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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. Mr. BRILEJ (Yugoslavia) said that his delegation had supported the request of Indonesia that the question of West Irian should be placed on the agenda of the Assembly, because it believed that each country should be given the opportunity to bring its problems involving relations with other countries before the United Nations. His delegation also hoped that the General Assembly might, by considering the problem, contribute towards the lessening of tension between the two parties. Yugoslavia maintained very friendly relations both with the Netherlands and with the Republic of Indonesia, and for that reason it greatly regretted that the dispute over West New Guinea had assumed such a serious character.

2. After a study of the history of the question, and particularly of the statements made by the representatives of Indonesia and the Netherlands, the Yugoslav delegation had come to a number of conclusions. First, the question of the future status of West New Guinea had been referred to the Assembly as a question under dispute in the Charter of transfer of sovereignty (S/1417/Add.1): that was clearly borne out by article 2 (a) of that charter. Secondly, both parties had undertaken the obligation to negotiate in order to determine the future status of West New Guinea, as was clear from the final paragraph of article 2 of the same Charter. Thirdly, the two parties had entered upon the practical implementation of the obligations assumed under the Charter of transfer of sovereignty, which had come into force on 27 December 1949, and had started negotiations with a view to solving the problem of West New Guinea. For that purpose conferences between the two parties had been held at Jakarta in April 1950, at The Hague in December 1950, and again at The Hague from December 1951 to February 1952. Fourthly, during those conferences the two parties had submitted their respective proposals for the solution of the problem of West New Guinea.

3. Those facts showed that the two parties had shown their good will and readiness to come to a settlement on the question. The Yugoslav delegation therefore regretted that since then a tendency towards the taking of categorical stands had developed. That tendency, in

fact, amounted to a retrogression and to a departure from the obligations which had been mutually agreed to.

4. The best course for the General Assembly to adopt in the present case would be to try to bring about a continuation of the negotiations between the two parties. Such negotiations constituted the most appropriate method for the peaceful solution of the question. Furthermore, the two parties should show greater patience and willingness to agree in the course of the negotiations, because if sufficient perseverance and good will were shown a solution should not be difficult to find. In that respect, Mr. Brilej could cite the examples of the settlement of the Suez Canal dispute and the solution of the question of Trieste.

5. Mr. BERNARDES (Brazil) said that his delegation was convinced that the stands taken by the delegations of the Netherlands and Indonesia on the question of West Guinea were inspired by the highest motives. In submitting their cases, the two delegations were defending their legitimate rights and were not prompted by desires of conquest or by ambitions of a political nature. Unfortunately, however, the question of West New Guinea had raised a wave of emotional unrest, and according to Press reports feelings were running high, especially in the countries principally concerned.

6. The question of West New Guinea must be considered from three different aspects: first, the welfare of the people of West New Guinea in the light of Chapter XI of the Charter; secondly, the legal aspect, which could be described as the interpretation of the agreement reached between the Netherlands and Indonesia at the Round Table Conference at The Hague; and thirdly, the political aspect, which concerned the repercussions and consequences that the present issue might have in that part of Asia and in the over-all political picture of the world.

7. The first of the three aspects was of the highest importance. While some delegations had expressed doubts as to the competence of the United Nations to deal with the question, none had questioned its duty towards the people of West New Guinea. The representatives of the Netherlands and Indonesia had also repeatedly stated that their main concern was the welfare and advancement of the inhabitants of the territory of West New Guinea.

8. Another fact which had not been contested so far was that the people of West New Guinea had not yet achieved the necessary degree of political and educational development which would enable them to decide their own future. In that respect, the Brazilian delegation agreed with the representative of Peru, who had questioned (730th meeting) the advisability of the United Nations deciding on questions of transfer of sovereignty over a territory whose inhabitants were not yet capable of expressing their own will freely.

9. The Brazilian delegation accepted the statement of the representative of Indonesia (726th meeting) on

the close links between Indonesia and the territory of West New Guinea. It was even inclined to believe that if the people of West New Guinea were capable of choosing their own political status, integration into the Indonesian Republic might appear in their eyes as a highly desirable course of action to be taken. However, in important matters such as the present decisions could not be taken merely on the basis of assumptions. The General Assembly must come to a decision on the basis of indisputable evidence. The United Nations must bring about the political development of the inhabitants of West New Guinea in order to enable them to express their will on their future political status. That could be done under the provisions of Chapter XI of the Charter.

10. Brazil welcomed the declaration of the Netherlands Government that it would, at the appropriate time, give the inhabitants of West New Guinea the opportunity to determine their own future. It would, however, suggest that that declaration should be completed by some form of guarantee to the United Nations that the Organization would be able to supervise the implementation of that promise. The Netherlands had already been submitting information concerning the territory of West New Guinea in accordance with Article 73 e of the Charter, and it would be to its advantage if it could also state that, from now on and until the people of West New Guinea reached a stage of mature political advancement, it would voluntarily report to the Secretary-General on the steps taken to fulfil its pledge, and that those reports could be discussed by the United Nations. Such a declaration on the part of the Netherlands Government would weigh heavily with the Brazilian delegation when casting its vote on the draft resolution before the Committee.

11. Turning to the legal aspect of the question, Mr. Bernardes said that it was clear that the Charter of transfer of sovereignty (S/1417/Add.1) had left open the question of the political status of West New Guinea. It had been agreed between the two parties that negotiations on the future of West New Guinea should be decided by further negotiations. The story of those negotiations was a sad one. While the Government of the Netherlands had proposed that the sovereignty over West New Guinea should be vested in the Netherlands-Indonesian Union, the Indonesian Government had insisted that the sovereignty should be handed over to the Republic of Indonesia. As had been stated in a report of the United Nations Commission for Indonesia (S/2087), the Government of Indonesia had been prepared to resume negotiations only if it were understood in advance that sovereignty over West New Guinea would be transferred to Indonesia. The delegation of the Netherlands maintained, however, and with justification, that that position on the part of the Indonesian Government rendered those negotiations useless.

12. The Brazilian delegation would favour the resumption of negotiations, but with no preliminary conditions. While those negotiations could be carried on through international conferences, it would be better if ordinary diplomatic channels were used for the purpose.

13. Dealing with the political aspect of the question, the representative of Brazil recalled that Indonesia, when requested by the Government of the Netherlands to seek a decision from the International Court of Justice on the legal aspect of the problem, had rejected a proposal on the ground that it considered the prob-

lem to be of a political nature. In his statement before the First Committee, the representative of Indonesia had also emphasized the serious political consequences that might arise if no solution were found in the immediate future to the question of West New Guinea. The Brazilian delegation, however, had full confidence that the Government of Indonesia would always seek a peaceful solution to the question and would refrain from any action which might lead to a breach of the peace.

14. The Brazilian delegation noted with satisfaction the assurances given by the Foreign Minister of Indonesia to the effect that Indonesia had no demands on other territories such as Portuguese Timor and British Borneo. It shared, however, the anxiety expressed by the representatives of Australia (727th meeting) and New Zealand (730th meeting) over questions of security should a sudden change of sovereignty occur in West New Guinea. No action that could even slightly weaken the security of Australia and New Zealand was in any way in the best interests of the free world. That consideration must also be borne in mind when taking a decision on the present question.

15. Mr. QUIROGA GALDO (Bolivia), after referring to the history of Bolivia's struggle for political and economic independence, stated that in the case of West Irian his delegation saw a network of economic and political interests that wished to prevent the incorporation of that area in the Republic of Indonesia. The Bolivian people had feelings of great friendship for the people of Indonesia and admired their struggle for freedom. Similarly, the Bolivian and Netherlands peoples were linked by a very old and long-standing friendship, and also by the memory of the struggle for freedom against the common conqueror. In that sense, the Bolivians and the Dutch could be regarded as having been compatriots at a certain time in their history.

16. It had been stated in the Committee that the people of West Irian would gain nothing by being associated with the Republic of Indonesia. At least, however, the inhabitants of the territory would immediately achieve their freedom, and that was a factor which should not be overlooked. No doubt the Netherlands Government was interested in matters concerning the welfare of the Papuans. However, the history of colonialism clearly showed that colonialism had one aim in view, namely to enrich the strong and to weaken those who were already weak. According to a book entitled *Savage Papua: a missionary among cannibals*, written by Father André Dupeyrat, the Papuans were a people who were still living under conditions of the stone age. In the face of Father Dupeyrat's account, it would no be out of place to inquire what the colonizers had achieved in New Guinea during one hundred years of occupation.

17. Mr. Quiroga Galdo could not accept the view that the inhabitants of West Irian should not be united with Indonesia because of differences of language, flora and fauna. Those things did not make a nation. As Renai had said, a nation was a collective state of soul. In the opinion of the Bolivian delegation, the people of West Irian belonged to Indonesia because they shared the same state of soul.

18. Article 1 of the Charter of transfer of sovereignty had transferred complete sovereignty over Indonesia to the Republic of the United States of Indonesia. The transfer had not excluded West New Guinea, an

article 2 of the same charter had provided that the political status of that territory should be determined through negotiations. That was confirmed both by the agreements previously signed between the two countries, and by the amendment to the Netherlands Constitution of 1948, stating that the Kingdom of the Netherlands consisted of the territories of the Netherlands, Indonesia, Surinam and the Netherlands Antilles, without making special mention of New Guinea.

19. The territorial conflict between Indonesia and the Netherlands could be seen in the light of the principles of *uti possidetis de jure* and *uti possidetis de facto*. While Indonesia, basing its claim upon very clear titles, including the Charter of transfer of sovereignty, wanted the principle of *uti possidetis de jure* applied in order to recover part of its territory, the Government of the Netherlands appeared to rely on the principle of *uti possidetis de facto*, since, by refusing to continue the negotiations stipulated in the Charter of transfer of sovereignty, it gave the impression of wanting to remain indefinitely in the territory of West Irian.

20. Mr. Quiroga Galdo agreed with the representative of Ecuador, who had said (731st meeting) that the Indonesian claim had nothing to do with the question of the revision of treaties. In any case, the revision of treaties, when its purpose was to remove injustices, served to promote harmony between nations. He recalled, in that connexion, that articles 5 and 14 of the Charter of the Organization of American States did not preclude the revision of treaties by peaceful means.

21. Referring to the statement of the representative of Australia (727th meeting) to the effect that the people of West New Guinea should not be handed over to some other nation, but should be allowed to decide its own future in accordance with the terms of the Charter, Mr. Quiroga Galdo said that neither Australia nor its predecessor, Germany, had been able to establish the necessary conditions under which the people of East New Guinea could advance towards self-government.

22. The Bolivian delegation believed that it was just that West Irian should be returned to Indonesia, and was convinced that, once the Papuans were reunited with Indonesia, they would cease to be the representatives of the stone age in the present atomic age.

23. The Bolivian delegation had been considerably surprised by the statement of the Netherlands representative (726th meeting) that the United Nations could do nothing to change the situation except to augment confusion and stimulate tension. That was a policy of negation and was contrary to the Purposes and Principles of the United Nations Charter.

24. Mr. Quiroga Galdo stated in conclusion that his delegation considered the draft resolution submitted by Indonesia (A/C.1/L.109) to be a moderate one and would therefore support it.

25. Mr. RAMADAN (Egypt) said that his delegation could not agree with the position adopted by the Netherlands and felt that the arguments of the representatives of the Netherlands and Australia distorted the real nature of the question. Their attitude denoted a bias and an intransigence which seemed to be inspired by the vestiges of an obsolete colonialism. The argument that some Powers must be vested with a civilizing mission took no account of the fact that that mission could be performed as efficiently by other States whose geographical position, historical ties and economic potentialities might confer upon them the same

prerogative. Indonesia's geographical and historical links to West Irian supported the argument that the mission performed by the Netherlands ought to be entrusted to Indonesia. No decisive argument had been advanced to indicate that Indonesia could not perform that mission. The argument about differences of race and culture, between West Irian and Indonesia, if it had any relevance to the determination of sovereignty, would militate against the Netherlands, since its inhabitants were certainly more dissimilar in origin and race from the inhabitants of West Irian than were the Indonesians.

26. Whereas the attitude of Indonesia was moderate and showed its desire to solve the dispute within the framework of the United Nations Charter, the Netherlands had adopted a rigid position as to the competence of the United Nations and the Indonesian request for a resumption of negotiations.

27. The question was simple, since it related to a dispute arising from the refusal of the Netherlands to settle the fate of West Irian within the framework of the provisions of the Charter of transfer of sovereignty. The General Assembly was fully competent to deal with it in view of the provisions of Article 10, Article 11, paragraph 2, and Article 14 of the United Nations Charter. That competence was not limited by Article 12, paragraph 1, which applied only in specific cases where the Security Council was in fact examining a question and considering the advisability of enforcement measures. The General Assembly was therefore fully entitled to recommend that the parties should negotiate on a question of the type envisaged under Article 14 of the Charter. Moreover, article 2 (f) of the Charter of transfer of sovereignty clearly indicated that the parties had stated their agreement on the advisability of entering into negotiations to settle the dispute between them.

28. The objection of the Netherlands on the grounds that the same charter had specified a one-year period was not justified in view of the fact that that provision had been included in the charter at the formal request of Indonesia, in the hope of arriving at a solution as soon as possible. The failure of the negotiations during that one-year period could certainly not justify the Netherlands unilateral decision to annex West Irian. That action constituted a violation of an agreement signed under the auspices of the United Nations.

29. The argument that negotiations could not be continued because the constitutional structure of Indonesia had been altered was equally invalid, since the provisions of the Charter of transfer of sovereignty had not stipulated that the West Irian problem must be settled within the framework of any specified constitutional structure.

30. The argument concerning the dissolution of the Netherlands-Indonesian Union was also unfounded, because the Union had been dissolved by common agreement and not by any unilateral action on the part of Indonesia. Moreover, the question of West Irian had always remained outside the framework of the co-operation which the Union had been designed to foster; it had been, as it still was, the subject of a dispute between the parties.

31. The fact that an administering Power had substituted *de jure* sovereignty for *de facto* sovereignty over a territory with regard to which it was bound to submit information regularly under the provisions of

Article 73, constituted a violation of the Charter. That violation was an additional argument in favour of the competence of the Assembly.

32. Reviewing the provisions of the Charter of transfer of sovereignty with respect to New Guinea, and the subsequent negotiations, Mr. Ramadan recalled that various statements had previously been made by Netherlands spokesmen on the subject of Indonesian sovereignty over the territory. For example, Mr. van Mook, the Netherlands Governor-General, had stated in December 1946 that it was the intention of his Government to retain New Guinea within the framework of the United States of Indonesia.

33. The dispute was obviously hampering the development of friendly relations among nations, in the words of Article 14 of the Charter, as had been foreseen in 1949 by the Prime Minister of the Netherlands and the representative of Indonesia. At the opening of the Round Table Conference, the former had declared that if the Conference achieved a satisfactory agreement, the door would be open to broader co-operation between the two peoples, but that if it failed, consequences would ensue which would be of profound concern to all. The representative of Indonesia had stated in December 1949 that it was indispensable to reach rapidly a satisfactory solution of the problem of New Guinea in order to facilitate the co-operation agreed upon by the parties.

34. By encouraging the resumption of negotiations, the General Assembly would effectively contribute to the re-establishment of the co-operation jeopardized by the dispute. The Assembly could not evade its responsibility or ignore its obligation. In view of its devotion to its own traditions, the Netherlands could not fail to heed such an appeal by the Assembly, and negotiations could be resumed. Once the dispute had been settled, co-operation would be made possible, and peace and security would be strengthened in that part of the world.

35. The Egyptian delegation would vote in favour of the Indonesian draft resolution.

36. Mr. COOKE (Argentina), after stressing the links between his country and the Netherlands and Australia, paid tribute to the peoples of those countries, as well as to the people of Indonesia.

37. Mr. Cooke considered that the item under discussion was of a political rather than of a legal character, and recalled his country's consistent stand against colonialism, a stand shared in one form or another by all Latin-American countries; that anti-colonialism, however, was an attitude of principle and not an indiscriminate policy which would prevent the study of each case on the basis of the facts.

38. After listening to the arguments presented during the discussion, Mr. Cooke still believed that there existed a case to be considered, that the General Assembly was fully competent to study it, and that the problem should be resolved through peaceful negotiations.

39. A case existed, because article 2 of the Charter of transfer of sovereignty clearly stipulated that the question of West New Guinea remained in dispute and must be resolved through negotiations.

40. With regard to the competence of the General Assembly, it had been argued that Article 2, paragraph 7, of the United Nations Charter applied in the matter,

The Argentine delegation believed, however, that the principle of domestic jurisdiction could not apply to colonial territories. The Netherlands could not maintain that it had absolute sovereignty over the territory in question, because the Charter of transfer recognized that there was a dispute on the subject of New Guinea and provided for subsequent negotiations to determine its political status.

41. Moreover, the argument that Article 2, paragraph 7, applied contradicted another argument, advanced by the same representatives, to the effect that the question could not be studied by the Assembly because the Security Council was seized of it. If the Security Council was seized of the matter, then the United Nations was competent to deal with it. In any case, it had been clearly shown, for example in the case of Palestine, that the fact that the Council was examining a general problem did not prevent the Assembly from examining particular aspects of the same problem. The Indonesian question and that of West Irian were two distinct questions. Finally, the mere fact that an item was on the Council's agenda could not prevent the Assembly from considering it. If every item remaining on the agenda of the Council was outside the competence of the Assembly, or if Article 2, paragraph 7, were invoked on every issue, the General Assembly would be reduced to the position of the chorus in a Greek tragedy.

42. The delegation of Argentina believed, therefore that Article 14 of the Charter applied.

43. As for the various arguments concerning differences between the inhabitants of West New Guinea and those of Indonesia, Mr. Cooke supported the views which had been expressed on that point by the representatives of Indonesia and India (726th and 728th meetings), and pointed out that in the western hemisphere there were many examples of different populations with different religions and cultures living peacefully side by side. Moreover, differences of race should not be discussed in a body devoted to the eradication of discrimination on the basis of race, language, or any other distinction. In any case, there was not a greater affinity between the inhabitants of the Netherlands and those of West New Guinea than between the latter and the inhabitants of the rest of the island comprising Indonesia.

44. The argument that the continuation of Netherlands administration would be justified by the need for encouraging and assisting the self-determination of the people of West New Guinea was an impressive one but the question of self-determination was not the only factor to be taken into account in the problem under discussion. That problem resulted from the actions of more powerful nations in previous centuries, and in that connexion Mr. Cooke wondered what part the argument about self-determination played in the case of the Malvinas, or of Gibraltar.

45. Self-determination should not be invoked in order to maintain colonialism. Pointing out that many years would be required before the peoples in the interior of West New Guinea could be in a position to decide on their own future, Mr. Cooke recalled that the Netherlands had not carried out a plebiscite in Indonesia before the transfer of sovereignty to the Indonesians. In regions where culture was still very backward, the educated minority was the judge, and there was no doubt that it expressed the view of the majority.

6. The point of view of the representative of Australia, who had referred to the significance of West New Guinea in the defence of Australia, was important, but that territory was also important to the defence and security of Indonesia. It was surely more logical to suppose that, in the event of aggression, collective defence would be more effective if West New Guinea were dependent on a parent State that was close by rather than on one that was thousands of miles away.

7. In conclusion, pointing out that the Netherlands and Indonesia had agreed to negotiate, Mr. Cooke said that the Assembly had an indisputable right to call upon the two countries to endeavour to resolve the dispute by negotiations, which was the first of the means listed in Article 33 of the Charter. An example of what could be achieved by such means had recently been provided in the question of Trieste.

8. Argentina would vote in favour of an appeal to that effect to the two countries.

9. Mr. FRANCO Y FRANCO (Dominican Republic), laying stress upon the feelings of friendship of his country towards both the Netherlands and Indonesia, stated that there was no doubt that the question at issue was closely linked with the scope of the relevant articles of the Charter of transfer of sovereignty.

10. Summing up the attitudes of the two parties, he pointed out that the question of the competence of the General Assembly was linked to the substance of the problem and that all depended upon what the Assembly was asked to do. The proper body to make a decision on the interpretation of the Charter of transfer would be the International Court of Justice, in view of the fact that the parties disagreed completely with regard to the legal scope of that document. Apart from the fact that the Assembly was not and could not be a legal tribunal, it would be unwise to call upon it to try to resolve a complex problem in which each side stood upon its own interpretation of the Charter of transfer. Mr. Franco y Franco therefore shared the view of the representative of Mexico; who had suggested (731st meeting) the possibility of the Assembly exhorting the parties, without in any way prejudicing their respective positions, to endeavour by conciliatory and friendly means to find a solution, in conformity with the spirit of the Charter of the United Nations, which would greatly contribute to the progress and welfare of the native population of New Guinea.

11. Turning to the substance of the matter under discussion, Mr. Franco y Franco said that it was obvious that the word "complete", in article 1 of the Charter of transfer, qualified "sovereignty", and not the territory being transferred. Article 2 of that charter

confirmed that interpretation by providing for the exclusion of New Guinea in effecting the transfer of sovereignty. On the basis of the documents available, it was clear that the transfer of sovereignty of the residency of New Guinea had not been decided upon either in the Charter of transfer or subsequently; that the *status quo* maintained under that charter meant that the residency remained under the Netherlands Government as limited and defined in that charter; and that mutual consent was required to modify the situation agreed to by the parties.

52. The difficulties that had faced the parties when the question of New Guinea had thus been referred to in the drafting of the Charter of transfer had apparently stemmed from differences in conditions and circumstances between the residency of New Guinea and the rest of Indonesia which, while they had not wholly precluded the establishment of a single State, had nevertheless made it very difficult and very complicated to include New Guinea until the population of that territory was at least attracted by or interested in the idea of unity.

53. The fact that the negotiations provided for under article 2 of the Charter of transfer had proved unsuccessful was not surprising, since such a result always ensued when the parties to negotiation had diametrically opposed views and were determined to maintain them. The delegation of the Dominican Republic considered that the matter was basically, and perhaps exclusively, juridical, not only from the standpoint of the positions of the parties, but also because of the circumstances and reasons which might have led the parties to draw up the Charter of transfer, including article 2. That did not mean that the Dominican delegation overlooked or was unaware of the political aspects of the matter.

54. However, Mr. Franco y Franco believed that the General Assembly was not competent to decide a problem which, because of the position taken by the parties, required for the time being a primarily juridical solution. The General Assembly, as the centre for harmonizing the development of international conciliation, must assume its essential mission, which was not to deepen the differences separating the parties, but to exhort them to find some solution which would take into account the welfare and progress of the population of New Guinea, the essential point.

55. Basically, it was the will of the people of New Guinea which could and must finally settle the delicate question under discussion, and it was consequently necessary to have firm guarantees that that people was able to exercise its right of self-determination.

The meeting rose at 12.55 p.m.