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CONTENTS

Chairman: **Mr. Santiago PEREZ PEREZ (Venezuela).**

Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government: report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) (A/2428, A/C.4/L.272, A/C.4/L.273, A/C.4/L.274) *(continued)*

[Item 33]*

1. Mr. MENDOZA (Guatemala) wished to reply to the points raised by the Belgian representative at the 326th meeting. He recalled that when the Belgian argument had been advanced at the seventh session of the General Assembly, it had been conceded that Guatemala had no responsibility whatever under Chapter XI of the Charter. Nevertheless, he felt that some reply should be made to an ingenious thesis which was tending to distract the Committee from its true objective.

2. In point of fact, the Belgian argument had been dealt with at San Francisco. The question had come up during the discussion of the classification of dependent territories and it had been made quite clear that the "peoples not yet able to stand by themselves under the strenuous conditions of the modern world", referred to in a first draft of what had become Article 73 of the Charter, were not peoples within the metropolitan frontiers of any State. He read extracts from the background document prepared by the Secretariat on the definition of the concept of a full measure of self-government (A/AC.67/L.1), which quoted from the records of the meetings at San Francisco at which the declaration regarding the Non-Self-Governing Territories had been discussed, showing that the question had been raised and settled. The drafting sub-committee which had prepared that portion of the Charter had undoubtedly borne those discussions in mind in preparing the final version of Article 73. The Belgian representative's contention that the phrase "territories whose peoples have not yet attained a full measure of self-government" could apply to territories forming part of the metropolitan area was thus disproved by reference to the expressed intentions of the authors of the Charter.

3. Sir Douglas COPLAND (Australia) said that the Brazilian draft resolution (A/C.4/L.272) was an attempt to steer a course between the two conflicting points of view that had emerged in the Committee and, as such, deserved attention. It should not be forgotten that the Administering Members had freely dedicated themselves to the advancement of the peoples of the Non-Self-Governing Territories and as freely undertaken to transmit information on economic, social and educational conditions in those territories to the General Assembly. Australia was a country which had itself experienced the rise from dependent status to a full measure of self-government and was thus able to realize that the problem was extremely complicated and that no definite rules could be formulated. He urged the Committee to consider the Brazilian resolution in the light of the difficulty that had been encountered in defining a full measure of self-government, and suggested that it should give up its attempt to find a legal definition. The Australian delegation would consider the resolution, not as a definitive legal interpretation of self-government, but rather as a framework within which it could discharge its responsibilities towards the Non-Self-Governing Territory for which it was responsible.

4. The most serious objection to the list of factors in the report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories), contained in document A/2428, was that it regarded independence as a criterion of a full measure of self-government. The Australian delegation felt that independent status was irrelevant to the question of self-government. Independence was an external attribute, whereas self-government was an internal attribute, the achievement of which was normally followed by external independence. However, a territory could be self-governing without being independent, just as it could be independent without being self-governing. The report also admitted that the *Ad Hoc* Committee had been unable to define a full measure of self-government. In considering the Brazilian draft resolution, therefore, the Committee should take care not to appear to be agreeing on a point on which there was in fact fundamental disagreement. Lastly, the report made it quite clear that the list of factors could be regarded only as a guide and not as a series of hard and fast rules.

5. Paragraphs 1 and 2 of the operative part of the Brazilian draft resolution took note of the conclusions of the report of the *Ad Hoc* Committee and approved the list of factors contained in the report. The Australian delegation found it difficult to accept paragraph 2 because it felt that it was unnecessary to approve the list when paragraph 1 merely took note of the report's conclusions.

6. Paragraph 6 of the operative part of the draft resolution seemed to assume that the attainment of self-government was a definitive act. The Australian delegation felt that self-government was, in fact, reached in stages and in varying forms. Since the *Ad Hoc* Com-

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

mittee had been unable to define a "full measure of self-government" the Australian delegation could not agree to paragraph 6. Those Member States which had declared themselves to be responsible for certain Non-Self-Governing Territories had undertaken to submit information on economic, social and educational conditions in those territories. The Committee on Information from Non-Self-Governing Territoies was fully entitled to consider whether the information that was submitted was adequate and relevant. However, if the Committee on Information were to say that an Administering Member must continue to send in such information, despite its agreement with a Non-Self-Governing Territory, on all matters on which information was to be submitted, that would be tantamount to asking the said Power to abrogate the self-government that had been agreed on. If a territory had full control over economic, social and educational matters within its boundaries, it would be entitled to insist that the administering Power had no right to continue to report to the General Assembly upon them. If the General Assembly were to require the continuation of such reports, it would not be promoting self-government in the Non-Self-Governing Territories or helping the Administering Members to discharge their obligations.

7. Operative paragraphs 7 and 8 were over-specific. The question of factors had been examined over and over again; if, in the light of experience, the list was found to be inadequate, an arrangement could be made to revise it at the end of five years or so.

8. Unfortunately, the Brazilian draft resolution had been the subject of a series of drastic amendments submitted jointly by a number of delegations (A/C.4/L.273). As amended, the resolution would take up a position diametrically opposed to that which the Administering Members were charged with defending. He urged the Committee to try to reach some reasonable compromise on the issue, lest the General Assembly should adopt a resolution that would be unenforceable.

9. Mr. FRAZAO (Brazil) would reaffirm that the Brazilian delegation maintained, as it had done in the past, that the final competence for taking a decision concerning the cessation of the transmission of information from a Non-Self-Governing Territory rested with the General Assembly.

10. In his delegation's view, the Charter should not be regarded as a multilateral agreement establishing certain legal obligations. At the time of its signature it had been a contract, but it was one no longer. It was an organic act establishing the competence of the United Nations with regard to the Non-Self-Governing Territories. The United Nations had assumed some of the competence of the contracting parties. Its purposes were more than the sum of the purposes of the contracting parties. That conception of an institution was familiar to those countries where the principles of the *Code Napoléon* had been adopted. His statement on the institutional jurisdiction of the United Nations over the Non-Self-Governing Territories was based on that conception.

11. The amendments contained in document A/C.4/L.273 were not in his opinion amendments in the proper sense of the term. Nevertheless he was able to agree to the new paragraph proposed in amendment 1.

12. He could not, however, agree to the proposal in amendment 2, to the effect that the fourth paragraph of the preamble of the Brazilian draft resolution should be deleted, because he did not consider that the right of peoples to self-determination could be treated as a factor or given an interpretation in one case which might differ from that given in other cases. The right of peoples to self-determination must be re-established as a postulate.

13. Nor could he agree to amendment 5, which merely reintroduced the previously existing confusion between general principles and specific circumstances.

14. He had no objection to amendment 3; indeed he felt it would improve the Brazilian text.

15. With reference to amendment 4, the Brazilian delegation agreed with the terms of paragraph 2 of General Assembly resolution 648 (VII), i.e., that each concrete case should be considered and decided in the light of the particular circumstances of that case. With regard to the question of competence, there could be no doubt that the meaning of paragraph 3 of the Brazilian draft resolution was that the General Assembly was competent to decide whether a territory was or was no longer within the scope of Article XI. The conclusion was clear, but it had been thought preferable not to state it categorically in order to avoid friction, in view of the conflicting opinions on the subject that existed within the Committee. General Assembly resolution 222 (III) stated that it was essential for the United Nations to be informed of any change that might take place in the constitutional status of any Non-Self-Governing Territory. That was in order that a decision might be reached whether or not information should continue to be transmitted in relation to that territory. Clearly the obligation rested on the Administering Member and the decision would be made by the General Assembly. The members of the Fourth Committee should approach the question in the light of the general principles involved rather than attempt to gain debating points. The Brazilian delegation did not object in principle to the proposed addition of the words "by the General Assembly" in paragraph 3, although it thought it unnecessary. The wording it had proposed said the same thing without offending the administering States.

16. With regard to amendment 6, which proposed new paragraphs 5 and 6, he felt that the Brazilian text said the same thing better and in more general terms. Proof of the wishes of the people was required not only in cases of association but in all cases, including integration in the metropolitan territory. Paragraph 4 of the Brazilian draft resolution already recommended that paramount consideration should be given to evidence indicating that the people concerned had exercised its right to self-determination. The attempt in the amendment to emphasize the principle of the right of peoples to self-determination in special cases tended to weaken its general applicability as a fundamental consideration in all cases. The new paragraph 6 proposed in the amendment tended to compress too many ideas in a single paragraph. It was somewhat illogical to approve the list of factors but at the same time to imply that the three forms of self-government were not equally valid. The Brazilian delegation agreed that the aim of political evolution in the Non-Self-Governing Territories should be complete independence and membership in the United Nations, but Chapter XI of the Charter did contain the notion of domestic self-government, a type of internal political sovereignty that was not yet independence. Chapter XI might be interpreted as justifying the cessation of the transmission of information after a people had freely chosen a system of integration or association which would give it full freedom to decide its domestic affairs while at the same time leaving the attributes of external sovereignty to be exercised by

another State. The proposed new paragraph 6 thus reopened a point which the *Ad Hoc* Committee had already settled.

17. Amendments 7 and 8 of document A/C.4/L.273 improved the Brazilian text and were therefore acceptable.

18. He did not, however, understand the proposal in amendment 9, to the effect that that part of paragraph 7 of the Brazilian draft resolution following "the cessation of information" should be deleted. If a desire for brevity had inspired the proposal, he would accept it, but not if the intention was to discard the provisions of paragraph 2 of resolution 448 (V). The Brazilian delegation felt that the Committee on Information had a great part to play in the advancement of the Non-Self-Governing Territories, and that no attempt should be made to detract from the importance of that part.

19. He felt that the wording of the final paragraph proposed in amendment 10 tended to question the quality of the list of factors in advance, and he preferred the original final paragraph 8 of the Brazilian draft amendment.

20. He urged the Administering Members to accept the Brazilian text in the light of his explanations. He hoped that they would show sufficient goodwill to meet the other members of the Committee half way, and perhaps to inaugurate a new stage in the relations of the administering and non-administering Powers.

21. Mr. KUCHKAROV (Union of Soviet Socialist Republics) said that while his delegation was in general agreement with the first part of the list of factors approved by the *Ad Hoc* Committee, the second and third parts of the list were completely unsatisfactory and unacceptable since they did not envisage the ultimate attainment by the Non-Self-Governing Territories of the status of independent and sovereign States and permitted the limitation of sovereignty and outside intervention in the internal affairs of the Territories concerned. He was therefore unable to accept the fourth paragraph of the preamble to the Brazilian draft resolution. He would vote against any parts of the draft resolution implying the Committee's approval of the list of factors as a whole, but in favour of paragraphs 1, 4, 5, 6 and 8. He asked for a vote paragraph by paragraph.

22. Mr. SPITS (Netherlands) had no objections, in general, to the operative part of the proposal in so far as it instructed the Committee on Information from Non-Self-Governing Territories to use the list of factors as a guide in studying specific cases. When an Administering Member ceased to transmit information, it was logical, if only as a gesture of courtesy, that it should inform the General Assembly of the reasons for its action. It was logical, too, that the Committee on Information should study those reasons. Nevertheless, that did not imply that the General Assembly was competent to approve or disapprove the cessation of the transmission of information. Several representatives had based their argument that the Assembly was competent on Chapter XI of the Charter, contending that it was in the nature of an international agreement. He was prepared to some extent to agree with the latter contention, provided that it was recognized that Chapter XI had been included in the form of a declaration. Since Chapter XI was admittedly vague, the Committee would do better to resolve its doubts on the basis of practice. In 1946, the Administering Members had enumerated the territories on which they were prepared to transmit information and, in resolution 66 (I), the General Assembly had taken note of—not approved—that list of territories. It was difficult, therefore, to see why the Assembly's approval should be required in the case of the cessation of the transmission of information. Therein lay his delegation's main objection to the draft resolution. Paragraph 6, moreover, was vague and ambiguous. Hence, although his delegation appreciated the goodwill shown by the Brazilian delegation, he would be compelled to vote against the draft resolution and, guided by the same principles, against the eleven-Power amendments.

23. Mr. SCOTT (New Zealand) doubted whether the action proposed to the General Assembly was realistic. His delegation's position had been stated on many earlier occasions and he had not felt it necessary to intervene in the general debate. He had hoped that the Committee would be prepared merely to adopt the list of factors and recognize the difficulty of defining such terms as "Non-Self-Governing Territories" and "a full measure of self-government". The lack of effective definitions of those terms would continue to be a source of disagreement between the administering and the non-administering Powers and it would be wiser not to press the issue as far as the draft resolution and, more particularly, the amendments did. It was certainly not in the interests of the non-self-governing peoples to perpetuate the disagreement between the Administering Members and the other Member States. That was the reason why his delegation had not replied to the Secretary-General's request for observations on the list of factors.

24. On the main issue of the General Assembly's competence, his delegation's position was very clear. Each Member State alone was competent to decide whether the territories under its sovereignty or jurisdiction fell within the scope of Chapter XI and, similarly, when such territories had reached a stage of development at which its obligations under Article 73 e no longer applied. He would therefore vote against any paragraph implying that the responsibility for such a decision might be shared between the Administering Members and the General Assembly.

25. Mrs. SKOTTSBERG-AHMAN (Sweden) announced that her delegation was prepared to accept the list of factors as it stood and to support the Brazilian draft resolution in so far as it approved that list as a guide. Her delegation had always insisted that the list should not be more than a guide and that each concrete case should be judged on its own merits. That idea was contained in paragraph 3. Paragraph 6, however, somewhat inconsistently attempted to lay down a rigid rule which would leave no lee-way for taking into account the circumstances pertinent to each particular situation. Furthermore, it was generally admitted that it was impossible to define the term "a full measure of self-government" for the purposes of Chapter XI, and it was therefore of doubtful value to make the attainment of that indefinable status a prerequisite for a Territory to be deemed self-governing in economic, social or educational affairs. Her delegation would therefore vote against paragraph 6 and, if it was retained, it would abstain from voting on the draft resolution as a whole.

26. The eleven-Power amendments stressed the competence of the General Assembly almost to the exclusion of the administering Powers. That issue was one of the main dividing lines in the Committee, and it would be most unwise to widen and perpetuate the gulf between the Administering and non-administering Mem-

bers. No useful purpose would be served by adopting categorical statements in the certain knowledge that they would not be accepted by the Administering Members, whose co-operation was essential. Her delegation would therefore vote against the amendments. If they were accepted, it would be compelled to vote against the draft resolution as a whole.

27. Mr. PATTERSON (Canada) said that his delegation fully appreciated the work of the *Ad Hoc* Committee and had no objection in principle to the study of a list of factors, nor to the list itself, which might have a useful bearing on some of the questions pertaining to the work of the Committee and of the Trusteeship Council and be of service to the administering Powers. To that extent, paragraphs 1 and 2 of the Brazilian draft resolution were acceptable.

28. For the reasons which the Canadian representative had outlined in the Fourth Committee (273rd meeting) at the seventh session, he was compelled to take exception to the principles in paragraph 6 and to those implied in paragraphs 3 and 7. The principle contained in paragraph 6 could hardly be accepted by the representatives of a country such as Canada, which had at one stage in its constitutional evolution enjoyed complete autonomy in economic, social and educational affairs, although it had not at the time attained a full measure of self-government. With regard to the wording of paragraphs 3 and 7, the Canadian delegation could not agree that the United Nations alone was entitled to determine whether or not a territory had ceased to be non-self-governing or that every Administering Member should continue to transmit information until the provisions of Chapter XI had been fulfilled. The Non-Self-Governing Territories would normally advance towards self-government by stages and, at a given moment, they would reach a stage at which the Administering Members no longer exercised effective and practical control over the fields in which information was to be submitted. In such cases their obligation to transmit information would logically end, although that would not imply that they no longer had the obligation, under Chapter XI, to promote a full measure of self-government in the territory concerned.

29. His delegation was grateful to the Brazilian delegation for its effort at compromise and for the fact that the Brazilian draft resolution did not call for a continuing study of factors by a special committee; it seriously doubted whether any further study would result in a more satisfactory solution. Nevertheless, the objections he had outlined concerned such fundamental issues that his delegation could not support the Brazilian draft resolution as it stood. Subject to those observations, it was prepared to approve the list of factors contained in the *Ad Hoc* Committee's report on the understanding that it was to be used exclusively as a guide and that it was not meant to be a rigid pattern to be automatically applied by the General Assembly to all Non-Self-Governing Territories. His delegation would oppose the eleven-Power amendments and any subsequent amendment to the Brazilian proposal which ran counter to the basic principles by which it was guided.

30. Mr. NAJAR (Israel) felt that the mandate of the United Nations as expressed throughout the Charter and the corresponding terms of reference conferred on the General Assembly by Article 10 were sufficiently broad to obviate the need for any discussion of the Assembly's competence in the Committee. There seemed to be a general tendency to confuse the Assembly's competence and its powers. Obviously the Assembly received information under Article 73 e and documents on the cessation of the transmission of information so that it could express an opinion thereon. Its competence to vote resolutions, therefore, was not at issue, but its powers and rights to have them implemented in fact.

31. During the general debate, he had expressed his delegation's preference for examining each case of the cessation of the transmission of information on its own merits. Generally speaking, if the Assembly wished to preserve its effectiveness and prestige, its recommendations must be realistic. The adoption of doctrinal resolutions might well bring the Assembly into conflict with reality.

32. In the case under discussion, the Administering Members felt that the power to decide whether or not to continue transmitting information rested exclusively with them. Were the General Assembly to assert in a solemn and doctrinal resolution that, on the contrary, such power rested exclusively with the Assembly, it might well find that the constitutional development of the Non-Self-Governing Territories ran counter to its resolutions. That would be most unfortunate. The General Assembly should hesitate before embarking on such open conflicts and administering and non-administering Powers would be well advised to heed the old diplomatic motto, *"Toujours négocier"*.

33. His delegation would have preferred merely to adopt the list of factors and to postpone any decision on the theoretical points of principle raised in the Brazilian draft resolution until the Committee had had a chance to apply the factors to the two concrete cases of the cessation of information that it would shortly be considering. Although he questioned the advisability of affirming the competence of the General Assembly as a principle, rather than in relation to concrete cases, his delegation would support the draft resolution on that issue, but he reserved its position with regard to the definition of terms. Such a definition would be tantamount to interpreting the Charter and should not be done through a resolution, especially when several delegations had expressed the view that it would be wise to consult the International Court of Justice on the points.

34. Mr. MENDEZ (Philippines) said that it was clear from the discussion that the General Assembly was a necessary party to the cessation of the transmission of information. The information submitted under Article 73 e was clearly intended to help the Assembly to determine whether or not the situation in the Non-Self-Governing Territories was satisfactory in the light of the Charter. That implied the Assembly's right to decide when such information need no longer be submitted. There was nothing in Chapter XI to suggest that the Administering Members were entitled to act on a unilateral basis. Nevertheless consultation and agreement were preferable to arbitrary and unilateral actions, and paragraph 3 of the Brazilian draft resolution might be improved by inserting the words "in appropriate consultations" after the words "as a guide", and by replacing the words "a decision may be taken" by the words "agreement may be reached".

35. Mr. LANNUNG (Denmark) would not go into the merits of the proposed amendments, but would like to have some elucidation from their sponsors.

36. Amendment 3 apparently meant that the list of factors was accepted as it stood, or with some minor amendments; indeed it had already been agreed to by three of the sponsors—Guatemala, Iraq and Venezuela —which had been members of the *Ad Hoc* Committee on Factors. However, the new paragraph 6 which it was

proposed to insert seemed, if not actually in contradiction with amendment 3, at least illogical and inconsistent. He suggested that the words "although it is recognized that self-government can also be achieved" should be deleted and replaced by the word "or".

37. Mr. DJERDJA (Yugoslavia) said that the amendments to the list of factors (A/C.4/L.274), of which his delegation had been one of the sponsors, embodied the constructive suggestions made by different delegations during the debate on the report of the *Ad Hoc* Committee. They were based on the conviction that although the main work of drafting the list of factors had been accomplished, that list must be brought into harmony with the high responsibilities of the General Assembly and the spirit of the times.

38. Drafting a list of factors was not an abstract or theoretical activity. The chief aim of such a list, which must be made as useful and realistic as possible, was to help the United Nations in the protection it afforded to the Non-Self-Governing Territories. As he had already pointed out, the peoples of the Non-Self-Governing Territories placed great hopes in the United Nations. It must not disappoint those hopes or bring about a situation in which the people concerned would be compelled to follow another road and seek different solutions, with possible serious repercussions for world peace.

39. Some delegations would perhaps find the amendments unacceptable and irreconcilable with their views and interpretations of the Charter. Nevertheless, the Yugoslav delegation felt it to be its duty, today more than ever, to uphold the cause of the peoples of the Non-Self-Governing Territories, both for reasons of principle and for practical reasons, as long as the problem remained on the agenda. It would be very glad if the problem were to disappear from the agenda as a result of the attainment by those peoples of a status equal to that of the free peoples of the world, but since they had not yet attained such a status, the only possible course was to strive, within the framework of the Charter and in harmony with present necessities, to improve the conditions of the peoples of the Non-Self-Governing Territories and accelerate their progress towards a better future.

40. The Yugoslav delegation believed that the proposed amendments would make the list of factors clearer and more precise. Only one amendment was submitted to the first part of the list, which clarified the idea without altering the substance. The proposal to change the position of factors A.1 and A.2 in the second part of the list was due to the fact that many delegations had stressed that the opinion of the peoples of Non-Self-Governing Territories should be the basic factor. That concept justified the introduction of a new factor A.2—freedom of choice—since clearly the opinion of the population must be expressed in full freedom to choose between several possibilities, including independence.

41. From the same factor sprang the need to introduce, and to some extent reword, factor A.3, in view of the circumstances in which decisions were often taken regarding modifications in the status of Non-Self-Governing Territories.

42. The same observations applied also to the amendments submitted to the third part of the list of factors, which had been rendered somewhat more precise and complete. The freely expressed opinion of the population presupposed association on a basis of equality, and hence there should be no association on the basis of the constitution of the metropolitan country.

43. Mr. KHOMAN (Thailand) thought the list of factors could usefully serve as a guide for the General Assembly and the Administering Members in determining the status of a Territory as well as whether information concerning that Territory should continue to be submitted. The question whether information should continue to be transmitted should undoubtedly be decided by the Administering Member concerned, which was responsible for conducting the Territory's affairs in accordance with the principles laid down by the Charter. But, once that decision had been taken, it was subject to revision by the United Nations in conformity with the principles enunciated in Article 73; otherwise the United Nations would renounce the exercise of one of the essential functions provided under the Charter. Thailand was prepared to support the principle that complete self-government could not be conditional but, although having various aspects, must cover the political, economic and social fields.

44. He would vote in favour of the Brazilian draft resolution. He was unable to agree to some of the proposed amendments, and especially those contained in amendment 6. If the amendments were voted on paragraph by paragraph he would abstain on certain points.

45. Mr. ESPINOSA Y PRIETO (Mexico), referring to the Danish representative's criticism of the proposed new paragraph 6, explained that the word "primarily" had been inserted before the words "through the attainment of independence". That word appeared in document A/C.4/L.273, but did not appear in the earlier draft of the amendments which was before the Danish representative.

46. Mr. DE MARHUENA (Dominican Republic) suggested that in view of the complexity and importance of the question, the debate should be postponed until Thursday, 8 October.

47. Mr. DE HOLTE CASTELLO (Colombia) supported that proposal.

48. Mr. L. S. BOKHARI (Pakistan), referring to the remarks made by the French representative at the previous meeting, explained that in using the expression "black list", in his statement at the 323rd meeting, he had had no intention of giving offence. He agreed that the Administering Members were performing an honourable and arduous task in the Non-Self-Governing Territories. He had merely meant to say that if the name of a Territory remained indefinitely on the list of Non-Self-Governing Territories, that might give rise to certain doubts.

The meeting rose at 5.25 p.m.

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