I must also state that this question cannot be pressed with the passion of prejudice. It is important that we view this delicate question in the light of the Charter and that justice should be observed.

61. In this connexion we have been reminded of precedents, in determining whether or not the question is an important one. We are also reminded of the meaning of Article 18 of the Charter. At this point, I must state in all candour that I do not find the interpretation of Article 18 of the Charter a very difficult matter. The Article simply states, in paragraph 2, that "decisions on important questions shall be made by a two-thirds majority". It then proceeds to list some of these important questions. It is an elementary rule of law that, so far as the principle of construction is concerned, whenever a general provision is followed by a specification of cases, that specification shall be construed as being merely an illustration of the general rule.

62. It must follow that the statements here relating to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the admission of new Members, election to important organs of the United Nations, and questions relating to the operation of the Trusteeship System and the suspension of privileges and rights of all Members, are merely illustrations of the important questions within the meaning of paragraph 2 of this Article. They are not designed or intended to be exhaustive in character.

63. This view is strengthened by the provision of paragraph 3 of Article 18, which envisages situations or cases which are in addition to those enumerated in paragraph 2, but the voting on those questions, of course, should be by a simple majority.

64. Going back to the precedents, I understand that at the eighth session some kind of decision was taken by this Assembly on the cases of Puerto Rico and other islands to the effect that in any question relating to a Non-Self-Governing Territory a simple-majority vote would be sufficient. Assuming that this is intended to be a precedent—and I am not quite prepared to agree that it is intended to be a precedent—should it apply to this case or could it be made to apply to this case? I hold the view that it cannot apply, because when we speak of a question relating to any matter pertaining to a Non-Self-Governing Territory there is an assumption that the Territory is non-self-governing. That is the assumption, and the only thing that is intended by the rule which has governed the action of this Assembly relates to the discharge of the responsibilities of the Administering Power with respect to the Non-Self-Governing Territory.

65. For instance, if the question arises whether the Administering Power has promoted to the utmost the welfare of the inhabitants of the Non-Self-Governing Territory, if the question arises whether the Adminis-

tering Power has sought to ensure the political, economic, social and educational advancement of the people of the Non-Self-Governing Territory or whether it has sought to promote the political institutions of the Non-Self-Governing Territory, then it is a question which pertains to a Non-Self-Governing Territory and therefore the simple-majority rule shall apply.

66. Is this the case at issue before us, in so far as the draft resolution is concerned? I must state, in all candour, that it is not, because the draft resolution before us envisages an *ad hoc* committee which would study the application of the provisions of Chapter XI to new Member States admitted to the United Nations. The purpose, therefore, of this *ad hoc* committee is to determine whether certain Members of the United Nations have an obligation under the Charter to administer certain Non-Self-Governing Territories. It is a question not only whether an Administering Power has failed to comply, but whether it has complied, with certain specific obligations in connexion with Non-Self-Governing Territories. It is a fundamental question whether a State assumes those responsibilities under the Charter or not. That is the primary question involved in the draft resolution recommended by the Fourth Committee. Therefore, in my opinion, the precedents which have been mentioned here, far from being applicable to this case, cannot apply to it. This is how I, with my legal training, analyse this question.

67. On the other hand, apart from the fact that mention has been made quite extensively in the Fourth Committee of the unprecedented importance of the creation of this *ad hoc* committee, we must not fail to consider the committee's terms of reference. I note that the draft resolution gives the *ad hoc* committee the authority "to study the application of the provisions of Chapter XI of the Charter". If it were merely a question of creating an *ad hoc* committee, I would say without hesitation that it was a procedural question. But if you examine the terms of reference, simple as they appear to be since the committee is called upon only "to study the application of the provisions of Chapter XI" to certain Member States, and if you press the terms of reference to their logical conclusion, you will note that in the discharge of its duties this *ad hoc* committee may come to grips with the constitutional rights of Member States. It is quite likely that it will tread on very dangerous ground. In discharging its duties, the *ad hoc* committee may come up against the question of the equality and sovereignty of States Members of the United Nations. And again, if the *ad hoc* committee decides that a particular State falls within the provisions of Article 73 of the Charter, you can see what tremendous responsibilities will be placed on the shoulders of that Member State—the responsibilities enumerated in Article 73 of the Charter. That is the tremendous importance of the *ad hoc* committee which this draft resolution seeks to create. For this reason, we hold the view that, even as we would wish and we would bend every effort to see to it that the Administering Power should, in fact, discharge its responsibilities under the Charter scrupulously, we cannot apply that principle until it is a clear case that that State has in fact assumed its responsibilities under Article 73. We are aware that the question is in doubt and that this draft resolution merely seeks to determine which Member States fall under the provisions of the Article, but we are constrained to hold the view that although the creation of the *ad hoc* committee is in itself procedural, the discharge of the committee's tasks will require it to undertake terrible responsibilities. Because of that, we believe that the question is an important one and should be decided by a two-thirds majority in this Assembly.

68. Mr. ESPINOZA y PRIETO (Mexico) (*translated from Spanish*): My delegation did not intend to speak in this debate. Moreover, we are, to put it mildly, surprised by the reopening of a very full debate in which all who wished to express their views did so over three years ago and which resulted in a clear and conclusive interpretation of the Charter by the General Assembly that has been faithfully observed ever since.

69. In considering the two questions before us, my delegation is prompted only by the objectivity and impartiality which has guided it in all the contributions it has made to the work of the United Nations, with the overriding objective of co-operating to enhance the prestige of this great Organization.

70. As I see it, there are two questions before us. There is a draft resolution [*A/3531 and Add.1, para. 63, draft resolution VI*] which our delegation fully supports, as it simply reaffirms an interpretation of the Assembly's competence which was approved many years ago by a simple majority. Although my delegation has never shared the view that there was discrimination against any country, we have gladly co-operated with the sponsoring delegations in an effort to work out an amended text which might be more agreeable or acceptable to those who had raised objections. My delegation has no doubt that the draft resolution is a constructive, procedural one, strictly in accordance with the terms of the Charter, and proposed with no ulterior motive. It will therefore vote for it.

71. With respect to the second question, after a full debate here on the majority required on questions relating to Non-Self-Governing Territories, after the adoption by the Assembly of a clear interpretation of the Charter on that point and the acceptance of the simple majority rule on every subsequent occasion, the debate has been reopened, without, as I see it, any justification.

72. At its eighth session, three years ago, as a number of representatives have mentioned, I had the honour, at the 459th meeting of the General Assembly, on 27 November 1953, to submit an interpretation of the question of the majority required on matters relating to Non-Self-Governing Territories. On that occasion, my statement was unfortunately cut short by the President. Those of you who were present that day will remember the occasion, as will Mr. Cordier, whose voice I kept hearing on my left up to the time the President obliged me to leave the rostrum. When that happened, I concluded by saying:

> "We request that any questions relating to Non-Self-Governing Territories may always be decided by a simple majority."

73. There is no point in going into what I intended to say after that. But that was the interpretation of the Charter which was given by my delegation, and which was put to the vote, as was clarified, restated and made crystal clear in the course of the lengthy debate that followed.

74. In my statement I demonstrated, on the basis of the interpretation of the Charter and of the records of the Conference at which the United Nations was founded, that the important questions referred to in Article 18 of the Charter were "categories" of important questions. Apart from the official statements of the authors of the Charter which I quoted, the Yugoslav representative cited the French text of the Article

which, like rule 87 of the rules of procedure, leaves no room for doubt on that score.

75. In my statement, I pointed out that at San Francisco questions relating to Non-Self-Governing Territories and to Trust Territories were dealt with together, in a single Chapter, by a sub-committee of a single committee, with the intention—eloquently stated by Marshal Smuts—of bringing all non-self-governing peoples under a single system. I pointed out how the idea of separating the two groups of Non-Self-Governing Territories ultimately prevailed, and how, when the Trust Territories became subject to the concrete obligations set out in Chapters XII and XIII of the Charter while the Non-Self-Governing Territories were governed by Chapter XI, subject only to the very weak obligations stated in that Chapter, it was decided to include the Trust Territories in one of the categories of questions requiring a two-thirds majority under Article 18 of the Charter. There is no doubt whatsoever that questions relating to Non-Self-Governing Territories were expressly exempted from that requirement. They were not subject to the specific obligations laid down in Chapters XII and XIII. They were not subject to the restriction of a two-thirds majority. The definition of "important" and "unimportant" questions is misleading. On that occasion I cited leading authorities, the most eminent then available, to prove the point. I started from the premise that any question dealt with by the General Assembly was necessarily an important question. But, under the Charter, questions relating to the Trust Territories, however trivial they might seem, always required a two-thirds majority, because the Charter provided so. I mentioned some striking examples such as the convening of a special session of the Assembly—an obviously important question—or the determination of additional categories requiring a two-thirds majority, which some representatives consider to be equivalent to revision of the Charter, cases whose importance was self-evident, but which were decided by a simple majority because the Charter so provided.

76. I must say that I am very much surprised to find that the question is now being reopened. In 1953, I said that it was a matter of principle and that the rule would sometimes favour one group in the Assembly and sometimes another. In point of fact, in the course of the years, questions of the cessation of transmission of information on Non-Self-Governing Territories—a subject of major significance and one the importance of which is recognized in categorical statements of the Administering Powers which I could quote here—have automatically been decided by a simple majority and none of the representatives who are now raising the problem has ever taken the floor to challenge that well-established practice of the General Assembly.

77. My delegation could again rehearse all the arguments if it is intended to debate the subject once more. But we must express our sincere regret at the way in which the question is being reopened. We feel that a very serious point has been raised: the reversal of a well-established Assembly practice justified by irrefutable arguments based on the Charter. In 1953 we pointed out that anyone who relied on Article 18, paragraph 3, to prove that a question was "important" was in fact proposing the setting up of an additional category of questions which must be decided by a two-thirds majority.

78. My delegation was sure that at this session as at previous sessions, the draft resolution before us would automatically be voted on under the simple-majority rule.

79. If it is the intention belatedly to reopen the debate already held on this issue, I believe there is no point in repeating arguments that have already been developed in full. My delegation is convinced of the soundness of its case and feels that if that is the intention, the proper course is to request the International Court of Justice to give an advisory opinion on the question and to give the Court the background material, the reasons for our request and a record of the established practice to date.

80. You have made a ruling, Mr. President, and you know that the delegation of Mexico always respects your rulings. You know of our respect for you and for your country. But I would like the record of this debate to include a precise reply to the following question: On what legal basis is any representative authorized under the Charter to request that a draft resolution on any question not listed in Article 18, paragraph 2, should be decided by a two-thirds majority? I put the question because I know of no legal justification for such a proposal and I feel that we should have an answer.

81. I would point out to any representative wishing to invoke Article 18, paragraph 3, that if he reads that provision, he will see that it does not apply. Anyone invoking Article 18, paragraph 3, would be proposing that the General Assembly should determine an additional category of questions which must be decided by a two-thirds majority. If the members of the Assembly study this point not only in the Charter, but in rule 87 of the Assembly's rules of procedure, they will have no doubt about it and they will see that a request that the two-thirds-majority rule should apply to a draft resolution which is not included in this category can find no support in any provision of the Charter or the rules of procedure. My delegation believes that if the question was submitted to the International Court of Justice, it would prove to have no basis in law. Article 18, paragraph 3, of the Charter authorizes representatives to propose additional categories of questions which must be decided by a two-thirds majority.

82. I sincerely believe that the fair thing to do at this late stage, after United Nations practice and precedent have been soundly established, would be to request an opinion from the International Court of Justice on the basis of all the relevant data. My delegation would be glad to see such action taken.

83. My delegation is not submitting a proposal. Since at the tenth session the President had put the draft resolution on the cessation of information on Surinam and the Netherlands Antilles to the vote under the simple-majority vote and nobody protested or objected, and since, in the past, questions relating to Chapter XI of the Charter have automatically been decided by a simple majority, we hoped that the procedural draft resolution under discussion would be decided in the same way. We would thus be following the procedure appropriate to this category of questions.

84. The Assembly knows from experience how slowly and cautiously we have to move in matters relating to the Trusteeship System owing to the fact that the specific obligations laid down in Chapters XII and XIII are offset by the explicit Charter requirement that such questions must be decided by a two-thirds majority. If representatives want Chapter XI, which contains no specific obligations, as the Administering Powers are continually pointing out, and under which

only the most moderate and weak resolutions can be adopted, to be further limited by inclusion in the category of questions which must be decided by a two-thirds majority, I think that the way to achieve that objective legally would be for someone to invoke Article 18, paragraph 3, next year for the only purpose for which it may be invoked. In the meantime, a request requiring a two-thirds majority on a draft resolution dealing with a question not listed in Article 18, paragraph 2, would, so far as I know, have no basis in law.

85. The question before us is a very serious one that will test the firmness of our principles and our convictions. I trust that representatives, conscious of the principles at stake and anxious as always to maintain the high prestige of the United Nations, will clearly see the implications of what has been proposed and will act accordingly.

86. The PRESIDENT: I should like to point out to the representative of Mexico that I am not concerned with the merits of the case or the substance of the motion. I merely admitted the motion for consideration by the Assembly, and in doing so I relied on the rules of procedure. The Assembly is master of its proceedings. Furthermore, the question whether a particular matter should be voted upon by a simple majority or a two-thirds majority should be decided by the Assembly. The decisions are to be taken by the Assembly itself. That is why I allow discussion, since, as I said, the motion is in order. But whether or not it should be adopted is not my concern; and, with regard to the legal arguments and considerations, that aspect of the question is also not my concern.

87. Mr. LOIZIDES (Greece): The representative of Sweden, whose ability I very much appreciate, referred to my statement in the Fourth Committee when I spoke of the importance of Article 73 of the Charter. The representative of Sweden tried to draw the conclusion that the question before us was an important one, and that a two-thirds-majority vote was therefore necessary. I think the reference was not a happy one. Of course, it might be said that every question discussed here is an important one; but, in applying Article 18 of the Charter, the words "important questions" must be interpreted in the spirit of this Article.

88. In the draft resolution under consideration [*A/3531 and Add.1, para. 63, draft resolution VI*], nothing is requested but the setting up of an *ad hoc* committee, which will function for only six months, to make a study and report thereon. The substance will be discussed and decided at the twelfth session of the General Assembly.

89. My delegation opposes the Swedish motion, in particular for two reasons. The first reason flows from a logical consideration of Article 18 of the Charter. There are two similar matters: those concerning Trust Territories and those concerning Non-Self-Governing Territories. Article 18 puts matters concerned with the Trusteeship System in the category of questions which are to be decided by a two-thirds majority. Nothing is said about matters dealing with Non-Self-Governing Territories. Logic says: *argumentum a contrario*. With regard to matters concerned with Non-Self-Governing Territories, the two-thirds-majority rule does not apply.

90. My second reason may be seen by referring to an authority on international law. Professor Kelsen stresses the point of the objective of each resolution, whether it is a recommendation or a decision. He writes:

> "Since [Article 18, paragraph 2] refers expressly to 'recommendations', decisions of the Assembly which do not constitute a recommendation, such as a decision under Article 22 by which a subsidiary organ is established, do not fall within this category."[7]

Article 22 of the Charter states:

> "The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions."

According to Professor Kelsen, the establishment of such an organ of the United Nations does not fall within the category of questions to which a two-thirds-majority rule can be applied. Now, if for the establishment of a subsidiary organ of the United Nations the simple-majority rule is applied, I see no reason why the two-thirds-majority rule should be applied in the establishment of a committee which, as I said, will function for only six months, and which is to study only a legal matter and make a report.

91. For these reasons, I oppose the Swedish motion.

92. Mr. EL KOHEN (Morocco) (*translated from French*): The question we have to decide is that raised by the Swedish proposal, namely whether a simple-majority or a two-thirds-majority vote is required in this case.

93. On both sides, speakers have tried, with the best of intentions, to prove, by quoting statements made at an earlier stage by certain representatives in the Committee, that the question is or is not important.

94. If we go on in that vein, the debate will never end. While every view expressed is valuable and should be respected, such opinions are inevitably the expression of a personal interpretation and have no legal standing. They cannot, as we see it, be accepted as a rule of procedure. A question is not an important question for the purpose of our rules of procedure simply because a representative has said that it is highly important to his delegation.

95. In this matter there appears to be some confusion between personal statements of opinion and the provisions of the rules of procedure and we feel that an effort should be made to dispel it. If in deciding what we are going to do to solve the problem we have a choice, it is common sense to turn to our rules of procedure, which should be our only guide. And what do the rules say? Rule 85 provides:

> "Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the Members present and voting . . ."

And in order to make their thought clearer, the authors of the rules of procedure, in order to avoid any ambiguity, were careful to specify what they meant by "important questions" and gave a list. Obviously the enumeration is restrictive. If it were not, it is hard to see why the authors of the rules of procedure should have found it necessary to give a list. It is an obvious principle of procedure that wherever there is an enumeration, the enumeration is necessarily restrictive; otherwise, there would have been no need to make it and the rule could have been drafted in general terms, ending with the first sentence of rule 85.

96. Further proof that the enumeration is restrictive, from the legal point of view, is furnished by the wording of rule 87, which states:

[7] Hans Kelsen, *The Law of the United Nations* (Frederick A. Praeger Inc., New York, 1950), p. 186.

"Decisions of the General Assembly on questions other than those provided for in rule 85, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the Members present and voting."

I emphasize the word "other". We believe that the legislators in their wisdom used these specific terms in both rule 85 and rule 87 because they wanted to dispel any ambiguity and eliminate the slightest possibility of doubt. It follows that the question raised by the specific legal issue before us is not governed by rules 85 and 87 and is not covered by the enumeration in rule 85 and that, in consequence it is not an important question for the purposes of our rules of procedure. While not an important question in the procedural sense, it may be of great importance in the eyes of some delegations, but that does not mean that it should not be decided by a simple majority.

97. That is why we request that the rules should be applied. Moreover, we are sorry not to be able to support the representative of Sweden. Other delegations have shown that the Swedish proposal is unsound, that it has no basis in law, and we will therefore vote against it.

98. Mr. ROLZ BENNETT (Guatemala) (*translated from Spanish*): My delegation had no intention, at this stage of the debate, of speaking on any of the questions under discussion.

99. However, when the Swedish representative presented [*656th meeting*] the proposal now before us, a reference was made to what my delegation had said in the course of the general debate on this subject in the Fourth Committee. Later the representative of Yugoslavia recalled my delegation's position on questions relating to Non-Self-Governing Territories at the eighth session of the General Assembly.

100. In the circumstances, my delegation must therefore say a few words with regard to the Swedish proposal. The Swedish representative quoted a few sentences from the statement made by my delegation at the 621st meeting of the Fourth Committee. In common parlance, all the questions discussed in the United Nations are important, although delegations may well have different ideas about their relative importance. The debate in the Fourth Committee was, I think one may safely say, thorough and searching.

101. Whatever the meaning attached to the word "important" in ordinary usage, it is undoubtedly used in a special and technical sense in the legal context of the Charter, with specific reference to the problems mentioned therein. I refer to Article 18, which seeks to provide a legal definition of the expression "important questions" for the purposes of the Charter. The meaning is highly specialized and even some comparatively trivial questions, if they fall within one of the categories of questions mentioned in Article 18, paragraph 2, must be decided by a two-thirds majority.

102. In Article 18, paragraphs 2 and 3, three types of decisions are considered. The first case concerns important questions, which must be decided by a two-thirds majority, i.e., those enumerated in Article 18, paragraph 2. The second case concerns what are referred to as "other questions". Naturally these "other questions" could not be called "unimportant questions" in the Charter and that is undoubtedly why they were called "other questions". "Other questions" can be decided by a simple majority. The third case is the determination of additional categories of questions, that is, in addition to those enumerated in Article 18, paragraph 2, and here again a simple majority is required.

103. When this question was discussed at earlier sessions, my delegation made its position clear. We did so at the eighth session of the General Assembly when we voted in favour of the Mexican proposal that questions relating to Non-Self-Governing Territories should be decided by a simple majority.

104. With regard to the Swedish proposal now before us, we should very much like to know whether its object is the determination of an additional category of questions to be decided by a two-thirds majority. If that is the sense of the proposal, I may say that the Guatemalan delegation will have to give it careful study. If, on the contrary, its sole purpose is to request the application of the two-thirds-majority rule to draft resolution VI [*A/3531 and Add.1, para. 63*], my delegation will be unable to support it and will vote against it, in accordance with the position we have taken on previous occasions and because we believe it has no basis in law under the Charter and find the argument in favour of application of the two-thirds-majority rule unconvincing.

105. The PRESIDENT: The Swedish proposal is to the effect that draft resolution VI [*A/3531 and Add.1, para. 63*] shall be considered an important question within the provisions of Article 18, paragraph 2, requiring a two-thirds majority. I will now ask the Assembly to vote on this motion; a roll-call vote has been requested.

A vote was taken by roll-call.

The Netherlands, having been drawn by lot by the President, was called upon to vote first.

In favour: Netherlands, New Zealand, Norway, Pakistan, Paraguay, Peru, Philippines, Portugal, Spain, Sweden, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Finland, France, Iceland, Ireland, Israel, Italy, Japan, Luxembourg.

Against: Poland, Romania, Saudi Arabia, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Afghanistan, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal.

Abstaining: Nicaragua, Bolivia, Cambodia, Costa Rica, Honduras, Laos.

The proposal was adopted by 38 votes to 34, with 6 abstentions.

106. Mr. PERERA (Ceylon): My delegation had the honour originally to co-sponsor, with other delegations, the draft resolution which is now before the Assembly [*A/3531 and Add.1, para. 63, draft resolution VI*]. It was debated at length in the Fourth Committee, and adopted. Subsequently, with a view to making the text acceptable to as many States as possible, my delegation co-sponsored with Greece, Nepal and Syria some amendments [*A/L.222*] to the draft resolution.

107. At the 656th meeting, on a point of order raised by the representative of Sweden, the Assembly dis-

cussed the question whether it was a procedural draft resolution, which required a simple majority, or one which required a two-thirds majority. The decision is now known to the Assembly.

108. In view of the rigid attitude taken by certain Members, with which of course we are not in agreement, with the consent of the co-sponsors—Greece, Nepal and Syria—we have decided to withdraw the amendments which had been proposed. I do not think that any further comment on this will be required from me. I merely wish to say one thing: we never intended that the draft resolution should in any way be interpreted as being against any particular State; it was with a view to appointing an *ad hoc* committee for the purpose of studying the applicability of Chapter XI of the Charter that we submitted it.

109. That position has been rejected by a majority of this Assembly. We are constrained only to say that if it has, in some way, stirred the conscience of at least one nation—which can go unnamed—so far as my delegation is concerned and speaking for my delegation alone, we have achieved some purpose.

110. Therefore, I formally withdraw the amendments which my delegation co-sponsored with Greece, Nepal and Syria.

111. Mr. DE LOJENDIO (Spain) (*translated from Spanish*): The Spanish delegation wishes briefly to explain its position on the question, which has been described as important—and is indeed important, not to say grave and extremely delicate—raised by draft resolution VI submitted by the Fourth Committee [*A/3531 and Add.1, para. 63*]. We wish to put forward a number of considerations we believe should be borne in mind in dealing with the question, even after the vote that has just been taken, which changes the tactical situation in which the matter will be considered and decided.

112. When the discussion in the Fourth Committee on information from Non-Self-Governing Territories was focused on the reply from the Government of Portugal [*A/C.4/331 and Add.1 and 2*] to the Secretary-General's request, my delegation had the pleasure of paying a deserved tribute to our neighbour and sister nation for its exemplary history, for the sense of unity which has characterized and continues to characterize its civilizing influence throughout the world, for its irreproachable conduct in international affairs, and for the dignity and seriousness with which its rulers deal with its national problems.

113. But now, in considering the draft resolution, our friendship with Portugal is no longer relevant for, whatever may have been the origin or the intention of the draft resolution and of the question we are discussing and have almost settled, it undoubtedly raises a highly important problem of a strictly legal character which must be considered and decided on a much broader and more general basis as it affects not only the interpretation of the Charter but also the very foundation of our mutual relations within the United Nations.

114. It is evident, and my delegation hopes that the point will be established by this debate, that Article 73 of the Charter implies that the definition of Non-Self-Governing Territories is a matter exclusively for the countries concerned. It follows naturally that under the Charter the General Assembly has no jurisdiction in this extremely delicate matter, for the powers and functions of the Assembly cannot be interpreted in such a way as to broaden them, because to do so would be contrary to an essential, general and fundamental principle of law.

115. The draft resolution refers to resolution 334 (IV), which in fact furnishes further confirmation of the view we maintain, for in that resolution the General Assembly states that it "considers that it is within the responsibility of the General Assembly to express its opinion on the principles which have guided or which may in future guide the Members concerned in enumerating the territories for which the obligation exists to transmit information under Article 73 e of the Charter". From the text it is evident that the enumeration is the exclusive responsibility of the States concerned, the Assembly's responsibility being confined to the expression of an opinion on the principles which "may"—that is the word used in the draft resolution—which "may" guide them in making the declaration. The potential role of the Assembly is thus limited to the provision of guidance and its opinion may be taken into account, where appropriate, by the States concerned, in conjunction naturally with other considerations of fact or law that must be given due weight and in many cases prevail over such general guiding principles, which in no way limit or qualify the exclusive responsibility and competence of the States making the declaration. That has always been the understanding of the United Nations, as is shown by the fact that Members' replies to the official inquiry addressed to them by the Secretary-General have always been accepted, without discussion or investigation. Before Portugal, many countries with vast, scattered and remote territories about whose political systems we know nothing and have asked nothing, have made negative replies and the United Nations has accepted the replies received. Why should we do otherwise now?

116. Moreover, the Portuguese declaration merely reflects the clear provisions of the Portuguese Constitution under which Portugal is a unitary State with a single government and a single territory, although its various parts have no geographical continuity, as is the case with many other Member States.

117. Consequently, any discussion here of the Portuguese Government's reply would be tantamount to a discussion of the Constitution of Portugal, which would be a direct violation of the limiting clauses of the Charter. In that connexion, I would refer not only to Article 2, paragraph 7, which is well-known and frequently mentioned in this Assembly, but to Article 73, which, in accordance with the same principle, makes the transmission of information subject "to such limitation as security and constitutional considerations may require". I emphasize the phrase "constitutional considerations". What is more, any resolution which might be adopted along the lines proposed would be adopted in the knowledge that it would necessarily be inoperative, as the Portuguese Government cannot, even if it wishes, give any reply other than that which it has given because constitutional provisions are outside the jurisdiction of Governments and not subject to their wishes.

118. There is a further point I wish to add to this explanation of my delegation's position. It concerns the text of the draft resolution in which there is a reference to newly admitted Members and the establishment of an *ad hoc* committee to study the application of the provisions of Chapter XI of the Charter to newly admitted Members. I should like to stress the fact that

the draft resolution is flatly discriminatory and is consequently contrary to the spirit and the letter of the Charter. There are no new and old Members in this Organization; there are no admitted Members and founding Members. In this Organization, we are all equal and therefore any decision which may be made in regard to new Members must apply to old Members as well, and decisions not taken in regard to old Members canot be applied to new Members. Fortunately, we voted as we did for if we had followed any other course we would have taken a very dangerous step. If we began investigations in the case of new Members, we should have to do the same in the case of old Members. If we scrutinized the Portuguese Government's declaration, we should also have to scrutinize the declarations already made. In this Organization, in this community of ours, there are countries which have vast territories with remote provinces and islands—and we do not know whether they are self-governing or not. There are others which have in the last few years included within their frontiers countries that had only recently become independent nations. If we were to embark on this process of checking, we should have to examine whether those territories and areas had attained a full measure of "self-government" and whether due account was being taken of their political aspirations. Those are the terms of Article 73 of the Charter.

119. My delegation is gratified that, judging from the way in which the draft resolution under discussion has been raised, what would be a highly dangerous course is being avoided. We, the new Members—and naturally I speak for my own country—came into the United Nations determined to co-operate, because we believe in the Organization and in the principles on which it is based and because we want the United Nations to be a great neutral forum where problems are not created or exacerbated, but where an attempt is made to avoid them and to solve them by moderation and conciliation.

Mr. Urquía (El Salvador), Vice-President, took the Chair.

120. Mr. AVELINO (Brazil) (*translated from French*): My delegation wishes to explain its position with regard to the proposal to set up an *ad hoc* committee to examine the replies on the administration of Non-Self-Governing Territories transmitted to the Secretary-General by States recently admitted to the United Nations.

121. In the first place, my delegation believes that the proposal is discriminatory in that it subjects new Members of the United Nations to treatment different from that applied in similar circumstances to other States at the first session of the General Assembly. In 1946, the sovereign word of States was accepted without debate and without challenge and it was not found necessary to set up any committee before the General Assembly adopted resolution 66 (I), taking note of the list of Non-Self-Governing Territories transmitted by the States responsible for their administration in reply to the Secretary-General's inquiry. In accordance with the principle of sovereign equality stated in Article 2, paragraph 1, of the Charter, the covenant of the United Nations, the States recently admitted are entitled to receive the same treatment as older Members, for the Charter makes no distinction between new and old Member States. The draft resolution is therefore discriminatory and embodies a manifest injustice which it would be unreasonable to recognize. The injustice is not removed by the amendments suggested.

122. The second important point is that Member States cannot renounce their duty to determine in accordance with their constitutional provisions the status of the territories placed under their sovereignty. States have exclusive competence to decide the matter, which is inherent in their sovereignty. The official word of States cannot be questioned because both the letter and the spirit of the Charter require full respect for the legal personality of Member States.

123. During the discussion of the draft resolution in the Fourth Committee, there was a tendency which my delegation feels bound to condemn as undesirable and unfair. For reasons I do not propose to discuss, many delegations implied or stated that the reply of at least one of the recently admitted States to the Secretary-General on its Non-Self-Governing Territories was not in keeping with the facts. That State is presumably Portugal.

124. My delegation, whose impartiality on the subject of Non-Self-Governing Territories none would question, felt and feels in duty bound to express its strong disagreement with that view. Portugal is a unitary republic with overseas provinces which are an integral part of the republic and cannot be termed Non-Self-Governing Territories. The facts are there; such is the country's institutional structure. Portugal was and is a single and indivisible entity which includes all its provinces, the provinces on the continent of Europe, the adjacent islands and the provinces beyond the seas. All the provinces, regardless of the race, culture or religious beliefs of their inhabitants, are equally important. All are equal under Portuguese law, and not under contemporary Portuguese law alone but under laws dating from the end of the fifteenth century when Portugal embarked, across the seven seas, on an expansion of civilization without parallel in human history.

125. It is, we believe, unnecessary to describe in detail the traditional, internal laws and customs of Portugal. There is one point, however, we cannot fail to emphasize with all the force at our command and with the authority our history gives us. The civilizing mission, which Portugal carried on in Brazil for three centuries and which is still strongly reflected in Brazilian national life, has been a continuous crusade for spiritual and moral progress, a succession of examples of tolerance, love of one's fellow men, and the exaltation of human dignity.

126. Brazil is especially proud to say that it was once Portuguese territory and the outstanding work of education and civilization accomplished by Portugal in Brazil was not tainted by what is called national colonialism. It was a labour of love and not of oppression, a mission of education and not of mere material exploitation; it was assistance that made Brazil a vice-kingdom and a united kingdom, created a sense of national solidarity with Portugal and consolidated the firm political unity on which Brazilian sovereignty is based today.

127. For that reason, not for reasons of principle alone, but for profound historical reasons which it cannot ignore, the Brazilian delegation will vote against the establishment of an *ad hoc* committee for which no constructive function can be foreseen. We must avoid the proliferation of subsidiary organs, which leads to needless duplication of effort. The General Assembly

should and can solve the problem, and should not countenance any proposal that would delay a solution.

128. My delegation believes that the establishment of the proposed committee would be a mistake and might have disastrous and unforeseen consequences. We will therefore vote against the draft resolution and against the amendments, which we feel cannot contribute to a fair solution of the problem.

129. Mr. GRILLO (Italy): Before the vote is taken, my delegation wishes to state its reasons for opposing the draft resolution [*A/3531 and Add.1, para. 63, draft resolution VI*]. Our reasons do not have to do with the interpretation of Chapter XI of the Charter; they do not have reference to the question of the competence of the General Assembly, a question on which we did not have an opportunity to express our opinion; nor do they have to do with the fact that, in the course of the debate, some delegations showed a tendency to scrutinize the Constitutions of Member States.

130. Certainly it was not edifying for us to note the double standard of views of some delegations on this point. Some delegations were in fact advocating close examination of the Constitutions of Member States while the same delegations in other circumstances, in other chambers of this very same building, were speaking all along of the inviolability of their own Constitutions. Because of this double standard of views, it is understandable that we cannot accept their interpretation of Chapter XI as an article of faith. We need more convincing evidence for that. In any case, we clearly stated our position. We said that in the particular case of Non-Self-Governing Territories we might not have had any objection to reference being made to our own Constitution. We merely pointed out the danger of following such a practice. The views on the three points I have mentioned, namely, the interpretation of Chapter XI, the competence of the General Assembly and the close examination of the Constitutions of Member States, were at such variance that my delegation did not even attempt to reconcile them.

131. In considering the draft resolution, however, we thought that one of the fundamental principles of the Charter was being undermined, namely, the principle of the sovereign equality of all its Members. Here, in the General Assembly, we still hold that opinion. We stopped at the very first hurdle, which is a self-evident truth. The draft resolution is discriminatory with regard to States newly admitted to membership of the United Nations, and Italy is one of them.

132. I am not going to state the juridical reasons nor will I repeat all our arguments in support of our views. I will say merely this: we know that in our Organization there are some Member States that are permanently represented in some organs but we do not know of any other classes or categories of Members. If, as I said in the Fourth Committee, the resolutions previously adopted on the matter under discussion had been complied with by all States which were Members prior to December 1955, if an *ad hoc* committee had been set up for them and were working, if the answers which were then received had been evaluated and if an appeal had been made to Members which had not bothered to answer, then my delegation would stand corrected.

133. I do not believe for one moment that anyone would think to challenge the answer given by my Government to the effect that Italy does not administer Non-Self-Governing Territories; however, I wonder why an *ad hoc* committee should now, even as a mere formality, consider this answer. I wonder why this should be done when nothing of the sort has been done or is being done with regard to previous answers or the failure to answer.

134. My contention that the draft resolution is discriminatory was supported by many delegations, such as Brazil, Tunisia, the Philippines, Austria and so on. At the 621st meeting of the Fourth Committee, on 4 February, the representative of Tunisia said that the draft resolution was open to the charge of discrimination, and Tunisia is not a former colonial Power. At the 622nd meeting of the Committee, on 5 February, the representative of the Philippines said that he wanted to avoid the charge that a distinction was made between old and new Members, and the Philippines is not a colonial Power. At the 623rd meeting, on 5 February, the representative of Austria said that his delegation considered that the establishment of any procedure to be applied to a certain category of Member States must be considered discriminatory in itself. For that reason, quite apart from the substance of the matter, he had been unable to support the draft resolution. At the same meeting, the representative of the Philippines again stated that he had been unable to support the draft resolution solely because he was convinced that the use of the word "new" introduced an element of discrimination between Member States.

135. The discriminatory character of the draft resolution is self-evident. Even those delegations which voted for the draft resolution in the Fourth Committee were unable to challenge this fact and some of them dismissed our contention by wandering away from the subject and speaking of other kinds of discrimination which might or might not exist in other fields. There was, it is true, a meagre search for a solution, and Tunisia and the Philippines submitted amendments which would have somewhat remedied the situation. However, those amendments were subsequently withdrawn and discrimination still remains.

136. The point on which the Fourth Committee was divided was a juridical one because on the juridical level everyone was convinced in his heart that the draft resolution was discriminatory. The opposing view was not juridical but political. We yield to no one in our desire to interpret the Charter in the spirit in which it was framed, but we must first adhere to the principle of equality for all Members.

137. I am confident that all delegations will realize the grave result that might ensue if we were to depart from the principle of equality for all Members, which, I dare say, is the very foundation of our Organization. We hope, therefore, that the General Assembly will decide to vote against the draft resolution before it. If this draft resolution were adopted, I should reserve the right of my Government to decide its course of action in view of the discrimination contained therein; I say this with special reference to operative paragraph 2.

138. Mr. CARPIO (Philippines): I should like to express briefly my delegation's views on the draft resolution before us [*A/3531 and Add.1, para. 63, draft resolution VI*].

139. My delegation is of the considered view that Chapter XI of the Charter of the United Nations is one of the outstanding guide-posts in human progress in the administration of dependent peoples, and it is for that reason that my delegation has always felt that the operation of Chapter XI of the Charter is of such great importance. For that reason, one of the salient

points of Philippine foreign policy is its unbending opposition to any kind of colonialism, whether in the old form or in the new form that we seem to see today. It is for that reason also, that, with regard to the problem before us, my delegation is in favour of the General Assembly studying the various principles that could serve as a standard in determining the new question—which I consider to be of importance for the first time in the General Assembly—whether or not a Member of th United Nations is bound and obliged by the provisions of Article 73 to make reports on the territories under its administration. I use the words "first time" deliberately, because, to my knowledge the General Assembly has never, at any time, determined what principles should guide us in determining whether a certain territory should or should not be brought under the provisions of Article 73.

140. It is true that, in the early days of the United Nations, a list was compiled by the General Assembly, but let us remember that the General Assembly merely recorded the list of Territories submitted by the Administering Powers. Some Members of the General Assembly have considered the list thus compiled incomplete, but never before has the General Assembly questioned the failure of certain Members of the United Nations to submit information on territories which, some Members honestly believe, should have been the subject of information under the provisions of Article 73. It is for that reason that I consider that the relevant question before the General Assembly is not the cessation of information but, rather, when information shall be given. My delegation is therefore highly in favour of the creation of a committee—call it an *ad hoc* committee or what you please—to establish the principles which should in future guide us in determining whether or not a territory under the administration of any Member State is subject to the provisions of Article 73 of the Charter.

141. Unfortunately, however, the draft resolution before us does not give the proposed *ad hoc* committee, or whatever committee might be created, an opportunity to study the problem in its full scope. As you will note from the wording of the draft, its provisions concern only newly-admitted Members. In view of this, it is the considered opinion of my delegation that there is indeed justification for the charge brought in the Fourth Committee that the draft resolution is discriminatory. Why should these newly-admitted Members be selected as the subjects for study when there are certain older Members—not "admitted" but charter Members of the United Nations—who, in the view of some delegations, have Territories that have never been the subject of information under Article 73. Therefore, in the Fourth Committee, my delegation opposed the draft resolution—in its original as well as its present form—because we believed that it was discriminatory and that it limited to a narrow area of the problem the scope of the study to be undertaken by an *ad hoc* committee.

142. I was somewhat surprised to learn that the amendments introduced by certain delegations [*A/L.222*] had been withdrawn, because I would have thanked the sponsors of those amendments for the honest attempt they had made to meet the objection of discrimination. Of course, even after it was redrafted, and with the inclusion of those amendments, I still felt very strongly that operative paragraph 1 of the draft resolution would still have confined the scope of the proposed *ad hoc* committee to newly-admitted Members—in other words, to those which were admitted after the United Nations had been fully organized. It would still be discriminatory to that extent—simply because it would not include within its purview Member States which entered the Organization as charter Members. But in the light of the withdrawal of the proposed amendments, and in the form in which the draft now appears before us, as approved by the Fourth Committee, I regret that my delegation will be quite unable to give it support.

143. U ON SEIN (Burma): I wish to make just a brief statement, to explain the position of my delegation with regard to the draft resolution before us.

144. Chapter XI of the Charter, and particularly Article 73 e, specifies the obligations accepted by the Member States concerned to transmit information on territories under their administration whose people have not yet attained a full measure of self-government. In his communication addressed to the new Members [*A/C.4/331 and Add.1 and 2*], the Secretary-General drew their attention to the provisions of Chapter XI and asked them to indicate whether they had any territory under their administration falling within the meaning of Chapter XI of the Charter.

145. It is common knowledge to us that such responsibilities exist in respect of certain new Members. In 1946 the Secretary-General asked Member States to enumerate the Non-Self-Governing Territories under their administration, and to indicate what factors, in their opinion, should place a territory within the purview of Chapter XI. It is true that in its resolution 66 (I) the General Assembly merely noted that information had been transmitted, or would be transmitted, by the various Administering Powers; but that does not mean that the General Assembly had renounced its right or its competence—I repeat, its competence—to decide which Non-Self-Governing Territories came within the meaning of Chapter XI. Chapter XI is an integral part of the Charter, and applies equally to all Non-Self-Governing Territories. My delegation is of the view that, in determining who is to judge which territories come within the meaning of Chapter XI, it must be remembered that the obligation to transmit information arises not from a unilateral declaration but from the provisions of a multilateral treaty of an international character. The General Assembly, in the view of my delegation, is fully competent to examine the matter and make recommendations in accordance with its own procedures.

146. The draft resolution before us provides for the establishment of machinery for the examination of the replies of the Administering Members. My delegation voted in favour of the draft resolution in the Fourth Committee, and it will again vote in favour of the draft resolution in the General Assembly.

147. Mr. MASOOD (Pakistan): It would be appropriate, I think, if I opened my remarks by stating what has always been the policy of my Government in respect of colonial territories. Ever since Pakistan came into existence in 1947, it has steadfastly followed, in this Organization and outside it, a policy designed to bring about the liberation of all territories under colonial rule. It has firmly stood by the principle of self-determination, and it was this policy which governed our attitude on questions relating to Indonesia, Palestine, Tunisia, Morocco and, at the current session of the Assembly, to Togoland and Algeria. As a country which itself attained its independence after much struggle and sacrifice, and as one dedicated to the

Charter of the United Nations, we cannot, under any circumstances, support colonial rule or exploitation in any form or under any guise.

148. Having thus stated the basis of our policy, I shall now proceed, if I may, to explain the attitude of my delegation towards the draft resolution before the Assembly [*A/3531 and Add.1, para. 63, draft resolution VI*]. We voted against this draft resolution in the Fourth Committee, and shall do so here in the Assembly. Our reasons for so doing are clear, and in no way conflict with our basic principles or our obligations under the Charter.

149. The question involved in the draft resolution is not one of support for, or opposition to, colonial rule. It is a technical question which should, in our view, be decided in a straightforward manner. In arriving at a decision, we cannot depart from the precedent that has already been established. Hitherto, the replies submitted by Member States to the question whether they did or did not have any Non-Self-Governing Territories have been accepted by the Secretary-General, and we see no reason why replies from new Member States should be subjected to examination by an *ad hoc* committee such as is envisaged in the draft resolution now before the Assembly. This, we consider, would be inconsistent with precedent, and an unwarranted departure from established practice. To establish any procedure which is not one of universal application would be against the principles of the United Nations.

Prince Wan Waithayakon (Thailand) took the Chair.

150. Mr. VELANDO (Peru) (*translated from Spanish*): The Assembly has before it a draft resolution recommended by the Fourth Committee [*A/3531 and Add.1, para. 63, draft resolution VI*], calling for the establishment of an *ad hoc* committee to study the provisions of Chapter XI of the Charter as they apply to Members newly admitted to the United Nations, and the replies to the Secretary-General's letter by which the new Members were requested to inform him whether they were responsible for the administration of any territories referred to in Article 73 of the Charter.

151. In the Fourth Committee my delegation contended, and would like to repeat here, that this draft resolution is not compatible with the principle of the sovereign equality of States, as laid down in Article 2 of the Charter.

152. Any departure from precedent and any interpretation or method of application different from that adopted in 1946 would violate the principle of equality, since new Members have the same rights and obligations as those previously admitted and as the original Members of the United Nations. To apply any new rules would be unfair and would therefore amount to discrimination.

153. There is manifest proof of an attitude of discrimination against new Members in the records of the Fourth Committee, where amendments were submitted precisely for the purpose of eliminating any such discrimination. The Philippine representative requested that the word "new" should simply be deleted from the draft resolution wherever reference was made to "new Members", in order to avoid discrimination and to make the whole resolution, once approved, applicable to all the Members of the United Nations. In the two votes, one on the preamble and the other on the operative part, the Fourth Committee rejected the amendment, the figures being very significant: 9 in favour, 31 against and 29 abstentions at the first vote; and 8 in favour, 31 against and 28 abstentions at the second vote. The fact that only 9 delegations in the first vote and 8 in the second vote favoured the applicability of the resolution to all States Members of the United Nations indicates the gravity of the decision subsequently adopted and its unquestionably and completely discriminatory character, since the draft resolution applying new rules solely to new Members was approved by the slender majority of 2 votes.

154. An analysis of these figures shows convincingly that those who did not want the resolution to be applied to themselves supported its application to others. All this makes it clear that we are facing a very grave situation which jeopardizes the prestige of the United Nations and the faith which the peoples of the world place in its mission. The discriminatory character of this draft resolution would be lessened if it applied to the sixteen new Members in the same manner in which it is intended that it should apply to Portugal. However, we all know that this is not so; most of the sixteen new Members do not have the same geographical structure as Portugal. The discrimination is in fact directed only against Portugal, whose provinces are scattered over three continents and have for centuries been free from discrimination in respect of law, race or religion.

155. I felt it was my duty to give my personal testimony to the Fourth Committee; I stated that the fortunes of the diplomatic career had taken me to that fine country where several years' residence gave me ample opportunity to verify all the facts of the case. They may not be perhaps sufficiently proved to satisfy my colleagues, but they are none the less true and can be verified.

156. The draft resolution constitutes a case of clear discrimination. As I said, when the Philippine amendment was voted upon, only 8 countries accepted its applicability to themselves while 29 countries, by abstaining, opposed applicability in their own case. The other countries maintained that under Article 2, paragraph 7, of the Charter, the United Nations could not question answers given by States and interfere with their constitutions and laws. They thus withheld their support for a draft resolution which would apply the provisions of the Charter, which are equally valid for all Members, in a manner different from that applied up till now.

157. The amendments submitted by Ceylon, Greece, Nepal and Syria [*A/L.222*] correct serious errors but do not alter the substance of the problem; the discrimination remains.

158. I am confident that the United Nations will once again display the spirit of justice which inspires all its acts and avoid what might well prove to be a serious blunder.

159. Mr. SOWARD (Canada): In common with representatives who have already spoken on this question, my delegation would like to impress upon the Members of the General Assembly the serious implications of the proposal now before us [*A/3531 and Add.1, para. 63, draft resolution VI*]. In our view its adoption might well lead to undermining one of the basic principles upon which this Organization has been erected—the principle of the national sovereignty of the Member States. The aim of the draft resolution is, in our opinion, essentially to set up a committee whose ultimate purpose is to investigate the constitutional framework of countries newly admitted to the United

Nations, in so far as it concerns territories under their control which may possibly come under Article 73 e of the Charter. This committee is to study the replies of those countries [*A/C.4/331 and Add.1 and 2*] which have already answered the Secretary-General's letter of 24 February 1956. It is also, on the basis of the proposed operative paragraph 2, to receive "statements of their views, together with their reasons therefor, regarding the applicability of Chapter XI of the Charter to them". When this proposed committee—assuming that it is created—reports to the Assembly at its next session, it is to take into account "any explanations that may be given by the new Member States as to the status of the territories under their administration, and to make recommendations which it may deem appropriate".

160. In our judgement, it is difficult to see how this committee will be able to fulfil its assignment without being compelled to analyse the constitutions of the States involved. In that process, in our judgement, the *ad hoc* committee will be doomed to sterility in its activities or will succumb to the temptation of biting into the forbidden fruit of national sovereignty. That this is not an unfounded fear can well be illustrated by a glance at the summary records of the discussion in the Fourth Committee. There, as the representative of the United States has already pointed out, an examination of the Constitution of Portugal took place on more than one occasion; this we regard as a novel and dangerous procedure. I submit that unless we are prepared to question the fundamental principle expounded in Article 2, paragraph 1, of the United Nations Charter —and I cannot believe that such is the intention of the co-sponsors of the draft resolution before us—we cannot logically endorse the course of action proposed in the present draft resolution.

161. My delegation shares the view of the representative of Japan, as expressed in the Fourth Committee, that the establishment of the *ad hoc* committee envisaged would be tantamount to questioning the integrity of a Member State. Or, as was pointed out by the representative of the United Kingdom, in the same debate, the real question before the Committee is very simple but very important: it is whether or not the General Assembly should accept the solemn statement of a Member State.

162. It has always been the view of the Canadian delegation that Chapter XI of the Charter came into being as the result of a series of voluntary, bilateral agreements between individual administering States, on the one hand, and the United Nations, on the other. Such agreements obviously could not be varied without the full consent of both parties. The basic foundation of those agreements was the understanding that the national sovereignty of Member States over their respective territories could not be open to question. As the representative of the United States, who was at the San Francisco Conference and therefore had a full grasp of the discussion at that time, succinctly stated in our discussion in the Fourth Committee, it was for each Member State and for it alone to decide upon the territories in respect of which it was to provide information. No State could permit an outside authority to take that decision in its place.

163. Because we sincerely believe that the co-operation which we all so earnestly desire as a means of bringing about greater economic, social and cultural progress for all peoples can only flourish in an atmosphere of mutual respect and confidence and because we are equally convinced that persistent attempts to evade the terms and the clear intent of the Charter which we think are embodied in the present draft resolution, we believe that such attempts cannot but be harmful to the United Nations. We cannot agree with the aims and spirit of the draft resolution before us and my delegation will therefore vote against it.

164. Mr. DE MARCHENA (Dominican Republic) (*translated from Spanish*): The question we are discussing is of particular importance for the United Nations and for international law the findings of which, like the basic premises of science, form the rules to be subsequently applied by the international community.

165. From the outset, Chapter XI of the Charter has given rise to the most divergent interpretations as regards its scope, significance and applicability, chiefly because no definition of autonomy or self-government can be elicited from the Charter.

166. It was because of this lack of definition that at several sessions of the General Assembly we considered the need to establish factors determining self-government. For ten years the General Assembly has been confronted with two arguments: first, that the information referred to in Article 73 e of the Charter is strictly for information purposes, cannot give rise to questions other than technical ones and is quite free of any political implications; and secondly, that the information is not static; its dynamic nature fulfils an objective of the Charter, that is to say, it must not be pigeonholed but should be subjected to analysis and comparative study.

167. On the strength of the second argument, the Assembly has reaffirmed its competence to examine information supplied by the Powers administering Non-Self-Governing Territories and established, in spite of opposition from various sources, first, an *ad hoc* committee, secondly, the Special Committee and finally, as a permanent body, the existing Committee on Information from Non-Self-Governing Territories, which handles the problems arising under Chapter XI of the Charter.

168. In matters relating to Chapter XI the Assembly has recommended a series of rules and has covered considerable ground. It has also respected the Charter. Puerto Rico was the first community concerning which the United Nations recognized that the Administering Power should no longer be required to submit the information referred to in Article 73 once the Administering Power had agreed upon a statute of self-government, which was carefully studied and implicitly approved by the General Assembly. After that the Assembly had to study the situation created by the request of the Netherlands respecting the Territories of Surinam and the Netherlands Antilles, and the situation created by Denmark in the case of Greenland. Subsequently, new Members were admitted. If they hold dependent territories, they are presumably under an obligation to fulfil the provisions of Chapter XI of the Charter, particularly Article 73 e, although in the very subtly worded draft resolution before us they are not requested to do so, with express reference to those territories which, according to certain delegations, are to be considered as fully and constitutionally dependent. In other words, the requirement as regards the provisions of Chapter XI is expressed in such a way that those States to which the request in the draft resolution is directed must accept the jurisdiction of an *ad hoc* committee which will decide whether or not the position of a Member is correct and

will reach conclusions as to the applicability or non-applicability of Chapter XI of the Charter.

169. Let me now consider a factual situation which is worrying us. Certain circles fear that the "clientele" of Chapter XI may disappear completely if the argument prevails that constitutional provisions of various kinds are reducing the number of Non-Self-Governing Territories approved by the General Assembly or preventing it at any rate from acquiring new responsibilities with the inclusion of new Members.

170. However, sooner or later the transitional period is bound to pass—and I use transitional in the full sense of the term—covered by Chapters XII and XIII of the Charter, when the objectives laid down in those two Chapters of the Charter have been attained. Let us hope that they will be attained one day.

171. However, the fear of losing the "clientele" is prompted by other motives so palpably unsound as to be unworthy of mention. And in saying that, I would point out that the record of the delegation of the Dominican Republic in ten years of intensive activity in these fields indicates a consistent attitude of fairness and willing co-operation that no one can doubt or deny. We have served on the Committee on Information from Non-Self-Governing Territories, and on the Trusteeship Council for four years, whole-heartedly, in absolute sincerity and broadmindedness, without falling into demagogic extremes or into unrealistic or dangerous situations, particularly so for communities protected by the provisions of the Charter and a perennial target of international communism.

172. In accordance with such principles and for very valid reasons we can but maintain an unswerving attitude in regard to the effects of the draft resolution under discussion [*A/3531 and Add.1, para. 63, draft resolution VI*], which was submitted as the conclusion of the debate on item 35 (*c*) of the agenda.

173. It has already been said that this draft resolution is discriminatory. It is directed primarily against Portugal and Spain—none of the original sponsors can deny the fact. However, it would cause new Member States to be silent and even old Member States and their territories, many of which are lost in the intricate network of political systems under their jurisdiction. Nothing could be done in the face of such a situation, since Article 2, paragraph 7, of the Charter would also apply. Then there is the fact that these territories have been virtually dependent for centuries. We are encroaching upon the domestic jurisdiction of States and failing to apply the same rule to all.

174. The delegation of the Dominican Republic draws the attention of the Assembly to the following undeniable facts. First, when Portugal was admitted to the United Nations it had already adopted a constitutional system the structure of which we have no competence to discuss. It is clearly outside our jurisdiction. Secondly, the United Nations cannot lay down rules which come clearly within the domestic jurisdiction of a State. If Portugal, before its admission to the United Nations, had a political constitution under which its territories were regarded as provinces of the Portuguese Republic, then no one is competent to discuss or challenge the prerogatives based on the exclusive sovereignty of Portugal. Thirdly, the admission of Portugal to this Organization implied a scrutiny of its position as a State within the international community. Nobody raised any objection to its constitutional structure nor did anyone stipulate that Portugal should first officially state whether or not it possessed territories which might fall within Chapter XI of the Charter.

175. Although it is true that international treaties are to a certain extent limitations upon sovereignty, they are nevertheless bounded by what is possible and also subject to constitutional stipulations. What is not possible is to infringe the fundamental constitution of a State; otherwise, in the case in point, Portugal would not have joined the United Nations nor would any State which regards its constitutional rights in the same way.

176. It is pertinent to recall that the other cases dealt with by the General Assembly concerned the cessation of transmission of information and the exclusion of Territories from the scope of Article 73. The present case is concerned with the transmission of information and the inclusion of new Territories. In the first case, constitutional reforms were carried out after the States had been admitted to the United Nations, but in the second case the constitutional structure was established before the State was admitted.

177. For these reasons, if we are to act according to sound legal principles, we cannot speak in this instance of dependent or Non-Self-Governing Territories coming under Chapter XI. Indeed it is utterly out of the question since they are, without exception, an integral part of the geographical, political and juridical structure of the Portuguese State.

178. My delegation therefore voted against the draft resolution in the Fourth Committee, and we take the same stand at the plenary meeting. Such is the attitude of the Dominican delegation, which at all times is jealous of the principles governing the sovereignty of States, constitutional law and Article 2, paragraph 7, of the Charter.

179. Mr. TAZHIBAEV (Union of Soviet Socialist Republics) (*translated from Russian*): I should like very briefly to explain the Soviet delegation's position not only on draft resolution VI which has just been the subject of a lively debate, but also on all the draft resolutions relating to the Non-Self-Governing Territories which have been put forward for consideration by the plenary General Assembly [*A/3531 and Add.1, para. 63, draft resolutions I to VII*].

180. The United Nations cannot disregard the growing movement among the peoples of the so-called Non-Self-Governing Territories for freedom and national rebirth. It is its duty to do everything possible to promote the speediest possible attainment by these peoples of their freedom and independence, in accordance with the principles laid down in the United Nations Charter, which make this Organization responsible for the destinies of the colonial peoples.

181. The Soviet delegation is prepared to support any measures the United Nations may adopt with a view to the progressive advance of the Non-Self-Governing Territories along the road to independence and self-government.

182. In this connexion the Soviet delegation notes with concern that the Administering Powers are failing to give effect to the principles set forth in the United Nations Charter and the decisions of the General Assembly regarding the improvement of conditions in the Non-Self-Governing Territories. The colonial Powers are endeavouring by every possible means, including the use of armed force, to maintain colonial rule over the Non-Self-Governing Territories. The indigenous inhabitants of the Non-Self-Governing

Territories are the victims of arbitrariness and ruthless discrimination. The economies of the colonies are falling into decay; yet foreign monopolies, by plundering their wealth and cruelly exploiting their indigenous inhabitants, are extracting fabulous profits from them. The education and health facilities available for the indigenous populations of these territories are still grossly unsatisfactory.

183. The Soviet delegation believes that the United Nations should take all the steps necessary to ensure the fulfilment of the provisions of the Charter relating to the Non-Self-Governing Territories, in accordance with the principle of the right of peoples to self-determination recognized by the United Nations.

184. The Soviet delegation voted in the Fourth Committee for all the draft resolutions regarding the Non-Self-Governing Territories which are now before the General Assembly. The Soviet delegation considers that although these draft resolutions are not such as to solve the fundamental problems confronting the peoples of the Non-Self-Governing Territories, they may nevertheless help to improve the situation of the indigenous inhabitants of those territories. We shall vote for these draft resolutions again in the plenary meeting.

185. The Fourth Committee's report [*A/3531 and Add.1*] touches on the subject of the obligations imposed by Chapter XI of the Charter on States Members of the United Nations responsible for Non-Self-Governing Territories. As you know, this Chapter of the Charter requires such States regularly to transmit information about those Territories to the United Nations. The USSR delegation firmly believes that it is the duty of every Member of the United Nations to fulfil the provisions of the Charter. Accordingly, it seems to the Soviet delegation indisputable that Portugal and Spain, which are known to the whole world as colonial Powers, should transmit information to the United Nations on conditions in their Non-Self-Governing Territories.

186. It is obvious that a mere change in the name of a colony alters nothing. If you call a territory not a colony but an "overseas province", without making any change in its factual situation, you do not thereby make it cease to be a colony.

187. In the view of the USSR delegation, the matter is so abundantly clear that it needs no special study. In order, however, to meet the wishes of the delegations of a number of countries, and on the assumption that the Governments of Portugal and Spain will take cognizance of the discussion of this question at the eleventh session of the General Assembly, the Soviet delegation voted in the Fourth Committee for the adoption of the draft resolution calling for the setting up of an *ad hoc* committee to study the application of the provisions of Chapter XI of the Charter in the case of Members newly admitted to the United Nations and, in particular, the replies to the Secretary-General's letter of 24 February 1956 [*A/C.4/331 and Add.1 and 2*], by which the new Members were requested to inform him whether they were responsible for the administration of any Territories referred to in Article 73 of the Charter.

188. In so doing the Soviet delegation proceeded on the assumption that the committee would meet with co-operation from the Administering Powers and would submit positive recommendations to the General Assembly at its twelfth session regarding the transmission of information on a number of territories. We cannot, however, allow the simple and straightforward question of the fulfilment by new Members of the United Nations of their obligations under Chapter XI of the Charter to be submerged in arguments about general matters and charges of discrimination against the new Members. Such discrimination does not exist. The Soviet delegation cannot accept the assertions of the representatives of Portugal and other countries that the adoption of the draft resolution regarding the transmission of information on their Non-Self-Governing Territories by a number of new Members of the United Nations would be an act of discrimination against those Members. We explained our views on this point in the Fourth Committee [*619th meeting*] in detail, and shall not, therefore, go into them again here.

189. Miss BROOKS (Liberia): In accordance with rule 79 of our rules of procedure, I wish to move the adjournment of the meeting.

190. The PRESIDENT: I shall put the motion for adjournment to the vote. However, before doing so, I should like to mention that there are only two more speakers on this item. Since the motion has been put forward I will put it to the vote.

191. Mr. GARIN (Portugal): I merely wish to say that, if there are only two more speakers, it does not seem reasonable to postpone the vote on the item. Considering that the Assembly has so many matters to consider—tomorrow we have to start the discussion of the Israel-Egyptian question—it does not seem to us to be very reasonable that we should postpone our vote, which will take only a few moment more.

192. Miss BROOKS (Liberia): I wish to call the representative of Portugal to order. I think that, in accordance with the rule of procedure which I have just invoked, my motion has precedence over all other business.

193. The PRESIDENT: I shall proceed with the vote as soon as possible.

The proposal to adjourn was rejected by 34 votes to 27, with 3 abstentions.

194. Mr. PACHACHI (Iraq): I do not propose to refer to the substance of the question before us. The statement of my delegation in the Fourth Committee, which put forth our views in full, was circulated as an official document [*A/C.4/345*] and was seen by all delegations. We further elaborated upon our views in a number of interventions which we made in the Committee and a summary of them is contained in the records of those meetings.

195. I venture to recall that my delegation, along with many others, has approached this question with moderation and objectivity. The representative of Portugal himself was kind enough to say so. Indeed, we have always tried to play a constructive role in all matters relating to dependent territories. The draft resolution before us [*A/3531 and Add.1, para. 63, draft resolution VI*] was couched in the most moderate terms and the amendments proposed by the original sponsors were designed to meet the objections which had been raised in the Committee. However, despite all of this, and instead of reciprocating in this conciliatory spirit, an all-out effort, ill-concealed by spurious legalistic arguments, has now succeeded in frustrating the effort made at compromise. The real aim of the procedural motion proposed by Sweden is very well known, despite the frantic efforts made to give it an aura of respectability. The aim is to weaken and, ultimately, to

destroy the authority of the United Nations on matters concerning Non-Self-Governing Territories.

196. I, therefore, find no useful purpose in dealing with the substance of the matter, since the draft resolution is doomed to defeat under any circumstances. However, we shall not hesitate to raise this question again at the next session and, if necessary, at the session after that. It goes without saying that our attitude in the future will be greatly influenced by what happened today. We have been given a severe lesson to the effect that moderation and the friendly exchange of views are of no avail. We are not likely to forget this lesson, nor are we likely to forget, so long as Chapter XI of the Charter exists, the fate of the unfortunate exploited millions in Portuguese Africa who have been dealt such a severe blow today. The Assembly is, in effect, now giving notice that those people, unlike their brethren in other parts of Africa, shall be denied the benefits of the protection provided for in Chapter XI of the Charter. If this is not discrimination, then what is?

197. I hope that the representatives who spoke in such light terms of discrimination will try to compare the status of the 10 million so-called uncivilized Negroes in Angola, Mozambique, and Portuguese Guinea with that of other peoples of Africa who have come within the terms of Chapter XI of the Charter. They should search their consciences to see if there is anything which can justify such different treatment being given to the colonial subjects of Portugal.

198. That is all that I have to say on this subject until we meet again in the Fourth Committee at the next session.

199. Mr. ROSSIDES (Greece): On behalf of my delegation, I wish to explain our vote on draft resolution VII submitted by the Fourth Committee [*A/3531 and Add.1, para. 63*], on progress achieved by the Non-Self-Governing Territories in pursuance of Chapter XI of the Charter. My delegation will vote in favour of this draft resolution because we believe that the report to be prepared by the Secretary-General on the progress achieved in Non-Self-Governing Territories since the establishment of the United Nations will be most significant in that it will show, first, the advancement made by these Territories towards self-government and self-determination, and, secondly, the extent to which the United Nations has contributed to such advancement and to the achievement of such advancement by peaceful means.

200. As stated by this Assembly in its resolution 932 (X) of 8 November 1955, the examination in regard to this progress would be highly desirable and should make it possible "to ascertain the extent to which the peoples of the Non-Self-Governing Territories are advancing towards the attainment of the goals set in Chapter XI of the Charter". If we look at Chapter XI, Article 73, of the Charter, we can immediately see that the main goal envisaged in that Article has to do with the constitutional aspect, namely, the development of self-government and respect for the political aspirations of the people. The report by the Secretary-General, therefore, cannot be in any way complete or even useful unless it deals with the aspect of political progress, which is closely linked to economic, social and educational progress, all of which are interdependent. The report will be based on information furnished by the Administering Members under Article 73 e of the Charter. On this point, my delegation wishes to draw the attention of the General Assembly to the fact that the Secretary-General will unavoidably find great difficulty in preparing the report because some of the Administering Members have—very rightly—been supplying complete information in respect of the Non-Self-Governing Territories under their administration. An example of this is given in the Standard Form for the guidance of Members in the preparation of such information. In their reports they included the important category of status and constitutional conditions in those Territories in accordance with part I, section D, of the Standard Form. As this part I D of the Standard Form is, however, optional, some Administering Powers have not supplied any information on the constitutional aspect in their territories in spite of the fact that the desirability of providing such information is expressed in General Assembly resolution 144 (II) of 1947.

201. With regard to those Territories, the Secretary-General will have no information by which he can gauge the progress achieved in the development of self-governing institutions in those Territories and consequently the extent to which those Territories have advanced towards the attainment of the goals set in Chapter XI of the Charter, which constitute the main purpose of the report as can be seen from resolution 932 (X). As a result, the report of the Secretary-General will, in this respect, be sadly deficient and incomplete and, at the same time, it will be showing discrimination as between the Non-Self-Governing Territories, which certainly cannot serve the object of the report. At the same time, such discrimination in the report will make obvious the failure of some Administering Members to supply such vital and necessary information to the Secretary-General. This should, in our opinion, be avoided. It can serve no purpose either to the Administering Members or to the United Nations. My delegation, therefore, hopes that those Administering Members which have not supplied information regularly, under Article 73 e of the Charter, on the constitutional and political aspects will show a spirit of co-operation with the United Nations by voluntarily supplying the Secretary-General with such information as is necessary to enable him to prepare and present an authoritative and complete report with regard to all Non-Self-Governing Territories and not only some of them. It should be borne in mind that, after all, the United Nations is not an arena for battle between conflicting interests selfishly conceived in a narrow spirit, but a world forum in which an effort should be made to achieve international understanding and co-operation through an honest and objective exposition of facts and views. This is the basis of the establishment of the United Nations in the interests of peace and freedom in the world.

202. With regard to the proposed report, I wish also to draw the attention of the General Assembly to the fact that even in the fields where information has been supplied, namely, in the economic, social and educational fields, the information is in some cases inadequate. There are concrete instances, to which I do not propose to refer, where information supplied on social matters and particularly on human rights in no way corresponds with the actual situation in the Non-Self-Governing Territory concerned. I believe that in such cases supplementary information may be obtained by the Secretary-General from official documents issued by the Administering Power in the Non-Self-Governing Territory concerned. I have no doubt that the Administering Powers will never refuse to supply

such official documents when they are required by the Secretary-General for the purposes of the report. It is therefore earnestly to be hoped that the Administering Powers will furnish such supplementary information so that the Secretary-General will be enabled to carry out his task of preparing a report on the progress achieved in Non-Self-Governing Territories. Such a report will be most important and will serve as a useful guide for the problems which have to be faced in the future.

203. It is in this sense that we believe a useful report can be prepared and it is in this sense that we shall vote for draft resolution VII.

204. Miss BROOKS (Liberia): I should like to apologize sincerely if I did not make my position clear that if the motion for adjournment was defeated I would still like to speak on the subject-matter.

205. The delegation of Liberia finds it necessary at this time to reassert its position as far as the competence of the General Assembly under Chapter XI of the United Nations Charter is concerned since it affects the lives and destinies of millions of dependent peoples, and because extraneous ideas have been brought into play to defeat the sound argument that the General Assembly does have competence under Chapter XI of the United Nations Charter.

206. My delegation has also consistently felt that, under Chapter XI of the Charter, no Administering Power can unilaterally alter the status of a dependent Territory. This must be done in consultation with the General Assembly. In connexion with draft resolution VI [*A/3531 and Add.1, para. 63*], it was argued that it was the Administering Power alone which was to determine the character of the Territory it administered. Perhaps this argument could be taken into consideration for what it is worth if that State is not a Member of the United Nations. But once a State decides to become a party to the multilateral agreement by becoming a Member of the United Nations, it becomes affected by Chapter XI of the United Nations Charter; it has not only rights but also obligations deriving therefrom.

207. It has been argued that this draft resolution tends to bring in an element of discrimination against the new Member States. It is strange that this view should have been conceived, for in the first place a new Member State co-sponsored the draft resolution in the Fourth Committee.

208. We cannot deny the competence of the Secretary-General to request States when they are admitted to list the Territories they administer which may fall under Chapter XI of the United Nations Charter for this was done even in the case of the original Members of the United Nations.

209. Chapter XI of the Charter gives full recognition to international interest in the welfare of non-self-governing peoples and pledges the Member States to furnish the Secretary-General with appropriate information concerning those Territories.

210. In this connexion we cannot deny the competence of the General Assembly to discuss in its annual reports the replies and statements concerning such Territories, or to determine whether or not States have fulfilled their obligations under Chapter XI of the United Nations Charter.

211. My delegation concludes from the discussion that the opposing views are expressed by those who deny the competence of the Secretary-General to request Member States, as they are admitted, to comply with the requirements of Chapter XI of the Charter by informing the General Assembly regarding any dependent territories which they administer. In addition, they deny the competence of the General Assembly under Chapter XI of the United Nations Charter—a principle which my delegation has upheld in the past and will continue to uphold. It also denies the competence of the General Assembly to set up an *ad hoc* committee. We know that, in principle, the Assembly has competence in this respect. My delegation is firmly convinced that both the Secretary-General and the United Nations have such competence.

212. In the view of my delegation, Chapter XI of the United Nations Charter is a significant one, because we feel that in the United Nations we should deal with the problems of those dependent people who have placed their hopes in the United Nations and avoid future conflicts that would probably result in the destruction of human lives.

213. Mr. BOZOVIC (Yugoslavia) (*translated from French*): There is no need for me to explain the position my delegation has taken on colonial questions in the past. Nor need I emphasize that we have always been, and that we still are, anti-colonialist. We have demonstrated our opposition, not so much by words as by what we feel is much more convincing, our votes on questions concerning Non-Self-Governing Territories.

214. We explained our position on the question raised by draft resolution VI [*A/3531 and Add.1, para. 63*] in the Fourth Committee [*618th, 619th and 621st meetings*] and we do not wish to go into it again in detail. Nor do we wish to point a finger at any country. We did not do so in the Fourth Committee and shall not do so here. If certain countries nevertheless feel that the draft resolution is aimed at them, there is nothing we can do about it, for it merely proves a saying which exists, I believe, in all languages, that there is no smoke without fire.

215. The General Assembly is empowered under Article 22 of the Charter to establish such subsidiary organs as it deems necessary for the performance of its functions. I should like, however, to mention one of the many arguments advanced by the representative of Portugal and taken up by other representatives, including the representative of the United States. The Brazilian representative in the Fourth Committee laid special emphasis on this argument, although there would appear to be some pages missing from the text on which he based his speech regarding the position of the General Assembly on these matters. The gist of his argument is that the establishment of the committee proposed in draft resolution VI would mean that the General Assembly would decide for the first time in the history of the United Nations and of the application of Chapter XI of the Charter, to examine the replies of Member States to a letter from the Secretary-General concerning the application of Chapter XI. It would mean further that for the first time the General Assembly would examine those replies and not merely note them as it did at the first session in 1946.

216. I cannot accept that argument. In the first place it does not accurately reflect what happened in 1946. Moreover, there is a slight difference because in 1946 the Secretary-General and the United Nations received replies from the Governments of Member States in which the latter listed in good faith the territories covered by the provisions of Chapter XI of the Charter.

The argument does not square with the facts for at its 20th meeting on 14 November 1946, the Fourth Committee elected Sub-Committee 2 composed of nineteen members, to examine the replies of Member States to the Secretary-General's letter. That proves that it would not be the first time that replies were examined in the plenary Assembly. Nor is it the first time that exception has been taken to the replies of a Government on the grounds that not all territories are mentioned or that certain territories which should not have been mentioned are included.

217. During the debate in Sub-Committee 2, the representative of Panama objected to the list submitted by the United States on the ground that the Panama Canal Zone was not a Non-Self-Governing Territory. As you know, that objection was sustained and information is not transmitted with regard to that area.

218. If we set up the committee proposed in draft resolution VI, we shall be proceeding as we did in 1946. The decision would be taken by the General Assembly rather than by the Fourth Committee for the simple reason that we are already behind in our work. We would not be practising discrimination because by deciding not to examine the replies submitted by other Member States, we are in fact discriminating against the States which transmitted replies and lists of Non-Self-Governing Territories in 1946. Under the draft resolution, we would be following the same procedure as in 1946.

219. The result of our examination might well be that we would note the replies of Governments. That might be the result of detailed, objective and close examination. The proposed committee might suggest that the General Assembly should note the replies of all Governments as being wholly accurate and not requiring further examination. If, on the other hand, there were doubts in the minds of some delegations, the committee might suggest that some replies should not be noted without detailed discussion. There again there is nothing we can do about it. It proves once again the truth of the saying: there is no smoke without fire.

220. Mr. GARIN (Portugal): I have asked for an opportunity to speak because the representative of Yugoslavia has made an assertion that is not correct. With the President's permission, I should like to clarify the matter.

221. My delegation has already pointed out that the draft resolution now under discussion [*A/3531 and Add.1, para. 63, draft resolution VI*] cannot in any way find its roots in General Assembly resolution 66 (I) of 14 December 1946 or in resolution 334 (IV) of 2 December 1949. This is so true that, in order to introduce into the present draft resolution a reference to those resolutions as precedents, it was found necessary to distort their texts; this distortion, as I mentioned this morning [*656th meeting*], cannot be denied, nor can it be accepted.

222. Much to my regret, I have to state that the same method is now being used to persuade the Assembly that the *Ad Hoc* Committee which was set up by resolution 66 (I) constitutes a precedent for the committee envisaged for the purpose of examining the reply given by my Government to the Secretary-General. In order to establish clearly the meaning of the practice adopted at that time at the first session of the General Assembly, it is necessary to view it in its proper light. This I shall do as briefly as possible.

223. At the first part of its first session, in 1946, the General Assembly entrusted the Fourth Committee with the study of the question of the procedure to be followed in the consideration of the three items referred to the Fourth Committee by the General Assembly, namely: (*a*) report of the Secretary-General on trusteeship agreements; (*b*) report of the Secretary-General on information to be transmitted by Members concerning Non-Self-Governing Territories; and (*c*) statement by the Union of South Africa on the outcome of the consultations with the peoples of South West Africa as to the future status of the mandated territory and implementation to be given to the wishes thus expressed. A memorandum by the Secretariat [*A/C.4/Sub.2/2*], which is appended as annex I to the summary records of meetings of Sub-Committee 2,[8] reads as follows:

"The suggested terms of reference of these two Sub-Committees were as follows:

"Chapter XI of the Charter

"The Sub-Committee to examine:

"1. What procedure should be followed in the treatment of this information, particularly in relation to:

"(*a*) The declaration made by the Governments concerned;

"(*b*) The dates when the Governments might be able to transmit information in the future;

"(*c*) The nature of the information to be transmitted;

"(*d*) The methods whereby the summaries to be prepared by the Secretary-General may be adequately considered . . ."

Sub-Committee 2, therefore, was entrusted with the sole task of studying the procedure to be adopted in relation to information to be transmitted under Article 73 with regard to the Territories listed in the declaration of the Member concerned, and was not given the power to express any opinion on the question whether or not those Governments had replied correctly.

224. In fact, Sub-Committee 2, as can be seen from the summary records of its meetings, arrived at the unanimous conclusion of agreeing to note—I emphasize the words "to note"—the list of Territories voluntarily indicated by the Government to which Chapter XI was going to be applied. It was this unanimous conclusion of the Sub-Committee that was reproduced, as we have seen, in General Assembly resolution 66 (I).

225. However, that is not all. In summing up the work of the Sub-Committee, the Rapporteur stated the following, which has never been contested:

"The Fourth Committee appointed a Sub-Committee of nineteen members to examine the following matters:

"1. The procedure to be followed in the treatment of information submitted under Article 73 of the Charter."[9]

And, in order not to leave any doubt as to the meaning of the word "procedure", the report of the Sub-Committee goes on to say:

"The mention of the word 'procedure' should not be taken to mean that the Sub-Committee was engaged merely in discussions of form and administrative practice. On the contrary, the obligations accepted under Chapter XI of the Charter being already in full force, the item before the Sub-Committee was

[8] *Official Records of the General Assembly, Second Part of the First Session, Fourth Committee*, part III, annex 1.

[9] *Ibid.*, part I, annex 21, "General".

examined in its broad aspects as indicative of the way in which Chapter XI of the Charter might contribute to the general aims of the United Nations and to the well-being and advancement of non-self-governing peoples throughout the world."[10]

226. In spite of the fact that the Sub-Committee was engaged in this general examination, at no time was the reply of any Government examined. Indeed, the Sub-Committee was set up in order to study the question what should be done with the information supplied by Governments. It extended its own scope of study to the broader aspects of Chapter XI. However—and this is the point to remember—the Sub-Committee never considered itself authorized to scrutinize the replies received by the Secretary-General.

227. To sum up: first, the Secretary-General suggested the study of the procedure to be followed in dealing with the information transmitted by Governments; secondly, to that effect, the Fourth Committee set up a Sub-Committee; thirdly, this Sub-Committee, in turn, listed the Territories on which certain Governments had considered it appropriate to submit information, and thoroughly studied Article 73; fourthly, at no time during the proceedings was the possibility of examining the replies given by Member States considered.

228. The truth is this: the Sub-Committee was set up with the sole purpose of studying the procedure to be adopted with regard to the information already transmitted and forthcoming. Consequently, no opinion on the word of a Member State was within its competence, and it was never suggested that such should be the case, nor was it suggested that such a procedure would be desirable.

229. In keeping with the foregoing, the General Assembly decided, in resolution 66 (I) which has been cited so frequently, to take note of the information already transmitted, as well as of the intimations received from certain Governments that information would be forthcoming; and it further adopted, in the light of the conclusions of the Sub-Committee, the procedure to be followed with regard to the information thus voluntarily submitted.

230. Therefore, at no time, whether in the memorandum from the Secretariat, in the Fourth Committee, in the proceedings or in the report of Sub-Committee 2, or, finally, in the plenary meeting of the General Assembly—at no time was it mentioned, suggested or accepted that it would be possible to scrutinize the replies received from Member States. On the contrary, the whole procedure in this matter rested on the uncontroverted acceptance of such replies, and on the principle that each Member State itself had the exclusive competence to say whether or not it administered any Territories falling under the terms of Chapter XI of the Charter.

231. In conclusion, I should like to state that it cannot be accepted that the procedure adopted at the first session of the General Assembly should be invoked as a precedent for a draft resolution which—as is the case with regard to the one under consideration now—amounts to a challenge of the word given by a Member State. But that is not all. The procedure which I have just analysed clearly provides a valuable contribution in proving that the draft resolution, in addition to being contrary to the provisions of the Charter, is contrary to the practice of the United Nations in this matter.

232. For the opportunity thus given to us to add this valuable argument to the discussion, my delegation is very much indebted to the representative of Yugoslavia.

233. Mr. JAIPAL (India): I should like to make a very brief statement in explanation of our vote. We have seen some strange happenings here today. Delegations seem to have changed their votes, if not their minds. When one considers the discussions today and gets to the bottom of the matter, one finds that what was in question was the future operation of Chapter XI. A very grave blow has been dealt to the future of Chapter XI, thanks to the stirring appeal for flexibility put forward by the representative of the United States of America. It seems that flexibility becomes a priceless virtue when colonial interests are involved. In the name of the sovereign equality of Members, in the name of domestic jurisdiction, in the name of unitary States and in the name of other such imposing principles, a sacred trust has been treated in a manner which is entirely unworthy of the spirit of the Charter. The future of millions of Africans has suddenly become important enough to invoke the two-thirds-majority rule in order to decide that their future is not the concern of the United Nations. This decision is bound to have far-reaching consequences.

234. Mr. BOZOVIC (Yugoslavia) (*translated from French*): I have only a few words to say. The representative of Portugal has accused me of not quoting correctly from the Charter and the records. If the representative of Portugal had been in the Fourth Committee more often, he would know that that is not my habit. I did not quote the record incorrectly. I quoted something which was omitted from the quotation that was read out later. But I shall not press the point. I would merely add that it is not correct to say that the Committee unanimously decided to recommend that the General Assembly should note those territories. The representative of Australia said, at the end of the debate, that the General Assembly would be fully entitled to discuss the list of Non-Self-Governing Territories and decide whether it was complete or not. That proves, I think, that there was no unanimity, that some delegations were against the proposal. Moreover, I proved, I think—in the case of the Panama Canal Zone which was put on the list only to be eliminated subsequently at the request of Member Governments—that any list or reply submitted might be questioned by Member States. The fact is that the United States, in response to that objection, decided not to transmit information until the matter had been cleared up.

235. The PRESIDENT: As the amendments submitted by Ceylon, Greece, Nepal and Syria [*A/L.222*] have been withdrawn, we shall now proceed to the vote on the draft resolutions recommended by the Fourth Committee [*A/3531 and Add.1, para. 63*].

Draft resolution I was adopted by 66 votes to none, with 2 abstentions.

Draft resolution II was adopted by 55 votes to 5, with 9 abstentions.

Draft resolution III was adopted by 56 votes to none, with 18 abstentions.

Draft resolution IV was adopted by 48 votes to 15, with 7 abstentions.

Draft resolution V was adopted by 65 votes to none, with 4 abstentions.

[10] *Ibid.*, annex 21, "Part I, Chapter XI".

236. The PRESIDENT: We now come to draft resolution VI entitled "General questions relating to the transmission of information under Article 73 e of the Charter". A roll-call vote has been requested.

A vote was taken by roll-call.

Burma, having been drawn by lot by the President, was called upon to vote first.

In favour: Burma, Byelorussian Soviet Socialist Republic, Ceylon, Costa Rica, Czechoslovakia, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Liberia, Libya, Mexico, Morocco, Nepal, Poland, Romania, Saudi Arabia, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia, Afghanistan, Albania, Bolivia, Bulgaria.

Against: Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Finland, France, Honduras, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Peru, Philippines, Portugal, Spain, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium, Brazil.

Abstaining: Cambodia, Laos, Thailand, Venezuela, Argentina.

The result of the vote was 35 in favour, 35 against, and 5 abstentions.

Draft resolution VI was rejected.

Draft resolution VII was adopted by 65 votes to 3, with 3 abstentions.

237. The PRESIDENT: I call on the representative of Sudan for an explanation of vote.

238. Mr. MEDANI (Sudan): My delegation is honoured to have cast its vote in favour of draft resolution VI, which, unfortunately, has been defeated. It is an honour because the draft resolution embodied the high ideals in which we believe and which we have made it—and shall always make it—our duty to carry out: the task of doing our utmost to uphold the cause of liberty and freedom for dependent African territories. A motion which aims at hindering the success of what that draft resolution embodied conflicted with our lofty and honourable aim. That is why we opposed it. It was motivated by the desire to defeat the draft resolution and therefore to defeat, for some time to come, the legitimate rights of millions of people: the right to live freely and to grow in a free and independent society and develop good and friendly relations with those who opposed the draft resolution, as well as with those who supported it.

239. Unlike other resolutions, the draft resolution does not conflict with our aims and policies of defending the rights of all the Non-Self-Governing Territories and peoples who are unable to come before this body and do so themselves. But, like the representative of Iraq, we shall bring it up once again, and if it is again defeated we shall, in accordance with our principles, come back to it, for weariness will certainly not overcome an idea which is based upon an essential principle.

240. We do not believe that that draft resolution discriminated against any particular country, but millions of people are being discriminated against when they are not accorded the same treatment as peoples of other Territories. It has been mentioned here by some that the very fact that the draft resolution was adopted in the Fourth Committee by an extremely small majority made it a matter of essential importance, requiring therefore a two-thirds majority in the Assembly. This argument is certainly not sufficiently valid to be brought up in order to defeat so important a decision. If this were so, then most of the resolutions of the General Assembly would never have been adopted, because once a draft resolution has received only a narrow majority in Committee, a motion can be made that it could only be adopted by a two-thirds majority. Therefore such a draft resolution would be doomed to defeat, just as our draft resolution was.

241. It was for these reasons that I supported the draft resolution.

242. The PRESIDENT: In its report on agenda item 36 [*A/3532*], the Fourth Committee has informed the General Assembly that, acting on the Assembly's behalf, it elected Ceylon and Guatemala as members of the Committee on Information from Non-Self-Governing Territories for a period of three years. May I take it that the Assembly confirms this election?

It was so agreed.

Statement by the President concerning the appointment of members of the Commission established under the terms of resolution 1046 (XI)

243. The PRESIDENT: Before we adjourn, I should like to make the following announcement. On 23 January 1957 [*643rd meeting*], the General Assembly adopted a resolution [*resolution 1046 (XI)*] concerning the future of Togoland under French administration. Operative paragraph 3 of that resolution established a Commission of six members, to be appointed by the President, on the basis of equitable geographical distribution. I should like to inform the Assembly that the Commission will be composed of the following members: Canada, Denmark, Guatemala, Liberia, the Philippines and Yugoslavia.

The meeting rose at 7.30 p.m.

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