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Chairman: Mr. Luciano JOUBLANC RIVAS
(Mexico).

Requests for hearings (continued)

1. The CHAIRMAN announced that a telegram had been received from Mr. Ruben Um Nyobé with regard to the petitioners from the Cameroons under French administration who had been granted a hearing by the Committee (471st meeting). He suggested that, in accordance with the Committee's usual practice, the telegram should be circulated to the members of the Committee.

There being no objections, it was so decided.

AGENDA ITEM 32

Consideration of communications relating to the cessation of the transmission of information under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (*continued*):

(a) Communication from the Government of the Netherlands concerning the Netherlands Antilles and Surinam (A/2908/Add.1, A/AC.35/L.206, A/C.4/L.421) (*continued*)

2. The CHAIRMAN invited representatives wishing to do so to comment on the general situation described in the statements heard at the previous meeting or to put questions to the Netherlands representative, who would reply to them at the following meeting.

3. Mr. PACHACHI (Iraq), referring to article 44 of the Charter for the Kingdom of the Netherlands (A/AC.35/L.206, annex I), thought that some of the clauses in that article, more particularly in paragraphs 1 (b) and (c), gave the Netherlands Government the power of veto on matters falling outside the scope of Kingdom affairs. If they did so, he wondered how they could be reconciled with the full internal autonomy Surinam and the Netherlands Antilles were alleged to enjoy.

4. Secondly, he noted in article 18 of the Charter that proposals submitted to the Netherlands Parliament which failed to obtain a three-fifths majority were suspended until further consultations had taken place in the Council of Ministers. He wondered what the next step was and, if no agreement was reached despite the additional consultations, whether the proposal could be reintroduced and whether the three-fifths majority rule would still hold good.

5. Mr. KHOMAN (Thailand) observed that according to article 2 of the Charter the King was represented by the Governor in Surinam and in the Netherlands Antilles and that the Governor's powers were determined by Kingdom statute. He asked whether such a statute had been enacted and, if so, whether the Netherlands representative could inform the Committee of its contents.

6. It was further stated in the explanatory memorandum in annex II of document A/AC.35/L.206 that the Governor was also the head of the Government of the country concerned and that that function was considered the more important one. Consequently his powers and duties were not determined by Kingdom statute but by country legislation which was subject to the concurrence of the Government of the Kingdom. He asked whether such legislation had been enacted in the countries and if so whether the Committee could be informed of it.

7. Mr. GARCIA (Philippines) noted that according to the preamble to the Kingdom Charter, the Netherlands, Surinam and the Netherlands Antilles would conduct their internal interests autonomously and their common interests on a basis of equality. He wondered how that could be in view of the great disparity in the size of the population of the Netherlands on the one hand and Surinam and the Netherlands Antilles on the other.

8. Secondly, he observed that Surinam and the Netherlands Antilles were apparently separate countries with competence in their own internal affairs and with the power to make their own constitution and laws. Since those powers were the attributes of a sovereign State, he wondered why there had been any need for the Kingdom Charter and what was the exact relationship between the Netherlands on the one hand and the Netherlands Antilles and Surinam on the other.

9. Since the Netherlands Antilles and Surinam now possessed autonomy, he wondered why they had not yet agitated for complete independence but were content with local autonomy.

10. U ON SEIN (Burma) said he had three questions to ask. First, he wanted to know whether the Government of the Netherlands had at any time made any attempt to solicit public opinion with regard to the constitutional changes. Secondly, he wished to be enlightened about the appointment of Ministers Plenipotentiary, in other words whether they were appointed

in strict accordance with parliamentary procedure, i.e., whether they were leaders of the majority party. Thirdly, he would like to know whether there was any provision in the Charter to enable either Surinam or the Netherlands Antilles to secede from the Kingdom of the Netherlands if and when they chose.

11. Mr. CALLE Y CALLE (Peru) pointed out that according to article 49 of the Constitution of the Netherlands Antilles promulgated in 1950, the Governor could suspend the application of laws for certain important reasons. As head of the Government of each Territory he naturally had the functions and powers fixed by the Constitution and law of each country.

12. According to annex II of document A/AC.35/L.206, the Governor of Surinam or of the Netherlands Antilles had a dual responsibility on the one hand as the representative of the King as head of the Kingdom and of the Government of the Kingdom, in which respect his powers were determined by Kingdom statute, and on the other hand as head of the Government concerned, in which respect his powers and duties were not determined by Kingdom statute but by country legislation which was subject to the concurrence of the Government of the Kingdom. He wondered, therefore, whether there had been a change in the Constitution.

13. In view of the great disparity in the populations of the three countries, he wondered whether it would not be possible to devise some form of election to a legislative organ which would not be on a basis of population, in order to obtain greater equality of representation.

14. Mr. PIMENTEL BRANDAO (Brazil) said that his delegation had joined with that of the United States in sponsoring the draft resolution before the Committee (A/C.4/L.421) after a thorough study of the question, of the documentation submitted and of the statements made by the representatives of the Netherlands Antilles and Surinam. Brazil was particularly interested in the question because it was the only South American country that had a common frontier with Surinam.

15. His delegation considered that as a result of the political association that had been established between the Netherlands, Surinam and the Netherlands Antilles, the objectives of Article 73 e of the United Nations Charter had been fulfilled. Surinam and the Netherlands Antilles enjoyed all the privileges of self-governing States. The Kingdom Charter, the supreme code of the peoples of the three countries, was based on the recognition of the political maturity of both Territories and had been achieved by negotiation freely entered into by all three countries. In their statements at the previous meeting, the Prime Ministers and the Presidents of the Parliaments of Surinam and the Netherlands Antilles had shown a breadth of view and civic spirit which deserved the highest praise. Their statements had reinforced the speaker's belief in the high degree of social and cultural progress of the people so represented. The Queen of the Netherlands had said recently that the free acceptance by the majority of the peoples concerned was the main element of the new constitutional structure of the Kingdom. The Queen had also stated that it would be contrary to the Charter to prevent any member of the Kingdom from seceding if it so desired. More recently, during her visit to the two countries, the Queen had said that

the present status of the two countries was one of association on a footing of equality with the Kingdom of the Netherlands.

16. As far as the Brazilian delegation was concerned, those statements constituted absolute guarantees of complete and unrestricted self-government for both the Netherlands Antilles and Surinam.

17. Mr. BELL (United States of America) said that his delegation had joined the Brazilian delegation in sponsoring the draft resolution because it was convinced that the autonomous status achieved by the peoples of Surinam and the Netherlands Antilles, in co-operation with the Netherlands Government, deserved the General Assembly's recognition. The detailed documentation submitted by the Netherlands Government and the extensive statements made in the Committee on Information and the Fourth Committee by representatives of the Netherlands Antilles, Surinam and the Netherlands made it quite clear that the two Caribbean countries enjoyed full autonomy in their internal affairs. In addition they had a very substantial voice in the conduct of external affairs. He was sure that their achievement of such a high degree of political advancement along the lines sought by the United Nations for other dependent peoples would be welcomed by all members of the Committee. The cessation of the transmission of information under Article 73 e of the Charter was fully justified by the Territories' autonomous status, apart from the fact that the former Administering Member could no longer transmit such information on areas that had become partners with it under the Charter of the Kingdom.

18. The representatives of Surinam and the Netherlands Antilles had explained why their people had not sought complete independence. Their reasons were persuasive and a tribute to the political maturity and common sense of those peoples. The ingenious arrangement arrived at with the Netherlands gave them the freedom of action they desired while preserving the benefits of continuing association with a larger State.

19. In any case where it was reported that a dependent people had chosen less than complete independence, it was natural for Members of the United Nations to wish to satisfy themselves that the solution chosen did in fact represent the wishes of the inhabitants. The evidence presented in the case under consideration left no doubt that the peoples of Surinam and the Netherlands Antilles freely and fully supported the new constitutional arrangement. The legislative bodies of both areas, which were elected by secret ballot on the basis of universal adult suffrage, had unanimously accepted the Charter of the Kingdom.

20. It was also understandable that Members of the United Nations should wish to assure themselves that the arrangements chosen were not immutable. It had therefore been reassuring to learn that the present arrangements for the Kingdom of the Netherlands were subject to evolution and that each partner could at any time propose modifications. The assurance given by the Queen of the Netherlands that, since no political partnership could endure unless supported by voluntary acceptance, it would be contrary to established policy to prevent a partner from leaving the Kingdom if it so wished, completed the picture of a voluntary association of peoples.

21. Since Surinam and the Netherlands Antilles had full internal autonomy and a completely voluntary

association with each other and the Netherlands, there appeared no reason to question the appropriateness of the Netherlands' ceasing to transmit information on those areas under Article 73 e. He hoped that any doubts that might have existed had been dispelled. The adoption of the draft resolution by a large majority would give due recognition to the achievement by the peoples of Surinam and the Netherlands Antilles of control of their own affairs in conformity with the principles of the United Nations Charter and encourage other dependent peoples in their efforts to achieve free political institutions suitable to their own needs.

22. Mr. ESPINOSA Y PRIETO (Mexico) reminded the Committee that his delegation had been one of the sponsors of General Assembly resolution 742 (VIII) approving the list of factors to be taken into account in deciding whether a Territory had or had not achieved a full measure of self-government. While there had been differences of opinion on many of the factors, it had been generally agreed that each case should be considered and decided upon in the light of its particular circumstances. That did not mean that the General Assembly had been unable to define a full measure of self-government. It had virtually done so in paragraph 6 of the resolution, which stated that the manner in which a Territory could become fully self-governing was primarily through the attainment of independence, although it was recognized that self-government could also be achieved by association with another State or group of States. In fact, however, the overwhelming majority of the Members of the General Assembly had recognized, partly in the light of experience, that the cases justifying the cessation of the transmission of information differed widely one from another. Hence the General Assembly's decision on any one case could not set a precedent, unless exactly the same circumstances were repeated.

23. The factors considered at the eighth session were all based on two essential elements of full self-government: equality and self-determination. He had examined the information submitted by the Netherlands delegation in the light of those two considerations and had asked the Netherlands delegation certain questions which he hoped it would not take amiss. Whereas the constitution, laws and regulations of a State were ultimately a matter of domestic jurisdiction, it was legitimate for the Committee to examine them at the moment when Chapter XI of the United Nations Charter ceased to apply to a Territory and it acquired its own Charter. In 1953, his delegation among others had had certain doubts about the status of the Netherlands Antilles and Surinam. Indeed, it still had some doubts about one aspect of the present arrangements, namely the fact that Kingdom statutes and ordinances were enacted by the Netherlands Parliament and not by a Kingdom parliament. He had studied carefully first the special reasons which had led the negotiators to reject the idea of a general parliament and, secondly, the system finally adopted to give the Antilles and Surinam a safeguard — and indeed a very effective safeguard — in respect of legislation affecting them. The Netherlands representative's statement at the previous meeting had done much to dispel his delegation's doubts.

24. His delegation would vote in favour of the joint United States-Brazilian draft resolution. By doing so it wished to pay a tribute to the noble work accomplished by the Netherlands Government. It had set an

example which would frequently be invoked in the Committee and would strengthen the prestige and authority of the United Nations. While the association between the Netherlands and Surinam and the Netherlands Antilles might not be absolutely perfect in every detail, the overriding consideration as far as his delegation was concerned was the solemn assurance in the preamble to the Charter for the Kingdom that the three countries would conduct their internal interests autonomously and their common interests on a basis of equality. The two peoples to whom Chapter XI of the United Nations Charter now ceased to apply were entering international life with a guarantee that they did so on a footing of equality; it would be up to them in future to invoke and defend that guarantee as all States defended their rights. The Queen of the Netherlands had referred in an official statement to the Territories' independence, and the Netherlands Government had officially recognized their right to change their status. In those circumstances and in view of the facts, first, that the present arrangements were the outcome of lengthy and careful negotiations and the progressive evolution of political institutions in the two Territories and, secondly, that not a single organization or individual in either Territory had protested against them, his delegation saw no cause for opposing the cessation of the transmission of information under Article 73 e.

25. His delegation was aware that the matter was one of general interest to the American continent. It had taken into account the geographical considerations referred to in the list of factors annexed to resolution 742 (VIII), third part, section A, paragraph 3, and it had consulted the other Latin American delegations before reaching its decision. It should be made quite clear that if the action proposed in the draft resolution could have prejudiced the territorial claims or any other rights of any Latin American country, his delegation would have been unable to support it. But his delegation knew of no claims by any State in respect of the two Territories concerned.

26. It was significant that the draft resolution was sponsored by two American countries and he was glad to note that there was no mention in it of any considerations that might be disquieting to other American States. Nothing in the draft resolution suggested that the Netherlands might establish itself on American soil or that any action might be taken that was not in keeping with the spirit of the times or that was beyond the competence of the Committee. The anti-colonial resolutions adopted by the Organization of American States gave clear proof of those States' very natural desire to eradicate all traces of their painful colonial past. Those resolutions urged the European nations to end all colonialism on the American continent. The Netherlands, Surinam and the Netherlands Antilles had chosen one of the roads open to them under resolution 742 (VIII). The representatives of the two Territories had expressed their loyalty to the Queen of the Netherlands and her House and the will of their peoples to remain united to the Netherlands. Nevertheless, from the documentation before the Committee, it was obvious that one of the considerations that had led them to reject complete independence was their Territories' economic weakness and dependence. It was hard to say whether economic factors coupled with the great distance separating the Territories from the Netherlands and the growing links that would naturally

develop between them and their American neighbours might not sooner or later combine to change the situation. As an American republic, Mexico would not have wished to associate itself with any statement that would prejudice its position on any different situation—based, of course, on equality and self-determination—that might develop in the future.

27. In conclusion, he wished to say that his delegation was prepared to support any appropriate amendments, provided that they did not affect the substance of the draft resolution or reflect upon the dignified stand taken by the representatives of the Netherlands Antilles and Surinam.

28. Miss SHELTON (Cuba) reminded the Committee of the history of the problem in the United Nations since 1951 and of her delegation's stand in the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) and the Fourth Committee. When the matter had last been discussed by the Fourth Committee¹ in detail, at the eighth session of the General Assembly, her delegation, together with the majority of the Committee, had been unable to agree with the Netherlands delegation's contention that it was appropriate that the transmission of information on the two Territories should cease. At the same time her delegation had recognized the progress achieved by the Territories under Netherlands administration and particularly the efforts made to develop self-government.

29. Since then further welcome progress had been made and it was clear from the abundant information and documentation submitted by the Netherlands Government, the statements of the representatives of Surinam and the Netherlands Antilles at the previous meeting and the Charter for the Kingdom that the two Territories had passed from colonialism through the various transitional stages considered by the General Assembly at previous sessions to full self-government. The factors guaranteeing self-determination had been respected, for the Territories had freely chosen the form of government they considered in their best interests. She would therefore vote in favour of the joint draft resolution.

30. In conclusion she congratulated the representatives of the Netherlands, Surinam and the Netherlands Antilles on the manner in which they had worked out the Territories' political status, which had been freely chosen and mutually agreed upon.

31. Mr. BENITES VINUEZA (Ecuador) recalled that at the previous meeting the Peruvian representative had asked for certain information about the Netherlands Constitution. His request had been seconded by the Liberian representative, but he had subsequently withdrawn it. If the Liberian representative wished to maintain the request she had made at the previous meeting for certain information about the Netherlands Constitution, he would support it. It was essential that the Committee should have before it all the relevant constitutional texts. Such texts had been forthcoming in connexion with previous cases of cessation of transmission of information under Article 73 e and no one had then claimed that their consideration by the Committee constituted intervention in the domestic affairs of a State.

32. Mr. BENSON (Secretary of the Committee) pointed out that document A/AC.35/L.206 contained

not only the communication from the Netherlands Government but also the Charter for the Kingdom and an explanatory memorandum. That document had been discussed by the Committee on Information and formed the subject of its report (A/2908/Add. 1) to the General Assembly. When the matter had been discussed by the Assembly at its sixth session the Assembly had had before it an earlier communication from the Netherlands Government (A/C.4/200) including an explanatory note on the Constitution as it had been at that time, together with the special provisions concerning the transition to a new constitutional order of the Territories of Surinam and the Netherlands Antilles and the Interim Order of Government for the Netherlands Antilles which was almost identical with that for Surinam. Document A/AC.35/L.206 contained all the information supplied by the Netherlands Government in response to General Assembly resolution 747 (VIII).

33. Mr. BENITES VINUEZA (Ecuador) repeated that the question he wished to ask was whether Liberia had accepted the withdrawal of the proposal made by Peru.

34. Mr. CALLE Y CALLE (Peru) said that in document A/C.4/200, to which the Secretary of the Committee had referred, certain of the articles in the Constitution of the Netherlands were quoted, together with amendments introduced in 1948. The object of those amendments had been to allow implementation of the Interim Orders, so that the political evolution now under discussion could take place. The question which his delegation had asked at the previous meeting had been whether the 1948 provisions had since undergone any further amendment. It had been asked purely for information, to dispel certain doubts which still persisted, and there had been no desire to provoke any extensive discussion.

35. Miss BROOKS (Liberia), explaining that she wished to maintain her request for information, said that it was not possible to form any judgement on the revision of legal instruments unless all the original texts were available for purposes of comparison.

36. Mr. SCHURMANN (Netherlands) explained that the Constitution of the Netherlands had originally applied to Surinam and the Netherlands Antilles as well as to the Netherlands. To enable the Interim Orders to come into force, that Constitution had had to be amended by the introduction of certain new articles, so that ordinary legislation could take account of the altered constitutional concepts of Surinam and the Netherlands Antilles. The Charter for the Kingdom expressly stated that its own provisions would override any legislation promulgated by the Netherlands, Surinam or the Netherlands Antilles separately; thus the Charter was the only document governing relationships between the three countries. Since the Netherlands Constitution no longer contained any reference to such relationships, the Committee could have no interest in examining it.

37. Mr. ROLZ BENNETT (Guatemala) observed that the Charter for the Kingdom contained references to legislation which were in some degree elucidated in the statement made by the Netherlands representative at the previous meeting, but he felt that still further clarification was needed. The Netherlands representative had said, for instance, that special organs had been established to meet the needs of the new situation and

¹ 343rd to 347th meetings.

he had alluded to a revised and simplified procedure for the enactment of legislation, as well as to the expansion of the Council of Ministers and Netherlands Parliament to include representatives of Surinam and the Netherlands Antilles. The Committee would be better able to form an opinion of the scope of the Charter for the Kingdom if it could be informed of the status granted to the Council of Ministers in the Netherlands Constitution.

38. Mr. SCHURMANN (Netherlands) said that legislation on Kingdom affairs, which was only a small proportion of the total, was enacted by the Netherlands Parliament, expanded as necessary by representatives from the other two partners in the Realm. The special procedural rules governing such enactment were laid down in the Charter for the Kingdom, but were not mentioned in the Constitution of the Netherlands.

39. Mr. RIVAS (Venezuela) considered that the requests by the Liberian and Peruvian representatives were justified. He asked whether the Kingdom Statute determining the powers of the Governor of Surinam or the Netherlands Antilles, to which reference was made in annex II of document A/AC.35/L.206, had already been promulgated.

40. Mr. SCHURMANN (Netherlands) replied in the affirmative.

41. Mr. PACHACHI (Iraq) asked whether the statement by the Netherlands representative that all matters concerning the Kingdom and relationships between the three partners were governed by the Charter for the Kingdom, did not conflict with the provisions of article 5, paragraph 1, of the Charter, which read:

“The Monarchy and the succession to the Throne, the Organs of the Kingdom referred to in the Charter, and the legislative power in Kingdom affairs shall be governed, in so far as not provided for by the Charter, by the Constitution of the Kingdom.”

It was difficult to appreciate the implications of the phrase “in so far as not provided for by the Charter”.

42. Mr. SCHURMANN (Netherlands) said the succession to the Throne was already settled by the

Netherlands Constitution and required no new legislation. It was important to read paragraph 1 in conjunction with the other paragraphs of article 5.

43. Mr. PACHACHI (Iraq) said that he was thinking more specifically of the term “legislative power in Kingdom affairs”.

44. Mr. SCHURMANN (Netherlands) explained that the reference was to the composition of the Netherlands Parliament, with its Lower and Upper Chambers of 150 members respectively. The accepted principle was that Kingdom legislation would be enacted by those members, strengthened by the addition of special representatives of Surinam and the Netherlands Antilles.

45. Mr. CALLE Y CALLE (Peru) asked whether the members of both Houses were elected by proportional representation based on size of population.

46. Mr. SCHURMAN (Netherlands) said the Lower House was elected by proportional direct representation and the Upper House indirectly, by electors; but since the latter were themselves elected on a proportional system, fundamentally all members were so elected.

47. Mr. ROLZ BENNETT (Guatemala) remarked that organizationally the activities of the Council of Ministers were governed by the Netherlands Constitution, while procedurally they came within the purview of the Charter for the Kingdom. He would be interested to hear exactly how Parliament was expanded when Kingdom affairs were under discussion. Some knowledge of the Netherlands Constitution would surely be desirable, so that the Committee could, by comparing documents, judge of the degree of equality prevailing between the three parts of the Kingdom. He did not insist that the entire text of the Constitution should be made available, but only those parts which were of immediate concern.

48. Mr. CALLE Y CALLE (Peru) thanked the Netherlands representative for his reassuring statements.

The meeting rose at 5.25 p.m.