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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. RIZK (Lebanon) said he would select a number of essential points from the innumerable aspects of the problem. First, he would like to express Lebanon's sympathy for two countries whose cultural and economic achievements it admired, and which had fought heroically, one in the Second World War and the other in its war of independence. Secondly, Lebanon's attitude would be determined by its concern, as a Member of the United Nations, that the provisions of the Charter on the maintenance of peace and security should be respected.

2. The present dispute was a political one that had existed before the Round Table Conference agreements, and to which reference had been made in article 2 of the Charter of transfer of sovereignty (S/1417/Add.1); it was not a dispute about the interpretation of that charter. After the colonial yoke had been thrown off, the Indonesian people had established the independent Republic of Indonesia which had comprised all the territories of the former Netherlands East Indies, including West Irian, whose political leader had taken part in the national rising.

3. Indeed article 1, paragraph 1, of the Charter of transfer of sovereignty provided for an unconditional and irrevocable transfer of complete sovereignty over Indonesia. Thus the concept of Indonesia, as defined by the Netherlands itself, was in no way restricted or qualified, for West Irian had not been mentioned separately either in the Netherlands Constitution of 1922 or in the revised text of 1948. The fact that West Irian had then been an integral part of Indonesia was also confirmed by the letter dated 2 March 1949 addressed by the representative of the Netherlands to the President of the Security Council (S/1274), announcing the conclusion reached by the Netherlands Government: that the best solution of the problem would be an accelerated transfer of sovereignty over Indonesia to a federal Indonesian government fully representative of the whole of Indonesia. Similarly, on 22 December 1948, the representative of the Netherlands had said in the Security Council—the statement was reproduced in document A/2694 that “what used to be the Netherlands East Indies should become an independent State as soon as possible”. The question of

the transfer of sovereignty had twice been dealt with in the First Committee by the representative of Indonesia, and it was enough to recall that the transfer of sovereignty had related to the whole of Indonesia. If the parties had wished to maintain Netherlands sovereignty over West Irian they would certainly have said so in article 1 of the Charter of transfer, but they had not.

4. It had been held that article 1 should be read together with article 2. But the word “sovereignty” did not appear in article 2. Article 2 therefore did not limit the sovereignty *de jure* transferred under article 1 to the political entity defined as Indonesia. In the second place, Indonesia was a national and political entity consisting of various groups. The representative of Ecuador had already (371st meeting) described how those elements had been combined by the Dutch themselves, who had thus been present at the initiation of what was to become the Indonesian State, the heir to the sovereignty *de jure* over the whole of that territory.

5. Thirdly, article 2 had referred to the residency of New Guinea, not to a residency of Netherlands New Guinea. In virtue, however, of the transfer of sovereignty effected by article 1, the Netherlands residency had become the Indonesian residency of New Guinea. Article 2 had not said that the Netherlands reserved sovereignty over the residency. Consequently, what had been “maintained” under article 2 was only “the *status quo*”, in other words, a control *de facto*, not Netherlands sovereignty, over the administration of the residency. In short, the Netherlands had sought, by means of article 2, to retain a control *de facto*, which had been the subject of a dispute with Indonesia, as was shown by the words “it has not been possible to reconcile the views of the parties”, and by the proclamation of the principle of settling all disputes between the parties “by peaceful and reasonable means”. During the one-year period provided for in article 2, the parties were to determine, by negotiation, not the question of sovereignty over West Irian, which had already been settled, but the future political status and the administrative system of the residency.

6. Nevertheless, the parties had never intended that the absence of an agreement at the end of the year should justify maintenance of Netherlands control, for it would have been too easy to refuse to negotiate, or to steer the talks to an impasse. In other words, the absence of an agreement signified the persistence of a dispute relating not to sovereignty but to the right of one of the parties to administer West Irian. That was the political dispute which had antedated the Charter of transfer of sovereignty, a dispute which Indonesia was attempting to resolve by applying to the General Assembly, and which was certainly not within the competence of the International Court of Justice. Besides, the General Assembly had asserted its competence by including the item in its agenda.

7. Before referring to the Australian representative's speech (727th meeting), Mr. Rizk wished to recall the ties of friendship by which Lebanon was bound to a State to which thousands of Lebanese had immigrated. Sir Percy Spender had said that the General Assembly had never lent its authority to a transfer of territory except in Palestine, where, in Sir Percy Spender's opinion, there had existed a "vacuum" of sovereignty. In reality, the sovereignty which the United Kingdom had been exercising over Palestine when the General Assembly had dealt with the problem had passed, on the proclamation of the end of the British Mandate, to the local population, two-thirds of which had consisted of Arabs and one-third of Zionists, and the "vacuum" had been merely one of power. It would therefore be to the everlasting shame of the United Nations that it had not allowed the inhabitants of the country to decide for themselves the form of government which they wished to establish.

8. As for the argument that the matter fell within the domestic jurisdiction of the Netherlands, the question of sovereignty could certainly not be decided by the incorporation of West Irian into the Kingdom of the Netherlands under the revised Netherlands Constitution of February 1952. Article 73 of the Charter did not apply to a people which, like the people of West Irian, was sovereign without being free, and the fact that the Netherlands submitted reports to the United Nations on the territory did not make its title any less disputed. The failure of the Netherlands colonial administration was apparent from the statement which the representative of Australia had made in the General Assembly (479th meeting), namely, that after more than a century, the people of West Irian were still at the stage of cannibalism.

9. The Lebanese delegation considered that there existed between the two Governments a political dispute which the efforts based on the Charter of transfer of sovereignty had as yet been unable to resolve. Nevertheless, Indonesia did not despair of a peaceful settlement, for it had brought its case to the United Nations. Moreover, present relations between the two parties were founded, not as in Palestine on an armistice which could be broken at any moment, but on friendship and the provisions of the Charter of transfer of sovereignty. That was the agreement which would be violated by a refusal to negotiate, and such a refusal would at the same time contradict the provisions of the United Nations Charter. Furthermore, to leave things as they were would entail a threat to the peace, arising not from any action of the Indonesian Government but from the reaction of a people still jealous of its newly-won freedom. The news dispatches from Indonesia spoke of the mounting tension, the fears of the 100,000 Dutch who had remained in the country, and the support which all political parties in Indonesia were giving the Government in the matter of West Irian.

10. The United Nations was therefore bound to leave nothing undone to settle a dispute on which Indonesia did not ask it to pass judgment; the United Nations had only to help to secure the resumption of negotiations on the basis of the Round Table Conference agreement and the United Nations Charter. The Lebanese delegation therefore hoped that Indonesia's appeal would be heard by the First Committee.

11. Mr. DEJANY (Saudi Arabia) said that the matter did not come under Article 2, paragraph 7, of

the Charter, because it had arisen out of an international agreement between two sovereign States who had described it in the Charter of transfer of sovereignty as a dispute. If it had been a matter of domestic jurisdiction, the Netherlands Government could hardly have agreed to make it the subject matter of negotiations with another State by such an international agreement.

12. In reply to the second argument, that the Security Council was still seized of the matter as an integral part of the Indonesian question, it could be stated, first, that the matter brought before the Security Council had been a military conflict which had ended when Indonesia won its complete independence and sovereignty, and, secondly, that the provisions of Article 12, paragraph 1, of the Charter, on disputes or situations before the Security Council, had not been construed very strictly in the case of Palestine or Korea, the General Assembly having dealt with certain aspects of those questions at a time when the Security Council had still been seized of them.

13. Another point in dispute was whether or not West Irian belonged to Indonesia; but both the Constitution of the Kingdom of the Netherlands, and the Netherlands Government's 1949 report to the United Nations,<sup>1</sup> had quite clearly established that Indonesia, in the political and national sense of the term, comprised the whole of the former Netherlands East Indies, extending from the mainland of Asia to the border between Australian and Netherlands territory. Similarly, Mr. Van Royen had stated in the Security Council<sup>2</sup> on 22 December 1948 that "what used to be the Netherlands East Indies should become an independent State", and that common existence under the Netherlands Crown had created a sense of Indonesian nationality among the seventeen main ethnic and linguistic groups of which the population of Indonesia consisted. It followed, therefore, that any discussion of ethnic or linguistic matters was beside the point, despite the existence of many ties of diverse nature between West Irian and the rest of Indonesia. Since West Irian had been a part of Indonesia before Indonesia became independent, and since agreement on Indonesia's unity had existed up till 1949, there had been no reason to detach it later. The Netherlands motives in changing its stand at the end of 1949 and refusing to evacuate the territory were quite obvious: they had not wanted to withdraw from the area altogether. But the rights of Indonesia remained intact.

14. Moreover, the parties had agreed in article 2 of the Charter of transfer of sovereignty that New Guinea remained in dispute, and that the *status quo* of the residency of New Guinea should be maintained for the time being solely in order that the parties might settle their dispute by negotiation. The Netherlands authority over West Irian had no longer been absolute, but subject to the rights and claims of Indonesia. It had been specifically required to maintain the *status quo* of the residency of New Guinea pending settlement of the dispute by negotiation. The refusal of the Netherlands to continue negotiations had therefore constituted a violation of article 2 (f), in the face of which Indonesia had had no alternative but to bring

<sup>1</sup> *Non-Self-Governing Territories: summaries and analyses of information transmitted to the Secretary-General during 1949*, Vol. II, p. 158. United Nations Publication, Sales No.: 1950.VI.B.1.

<sup>2</sup> See *Official Records of the Security Council, Third Year*, No. 132, 388th meeting.

the matter before the United Nations. But that did not mean that the dispute had been settled, or that the Netherlands could change the *status quo* upon which they had agreed. If the General Assembly refused to call upon the parties to resume the negotiations which had been broken off, that might almost tantamount to an invitation to resort to force.

15. Thus the Netherlands had failed to honour its commitments on two occasions: once in 1952, when it had annexed West Irian, although it had previously admitted that a dispute existed concerning the territory and undertaken to maintain the *status quo*; and again when it had refused to continue negotiations, in spite of the agreement concluded under the auspices of the United Nations that the dispute should be determined by negotiations. Thus, whatever action the Netherlands might take, the dispute would continue until the political status of West Irian had been settled by negotiations or by other peaceful means. The one-year time-limit had been intended only to accelerate the negotiations, and not to allow Indonesia's rights to be permanently blocked by the Netherlands delaying the conclusion of an agreement until the time-limit had expired. To ignore the dispute would be likely to endanger friendly relations between nations in a very sensitive part of the world. The subject was a national issue of great importance, and it was not easy to control public opinion over such a sensitive issue in Indonesia. Moreover no one would benefit from a hardening of feeling and increased bitterness, which only tended to make agreement more difficult and to strain relations between the two Governments.

16. Saudi Arabia maintained friendly relations with the Netherlands people as well as with Indonesia, where many of its citizens had settled. It had to be admitted, however, that the aims of the Netherlands in the present matter were colonialist aims, despite all the arguments which the Netherlands had advanced to foment distrust of the Indonesian objectives, such as reference to the right of self-determination and the contention that West Irian would be better off as a Netherlands colony than as an integral part of an independent State. Such arguments were inconceivable today, when all kinds of regional pacts were being concluded in different parts of the world to safeguard the interests of the peoples and countries of each region and to foster the ties of friendship and association between them. In fact, the benefits of colonialism, which was the antithesis of justice and of the right of self-determination, had always been illusory for the indigenous peoples, whose interests had been subordinated to those of the metropolitan country—not to speak of the reluctance with which the colonial Powers had agreed to give up their prerogatives. The heyday of colonialism was past, and it would now be in the interests of the colonizers themselves to speed up the independence of the territories under their control.

17. The right of self-determination in the present case could be respected by reuniting West Irian with Indonesia, whose achievements had already been so impressive despite the brevity of the period which had elapsed since it had won its independence, the complexity of the issues which had confronted it and the legacy of destruction wrought by the war. There was no doubt about Indonesia's capacity and ability to guide and aid its West Irian brothers along the same lines of progress and development as it had done for the rest of the Indonesian people. It was unrealistic to

assume that the right of the Irianese to self-determination would be better served under Netherlands colonial rule, and it was difficult to reconcile the Netherlands concern for the Irianese now with its readiness, prior to the Round Table Conference, to cede West Irian as part of Indonesia.

18. The Saudi Arabia delegation would vote for the Indonesian draft resolution (A/C.1/L.109), considering it to be as just as it was reasonable, and in keeping with the Charter of transfer of sovereignty agreed upon by both parties.

19. Mr. SERRANO (Philippines) recalled the common experiences of the Netherlands, Indonesia and his own country during the Second World War, the battles they had fought, their losses of human life and their suffering under enemy occupation. The Philippines now had equally friendly relations with both countries. Moreover, Indonesia was in the South-East Asia area, in which the Philippines, in collaboration with others, was striving to strengthen security and to promote spiritual unity and economic and social co-operation. All three countries shared in United Nations activities.

20. Australia had also shown an unusually strong interest in everything relating to a territory which lay quite close to it and which could either protect or threaten it. A common commitment for mutual defence bound Australia in friendly relations with the Philippines people. The basis of the Philippine delegation's position could be clearly seen in the light of those facts.

21. New Guinea, lying north of Australia and having a total area of 850,000 square kilometres, had for many years been divided into an eastern portion administered by Australia and a western portion, administered by the Netherlands. West Irian had been discovered in 1511, and had been a commercial monopoly of the Netherlands East India Company in the seventeenth and eighteenth centuries. At length, in 1898, the Netherlands had established its permanent administration at Manokwari, on the north coast, and at Fak Fak, on the west coast; in 1902, it had established its administration at Merauke, on the south coast.

22. West Irian had an area of 413,000 square kilometres—as large as France and twelve times as large as the Netherlands—and an indigenous population of about one million inhabitants, mostly Papuan and Melanesian. Malarial swamps and jungle covered almost the whole area. The territory had remained undeveloped and had been impenetrable for three centuries. The Netherlands Administration, dating from 1826, had not yet penetrated deeply into the country, and more than two-thirds of the population had practically no contact with it. Indeed, in the information transmitted by the Netherlands in 1950,<sup>3</sup> reference had been made to inhabitants who were still living in the stone age and addicted to head-hunting and cannibalism.

23. The first expedition into the interior of the country had taken place in 1907, and in 1935 three oil companies, one of them the Dutch New Guinea Oil Company, a subsidiary of the Royal Dutch Shell Company, had begun to explore the country on a larger scale. It should be added, however, that the building of churches, schools and hospitals by Netherlands mis-

<sup>3</sup> *Non-Self-Governing Territories: summaries and analyses of information transmitted to the Secretary-General during 1950*, Vol. II, appendix I. United Nations Publication, Sales No.: 1951.VI.B.1.

sionaries, sometimes with the assistance of the Government, had begun as early as the beginning of the century. In sum, geographical and historical factors were partly responsible for the fact that social and educational progress had been neither steady nor sufficient.

24. No purpose would be served by restating the historical antecedents of the dispute between the Netherlands and Indonesia. Despite their mutual accusations, however, both parties were not without hope that further efforts to reach a peaceful settlement of the dispute were possible, in accordance with the principles of article 2 of the Charter of transfer of sovereignty.

25. The Philippine delegation hoped that it would never have to decide on the merits of the contentions, based on legal, historical, ethnological and humanitarian arguments, which each of the parties had advanced. In any event, the draft resolution submitted by Indonesia (A/C.1/L.109) did not call upon the Committee to take such a decision, and happily referred to "co-operation between the peoples of Indonesia and the Netherlands on the basis of freedom and friendship". The Philippine Government hoped that the issue would be settled in that spirit of friendship between the two countries, which should be preserved; and it hoped above all that the inhabitants of West Irian would find their place in a free and happy society, whatever might be the result of the negotiations.

26. The Philippine delegation would therefore support the draft resolution so far as it called upon the Governments to resume negotiations with a view to achieving a peaceful and mutually satisfactory agreement on the political status of West Irian, on the basis of freedom and friendship between the two countries, and to promoting the peaceful and orderly development of that backward area and the achievement by its benighted inhabitants of the political, economic and social welfare which they deserved. The Philippine delegation also hoped to be able to support the text so far as it invoked the good offices of the Secretary-General, or any person the Secretary-General might appoint in consultation with the parties concerned, with a view to achieving an agreement satisfactory to both disputing countries.

27. It would therefore be advisable for the Indonesian delegation to recast and simplify those paragraphs which were even remotely capable of being interpreted as a prejudgment of the problem or as tainted with partiality. That would eliminate the possibility that the efforts of the Secretary-General or of the friendly and impartial mediator appointed by him might be wasted. To ensure the success of good offices or of a mission of mediation, a resolution authorizing either had to be both friendly and impartial.

28. The Philippine delegation would be pleased to give its support to a resolution which would meet those requirements, and hoped that it would then attract the votes of other delegations.

29. Mr. MENON (India) pointed out that his delegation had already (728th meeting) stated its general approach to the problem and its views on the question of the General Assembly's competence.

30. The issue before the Committee was not a boundary dispute, nor was it a question of rival claims to a territory existing in a political or historical vacuum, but simply a continuation of the question of the Indo-

nesian people's right to national independence. Although to mention it might seem an incursion into history, the fact was that the Indonesian people had been in conflict with its rulers, the matter had been referred to the United Nations, and a settlement had been reached. The present problem was in reality the last chapter of a story of negotiations in regard to which the United Nations had a responsibility, and it must fulfil that responsibility in regard to the last chapter too. The Indonesian Government, instead of taking the law into its own hands, had approached the United Nations as a loyal Member State; and it would be more appropriate to express appreciation of that action than to seek to deny that the Assembly was competent to deal with the matter. It was only fair to say that the Netherlands, while making reservations concerning the competence of the Assembly, had not refused to take part in the discussion.

31. Thus both parties had in some degree recognized that the United Nations possessed authority and that the dispute, while not justiciable, was open to negotiation. Admittedly, that did not necessarily mean that the Netherlands agreed to negotiate as proposed in the Indonesian draft resolution, but at least no hostilities had been opened nor aggression launched; the context was one in which the United Nations could contribute to a peaceful settlement.

32. In substance, the problem had arisen out of a series of unilateral actions by the Netherlands. First of all, an agreement between the two parties had not been put into effect, and the Netherlands position appeared to be that it had expired. Secondly, arguing that West Irian was part of the Netherlands, the Netherlands Government had performed the unilateral political act of altering its Constitution to make room for a territory which had not previously been referred to in the Constitution.

33. The Netherlands representative had referred to facts which he regarded as precedents. He had maintained that his country's jurisdiction over West Irian was similar to that of the United Kingdom, or of India—which at the time had been under British control—over Pakistan or Burma. But in fact, Burma, India and Pakistan had all been part of the British dependency of India. In 1935, the British Parliament, the sovereign constitutional authority, had created the State of Burma; and in 1947, by the passage of the Indian Independence Act, it had made Pakistan a separate State. Could the Netherlands representative mention any comparable legal act by which West Irian had been separated from the former Netherlands East Indies? The situation was rather that the constitution of West Irian as a separate territory forming part of the Netherlands was an act *ultra vires*, in violation of the existing agreements.

34. The supporters of the Netherlands delegation had in some instances shown less moderation than the Netherlands itself. The Committee had been asked to look at the geographical, ethnological, historical and linguistic arguments. None of those factors determined nationality, but, since they had been mentioned, it could be pointed out that Bernard H. M. Vlekke, in his *Nusantara; a history of the East Indian Archipelago*,<sup>4</sup> said that the Netherlands East Indies extended from the western point of Sumatra to the Netherlands-Australian boundary in New Guinea. Thus, before the

<sup>4</sup> Harvard University Press, 1943.

Round Table Conference agreements, there had been only one sovereignty—that of the Queen of the Netherlands—and no political unit called “West Irian”; whereas since the conclusion of those agreements there had been two sovereignties, that of the Netherlands, and that of Indonesia, comprising the whole of what had formerly been the Netherlands East Indies.

35. A country need not have historical, geographical or ethnic ties with all its constituent parts in order to be a State. Thus, if the British Government had not separated Aden from India in 1935, and placed it under the administration of the Colonial Office, the sovereignty over Aden, which constitutionally had been part of the Bombay residency, would have passed to India, despite the heterogeneity of the ethnic, linguistic and geographical factors. Similarly, in the case of Indonesia, the sovereignty of the Queen of the Netherlands over an entire territory 3,000 miles in extent had been transferred, and a reservation had been made only with regard to the administration of West Irian. In effect, a distinction had been made between a State and its government: the State had been transferred, but an element of administration, in other words, a form of possession, had remained, without conferring legal authority over the territory.

36. The Netherlands representative had contended that the word “complete”, in article 1 of the Charter of transfer of sovereignty, referred to the word “sovereignty” and not to the word “Indonesia”. That was true, but the question was the meaning of “sovereignty”. It must mean sovereignty not over part but over the whole of Indonesia.

37. It had been contended that the General Assembly was not competent to interpret treaties or to act as a judicial body. That was equally true; but the provisions of the Charter of transfer of sovereignty were merely part of the evidence in a political dispute.

38. Setting aside the question of sovereignty, it was admitted in article 2 of the Charter of transfer that West Irian was the subject of a dispute—a dispute recorded in a treaty for which the United Nations was responsible. The United Nations was therefore bound to use the methods of conciliation and to induce the parties to negotiate. Thus, from that point of view, both the parties, as loyal Members of the United Nations had agreed—at least by implication—that the United Nations should examine the question. Consequently, negotiations would not be followed by conflict.

39. In common with Australia which, it was to be hoped, would reconsider its arguments, approach and outlook as a whole, India was especially concerned that external complications should not arise in that part of the world just when one war against a colonial Power had come to an end. That was another reason why the pacific intervention of the United Nations was desirable. Furthermore, article 2 (f) of the Charter of transfer of sovereignty bound the parties to resolve their differences by peaceful means. It was true that a one-year time-limit had been fixed, but that had merely been the expression of a hope; negotiations would have to continue until the whole question of the transfer of sovereignty was settled. Furthermore, it should not be forgotten that the United Nations had had a special interest in that international treaty from the outset, and was therefore bound to congratulate Indonesia on having chosen the method of pacific settlement.

40. With regard to article 2 of the Charter of transfer of sovereignty, the only question reserved had been that of the political status of New Guinea. If sovereignty had been of paramount importance, that charter would surely have specified that the transfer of sovereignty applied only to the other territories. Furthermore, under article 1, paragraph 2, of the Charter of transfer, Indonesia had accepted that sovereignty on the basis of the provisions of its Constitution, in which there was no reference to the fact that West Irian was to be outside the sovereignty of Indonesia. The legal evidence, in short, gave no support to the idea that the transfer of sovereignty, the completion of which had been promised, would entail any reservation with regard to West Irian. In other words, the Netherlands, when its sovereignty over Indonesia had come to an end, had not partitioned Indonesia, as India had been partitioned; therefore the absorption of West Irian into the Kingdom of the Netherlands was *ultra vires* in respect of the Round Table Conference agreements, and therefore unconstitutional. Thus the only legal feature of that action was its purely administrative aspect, just as the British Crown retained governmental and administrative authority in Tanganyika without exercising sovereignty there.

41. Geographical, historical, ethnic and linguistic arguments had also been advanced to prove that the people of Sumatra, for example, were remote from the people of West Irian. But everything was relative; it could scarcely be maintained that the Netherlands was geographically nearer to West Irian than Indonesia was.

42. Reference had been made to the sultanate in an endeavour to show that West Irian had no historical connexion with Indonesia. It could also have been recalled that West Irian had been settled by people from Southern India, and that between the thirteenth and sixteenth centuries it had formed part of the Empire of the Indies. The salient fact, however, was that, until 1940, or thereabouts, West Irian had not even constituted a separate residency, but had formed two districts of the residency of the Moluccas; in other words, it had been a subdivision of a State which was now part of Indonesia.

43. Ethnological arguments were probably somewhat pointless, and might well embarrass some of the oldest nations, which would find it hard to base their nationality on ethnic ties. But West Irian and Indonesia had much more in common than had been admitted in the Committee. Moreover, the fact that certain peoples in the interior of a State were less advanced than others did not mean that they should remain isolated from the rest of the community.

44. Lastly, leaving aside the linguistic problem, some delegations had found it necessary to advance a strategic and political argument. It was doubtless customary to regard certain parts of Asia as indispensable to the communications of empires or the protection of trade routes. But strategic considerations were no more valid as a bar to the completion of Indonesian independence than as a reason for holding territories like Suez. Moreover, it was a very poor argument to say that if certain territories were held by Indonesia, a loyal Member of the United Nations, to which it had submitted the present question, that would constitute a political or strategic danger to another country. Mr. Menon would not probe that argument any further, in view of his delegation's very close relations with the two or three delegations which had advanced it. The doctrine that

imperial strategy was more important than the welfare of a population was untenable. The Netherlands, of course, had economic interests which it would be reasonable to protect by a negotiated agreement. That, however, was a matter for arrangement between the Indonesian and Netherlands peoples. The United Kingdom and India had already benefited economically by the change in their political relationship; that would be the experience of any European empire which took note of the signs of the times and made way for a fraternal association. That was the process which had been set in motion in Indonesia, to the greater benefit of the peoples concerned.

45. The Australian representative had claimed that under another authority the inhabitants of West Irian would lose all hope of becoming civilized. But no one should forget the aboriginal population of Australia, which had shrunk from 300,000 or 400,000 to 50,000, or the bloody conquest of the Banda Islands, which revealed an aspect of Netherlands colonial history that belonged to the past.

46. In the final analysis, the Netherlands position was based exclusively on colonial conquest, which had followed upon the arrival of the merchants. Fortunately, new legal concepts had reduced the dispute over colonialism from one of physical violence to one of argument, in which each should be allowed to have his say in full knowledge of the facts.

47. The Australian representative had said that the people had continued to prosper under Netherlands rule. It was true that European pioneers, administrators, missionaries and statesmen had suffered and struggled in Indonesia, as in the other colonies of Asia and Africa, in the service of the indigenous populations. But that was only one side of the picture. The fact was that in Indonesia, which before its independence had had no university, 88,230 primary schools, 8,235 secondary schools and a total of 1,879,000 pupils, there were now seven universities, 26,670 secondary schools and nearly 5 million pupils. It was only when the people had the power that they progressed, and the example of Indonesia did not substantiate the assertion that the completion of the transfer of sovereignty initiated by the Charter of transfer would spell a period of darkness for West Irian.

48. The problem was one that could be solved only by negotiation and not by domination; and the same was true of the aggregate economic interests of the two countries. Netherlands investments in Indonesia itself were considerable, and it was naturally in the interests of the Dutch that the Indonesians should turn to them for equipment and technical assistance under friendly conditions. The United Nations, which had a special responsibility in the matter, ought to bring about a state of fraternity in place of conflict. The independence of Indonesia had not come as a voluntary move; it had come under the pressure of a national movement, and after wiser counsels had prevailed. No one could desire the conflict to be reopened, when so little remained to be done to complete the victory of freedom.

49. Arguments had been advanced concerning Australian security, or that other security to which the Philippine representative had referred, as well as the argument that the Indonesian Government would be less friendly towards the people of West Irian and less capable of looking after them. But such arguments should be set aside and attention given only to the

agreements, to what was morally correct, to national freedom, and to the aspirations and the future of the peoples themselves.

50. From the point of view of friendship between the Asian and non-Asian peoples of that part of the world, it was to be regretted that Australia had not been able to follow the policy that had led it to bring the Indonesian question before the Security Council. The future of that part of the world lay in collaboration and in mutual understanding, and not in the fact that certain territories were occupied by European races for the purpose of establishing empires, exploding bombs or halting some real or imaginary aggression. In the present case, given goodwill and the moral support of the General Assembly, the two parties should be able to get together and establish some relationship on a new basis.

51. It had been argued, on behalf of the Netherlands that whatever agreement there had been with the Republic of the United States of Indonesia had been cancelled by the changes in the Constitution of Indonesia. But the new republic had inherited the rights and obligations of the old. In the same way, the Republic of India, another succession State, could not repudiate the obligations previously undertaken by the British Government. The treaty had been concluded with Indonesia; the expression "United States of Indonesia" had been merely the name of one of the parties, whose character could change by constitutional processes without altering the situation.

52. The Indian delegation had no doubt said things which would not meet with the Netherlands delegation's agreement, but it appealed to the Netherlands delegation to acknowledge that the curtain had been drawn on a great part of history. Queen Wilhelmina herself had remarked that her people had to look to the future in a different set of circumstances.

53. That was the spirit in which the Indian delegation commended the Indonesian draft resolution (A/C.1/L.109) to the First Committee.

54. Sir Percy SPENDER (Australia) said that in his opinion the speakers who had made statements on the matter before the Committee fell into two categories: those who had approached the matter objectively and had decided on the merits of the case to support either the Netherlands point of view or that of Indonesia; and those who had approached it subjectively, failing to see the truth of the matter because of their obsession with colonial issues.

55. The Indian representative had stated in his speech that the problem was a colonial one. It should be said again that to put the dispute in that light was to dodge the real issue. Moreover, the Indian representative had interpreted after his own fashion certain arguments put forward by the Australian delegation. He had asserted that the Australian delegation had raised the strategic issue and had declared its support of Netherlands sovereignty for that reason. It was worth repeating that in fact Australia had merely said that the security of Australia and the security of New Guinea were indivisible and that it therefore had a continuing interest that that area should remain stable and secure, both under present arrangements and when the people of New Guinea were ready to work out their own destiny.

56. Mr. Menon had also attributed to the Australian representative a statement that the people of West New Guinea would be better off under Netherlands



than under Indonesian rule. Sir Percy had made no such statement, as was demonstrated by the record of his speech (727th meeting).

57. Unfortunately, some delegations had attempted to present the problem raised by Indonesia as a colonial issue in order to create confusion and to introduce prejudice and antipathies. West New Guinea, however, was not at all a colonial issue in the obsolete sense of that term. The discussion would be greatly assisted if the situation were dealt with as it was in fact.

58. It was also questionable to what extent the Committee had gained from the presentation of the case from the legal point of view. The idea of a transfer of sovereignty *de jure* had been put forward by Indonesia and opposed by the Netherlands. The Committee's consideration of the legal aspect had led nowhere, because those supporting Indonesia's case had been unable to say at what precise moment and by what procedure the transfer had taken place. The date of the Linggadjati Agreement, 1947, had been mentioned, and also 1948, the date of the *Renville* Agreement. Then article 1 of the Charter of transfer of sovereignty had been quoted as expressly giving effect to such a transfer. Finally, it had been said that article 2 of that charter had not concerned the issue of sovereignty, and that in any case, after the expiry of the one-year period provided for in that article, sovereignty *de jure* was to pass to Indonesia.

59. But when considering the transfer of sovereignty over a very large territory, one's position could not be based on possible interpretations at different times of the geographical or political meaning of the word "Indonesia". With reference to that problem of geography, the Indonesian representative had cited various political documents of Netherlands origin in which the word "Indonesia" had been used with a loosely defined political meaning. The documents cited had certainly been in no way intended to define territorial boundaries.

60. The Committee could not be requested to give an opinion, either by a majority vote or by any other means, except upon purely political grounds. Moreover, it was quite clear that, from the legal or constitutional standpoint, Indonesia had as yet proved nothing. On the contrary, the Netherlands interpretation of the articles of the Charter of transfer of sovereignty was clearly reasonable and in accordance with what was known of the intentions of the parties at the time of the Round Table Conference. That, however, was not the point; the problem was really a purely political one.

61. In his statement at the 731st meeting, the Indonesian representative had stated that he would not ask the First Committee to take a legal decision or to accept the argument that his country had sovereignty *de jure* over West New Guinea. But that claim was the sole and essential basis of the Indonesian legal argument, as originally put forward. What the Indonesian representative was now asking was that the Assembly should recognize the existence of a dispute between his country and the Netherlands, a dispute arising from the failure of the negotiations undertaken in virtue of article 2 of the Charter of transfer of sovereignty. That admission revealed Indonesia's lack of confidence in the legal argument of the transfer of sovereignty *de jure*.

62. That admission also showed that, doubtless by an unconscious process, the word "dispute" had acquired two meanings in the present case. Ostensibly the Assembly was being asked to deal with a dispute between two parties to an agreement over the interpretation of certain provisions of that agreement. Under those provisions, negotiations had been held and had failed. In that sense, the dispute remained. But that was not the real dispute. The Committee was now faced with a new situation. There was no question of resuming the previous negotiations. On the expiry of the prescribed one-year period, the United Nations perhaps properly, perhaps not, could have been asked to assist the parties to continue their negotiations. That procedure had not been used, and the negotiations had ended. Indonesia was actually asking for something on a new footing altogether: it wanted the Assembly to take note of a dispute between the Netherlands and Indonesia, and not merely to take note but to take measures. That did not mean simply a resumption of the negotiations on the basis of the Round Table Conference agreements; it meant, in effect, that the United Nations was to endorse Indonesia's claim to the territory of another State. That claim of Indonesia's, however, was supported only by its repeated assertion that West Irian was an integral part of Indonesia. Such claims were not legal but political.

63. If the General Assembly adopted the Indonesian draft resolution on the basis of such arguments, it would, in effect, open the door to any claim put forward by one nation against another as a means of obliging the latter to open negotiations whether there was a valid reason for doing so or not.

64. The Indonesia representative, of course, claimed only to be asking the Assembly to endorse the idea of negotiations by a purely procedural decision. But in view of the stand which both sides had taken on the question of West New Guinea, it was completely absurd even to envisage the idea of negotiations between Indonesia and the Netherlands. Either the real purpose of Indonesia's claim was the transfer of territory and people, or the aim was to open negotiations concerned not with such a transfer but purely with the future and welfare of the people of West New Guinea.

65. The Netherlands Government had made perfectly plain its determination to hold that territory, the sovereignty over which it had never ceded. Indonesia, on the other hand, had constantly proclaimed that that territory was part of Indonesia. Plainly no negotiations were possible in such circumstances. Indeed, if the General Assembly endorsed the idea of negotiations, it would in effect be exerting pressure upon the Netherlands to relinquish its sovereignty over West New Guinea and allow Indonesia to pursue its political purpose. That would create a dangerous precedent which might in future work to the disadvantage of those who were now supporting it.

66. The Indonesian representative had twice stated that if the General Assembly did not endorse his request for renewed negotiations, his country would have to consider the alternatives. It was considerations of that kind which had led the Australian delegation to say that the Committee was faced with an essentially new situation. The question was no longer one of resuming negotiations where they had been left off, but of transferring the territory of West New Guinea to Indonesia. In considering Indonesia's request, therefore, it was the General Assembly's responsibility

to ensure that the functions which it had been asked to exercise not only fitted the circumstances but also adequately expressed the legitimate interests of the United Nations—which the draft resolution did not do.

67. The delegations of the Netherlands, Australia and other countries had sought to focus the Committee's concern on the interests of the inhabitants of West New Guinea and on what would happen to them ultimately if the Assembly adopted the Indonesian draft resolution. At the 731st meeting, the Indonesian representative had said that the Netherlands had not previously spoken about self-determination for the people of West New Guinea. He had also said that that principle had already been applied in the territory, since its inhabitants had allegedly taken part in the Indonesian independence movement. Enough had been said on that point to show that such an assertion was quite fictitious.

68. It had also been claimed that the administering Powers did not have the interests of the peoples in their charge at heart, and therefore did not encourage them to attain self-government. It had even been argued that the colonial governments were responsible for all the ills from which their charges suffered. Those arguments were, to say the least, naïve and unfair. The colonial Powers submitted detailed reports to the United Nations; international visiting missions were sent to those territories by the Trusteeship Council to examine living conditions on the spot, and had often paid tribute to the efforts made by the administering Powers. Australia, for its part, regarded its obligation to the people of New Guinea as a great trust, which it had endeavoured to discharge worthily. Sir Percy Spender therefore formally rejected such allegations. It was equally inaccurate to say that the present was the first time that the political aspirations of the people of the territory had been recognized by the Netherlands. Official statements on that subject had been made by the Netherlands Government long before the matter had come before the United Nations.

69. It was true, on the other hand, that the present occasion was the first, apart from the proceedings of the Fourth Committee, on which the problem of the political development and aspirations of that people had been brought to the specific attention of the General Assembly. The Indonesian Government had probably not foreseen such an outcome. The question of the ultimate interests of the people was now before the General Assembly, and Indonesia could not prevent the General Assembly from dealing with it. The Assembly should be sure that its decisions would not in any way jeopardize the future rights of that people, for, in spite of its innocent appearance, the Indonesian draft resolution involved the future of a million human beings.

70. The very terms of the draft resolution before the Committee would mean that the General Assembly, if it adopted it, had concluded that the transfer of sovereignty over West New Guinea was justified on political grounds, and that the Netherlands and Indonesia should resume negotiations in order to arrive at an agreement to that effect. Thus, what Indonesia was asking was that the Assembly should pass a political judgment based solely on Indonesia's assertion that West New Guinea belonged to it.

71. If the draft resolution was based on legal considerations, the Assembly would be assuming the respon-

sibility of interpreting a treaty—which was not within its competence at all.

72. If, as the Australian delegation hoped, the predominant consideration was to be the welfare of the peoples of New Guinea, their future and their right to work out their destiny, then the draft resolution ran completely counter to such ideas.

73. Mr. VON BALLUSECK (Netherlands) regretted that the Indonesian representative had seen fit to discourse on a number of subjects which had in relation to the present issue but were intended only to appeal to certain well-known sentiments and prejudices.

74. The only relevant issue was whether Netherlands sovereignty over West New Guinea had or had not been transferred to the Republic of the United States of Indonesia under the Round Table Conference agreement of 1949. West New Guinea had been excluded from the general transfer of sovereignty, and there had been no stipulation whatever in the Charter of transfer of sovereignty that the Netherlands sovereignty should cease if the negotiations provided for in that charter were not successful. The Indonesian representative had admitted as much when he had said at the 726th meeting that it had been agreed at the Round Table Conference that no change in the existing status could be brought about without the consent of both parties.

75. The difference between the treatment of West New Guinea and that of the territories composing what was now the Republic of Indonesia had not been a sudden and recent invention of the Netherlands Government. As early as 1946, at the time of the Linggadjati Agreement, the Netherlands Government had made the explicit reservation that New Guinea should obtain a special status in its relationship with Indonesia and the Netherlands. The Linggadjati Agreement had referred to an exchange of letters in which the Netherlands Government had expressed the desire that New Guinea should obtain a separate status of its own, within the meaning of articles 3 and 4 of that agreement.

76. The *Renville* Agreement of 1948 had reaffirmed the Linggadjati Agreement on that point, and Mr. Van Royen, one of whose statements had been quoted several times in the First Committee, had said in another, less often quoted part of the same statement that the Netherlands would stand by the political principles that it had accepted in the Linggadjati and *Renville* agreements.

77. When the agenda for the Round Table Conference of 1949 had been drawn up, it had been agreed that the question of New Guinea should form a separate item. Far from being an unexpected deviation, the Netherlands present attitude was what it had always been. It was therefore clear that the Round Table Conference agreements had not altered the *status quo* of West New Guinea, in other words, Netherlands sovereignty over that territory.

78. An example of the errors in the sometimes recklessly conceived statement of the Indonesian representative was the remark that the Netherlands Government had incorporated the territory of West Irian in its Constitution as a part of the Kingdom of the Netherlands. The fact was that the Netherlands Constitution as revised in 1948, had mentioned Indonesia as one of the parts of the realm. When the United States of Indonesia had become an independent State, it had seemed logical to the Netherlands Government that the term "Indonesia" should be replaced by the name of the



only territory in Asia left under Netherlands sovereignty, namely, Netherlands New Guinea. Accordingly, the Government had submitted to Parliament a bill containing a draft constitutional amendment to that effect. That bill had been rejected for reasons related to another constitutional amendment which it had contained. Thus, what had been represented as a unilateral attempt to absorb West New Guinea, had in fact been merely an attempt to exclude Indonesia from the parts of the realm mentioned in the Netherlands Constitution. Such an accusation came rather strangely from Indonesia, whose Government, six months after the Charter of transfer of sovereignty had come into force, and even before the preliminary negotiations on the status of West New Guinea had taken place, had stated in the explanatory memorandum to its new unitary constitution that West New Guinea was part of Indonesia.

9. With regard to the official Netherlands reports on the state of West New Guinea which the Indonesian representative had seen fit to use in order to demonstrate the administrative incapacity of the Netherlands, there had been an inter-departmental report established for the purpose of advising the Netherlands Government on how to adapt its administration in New Guinea to the standards worked out by the General Assembly on the basis of the United Nations Charter. The fact that the Netherlands Government had decided to publish that report in order to place the problem squarely before public and parliamentary opinion was evidence of the democratic character of its administration. Thus public criticism had been invited so that the people of New Guinea might benefit by the suggested improvements. The second report mentioned, which had been published in 1954, had been drafted by a parliamentary mission consisting of representatives of the various political parties. There again a contribution had been made to an intelligent public and parliamentary examination of the problem. That report would be discussed by the Netherlands Parliament during its current session, together with a three-year development plan drawn up on the basis of that report.

10. It had even been said that little had been achieved under Netherlands rule. That criticism was somewhat unfair in view of the fact that the pace of development throughout the world had been much quicker during the preceding ten years than during the three centuries that had gone before. The Netherlands Government's annual reports to the United Nations bore witness to the fact that its endeavours had been geared to that evolution. It was useful to note in passing that, during the five years of the existence of independent Indonesia, it had not been possible to hold free parliamentary elections there.

11. Lastly, Mr. von Balluseck was authorized by his Government to state that, contrary to what the Indonesian representative had asserted, there was no legal provision in Netherlands New Guinea forbidding anyone to listen to broadcasts from the Indonesian broadcasting station at Djakarta, or any other station.

12. Mr. Sudjarwo and other representatives, while affirming that the Netherlands had contended that Indonesia must prove that it had linguistic, zoological, botanical, geological and anthropological ties with West New Guinea in order to substantiate its claim, had also argued that, if it wished its views to prevail, the Netherlands would have to prove that New Guinea had in all those respects a closer affinity with the Netherlands than with Indonesia. That was merely an attempt

to turn the argument upside down. The Netherlands had never contended that West New Guinea formed a natural part of its country. On the contrary, it was Indonesia that claimed natural ties with West New Guinea. It was therefore incumbent upon Indonesia to prove its contention, which for very good reasons it had been unable to do.

83. Laying stress on the ties created by the Netherlands administration between Indonesia and West New Guinea, a number of speakers had referred to a community of experience which had grown into social and political unity. No such community had ever existed. The Indonesians had always considered themselves vastly superior to the Papuans. Indeed, there were none of the traditional criteria, such as unity of territory, ethnic origin, custom or language, which might have produced in the Papuans a feeling of community with Indonesia. Instead of a community of interests, there was rather a conflict of interests between the two groups. It was not, therefore, surprising that it should have been Indonesia which had unilaterally proclaimed the unity of Indonesia and West New Guinea, but that criterion revealed a somewhat fascist concept of nationality, of the nation being created by the State. Furthermore, on 2 September 1953, the Indonesian Government had confirmed its refusal to allow the population of West New Guinea to decide its own fate. In reply to a question put by a member of the provisional Indonesian Parliament, the Government had replied that it did not agree with the remark made by the member that the Republic of Indonesia should previously consult the population of West Irian as to whether it was really prepared to accept association with Indonesia.

84. That disregard for freedom of choice was nothing new in the attitude of the Indonesian Government. Thus, when in the summer of 1950 the federal Republic of the United States of Indonesia had been converted into the unitary Republic of Indonesia, the Indonesian Government had destroyed the special right of choice of the component States. That measure had, moreover, led to serious difficulties, which had not yet been overcome. The revolt in the South Moluccas in 1950, and that in Atjeh, in North Sumatra, in 1953, had been the direct results of Indonesian policy. It was therefore not surprising that public opinion in the Netherlands, with the sole exception of the Communists, shared its Government's opinion that a transfer of sovereignty over West New Guinea would mean that any possibility of self-determination for the population of West New Guinea would be sacrificed forever.

85. The Indonesian draft resolution (A/C.1/L.109) was so worded as to avoid that crucial issue and create an impression of moderation. In fact, Indonesia wished to obtain the transfer of sovereignty over the territory, which it coveted, without any preliminary consultation of the people of the territory.

86. The debate had brought out fundamental differences of conception between the Netherlands and Indonesia concerning the rights and interests of the inhabitants of West New Guinea. The differences were irreconcilable and the Netherlands Government was therefore no longer prepared to continue negotiations with Indonesia on the problem. The best contribution the United Nations could make in that respect would be to show wise restraint, while continuing to demonstrate its interests in the development of West New Guinea in accordance with Chapter XI of the Charter.

87. In that connexion, the Netherlands Government, which submitted an annual report to the Secretary-General in accordance with Article 73 e of the Charter, of its own accord included political information in that report, and was prepared to continue to do so. The fact that the Netherlands, as the administering Power, communicated detailed information on the political, econo-

mic, social and cultural development of West New Guinea of its own accord, confirmed the earnest intention of the Netherlands to enable the people of the territory to complete as rapidly as possible the successive stages leading to maturity, when it would be able freely to choose its place in the world.

The meeting rose at 6.35 p.m.