

United Nations
GENERAL ASSEMBLY
NINTH SESSION
Official Records



**FIRST COMMITTEE, 727th
MEETING**

**Wednesday, 24 November 1954,
at 3 p.m.**

New York

CONTENTS

Page

Agenda item 61:	
The question of West Irian (West New Guinea) (continued)	399

Chairman: Mr. Francisco URRUTIA (Colombia).

AGENDA ITEM 61

**The question of West Irian (West New Guinea)
(A/2694, A/C.1/L.109) (continued)**

1. Sir Percy SPENDER (Australia) said that the general attitude of his Government towards the present item had been made clear in the statements made by the representatives of Australia in the General Committee (92nd meeting), during the discussion on the inclusion of the item in the agenda, and in the General Assembly (477th meeting), during the consideration of the report of the General Committee. That attitude was that the item should never have been included in the agenda, and that its discussion in the United Nations was wrong and would serve no useful purpose.

2. The Australian people took the view that, first, the Indonesian Republic had no claim whatever to West New Guinea, and secondly, that the indigenous peoples of the territory must not be handed over to any nation, but that, within the terms and the spirit of the Charter, they should be permitted to determine their own ultimate destiny.

3. From the Second World War, when Japanese aggression had taken place in the Pacific, Australia had earned through blood and heavy sacrifice that the security and future of New Guinea was not unconnected with its own security and future. The bitter lesson taught by the Japanese—that New Guinea would be forever a potential invasion springboard to Australia—remained in the minds of Australians. There was not one dissentient voice in Australia today which would deny that the security of Australia and the security of New Guinea were indivisible. That meant that Australia had a continuing interest that the whole of that area should remain stable and secure both under present arrangements and when its peoples were ready to work out their own destiny.

4. For two and a half out of the four years of war in the Pacific, Allied forces had been locked with the Japanese in a bloody struggle for New Guinea. Australians could not forget those two and a half years. Fortunately, Australia had not suffered the fate of invasion, but it had come so close to it that it would ever be likely to forget it, and it was therefore not without cause that Australia was directly concerned with the issue before the Committee.

5. With regard to the wording of the current item, it was important to remember that just because the Assembly had included it in the agenda, that inclusion did not of itself establish that there was a "question" of West New Guinea. The Indonesian Government had desired to express certain views in the United Nations regarding that territory, and that desire had been acceded to. That was all. The fact that the Indonesian delegation had presented its case did not necessarily mean that the matter should be discussed by any organ of the United Nations at all. The contrary was the case, and the matter was neither in substance nor in form within the effective jurisdiction of the United Nations.

6. An analysis of the speech made by the representative of Indonesia at the 726th meeting, as well as the draft resolution (A/C.1/L.109) submitted by him, made it clear that the case which Indonesia sought to make out was of a legal nature, although the representative of Indonesia had admitted that the question was a political one—as of course it was, since Indonesia had by its own unilateral actions made it so. The Indonesian delegation sought to establish that sovereignty over West New Guinea had already in effect been transferred to the Republic of Indonesia, and at the same time sought to compel the Netherlands to enter into negotiations which, if they were to lead anywhere, could only have the result demanded in advance by Indonesia of effecting such a transfer.

7. The Committee should very seriously consider whether such a proposition could properly be put forward. Indonesia was asking the Assembly to interpret international treaties or agreements; it was asking the Assembly to declare that the Round Table Agreements of 1949 provided that Indonesia comprised all the former Netherlands East Indies. But it was not the function of the Assembly to give opinions on the interpretation of such documents; nor was it the function of the Assembly to pass judgment on the demarcation of boundaries or on how they should be altered.

8. The dispute had been represented as a "colonial" one, but in fact it was not a colonial dispute at all, as even a cursory reading of Indonesia's own claims would show. The case of Indonesia was not that the people of West New Guinea was ready for independence. It was that the people should be transferred. To obtain support for their claim, the Indonesians were endeavouring to give it an emotional, colonial connotation and thereby to gain wide support.

9. Sir Percy Spender recalled that on two separate occasions, in August 1950 and in November 1952, the President of the Indonesian Republic, Mr. Soekarno, had declared that the provisions of the Round Table Conference Agreement were no longer binding. Yet the Indonesian Government sought now to invoke the provisions of that agreement in order to justify its claim.

10. Now that the dispute had been brought before the Assembly, it would be necessary, as a matter of procedure, for the Assembly to define its attitude towards it. There was, of course, an interest which the United Nations could properly take in the territory, and it was only right that that interest should be carefully restated. That interest was simply that West New Guinea was a Non-Self-Governing Territory and that the principles of Chapter XI of the Charter applied to it. That interest was the only consideration by which the Assembly could be guided. That might appear a redundant affirmation, but the Assembly should make it and so dispose of the matter in a way which would not only confront the Indonesian claim fairly, but would also be recognized as reasonable and correct in the eyes of the world.

11. In the explanatory memorandum submitted by the Indonesian delegation (A/2694) it was stated that a threat to the peace existed. So far, the Indonesian delegation had submitted no evidence to substantiate that assertion. But the fact that the statement had been made entitled, and indeed required, the Member States which felt themselves concerned, especially by proximity, to examine the matter themselves. While Australia, being one of those States, did not accept that a threat to the peace existed in connexion with West New Guinea *per se*, it was bound to be concerned lest such a state should be artificially created by an advance of claims which had no warrant in fact or in law.

12. It should be noted, incidentally, that the draft resolution submitted by Indonesia contained no mention of any threat to the peace. That was an interesting and arresting omission. But whatever the reason for it, there were recent happenings in the territory which should be brought to the Committee's attention, namely, disturbances and infiltrations by Indonesians into the territory. In that connexion, Sir Percy Spender wished to refer to a statement reportedly made by Mr. Sudjarwo, the representative of Indonesia on the First Committee, on 12 November, to the effect that since the territory belonged to Indonesia, the fact that an Indonesian went to New Guinea meant that he went to another part of Indonesian territory. The use of the word "infiltration", Mr. Sudjarwo had said, was at the least a one-sided interpretation. That was surely a singular justification of Indonesian activity.

13. Not only had such "adventures" brought about tension in the area, but statements such as those made on 17 November by the Indonesian Foreign Minister, Mr. Sunario, in Djakarta, must inevitably raise tensions still further. Mr. Sunario had stated that any support the United Nations gave to the Netherlands position on West New Guinea would only tend to disturb the atmosphere in South-East Asia. He had also said that if the Netherlands assumed a strong stand against the Indonesian claim, it would lead to a worsening between the two countries. Sir Percy wondered whether such statements were made in a spirit of trying to reach an agreement by peaceful means. On the contrary, they sounded very much like a threat.

14. A further reason for Australian interest was the geographical proximity of West New Guinea with the Territory of Papua, which fell under Australian sovereignty, and the Trust Territory of New Guinea, consigned to Australian administration by virtue of the Trusteeship Agreement of 1946. Both the Netherlands and Australia had a common interest in assisting the development of the island. Sir Percy further

observed that it had been by virtue of the Netherlands sovereignty over West New Guinea that the Netherlands Government had become an original member of the South Pacific Commission, a body in which Australia had a very great interest. Thus Australia was closely affected both by what had already occurred between Indonesia and the Netherlands, and by their future relations.

15. After emphasizing the fact that friendly relations existed between Australia and Indonesia and the part that Australia had played in the establishment of Indonesian independence, Sir Percy stated that his country was not wilfully opposing the Indonesian claim. But since Indonesia had chosen to bring the future of the territory into the United Nations debate, it should feel neither surprised nor resentful that all interests involved and all aspects would be exposed to the extent necessary.

16. The representative of Australia proposed to examine the Indonesian case. First, however, he wished to make some observations of his own. In paragraph 1 of the operative part of its draft resolution (A/C.1/L.109), the Indonesian Government not only sought to rely upon a continuing obligation on the part of the Netherlands to negotiate—and obligation which had been at least twice publicly repudiated by Indonesia—but now was not even content to follow the terms of that recreated obligation. It virtually called upon the Assembly to redraft and interpret article 2 of the charter of transfer of sovereignty. That article had not put any obligation on the Netherlands to reach an early agreement. It was not surprising therefore, that Indonesia should have refused the Netherlands offer to have its interpretation of the agreement pronounced upon by the International Court of Justice. The purpose of the Indonesian draft resolution was the transfer of the sovereignty of the territory to Indonesia; recommendations to the parties to engage in negotiations meant that and nothing else.

17. The case of Palestine was no analogy, inasmuch as the Assembly had acted then because of an absence of sovereignty, whereas in the present case sovereignty existed.

18. It was argued that the charter of transfer of sovereignty of 1949 had implicitly recognized, in principle, the inclusion of West New Guinea in the total area over which sovereignty would pass from the Netherlands to the newly created State of Indonesia. The only purpose of article 2 of that charter, however, had been to except New Guinea from the terms of the general agreement and to lay down a specific procedure for dealing with it. Indeed, it had been explicitly stated in the exchange of letters of November 1949, with the agreement of both parties, that the meaning of the clause "that the *status quo* of the residency of New Guinea shall be maintained" meant "through continuing under the Government of the Netherlands". The exclusion of New Guinea from the transfer of sovereignty was therefore clear and uncontested.

19. The real intention of article 2 had been to provide for a period of a year within which the status of the territory would be determined. A year had elapsed. Negotiations had taken place and no settlement had been reached. The issue of status had therefore been determined by the expiry of the period of negotiations without settlement and by the continuation of the sovereignty.

20. As the representative of the Netherlands had pointed out (726th meeting), negotiations had taken place between the parties in 1950, 1951 and 1952. Indonesia's inflexible attitude towards those negotiations had been described in the report of the United Nations Commission for Indonesia, which had stated that the Indonesian Government was prepared to resume negotiations only if it were understood in advance that sovereignty over West New Guinea would be transferred to Indonesia (S/2057, para. 57). It was quite wrong for Indonesia to argue that, because the consultations had failed, the Netherlands had broken the agreement which, on the Indonesian argument, obliged it to transfer its sovereignty over the territory to Indonesia. The argument by which Indonesia sought to build its case on article 2 of the charter of transfer was an argument in a circle.

21. It had been agreed, at the Round Table Conference in 1949, that a Netherlands-Indonesian Union should be formed and that Indonesia should have a federal structure. Since then not only had the federal structure been changed to a unitary structure, but also the Union had been dissolved. The conditions were thus fundamentally changed from the time that the 1949 agreement had been signed. The Indonesians were therefore arguing from only a part of the 1949 agreement, in *vacuo*.

22. Turning to the grounds other than legal ones on which Indonesia was basing its case, the representative of Australia stated that there were no ethnological or cultural ties between the people of West New Guinea and those of Indonesia. While the former were of Papuan race, the Indonesians were Malays. The people of West New Guinea, for the most part, were quite primitive and therefore had no cultural affinity with the people of Indonesia.

23. An historical argument had also been advanced. It was said that since West New Guinea had once been under the suzerainty of the Sultan of Tidore, the connexion between Indonesia and the territory was historically established. That suzerainty, however, had been nominal and had endured for a short period over a hundred years before. The argument was therefore without any importance.

24. A final point in the Indonesian case was the claim that the problem was in substance of a political and not of a juridical nature. A reason for that might conceivably be that in spite of its recital of legal grounds, Indonesia felt that its case was too weak to rest on legal grounds alone. Or perhaps the Indonesians were being more candid than they realized, and it might be justifiably concluded that their legal arguments should not be regarded as containing merit in themselves, but had been brought forward merely to bolster a political claim. If that was the case, then one began to see why the Committee might expect to hear of threats to the peace. The question was, who was making the threats? Indonesia's admission that its claim was a political one was of the utmost significance, and the apparent contradiction between that claim and its legal claim was one that the Committee should not forget.

25. In bringing its case before the United Nations, Indonesia had not taken into consideration the people of West New Guinea themselves.

26. West New Guinea was a Non-Self-Governing Territory in the sense defined in Article 73 of the Charter of the United Nations. Under that article,

the administering Powers—such as the Netherlands in respect of West New Guinea—assumed certain obligations. In respect of the territory in question, the Netherlands had declared on its own accord its willingness to go even further than the Charter by giving the inhabitants of West New Guinea, at the appropriate time, the opportunity of deciding their own future by means of a plebiscite. Sir Percy then referred to other achievements of the Netherlands Government in the Territory of West New Guinea in connexion with the responsibilities it had assumed by virtue of various parts of Article 73.

27. If the territory were now transferred to Indonesia, there would of course be no development of self-government, and the protection and welfare of the local inhabitants would no longer be the paramount consideration. Sir Percy quoted various passages from the booklet, *West Irian and the World*—a publication of the Indonesian Government—in order to prove his points.

28. It was essential that the Assembly should do nothing that would destroy the ultimate freedom of choice of the people of West New Guinea. The Assembly had the opportunity to reaffirm, in the present instance, the validity of Chapter XI of the Charter and its continuing interest in the application of the purposes of that chapter in respect of West New Guinea.

29. Sir Percy Spender wished, next, to comment on various points raised by the representative of Indonesia at the 726th meeting. The representative of Indonesia had obviously intended to present the matter as a so-called colonial issue, and thereby to have the Assembly form its conclusions on political grounds. As Sir Percy Spender had explained earlier, the question was a political one as far as the interests of the people of the territory were concerned. The issue of colonialism was a false one, and it should not be allowed to mislead the Committee.

30. Turning to Mr. Sudjarwo's statement about the political significance of the term "Indonesia", Sir Percy said that while it was true that the term was used to designate the territories of the former Netherlands Indies and, therefore, naturally included New Guinea, it was a geographical term first suggested in an academic context many years before. That circumstance had no relation at all to the position existing at the time of the transfer of sovereignty. The round table agreements had been concluded with the United States of Indonesia, not with "Indonesia". It was simply fallacious to argue from the meaning loosely attributed to the term "Indonesia", before that word had obtained precise political significance, that West New Guinea had become, when Indonesia in turn had become a State, part of that State.

31. As to the question of language, Sir Percy observed that the people of West New Guinea did not use any form of Malay when speaking amongst themselves, since they had their own dialects which varied greatly over the whole territory.

32. Then there had been the argument that many States were composed of different racial or linguistic groups. But to apply that as a principle for a definition of political boundaries would be to set no limit to the absorption of such small groups everywhere.

33. The representative of Indonesia had claimed that a genuine movement had existed in West New Guinea

for the association of the territory with Indonesia during the campaign which had begun in 1945 for Indonesian sovereignty. But the facts had been expressed in a misleading manner. While the so-called "Irian Party for the Independence of Indonesia" might have been listed among the participants in the movement, it was not substantiated that that group had had any genuine connexion at all with the people of West New Guinea, and it might be assumed that it had had its real origin outside the territory.

34. As for the statement of the representative of Indonesia to the effect that the policy of the Netherlands in the territory had been a story of inactivity and negligence, the representative of Australia said that he could not find any real evidence at all in support of that statement.

35. Sir Percy Spender said, in conclusion, that Australia felt its destiny and defence closely bound up with West New Guinea, which stood so close to it. The Australian delegation therefore viewed with utmost gravity the plea which had been brought before the Committee that the United Nations should endorse the claim that the sovereignty of the western part of New Guinea should be transferred.

36. Mr. VAN LANGENHOVE (Belgium) said that his delegation would be guided by general principles which had governed its policy whenever the United Nations had been confronted with questions similar to that of West New Guinea.

37. The competence of the General Assembly had been formally contested at the time when the Assembly had been asked to decide on the inclusion of the current item in its agenda. In those circumstances, the first duty of the Committee must be to make sure whether the Charter authorized the General Assembly to intervene. The Belgian delegation believed that the question of West New Guinea was essentially within the domestic jurisdiction of the Netherlands in the meaning of Article 2, paragraph 7, of the Charter, as the issue concerned the sovereign rights of a State over one of its territories.

38. The Round Table Conference Agreement of 1949 had clearly declared that agreement had not been reached on the question of sovereignty over West New Guinea and that further negotiations should take place on that subject. The fact that the question of the status of West New Guinea had been mentioned in the agreement did not in any way imply that it had lost the character of an issue falling essentially within the domestic jurisdiction of a State. Had that been the implication, then all other matters mentioned in that agreement would also lose their character of falling within the domestic jurisdiction of the State concerned—for instance, the Constitution which was reproduced in its entirety as an annex to the agreement. Certainly no one would maintain that the Constitution of Indonesia had thereby ceased to be a matter essentially within the domestic jurisdiction of Indonesia.

39. Indonesia had invoked Article 35 of the Charter in referring the matter to the General Assembly. But Article 2, paragraph 7, of the Charter applied equally to Article 35, as to all the provisions of the Charter, including Articles 10 and 14, which were likewise invoked by Indonesia. The only exception to that rule was a case involving the application of enforcement measures under Chapter VII of the Charter. Such

measures, however, fell within the competence of the Security Council.

40. In recent years there had been a growing tendency to disregard the provisions of Article 2, paragraph 7, of the Charter. In that connexion, Mr. van Langenhove recalled the statement made by Sir Gladwyn Jebb before the General Assembly on 17 October 1952 (381st meeting), and also referred to an article by Professor Clyde Eagleton, in the November issue of the *Annals of the American Academy of Political and Social Science*. More and more often a plaintiff country which had not obtained satisfaction through negotiations appealed to the General Assembly in the hope that the latter would exercise pressure on the defendant country and oblige it to yield.

41. Such a tendency was dangerous for States in particular, and might have dire effects for the United Nations itself. When a matter was essentially within the domestic jurisdiction of a State, that State generally refused to comply with the recommendations adopted by the General Assembly over its opposition. Moreover, it was entirely justified in disregarding such recommendations, because any action which went beyond the limits placed by Article 2, paragraph 7, of the Charter on the competence of United Nations organs constituted an act *ultra vires* and was therefore legally invalid. Furthermore, the General Assembly had no enforcement powers. It compromised its moral authority when it intervened illegally and took action which was vain and contrary to one of the essential purposes of the Organization: instead of developing friendly relations and promoting harmony among nations, it created friction and rancour; far from helping to settle disputes, it only succeeded, by such methods, in aggravating them.

42. The position taken by the Belgian delegation on the competence of the General Assembly made it unnecessary for it to give its views on the substance of the question. However, the explanatory memorandum submitted by the Indonesian delegation (A/2694) prompted the Belgian delegation to make formal reservations on one point in particular.

43. The memorandum stated that when West New Guinea became part of the Republic of Indonesia, it would cease to be a Non-Self-Governing Territory. That must be taken to mean that it would no longer be subject to the provisions of Chapter XI of the Charter, which applied expressly to "territories whose peoples have not yet attained a full measure of self-government". New Guinea obviously came within that definition. The greater part of its territory was very difficult to penetrate and had not yet been explored. Its Papuan and Negrito inhabitants were among the most primitive in the world. No one could seriously maintain that they were capable of full self-government within the meaning of the Charter. It was difficult to see how a transfer of sovereignty, in which they could obviously play only a purely passive role, could miraculously change their situation in that respect overnight. The substitution of Indonesian for Netherlands sovereignty would make no difference as far as that was concerned. It was pointless to argue that the Indonesian Constitution would thereafter apply to them; such an application would be purely nominal. The Papuans, only a few of whom had been touched by civilization, would remain subject, as before, to their tribal organization and customs. Mo-

of them, living in inaccessible jungles, would not even realize that there had been any change in their political status, and their fate would have been decided without their knowledge.

44. Whatever the State which assumed responsibility for such territories, whether it was European or Asian, it was bound, under Article 73 of the Charter, to respect the principle that the interests of the inhabitants were paramount. It would have accepted as a sacred trust the obligation to promote their well-being to the utmost and to ensure their political, economic and social advancement.

45. The International Labour Office had recently published a study on aboriginal populations¹ who were denied the protection of that provision of the Charter. That study described the appalling economic circumstances, the stagnation, the under-nourishment, the unsanitary conditions and the exploitation to which those peoples were frequently subjected, and as a result of which many of them had become extinct.

46. The Belgian delegation considered that the General Assembly would be exceeding its powers if it intervened, without the consent of both parties, in the question of the sovereignty over West New Guinea. Regardless, however, of the solution given to the dispute, it was inconceivable that it should result in depriving yet more aboriginal peoples of an international protection which they had so far enjoyed, and in placing them in the category of the peoples who, at the time of the League of Nations, had enjoyed such protection, but who were now denied it, although they needed it just as much as before.

47. Mr. MARQUES CASTRO (Uruguay) said that the representative of Indonesia had described the problem of West New Guinea primarily from a political point of view, and the representative of the Netherlands primarily from a legal point of view, each presenting many arguments in support of his particular position. It was gratifying to note, however, that both maintained that their only concern was the welfare of

the population of the territory. But while the Committee had heard the representatives of Indonesia and the Netherlands, it had heard no statement on behalf of the people principally concerned, namely, the inhabitants of West New Guinea. Without knowing their wishes, it would be difficult to find a solution of this problem which was of such vital importance to them. The Charter provided that the interests of the inhabitants of the Non-Self-Governing Territories were paramount. The interests of the administering Power, or the interests of a neighbouring State which had ethnic, geographical and historical connexions with a territory, were secondary. The essence of the problem was the right of self-determination of peoples, their natural desire for independence and progress.

48. Referring to the question of the competence of the General Assembly to deal with the question, the representative of Uruguay declared that that competence was well covered by paragraph 7 of Article 2 of the Charter. The resolution adopted by the General Assembly only two days before, on 22 November 1954 (resolution 849 (IX)), reaffirmed, in the case of Greenland and Denmark, the principle of the competence of the General Assembly. In his view, whenever human rights were at stake, the General Assembly was competent to deal with the matter.

49. In the opinion of the Uruguayan delegation, the item under discussion was essentially a colonial question. Mr. Marques Castro recalled that as a result of the efforts of the United Nations, many countries had achieved independence. His delegation felt that the principle of self-determination must be extended further to cover other regions of the world and to benefit many more millions of human beings. The era of colonialism was over. It would be a great mistake to ignore that fact. The delegation of Uruguay, therefore, strongly urged that nothing should be allowed to stand in the way of the independence of the peoples.

50. The Uruguayan delegation would vote on the present draft resolution, and on any others that might be submitted, in accordance with the principles of justice and self-determination for the peoples of the world.

The meeting rose at 5.35 p.m.

¹ International Labour Office, *Indigenous Peoples: Living and working conditions of aboriginal populations in independent countries* (Studies and reports, New Series, No. 35), Geneva, 1953.