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SPECIAL COMMITTEE ON INFORMATION TRANSMITTED UNDER ARTICLE 73e OF THE CHARTER

Second Session

SUMMARY RECORD OF THE FORTY-FOURTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 22 October 1951, at 2.30 p.m.

CONTENTS:

Present:

Chairman: Mr. KERNKAMP

Members:

Australia	Mr. PEACHEY
Belgium	Mr. RYCKMANS
Brazil	Mr. ROCQUE da MOTTA
Cuba	Mr. PEREZ CISNEROS
Denmark	Mr. LANNUNG
Egypt	Mr. PHARAONY
France	Mr. PIGNON
India	Mr. PANT
Mexico	Mr. CALDERON PUIG
Netherlands	Mr. KERNKAMP Mr. SPITS
New Zealand	Mr. SCOTT
Pakistan	Mr. ZIAUD-DIN
Philippines	Mr. INGLES
Union of Soviet Socialist Republics	Mr. SOLDATOV
United Kingdom of Great Britain and Northern Ireland	Mr. MATHIESON
United States of America	Mr. GERIG

Representatives of specialized agencies:

International Labour Organisation	Mr. GAVIN
United Nations Educational, Scientific and Cultural Organization	Mr. DESTOMBES

Secretariat:

Mr. Benson	Representative of the Secretary-General
Mr. van Beusekom	Secretariat
Mr. Cottrell	Secretariat
Mr. Kunst	Secretary to the Special Committee

1. INFORMATION ON HUMAN RIGHTS IN NON-SELF-GOVERNING TERRITORIES (item 8 of the agenda) (A/AC.35/L.60, A/AC.35/L.70 Rev.1, A/AC.35/L.72, A/AC.35/L.73, A/1823/Add.1) (continued

Mr. LANNUNG (Denmark) suggested that in the fourth paragraph of the joint draft resolution submitted by the representatives of Brazil, Cuba, Egypt, India, Mexico and the Philippines (A/AC.35/L.73) the words "in the light of" should be replaced by the phrase "taking into account".

It was so agreed.

Mr. SPITS (Netherlands) said that he would be unable to support the joint draft resolution (A/AC.35/L.73), and wished to explain his vote in advance.

Referring to the statements made by the Netherlands representative in the Fourth Committee of the fifth session of the General Assembly when resolution 446 (V) regarding the transmission of information on human rights had been discussed, he emphasized that the Netherlands delegation had no objection to transmitting that type of information and had, indeed, done so in 1951, as was stated in document A/AC.35/L.60. His delegation did not, however, recognize the right of the General Assembly to make recommendations for the transmission of information on human rights, since under Article 73 e of the Charter information regarding only economic, social and educational conditions was called for.

The question of human rights had been exhaustively discussed by the General Assembly and subsequently, a Universal Declaration of Human Rights had been drafted and accepted by most Member States. A draft Covenant on Human Rights was also being prepared by a special committee appointed for that purpose. So long as the results of that committee's work had not been considered by the General Assembly and so long as the General Assembly had not taken any further action on the subject, it seemed to him inappropriate for the Special Committee on information transmitted under Article 73 e of the Charter to deal with the same problem. The Special Committee might easily reach very different decisions from those of the General Assembly.

Should the various paragraphs of the joint draft resolution be put to the vote separately, the Netherlands delegation would vote in favour of the first four, but

could not support the fifth. His delegation would support the United States amendment (A/AC.35/L.72) only if it were inserted after the fourth paragraph of the joint draft resolution, as it would then refer only to the first four paragraphs.

Mr. SCOTT (New Zealand) said his delegation would vote against the joint draft resolution (A/AC.35/L.73) as it sought to impose upon the Administering Authorities an obligation which was not supported by the Charter, and endeavoured to widen the functions and scope of the Special Committee to an extent unwarranted by the terms of Article 73 of the Charter.

The New Zealand delegation had voted against General Assembly resolution 446 (V), as it had felt that while there could be no objection to the submission of information on human rights if that information was to be supplied by independent States as well as by Non-Self-Governing Territories, there was no reason why the submission of such information should be restricted to those territories. That was still the New Zealand Government's opinion.

Many delegations at the Special Committee's present session had expressed misgivings regarding the observance of human rights in Non-Self-Governing Territories and, in the understandable reluctance of some Administering Authorities to undertake a new and, in his opinion, unwarranted obligation, they appeared to see some sinister design in the administration of those territories. If reassurance were needed it would surely be found in the rapid and substantial developments that had taken place in all fields, particularly during the last decade, in the Non-Self-Governing Territories. He felt that such progress was ample evidence of the extent to which human rights had been not only observed but even actively fostered by the Administering Authorities.

The New Zealand Government had always voluntarily provided full information under Article 73e, not only on the observance of human rights but also on the government of the territories under its administration. It would continue to submit such information but, at the same time, it could not recognize that there was any obligation upon it, or upon any other other Administering Authority, to transmit information on human rights.

The CHAIRMAN ruled that a vote would be taken first on the United States amendment (A/AC.35/L.72) and then on the joint draft resolution in its revised form (A/AC.35/L.73) since that draft resolution superseded and replaced the first joint draft resolution (A/AC.35/L.70.Rev.1).

Mr. MATHIESON (United Kingdom) asked for the words "in the provision of such information" in the first line of the United States amendment (A/AC.35/L.72) to be voted on separately.

Mr. RYCKMANS (Belgium) said that in view of the United Kingdom representative's suggestion, the first line of the French text of the United States amendment should be redrafted to read: "Espère que par la transmission de ces renseignements une étape significative sera franchie dans tous les pays vers l'application...."

Mr. PEREZ CISNEROS (Cuba) suggested that the Spanish text should be changed accordingly.

The CHAIRMAN put to the vote the phrase "in the provision of such information".

The phrase was adopted by 9 votes to 6 with 1 abstention.

The CHAIRMAN then put the United States amendment as a whole to the vote.

The United States amendment was adopted by 9 votes to 2 with 5 abstentions.

The CHAIRMAN put the joint draft resolution submitted by the representatives of Brazil, Cuba, Egypt, India, Mexico and the Philippines as amended, to the vote.

The joint draft resolution (A/AC.35/L.73) was adopted by 10 votes to 5 with 1 abstention.

Mr. RYCKMANS (Belgium), associated himself with the New Zealand representative's statement, stating that it also contained the reasons for which the Belgian delegation had voted against the joint draft resolution.

Mr. PIGNON (France) referred to various statements he had made at previous meetings which explained why he had voted against the joint draft resolution. Although he was in sympathy with the United States amendment he had voted against it because the majority of the Special Committee had supported the retention of the words "in the provision of such information".

Mr. PEREZ CISNEROS (Cuba) said that he had intended to vote against the United States amendment as it intended to mix problems of sovereign independent territories with those of Non-Self-Governing Territories, but the questions with which the Special Committee was concerned in regard to the implementation of human rights were of such importance that he had changed his mind, and he had accordingly voted for the amendment hoping that in that way the vote might have been unanimous. His delegation recognized that the question of human rights was a universal problem, but felt that the protection of those rights in Non-Self-Governing Territories and in sovereign States were two distinct matters.

Mr. MATHIESON (United Kingdom) recalled the views he had already expressed on the question. His objections to the first four paragraphs of the joint draft resolution were more or less marginal and might have been removed, but he was very strongly opposed to the implication in the last paragraph that it was for the Special Committee to examine the extent to which human rights had been implemented and to make recommendations on its findings in that respect. The United Kingdom delegation therefore supported the views expressed by the Netherlands and New Zealand representatives.

Mr. PEACHEY (Australia) said that the reasons for which the Australian delegation had been unable to support the joint draft resolution had already been expressed by other representatives. Information on human rights should be submitted only in so far as it related to Article 73e and was necessary to supply the General Assembly with information on economic, social and educational conditions in the Non-Self-Governing Territories.

The Australian delegation had voted against General Assembly resolution 446 (V) and was accordingly unable to subscribe to the proposal put forward in the last paragraph of the joint draft resolution.

The procedure indicated in the fourth paragraph of the joint draft resolution, in which the Special Committee requested the Administering Members concerned to transmit the necessary information, seemed somewhat strange. Indeed, in his opinion, it was entirely incorrect. Any request for information from the Administering Authorities should be made by the General Assembly and not by the Special Committee. By adopting the resolution in those terms the Special Committee had exceeded its mandate and gone beyond the scope of General Assembly resolution 446 (V).

2. EXAMINATION OF FACTORS TO BE TAKEN INTO ACCOUNT IN DECIDING WHETHER ANY TERRITORY IS OR IS NOT A TERRITORY WHOSE PEOPLE HAVE NOT YET ATTAINED A FULL MEASURE OF SELF-GOVERNMENT (item 10 of the agenda) (A/AC.35/L.30).

The CHAIRMAN, speaking as Netherlands representative, said that the question of factors relating to the application of Chapter XI of the Charter was mainly one of the historical interpretation of that document, and he wished briefly to summarize the antecedents of Chapter XI in order to emphasize certain special points. That did not mean, however, that the Netherlands delegation considered the chronological summary in the document prepared by the Secretariat (A/AC.35/L.30) wrong or unfair.

The Dumbarton Oaks proposal, which had been accepted by the San Francisco Conference as a basis of discussion, had not contained any declaration regarding the Non-Self-Governing Territories because the "inviting Powers" (China, the United Kingdom, the United States of America, and the Soviet Union) had been unable to reach agreement on the matter.

The trusteeship system for dependent territories had been discussed at the Crimea Conference at Yalta. No particular territories had, however, been mentioned and only certain categories of territories had been indicated. It was clear that at San Francisco the intention to bring all colonial territories under

the trusteeship system had not prevailed. At that conference the United Kingdom delegation had submitted a proposal that States with responsibilities towards dependent territories should accept a sacred trust to promote to the utmost the well-being of the inhabitants of those territories, and particularly their economic and social progress, until they were capable of self-government. The Australian representative had submitted a proposal which had gone much further, suggesting that the trusteeship system should apply to all colonial territories.

The Netherlands representative had opposed the proposal to place all dependent territories under the trusteeship system for the reason that that was a retrograde step for those territories which had reached a considerable measure of self-government.

The United States delegation had later submitted to the San Francisco Conference a working paper which had been accepted as a basis of discussion. Reviewing that paper, he pointed out that it contained a general policy for the dependent territories and outlined a number of obligations to be assumed by the Administering Authorities. It emphasized that the policy of the Administering Authorities should be that of a good neighbour towards the territories under their administration, due account being taken of the interest and well-being of other Member States in social, economic and commercial matters. The Australian delegation had submitted an amendment to that working paper listing additional obligations and had proposed that the General Assembly should be entitled to specify territories in respect of which it would be the duty of the Administering Authorities to furnish annual reports upon their economic, social and political development. The Netherlands delegation had objected to that proposal as it would have opened the door for other Member States to interfere in the domestic affairs of the territories concerned, more especially in their political aspects.

After consultation, the five great Powers had submitted a new proposal which met the views of the Netherlands delegation half-way, but which contained certain dangerous provisions and made it possible for non-administering Member States to interfere in the domestic affairs of the Administering Authorities. On the proposal of the Netherlands representative, the obligation imposed on Administering

Authorities to co-operate with other Member States with a view to the promotion and development of the peoples concerned had been restricted to social, economic and educational conditions.

The Netherlands Government had maintained that attitude ever since, and when the Indian delegation to the second session of the General Assembly had sought an extended application of the trusteeship system to a larger number of territories, the Netherlands delegation, with certain others, had pointed out that it had not been the intention of the San Francisco Conference to place the Non-Self-Governing Territories under the trusteeship system.

The Netherlands delegation had voted against General Assembly resolution 334 (IV) in view of the history of Chapter XI of the Charter and of the wide difference between the competence conferred on the General Assembly by that Chapter and by Chapters XII and XIII.

His delegation considered that the General Assembly was not competent to express an opinion on the principles which had guided or which might in future guide the Member States concerned in enumerating the territories for which they were under obligation to transmit information under Article 73e of the Charter. The General Assembly's invitation to the Special Committee 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 a full measure of self-government was therefore ultra vires.

The terms of the operative part of General Assembly resolution 334 (IV) were contradictory. Paragraph 1 left to the Member States concerned the right to enumerate the territories for which the obligation existed to transmit information under Article 73e, while paragraph 2, by implication, obliged them to decide whether any territory was or was not self-governing by taking certain factors into account. In United Nations practice the term "enumerate" had a juridical meaning and could not be understood in its neutral, general meaning. That term recognised the right of an Administering Authority to decide for itself if any territory was non-self-governing. General Assembly resolution 66 (I) merely noted that information had been, or would be transmitted, on certain territories, and therefore that

it was for the Administering Authorities to decide which territories were non-self-governing. General Assembly resolution 222 (III) confirmed the system laid down in General Assembly resolution 66 (I).

It was a general rule of constitutional law that the authority entitled to enforce a decision or rule was entitled to withdraw such decision or rule, which meant that the Administering Authorities which had the right to "enumerate" Non-Self-Governing Territories, namely to decide that they were non-self-governing, also had the right to declare them self-governing.

The text of Article 73e of the Charter, which made a specific exception with regard to the obligation to transmit information for constitutional considerations, left no doubt that it was in fact for the Administering Authorities to decide whether a dependent territory was or was not non-self-governing. No State could accept an interpretation of its constitution by any other State or Assembly of States.

The Netherlands delegation had voted in favour of General Assembly resolution 222 (III) requesting Members to give their constitutional reasons for ceasing to transmit information in respect of any territory under their administration, in other words for the Administering Authority's decision that a dependent territory had become self-governing. The system of enumeration accepted by the General Assembly required the Administering Authorities in all good faith to give their reasons for ceasing to transmit information regarding Non-Self-Governing Territories, in fact for their decision that a territory must in future be considered self-governing.

His Government had in 1951 given those reasons in the case of the West Indian areas of the Kingdom of the Netherlands and was prepared to give any explanations required concerning constitutional facts, but would naturally reserve its right to interpret its own Constitution. The Netherlands Government would therefore find it constitutionally impossible to submit information on those parts of the Kingdom in the future.

Although his Government recognized the right of the United Nations to receive information as to the reasons why certain Administering Authorities considered a non-self-governing territory as a self-governing territory, it felt that it would be impossible for an Administering Authority to reach that decision according to any well defined factors or criteria. It was impossible to give a satisfactory definition of a self-governing territory or a Non-Self-Governing Territory.

The Netherlands delegation could not accept any of the definitions given in document A/AC.35/L.30, and thought that the one suggested by the Indian representative and appearing in paragraph 100 of that document, would, if adopted, completely ignore the opinion of the democratically composed government and legislative body of a former Non-Self-Governing Territory should it state that it had become self-governing.

The Netherlands Government was opposed as a matter of principle to the establishment of any criteria for self-government, and would therefore advise the Special Committee not to embark on that task. Should the Special Committee, and later the Fourth Committee and the General Assembly, adopt such criteria, the Netherlands Government would accept those criteria as indications but not as determining factors or binding rules.

Mr. INGLES (Philippines) drew attention to the terms of reference laid down in General Assembly resolution 334 (IV), namely that the Committee should examine the factors to be taken into account in deciding whether any territory was or was not a territory whose people had not yet attained a full measure of self-government. In view of such a directive, it was his opinion that it was not for the Special Committee to determine who should decide whether a particular territory was non-self-governing or not. The Philippines delegation had its own views on that question, but believed that a statement of those views was not warranted under the specific item before the Special Committee. If the Committee were to be inveigled into discussing that delicate question of authority it would not only be exceeding its terms of reference but would be likely to stray into fields outside its competence. Such action would simply lead to fruitless discussion and a waste of the Committee's time. It was immaterial for the purposes

of the present discussion whether it was for the Administering Authority, the General Assembly or both, or even for some other body, to deal with the factors which the Special Committee was called upon to study and recommend for consideration.

The Philippines delegation sincerely hoped, therefore, that the members of the Special Committee, Administering and non-administering alike, would see their way conscientiously to discharge the purely technical task entrusted to them by the General Assembly. In fulfilling that task the Committee was merely assisting the General Assembly which had established it. It could not, therefore, question the competence of the General Assembly. That body had assumed the responsibility for expressing an opinion on the factors which had guided, or which might in the future guide, Member States concerned in enumerating the territories for which the obligation existed to transmit information under Article 73e of the Charter. The obligation on the part of certain Members to transmit information on certain territories, or the question of the cessation of the submission of such information, did not concern the Special Committee under General Assembly resolution 334 (IV). Such questions might well arise as a consequence of the complete or partial fulfilment of the requirements which the Special Committee would examine and recommend for consideration, but only if and when its recommendations were accepted.

The question which the Special Committee would have to decide was what factors should be taken into account in determining whether or not a territory was or was not one whose people had not yet attained a full measure of self-government. No Member State could question the propriety of that language or the intention of those who had drafted Article 73 of the Charter when they used that language. He wished to emphasize that the standard to be applied under the Charter was not merely "self-government" but a "full measure of self-government".

The background data compiled by the Secretariat (A/AC.35/L.30) would provide valuable material in assisting the Committee to establish the factors to be taken into account in deciding whether the peoples of any Territory had, or had not, yet attained a full measure of self-government.

He commended the statement made by the representative of India in the Fourth Committee of the General Assembly at its fourth session, and reproduced in paragraph 38 of the Secretariat's paper (A/AC.35/L.30), that once a territory had been entered on the list of Non-Self-Governing Territories, it retained that status until it met the necessary conditions for membership of the United Nations. He called attention to paragraph 45 where that view had been expressed in other terms by the United Kingdom representative in agreeing with the Cuban representative's remark that all the provisions of Article 73e remained in force until a particular Non-Self-Governing Territory became fully self-governing. Furthermore, the view of the United States Government, contained in paragraph 98, was similar, since it stated that Chapter XI would appear to apply to any territories administered by a Member of the United Nations which did not enjoy the same measure of self-government as a metropolitan area of that Member.

Clearly, therefore, independence was perhaps the most decisive factor to be taken into account in judging whether a full measure of self-government had been attained. Cases, however, might arise where a territory might have attained a full measure of self-government but had not yet been given its independence. That would be the case where a territory fulfilled the requirements for membership of the United Nations, since non-independent States might, and indeed did, become Members of the United Nations and in cases where a territory enjoyed the same measure of self-government as the metropolitan country and yet was not independent. The Committee should exercise great care and circumspection in examining such cases, which might be termed as being in the "twilight zone"; it should avoid a situation whereby a territory the people of which had not yet attained a full measure of self-government might forfeit the protection and guarantees of the Charter without at the same time enjoying the privileges of an independent State or of membership in the United Nations. It was essential for the Committee to avoid that distressing possibility which, to say the least, would hardly be consistent with the paramountcy of the interests of inhabitants of the Non-Self-Governing Territories.

The exercise of sovereignty by the Administering Authorities over the territory was another factor to be taken into account. It was noteworthy that the Netherlands Government had, as was stated in paragraph 91 of the Secretariat's paper, explained to the Special Committee in 1948 that information had been transmitted on the whole of Indonesia because the territory was still under the sovereignty of the Netherlands. It might also occur, however, that although sovereignty did not reside in the Administering Authority, the Administering Authority might still be bound to transmit information under Chapter XI, for example where the territory had been leased to the Administering Authority, or where the Administering Authority had been given by treaty a protectorate over the territory. That situation would arise in virtue of the fact that the Administering Authority was, in such cases, actively charged with the administration of the territory or had assumed the responsibility for such administration. There could be no doubt that when sovereignty was effectively lodged in the peoples of a territory, that territory could no longer be regarded as non-self-governing. For those reasons, the factor of sovereignty was not decisive in determining whether or not a territory might be considered self-governing under Chapter XI of the Charter unless it was demonstrated to reside in the peoples of the territory.

A corollary factor to that of sovereignty was the power of the Administering Authority to enact legislation for the territory without consulting it. There, however, the Committee might be more interested in the actual exercise of that power than its theoretical existence. In that connexion, he called attention to the definition of Non-Self-Governing Territories proposed by the Indian Government and reproduced in paragraph 96. It was, he believed, important to ascertain whether or not the Non-Self-Governing Territory formed part of the metropolitan area of the Administering Authority, as stated in the Canadian Government's communication, reproduced in paragraph 93. His delegation agreed that the view expressed by the Egyptian Government in paragraph 94 that the fact that the peoples in any territory were of different language, race and culture from the peoples of the Power which ruled them should be taken into consideration as an important factor in deciding whether the territory formed part of the metropolitan area or not.

He would enumerate possible factors which, in his delegation's view, should be

taken into account in deciding whether any territory was or was not a territory whose people had not yet attained a full measure of self-government: first, whether the territory had become independent or had qualified for admission into the United Nations; secondly, whether sovereignty resided in the peoples of the metropolitan country or in the peoples of the territory; thirdly, whether the Administering Authority still had the power of enacting legislation affecting the territory without consulting that territory; fourthly, whether the territory enjoyed the same measure of self-government as the metropolitan country; fifthly, whether the territory enjoyed equality with comparable parts of the metropolitan country in the general policies of the metropolitan government; sixthly, the extent to which the internal government of the territory, the legislative, executive, administrative and judicial organs, was under the control of the peoples of the territory; seventhly, whether the territory was geographically apart from the metropolitan country or whether it formed an integral geographical part of the metropolitan country; and eighthly, the extent to which the peoples of the territory had a race, language and culture distinct from the peoples of the metropolitan country.

Mr. PHARAONY (Egypt) said that the factors to be taken into account in the implementation of Chapter XI of the Charter had given rise to many divergent and even contradictory views. The opinion had even been expressed that such a decision fell within the sole competence of the Administering Authorities themselves. Clearly such a contention was quite unjustifiable, and the views of the Egyptian delegation on that subject had remained unchanged. Such a concept of the situation might have been possible before the United Nations Charter had come into being, but could in no circumstances be considered valid under the provisions of the Charter, which laid down that the relationships between Non-Self-Governing Territories and the Administering Authorities were no longer the sole concern of both parties, but were also the responsibility of the international community by virtue of Chapter XI and, in particular, of article 73e. Consequently, the United Nations could not disregard the situation of a particular territory on the sole ground that the Administering Authority had ceased to transmit information with regard to that territory.

The General Assembly had, indeed, supported that view by adopting, on the proposal of the Egyptian delegation, resolution 334 (IV) which stated in paragraph 1 that it was within the General Assembly's responsibility to express its opinion on the principles which had guided, or which might in future guide, the Members concerned in enumerating the territories for which the obligation existed to transmit information under Article 73e of the Charter. Thus, any changes which took place in the enumeration of the Non-Self-Governing Territories would have to be made in accordance with principles on which the General Assembly had the right to express its opinion.

He also called attention to paragraph 2 of that resolution which invited the Special Committee to examine the factors to be taken into account in deciding whether any territory had attained a full measure of self-government. Hitherto, agreement had not been reached on an exact definition of the term "Non-Self-Governing Territory". His delegation believed that, in view of the fact that Chapter XI of the Charter was intended to ensure the protection and encourage the progress of native populations, the predominant factor should be the state of dependency of one people on another with which it had no natural ties. Thus, extra-metropolitan territories whose peoples were of a different language, race and culture from those of the Administering Authorities should be considered as Non-Self-Governing Territories.

Another criterion which it might be useful to take into account would be the existence in a particular territory of native administrative authorities and representative legislative bodies with the power of freely enacting legislation in the various spheres, fiscal, economic, social, financial etc. A territory which did not have such public institutions should be considered as non-self-governing.

Mr. RYCKMANS (Belgium), referring to the various factors listed by the Philippines representative, stressed the difficulties which would arise in defining which territories were "geographically apart" from the metropolitan country.

He recalled the terms of paragraph 1 of resolution 334 (IV) and pointed out that it was the responsibility of the Members concerned to transmit information to the General Assembly and that the General Assembly itself could express an opinion

thereon. The Administering Authorities were free to decide which Territories they wished to include in the list for which the obligation existed to transmit information, and they were consequently free to modify that list, either by increasing or by decreasing the numbers of territories in it, as they thought it their duty to do so. He pointed out that the General Assembly had never in the past raised doubts as to whether it was appropriate for information to be transmitted on any particular territory. He believed therefore that the view expressed by the Egyptian representative in that connexion was not legally valid. Furthermore, he pointed to the difficulties involved in attempting to arrive at a definition of the factors to be taken into account.

Mr. PANT (India) believed that the task of the Special Committee was clear. It was not concerned with deciding whose was the responsibility, the General Assembly's or the Administering Authorities', for determining whether any territory was or was not one whose people had not yet attained a full measure of self-government, but was merely required to give guidance as to the factors to be taken into account in making such a decision.

He suggested that, as the question would call for consideration in some detail, a sub-committee should be appointed to make a list of the factors, in which it might have the help of a working paper to be prepared by the Secretariat, and to report to the Special Committee. Such a procedure would considerably expedite the Committee's work.

He emphasized the fact that during the past few years the entire concept of the relationship between what might be termed the rulers and the ruled had been undergoing a fundamental change and that human considerations were coming to the fore. From the point of view of goodwill, it was unfortunate that certain territories previously included among those for which information had been transmitted had disappeared from the list. The selection of the factors was, of course, a delicate task, but the Committee must tackle it with moral courage so that the purposes of the Charter might be achieved.

Mr. RYCKMANS (Belgium) called the Indian representative's attention to the fact that resolution 334 (IV) had specifically referred to principles which had

guided or which might in future guide the Members concerned. It was therefore inaccurate to say that it was outside the Special Committee's competence to specify for whose guidance the factors were being established since the General Assembly itself had, under the terms of that resolution, stated that it was for the benefit of the administering authorities.

Mr. PANT (India) agreed that the Belgian representative's reference to the resolution was correct, but pointed out that a certain latitude was implicit in the words "may in future guide".

Mr. MATHIESON (United Kingdom) stated that the United Kingdom Government had no fixed views with regard to the definition of factors, but believed it to be impossible to draw up a list of factors which would necessarily apply in every particular case. Statements made by previous speakers had shown that that was not the task enjoined by the General Assembly resolution.

He agreed with the Philippines and Indian representatives that the Committee was required to draw up a list of factors, if that proved feasible, and not to consider which was the appropriate body to take a decision on the basis of such factors. The Committee was clearly concerned with the operative paragraph, paragraph 2, of the resolution. He would comment at a later stage on the interes list of factors suggested by the Philippines representative. He emphasized that not all the factors that had been put forward were applicable to all cases. For instance, the Egyptian Government had expressed the view, (paragraph 94 of document A/AC.35/L.30) that territories in which the peoples were of different language, race and culture from the peoples of the Power which ruled them should be considered as non-self-governing; but those considerations would not apply to a territory such as the Falkland Islands which would not under those conditions qualify as a Non-Self-Governing Territory.

He supported the Indian representative's suggestion for a sub-committee to prepare a report on the various factors. Such a sub-committee should be appointed at a later stage when members of the Committee had explained their views in more detail, and the list should specify which factors should be included among those to be taken into account.

Mr. ZIAUD-DIN (Pakistan) emphasized the difficulties which would necessarily arise in attempting to define the words "Non-Self-Governing Territories". It was, however, clearly the Committee's duty to establish a list of factors in compliance with the General Assembly's request; it might be desirable that each delegation should submit to the sub-committee a list of those factors which it considered essential and that the sub-committee should make up a list of factors and eliminate those to which its members could not agree.

Mr. PEREZ CISNEROS (Cuba) said that his delegation attached great importance to the question under consideration. It was an instance of a type of difficulty which often arose in the United Nations owing to what might be termed the dual nature of the Charter since, on the one hand, Members were called upon to cede part of their national sovereignty for the common good, and, on the other, that provision would seem to be contradicted in some measure by the terms of Article 2, paragraph 7. Chapter XI, which dealt with the Non-Self-Governing Territories, was a case in point, since some of the Administering Authorities, sheltering behind the provisions of Article 2, paragraph 7, had not fully met their obligations under that Chapter.

The Cuban delegation fully appreciated the difficulty of defining the term "Non-Self-Governing Territories" and in 1946, in view of that fact, had opposed the finding of a solution, fearing that, if no satisfactory agreement were reached, the Administering Authorities might have doubts as to on how many of their territories they should transmit information under Article 73e. As, however, certain cases had arisen subsequently in which some territories had been omitted from the list of those for which information was transmitted without any valid explanation being offered, his delegation had modified its attitude and was now prepared to support the suggestion that the factors to be taken into account should be defined, since that appeared to be a constructive and necessary measure.

He welcomed the exemplary gesture of the Netherlands Government in providing legal documentation on the subject; his delegation would study that material with great interest. He believed it to be outside the Committee's competence to prepare a draft resolution in connexion with the Netherlands Government's communication (A/AC.35/L.55), since the General Assembly had asked only for

theoretical technical aid from the Special Committee and not for action on individ instances. Work by the Committee on those lines would assist the General Assembly in studying documentation such as that to which he had referred.

With regard to the important point raised by the representatives of India and the United Kingdom as to which body was responsible for deciding whether a territo was or was not self-governing, his delegation felt that there could be no doubt th in virtue of the contractual nature of the declaration contained in Chapter XI, an agreement must be reached between the Administering Authorities and the General Assembly before any change was made in the list of Non-Self-Governing Territories. In paragraph 1 of the operative part of its resolution 334 (IV), the General Assembly had somewhat attenuated the force of Article 2, paragraph 7, of the Charter, since it stated in the resolution that it was the responsibility of the General Assembly to express an opinion on the principles guiding the Members concerned in enumerating territories. Thus, the possibility existed for intervention by the General Assembly at a later stage.

In view of the fact that paragraph 2 of the resolution requested the Special Committee to examine the factors to be taken into account in deciding whether or not a territory was self-governing, his delegation would support the proposal made by the Indian representative for the appointment of a sub-committee. The points raised by the Philippines representative would be of value to the sub-committee, and it would be most useful if the Secretariat could prepare a summary of the views that had been expressed. He agreed, however, that the theoretical question as to which body was in the last analysis responsible for taking the decision should not be raised in the Special Committee, the General Assembly having clearly stated the way in which it interpreted the Charter on that point.

Mr. LANNUNG (Denmark) congratulated the Secretariat on the valuable document it had placed before the Committee (A/AC.35/L.30). He would, however, draw attention to the pamphlet entitled the Idea of the Sacred Trust of Civilization with regard to the Rights of the Less Developed Peoples written by Professor Langenhove, which had been published too late for mention of it to be made in the Secretariat's paper. To place the problem under consideration in its full

perspective it might be advisable to supplement the Secretariat's paper by giving some idea of the contents of that pamphlet and of the material to which it referred, and to do so in the view of some Members, as early as possible and at least before the next meeting of the Fourth Committee of the General Assembly.

In the opinion of the Danish Government, it was not practical to attempt a definition of the term "Non-Self-Governing" in any manner other than had been done in Article 73 of the Charter. The Committee might spend many weeks and not succeed in working out a satisfactory definition. Moreover, even supposing such a definition to be possible, and if by virtue of it, it appeared to follow that the number of Administering Authorities should be increased, he doubted whether further information would be forthcoming.

As to whether the determination of the status of a territory was within the sole competence of an Administering Authority, he preferred to leave that question open; in principle he could support the views expressed by the Netherlands delegation. He also noted that Mr. Kelsen had concluded that "the Assembly left it to the Members to determine which territories fell within the category of non-self-governing territories" (The Law of the United Nations, p. 557). He further considered that all that the Committee could do was to try to work out and agree upon a list of factors that could be taken into account in deciding whether any territory was or was not one whose people had not yet obtained a full measure of self-government, it being understood that such a list would constitute only a guide and not rules or decisive tests for individual cases. All aspects of the problem must, of course, be taken into consideration, that was to say, such questions as the achievement of self-government or of independence or incorporation on an equal footing with the metropolitan country.

Finally, he supported the view that, should the Committee so decide, immediately the general discussion was over, a sub-committee should be set up to draft a list of possible factors. It should be small, composed perhaps of no more than six members.

Mr. ROCQUE da MOTTA (Brazil) in principle supported the general observations of the Cuban representative, and agreed that a sub-committee should be set up.

Mr. GERIG (United States of America) said that the United States delegation believed that the Committee would not wish to keep any Non-Self-Governing Territory in that position for any longer than was absolutely necessary or to put obstacles in the way of recognizing a Non-Self-Governing Territory as a self-governing one, particularly when a territory felt that it was ready to manage its own affairs, by any lack of care in laying down the factors relating to the application of Chapter XI of the Charter, which clearly distinguished between self-government and independence. Self-government was a condition in which the people of a territory were in control of its internal situation, where, in fact, they had their own legislative, judicial and administrative organs. Independence, on the other hand, was only one of the possible outcomes, as history had shown. Some countries had chosen complete independence; others had preferred integration in one form or another with another country, whether geographically contiguous or not, while still others had favoured a loose association such as that called "commonwealth status". Whatever the choice, the key idea was that at some point there should be freedom to choose, and even that had been found very difficult in practice, as had been clearly brought out in certain cases brought to the attention of the Fourth Committee, and of the General Assembly, at which time doubt had been expressed as to who were the people who should make the choice and as to their ability to do so. As to the authority with which the final decision rested, his Government had always held that each Administering Authority had the right to determine the constitutional position and the status of any particular territory under its sovereignty.

All those considerations should lead the Committee to be cautious in its approach to the question of defining Non-Self-Governing Territories. In fact, his delegation had come to the tentative conclusion that it would be very difficult, if not impossible, to obtain an all-inclusive definition applicable to all cases. Document A/AC.35/L.30 made it clear that any attempt to achieve a definition that would satisfy everyone was out of the question.

The Committee's terms of reference provided that it should merely draw up a list of factors. That he considered it possible to do; and he supported the proposal that a sub-committee should be set up to that end. He also put forward for consideration the following list of possible factors, which he did not regard as in any way exhaustive: first, whether the inhabitants of a territory were represented in the metropolitan parliament on the same basis as the inhabitants of the metropolitan country; secondly, whether incorporation of the territory within the metropolitan area assured to its inhabitants rights and privileges equal to those enjoyed by the inhabitants of other component parts of the metropolitan country; thirdly, whether the territorial legislature was elected locally; fourthly, an important point which should certainly be included in the list, what were the respective powers of the metropolitan and local legislatures; fifthly, whether the governor or chief executive of the territory was appointed by the metropolitan country or elected by the inhabitants; sixthly, whether the ministers or heads of departments were inhabitants of the territory and whether they were appointed by the metropolitan country, chosen by the governor, chosen by a majority party in the territorial legislature or elected by the people - that raised the further question of free elections and the various criteria relating thereto, for instance, whether the elections were really free in the territory and whether the people in any territory were self-governing if they had no right of choice except on a given list; seventhly, the extent of the governor's veto, reserved powers, etc; eighthly, whether there was universal adult suffrage in the territory; and, lastly, whether the inhabitants possessed metropolitan citizenship. Those and other factors suggested by other members should be considered by the sub-committee for inclusion in the list. He would only urge that the list should not be made so long and so exhaustive as practically to preclude the acquisition of self-governing status.

Mr. PHARAONY (Egypt) supported the Indian proposal that a drafting sub-committee should be set up to compile a list of the factors that should be taken into account. He would only add that, when he had previously spoken of the General Assembly expressing its opinion on the principles that should be taken as a guide, he had had in mind the first operative paragraph of General Assembly

resolution 334 (IV). The Committee was not now directly concerned with that paragraph but with determining the factors referred to in the second operative paragraph of that resolution.

Mr. PIGNON (France) supported the remarks made by the United States representative which, to all intents and purposes, reflected the position of his delegation, which desired to collaborate in the task of determining the factors that should be taken into account; but it also felt obliged to state that any such list of factors could only be regarded as being by way of a guide to the Administering Authorities.

Mr. PEREZ CISNEROS (Cuba) made the following suggestions with regard to possible factors: firstly, the manner in which taxation was approved; secondly, the manner in which the budget was approved; thirdly, the question of military service; fourthly, the conditions necessary for becoming an elector; fifthly the machinery for participation by the people of a territory in the international policy of the metropolitan country; sixthly, the number and organization of the judiciary.

The CHAIRMAN declared the general discussion closed. As to the proposed sub-committee, the Committee would no doubt wish, as usual, that it should be balanced as between representatives of Administering Authorities and other countries.

Mr. SOLDATOV (Union of Soviet Socialist Republics) said that the Soviet Union delegation objected in principle to the inclusion in any auxiliary bodies of members representing Administering Authorities and requested that if any of those members were proposed as members of the sub-committee a vote should be taken on the composition of the sub-committee as a whole.

The CHAIRMAN proposed that the members of the Sub-Committee should be the representatives of Cuba, Denmark, France, India, the Philippines and the United Kingdom.

Mr. PIGNON (France) proposed the representative of Belgium in place of the French representative.

Mr. LANNUNG (Denmark) proposed that the representative of Egypt be elected as a member of the sub-committee.

Mr. PANT (India) proposed that the representative of Egypt should replace the Indian representative.

The CHAIRMAN put to the vote the establishment of the sub-committee with the following membership: Belgium, Cuba, Denmark, Egypt, the Philippines and the United Kingdom.

The establishment of a sub-committee, so composed, was approved by 12 votes to none, with 4 abstentions.

Mr. SOLDATOV (Union of Soviet Socialist Republics) said, in explanation of his vote that, as the sub-committee included representatives of Administering Authorities, he had not been able to vote in favour of it.

3. PROGRAMME OF WORK

After some discussion, it was agreed that the Drafting Sub-Committee just set up should meet morning and afternoon on the following day and also on the morning of 24 October, if necessary, and that the Committee itself would resume its consideration of item 10 of the agenda and follow up with a discussion on item 11 on the afternoon of 24 October.

The meeting rose at 5.30 p.m.