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**Chairman:** Mr. Djalal ABDOH (Iran).

**AGENDA ITEM 62**

**The question of West Irian (West New Guinea) (A/3644, A/C.1/L.193) (concluded)**

1. Mr. JAWAD (Iraq) stressed that the failure of the United Nations to bring about a settlement of the question of West Irian had not diminished the importance of the dispute. The fact that a large number of States had repeatedly requested its inclusion in the agenda of the General Assembly showed that it was of deep concern to world public opinion. The question no longer concerned only two States, but had become a problem of regional and international importance; it represented a challenge to the authority of the United Nations and to a Member State which prided itself on its tradition of respect of international law.

2. Although Netherlands rule over Indonesia had come to an end with the Japanese invasion during the Second World War and the Indonesians had proclaimed their independence in 1945, the return of the Netherlands to Indonesia after the War had set off a four-year struggle by the Indonesian people for their independence and sovereignty. During those four years, the Netherlands Government had practised a policy of force despite United Nations injunctions and an aroused public opinion. It was only the pressure of the United States and the United Kingdom, which threatened its economic interests, and the stubborn armed resistance of the Indonesian people, that had led it to negotiate the Charter of the Transfer of Sovereignty (S/1417/Add.1, appendix VII) in 1949. The behaviour of the Netherlands had been typical of the last-ditch struggle of a declining colonial Power to maintain its authority by sheer force in defiance of international law and order and of its determination to obstruct the peaceful development of a former colony.

3. West Irian had always been an integral part of the Netherlands East Indies. The Indonesian declaration of sovereign status had replaced Netherlands authority, and the status of West Irian as a part of an independent Indonesia had been recognized in the Netherlands Constitution of 1922 and in all the Round Table Conference agreements, including the Charter of the Transfer of Sovereignty. The failure of the negotiations on the political status of the area neither constituted a denial of the right of West Irian to re-

main part of Indonesia nor caused West Irian to revert to the position of a Netherlands colony. The Netherlands had not adduced any evidence to show that the people of West Irian wished to alter that status and remain under Netherlands rule, and its argument regarding self-determination was a totally irrelevant and hypocritical endeavour to prolong its presence in West Irian and was in strong contrast with its numerous negative votes on questions involving self-determination in past years. The Netherlands had chosen to retain domination of West Irian because, after a political and military defeat in Asia, it wanted to maintain a foothold in South-East Asia. It had been encouraged in that objective by Australia and other colonial Powers because of the discovery of oil in the Territory and because of the recognition of the Territory's strategic importance. It shared the desire of the colonial Powers to maintain South-East Asia in a state of perpetual economic and political subjugation.

4. The Netherlands argument that there were wide ethnic differences between the population of West Irian and that of Indonesia was a myth invented by the Dutch as an afterthought to justify maintaining the Territory in the status of a colony. It had been scientifically discounted by many Dutch scholars, by the Netherlands representative in the Security Council in 1948 and by a report to the United Nations in the same year. The Netherlands occupation of West Irian was a military occupation in violation of agreements with Indonesia and of the United Nations Charter. By refusing to negotiate with Indonesia, the Netherlands Government was obstructing the development of that new nation.

5. The nineteen-Power draft resolution (A/C.1/L.193) was supported by many States and by an overwhelming body of world opinion eager to eradicate the vestiges of colonialism. Failure to adopt it would mean failure of one of the United Nations basic objectives, a denial of rights and an undermining of efforts to restore mutual confidence, particularly between the highly developed and the under-developed countries. Absence of such mutual confidence perpetuated the gap existing between peoples on the basis of colour.

6. Mr. RODRIGUES (Brazil), referring to the legal aspects of the West Irian question, pointed out that the difference of opinion between the Netherlands and Indonesia regarding their respective legal claims to the Territory and regarding the interpretation and binding force of the international instruments concluded between them was a matter, not for the United Nations, but for the International Court of Justice or some other legal body agreed upon by the parties.

7. With regard to the political aspects of the West Irian question, although Brazil was opposed to the colonial system, supported the principle of self-determination and was on the side of peoples fighting for

their independence, its sense of responsibility prevented it from accepting the proposal that, for the sake of anti-colonialism, West Irian should cease to be a Non-Self-Governing Territory of one Member State and should become an integral part of another Member State. Moreover, since the United Nations must see to it that the inhabitants of West Irian should in due time exercise their right of self-determination and since it had not been suggested that they were at present able to express any political views, the most sensible course was to maintain the present system under which the Netherlands, in compliance with its obligations under the United Nations Charter, transmitted information to the Organization on conditions in the Territory. It was quite possible that the inhabitants of West Irian might choose union with Indonesia at some future date. Only they could decide the matter. However, present arrangements might be improved if the Netherlands were to consider voluntarily widening the scope of the information it transmitted to the United Nations to include political information. That was a question for the Netherlands to decide; he trusted it would approve of the suggestion.

8. The Brazilian delegation could not accept the formula contained in the draft resolution, first because it discounted a judicial solution of what was essentially a legal question, and secondly, because it would so construe the principles of the Charter of the United Nations as to force the Netherlands to negotiate the cession of a Territory for which it felt responsible. Although Brazil appreciated the sincerity of the sponsors and had great respect for the Indonesian people, it would vote against that draft.

9. Mr. Krishna MENON (India) said that India regarded West Irian as a problem of the completion of the liberation of Indonesia from colonial rule. The struggle of the Indonesian people, assisted by the circumstances of war and a relaxation of colonial power in the area, had established its political power over the whole of the territory over which the Netherlands formerly had had hegemony. Regardless of whether the Charter of the Transfer of Sovereignty had been abrogated, Indonesian sovereignty stood. The fact of the establishment of Indonesian independence, in which the United Nations had shared responsibility, was an irrevocable political fact.

10. There could be no question of self-determination with regard to a territory which was already sovereign. If that principle were applied, it would bring about the disintegration of many sovereign States represented in the Committee. Nor had Indonesia won its independence by self-determination; on the contrary, it had won it on the basis of the right of all nations to be free and it had done so largely through its own efforts. The sovereignty of a country could not be subject to legal decision.

11. The information submitted by the Netherlands to the United Nations Committee on Information from Non-Self-Governing Territories, information of a non-political nature submitted on 24 August 1948,<sup>1/</sup> that is, before Indonesia became free and at a time when the present problem had not been anticipated, had clearly established what constituted Indonesia. The

geographical definition given by the Netherlands Government indicated that there was no separate Territory of West Irian and that West Irian was merely a part of Indonesia. Moreover, article 2 of the Charter of the Transfer of Sovereignty, which spoke of the political status of West New Guinea, made no reference to sovereignty and was bounded by article 1, by which unconditional and irrevocable sovereignty over the whole of Indonesia had been transferred to the Republic of the United States of Indonesia. Nothing in article 1 had made that transfer subject to the reservation stated in article 2.

12. The only purpose of the draft resolution before the Committee was to obtain a peaceful settlement between the parties. In sponsoring the draft, Indonesia was showing great generosity and a spirit of conciliation, for, despite its unquestioned sovereignty over West Irian, it was asking the Netherlands to negotiate such matters as the Territory's political status, time, joint arrangements, and probably, the question of inducing the Dutch to invest capital in the Territory for the mutual advantage of both States. Moreover, since the draft called upon the parties to find a solution in accordance with the principles of the United Nations Charter, the question of their respective obligations under the Charter could be dealt with as the negotiations progressed. Undaunted by the failure of negotiations in the past, Indonesia was merely asking the Assembly to urge the Netherlands to complete its contract. Unlike the spokesmen of the Netherlands, the Indonesians had never said that sovereignty over West Irian was in dispute. And although the Netherlands now refused to negotiate because it claimed that the abrogation of the Charter of the Transfer of Sovereignty meant that it was being asked to negotiate about the sovereign territory of the Netherlands, the fact was that West Irian, together with the rest of what the Netherlands itself had defined as Indonesia, had been transferred as part of the executed contract. The Netherlands Government could not validly object to negotiations unless it was prepared to reject the fact of the establishment of Indonesian independence.

13. The fact that the recommendation to negotiate was bounded by the principles of the Charter should reassure those who had expressed doubts regarding the scope of the negotiations. The recommendation would be valid and appropriate even if there had never been a Charter of the Transfer of Sovereignty; the negotiations suggested were the normal exchange which would be required in any matter of rights between sovereign States.

14. The argument regarding the ethnic differences between the peoples of West Irian and Indonesia might have given the impression that the problem concerned two rival colonial claims. That was not the case. It had been refuted by the information submitted by the Netherlands Government to the United Nations in 1948. At that time, when the heat of debate had not yet influenced its position, the Netherlands had conceded that the racial mixture in West Irian was such that no clear distinction could be drawn between the Malay and the Papuan population. The ethnic argument was a case of special pleading in an effort to bolster the Netherlands case at present. No plea, however, whether it was based on ethnic, anthropological, legal or philosophical considerations, could argue a country out of its independence.

<sup>1/</sup> See *Non-Self-Governing Territories: Summaries and analyses of information transmitted to the Secretary-General during 1948*. United Nations publication, Sales No.:1949.VI.B.1.

15. Whatever might be the reservations of certain delegations on the question of sovereignty or any other aspect of the West Irian question, negotiations provided the best means of dispelling them. If the negotiations proved sterile, at least the United Nations would have done what it could. If they were fruitful, it would have accomplished a useful task.

16. Mr. SHAHI (Pakistan) said that the debate on the question of West Irian had served to bring out the complexities of the unfortunate dispute involving legal, political, moral and emotional factors. The heart of the controversy was article 2 of the Charter of the Transfer of Sovereignty. His delegation could not accept the Netherlands contention that, as the parties had failed in their negotiations to determine the political status of New Guinea and as Indonesia by its unilateral action had abrogated the Charter of the Transfer of Sovereignty, the Netherlands was absolved from any further obligation to negotiate with Indonesia on the political status of West Irian. Even if the United Nations endorsed that Netherlands contention, the dispute would not automatically come to an end. On the contrary, it would grow more complicated and lead to further deterioration in the relations between the two countries.

17. Neither could the dispute be resolved by requesting an advisory opinion from the International Court of Justice on the interpretation of article 2 of the Charter of the Transfer of Sovereignty. In his delegation's view, the dispute was essentially political. Although the legal interpretation might clarify the meaning of article 2 of the instrument of transfer, the question would remain whether the former colonial Power would be justified in retaining under its rule a large portion of its former empire, the inhabitants of which admittedly had not yet reached the stage of political consciousness enabling them to express their wishes regarding their future political status.

18. His delegation noted the joint statement by the Netherlands and Australia of 6 November 1957. Despite the understandable uneasiness caused in a number of countries by that joint statement, he felt that its explicit recognition of the paramount interests of the inhabitants of West Irian was a matter of some satisfaction. His delegation considered the principles enunciated in that declaration to be in accordance with the provisions and spirit of the United Nations Charter in regard to Non-Self-Governing and Trust Territories. It did not, however, believe that the association of West Irian and Indonesia on the basis of an agreed settlement of the question with the Netherlands must necessarily result in the subordination or sacrifice of the interests of the inhabitants of West Irian to colonial ambitions. It certainly did not subscribe to the view that either the Netherlands or Australia intended to use West Irian as a bridgehead for subversive action against Indonesia.

19. While it recognized that colonialism was neither inherently nor exclusively European in all its forms and manifestations, his delegation did not consider that the settlement of the problem of West Irian by negotiation between the two sides would lead to the emergence of a new colonialism. It did not therefore, believe that an agreement as to the future political status of that Territory would violate the provisions of Chapter XI of the Charter.

20. In the view of his delegation the nineteen-Power

draft resolution did not violate either the spirit or the provisions of the United Nations Charter. It merely sought to bring the two parties together for the purpose of continuing negotiations. It did not prejudice the rights claimed by either party in regard to West Irian. It merely urged them, by implication, to fulfil the terms of article 2 of the Charter of the Transfer of Sovereignty, by which both the parties were bound. His delegation's support of the draft resolution was consistent with its past attitude toward the dispute over West Irian.

21. He could not agree with the contention that the United Nations should not become involved in the dispute. In point of fact, the United Nations had been involved in the Indonesian question from its very inception. Actually the United Nations Commission for Indonesia had suggested the wording used in the text of the Charter of the Transfer of Sovereignty as a compromise between conflicting views in order that the dispute over a particular territory should not hold up the independence of Indonesia. It was therefore both logical and appropriate to seek to enlist the good offices of the United Nations, through the Secretary-General, to adjust the last remaining cause of friction between Indonesia and the Netherlands. His delegation would therefore support the draft resolution.

22. Mr. SASTROAMIDJOJO (Indonesia) said that during the present session the Netherlands had added nothing to the already almost exhaustive discussion of the dispute over West Irian which might contribute to a peaceful solution of it. On the contrary, although the Netherlands representative had himself admitted that the dispute was one between his country and Indonesia, he had attempted to make a solution even more difficult to attain by linking West Irian with east New Guinea and by emphasizing the interests of the Territory's inhabitants—an argument which rang hollow in view of the Netherlands Government's past record in promoting those interests. That belated concern with the interests of the people of West Irian, at a time when they should already be taking their full place in the life of the independent Republic of Indonesia, was obviously an attempt to confuse the issue.

23. The slogan of "self-determination" had been obviously introduced in order to prolong or preserve colonial rule over a part of a country which was already free and independent and in whose Parliament, Constituent Assembly and National Council West Irian had already been granted appropriate proportional representation. It was strange that a Member of the United Nations should present an argument which used the sacred principle of self-determination only to flout the very meaning of that principle. Both logically and historically, that principle was indissolubly linked to the principle of national independence. The achievement of independence by the Indonesian people had been nothing other than a realization of the principle of self-determination. Only those who chose to violate the political and constitutional facts of history could suggest that West Irian was not a part of the entity formerly known as the Netherlands East Indies and was therefore not a part of Indonesia.

24. What the Netherlands really meant by self-determination and its so-called sacred mission with regard to West Irian could be seen by its actions during the

past ten years. When the Indonesian people had proclaimed the independence of the whole of Indonesia, including West Irian, the Netherlands had denied to the people of West Irian the right of self-determination which it now championed so loudly, and the articulate spokesmen for the people of West Irian had been killed, imprisoned or forced to flee their homes for having expressed the true aspirations of their people.

25. The second stage of what the Netherlands considered to be "preparation for self-determination" consisted of a systematic effort to alienate the people of West Irian from the rest of Indonesia. Official efforts were being made to hamper the development of the Indonesian language, which had previously been the official language of West Irian and was still in use among the educated part of the population. The people of West Irian were not permitted to show their sympathy for the Republic of Indonesia on pain of imprisonment. Thus, far from preparing the people of West Irian to exercise their right of self-determination, it was obvious that the Netherlands had already decided, without consulting them, that their right of self-determination should not be exercised in favour of reuniting with the rest of Indonesia.

26. The position of the Netherlands was exposed even more clearly by its most recent actions. Much to Indonesia's regret, the Australian Government had joined the Netherlands in fostering a policy of creating a new nation, which would consist of both West Irian and east New Guinea, on the obsolete basis of ethnic, racial and geographical unity. It was obvious from that policy that the Netherlands intended to apply great pressure in order to avoid any possibility that the people of West Irian would choose to be reunited with the rest of Indonesia.

27. In spite of the remarks of the Netherlands Minister of Foreign Affairs, Mr. Luns, Indonesia maintained its contention that the concept of self-determination as applied to West Irian had never been a subject of discussion prior to the existence of the dispute over West Irian, nor had it been the subject of any agreement either at the Round Table Conference or in the preceding agreements mentioned by Mr. Luns.

28. Moreover, the Netherlands Foreign Minister had failed to mention that the Linggadjati Agreement of 25 March 1947 and the Renville Agreement,<sup>2/</sup> in which some references to self-determination had been made, had been wiped out not by Indonesia, but by the military aggression of the Netherlands. He also ignored altogether the solemn pronouncements of Netherlands representatives, such as the explicit statement made by the Lieutenant Governor-General of the Netherlands Indies, Mr. van Mook, at the Conference of Den Pasar, held in Bali in December 1946, that there was no intention of separating West Irian from the rest of Indonesia, and the statement made in a letter dated 2 March 1949 from the representative of the Netherlands to the President of the Security Council, that the best solution of the problem was to be found in the transfer of sovereignty over Indonesia to an Indonesian federal government which would be fully representative of the whole of Indonesia.<sup>3/</sup>

<sup>2/</sup> See *Official Records of the Security Council, Third Year, Special Supplement No. 1*, pp. 67-68, 76-77.

<sup>3/</sup> *Ibid.*, Fourth Year, Supplement for March 1949, document S/1274, p. 36.

29. The statements of the President of Indonesia, Mr. Sukarno, quoted by the Netherlands Foreign Minister, had been distorted or at least mistranslated, for President Sukarno had never used the word "force" in any of his speeches on the West Irian problem. He had used the Indonesian word which meant strength, and indeed it was the strength in unity of the Indonesian people in the struggle for reunification with West Irian which formed the basic theme of all of President Sukarno's statements on the subject.

30. He wished also to point out that the conclusions reached by the Irish representative in his statement to the Committee (911th meeting) had been inconsistent with his premises, for while that speaker had stated that colonialism must be abolished, he had then proceeded to argue that the education of colonial peoples for self-determination should be entrusted to their colonizers, and thus seemed to be in favour of a kind of educational colonialism.

31. Most members of the Committee were well aware that the dispute over West Irian was a colonial issue, in spite of the attempts of the Netherlands Government to raise extraneous legalistic or racial issues. The "sacred mission" argument had been the typical justification of colonialism, but it had taken years of bitter struggle and the pressure of the Security Council to convince the Netherlands Government that the slogan should be transformed into something more than a hollow phrase in the case of Indonesia. Yet in spite of its past record, the Netherlands was now attempting to raise the same issue with regard to West Irian.

32. The legal arguments introduced by the Netherlands and Australian representatives had been refuted by many speakers. In reality, the problem was not one of the interpretation of a legal agreement; it concerned the case of an independent State whose territory had not been subject to dispute until the Netherlands had chosen to raise the issue for the first time at the very moment when they were about to acknowledge the reality of that independent State. That was why article 2 of the Charter of the Transfer of Sovereignty did not speak of sovereignty, nor of a territorial dispute, but referred to West Irian as a "Residency", that is, as an administrative unit of Indonesia. The term "the political status" of the "Residency of New Guinea" had been invented by the United Nations Commission for Indonesia as the best way of defining the issue in dispute. The ethnic separateness of the people of West Irian had in no way been involved in the issue, for if that question had been a factor in the problem, then the whole Indonesian people would have had to be divided into several ethnic groupings, each of them to be treated differently.

33. The abrogation of the Round Table Conference agreements by Indonesia in no way affected its rights with regard to West Irian, first, because those rights were based on the historical, political and constitutional realities of the situation and, secondly, because the obligations assumed by the Netherlands with respect to the formal transfer of sovereignty had already been discharged by it prior to the effective date of abrogation, by virtue of the delivery of the Charter of the Transfer of Sovereignty on 27 December 1949. In any case, the Charter of the Transfer of Sovereignty constituted a relinquishment by the



Netherlands of its colonial claim and the formal acknowledgement of the complete sovereignty of the formerly colonized people of Indonesia. Such a relinquishment and acknowledgment, relating to the facts as they then existed, could not be affected by any subsequent termination of the Charter.

34. West Irian had strong economic, cultural and religious ties with the rest of Indonesia. For example, the Christian population of West Irian belonged to the Christian Church of the Moluccas, which had its headquarters in Amboina, in Indonesia, and the Roman Catholic Internuncio in Jakarta still had jurisdiction over the whole of Indonesia, including West Irian. The Moslem population of West Irian was of course closely linked with the Moslem population of the rest of Indonesia. West Irian obviously formed a unit with Indonesia; when fragmentization was being abandoned in Europe, it was unreasonable to suggest that it should be imported into Asia, and the attempt to do so would constitute a clear case of the application of a double standard.

35. If the theory of ethnic or linguistic self-determination were applied to the Netherlands itself, a country exercising *de facto* control over the Flemish regions of the Netherlands and Belgium might decide to form a Flemish nation which would include parts of both countries. The Netherlands and Belgium would certainly oppose such a move, arguing rightly that, although unity of culture, race and religion might be helpful in the formation of a nation, they were not decisive, and if the third nation insisted on carrying out its intentions, they would resist with all the means at their command. That hypothetical example was an exact analogy to the situation created by the Netherlands-Australian joint statement of 6 November 1957 concerning West Irian.

36. Moreover, the attempt to link West Irian with east New Guinea simply because the two territories happened to form one island would create a very dangerous precedent, for example, in the case of the islands of Borneo and Timor. Indonesia had no claims on any territories which had not been part of the former Netherlands East Indies. No one should suggest otherwise or advance dangerous theories in that respect.

37. In his statement of 20 November 1957 (905th meeting), the Netherlands representative had advanced the theory that his country's colonial administration in West Irian had been imposed upon it by the United Nations Charter. That theory was a clear violation of the facts as well as a misuse of the Charter, which imposed nothing with regard to the continuation of Netherlands colonial rule in West Irian. The United Nations Commission for Indonesia had never entertained the slightest idea of applying Chapter XI of the Charter to West Irian; it had been the Netherlands Government which, unsolicited, had seized on Chapter XI in an attempt to justify the continuance of its colonial rule over the Territory, and then only in 1952.

38. It had been suggested that the Assembly could not adopt the nineteen-Power draft resolution because legal questions were involved in the dispute. But the draft resolution did not ask the Assembly to pass any judgement on the legal controversies involved in the question. It was clear that a serious dispute did exist. That dispute, according to the Charter of the Transfer of Sovereignty, was over "the political

status" of West Irian and thus had been and remained a political dispute which the Committee had every right to deal with. The artificiality of the objection became clear if it was asked whether the relief requested in the draft resolution presented a legal issue which the International Court of Justice could pass upon; that is, if the Court could pass upon the issue of whether the parties should continue to pursue their endeavours to reach a solution.

39. It was also obvious that the presence of legal elements in a political question would not preclude consideration of it by the Committee; the United Nations had on many occasions had to consider questions, such as the Suez Canal controversy, in which the claims and counter-claims had had their origin in some international instrument. There was no reason why the Netherlands and some of its supporters should oppose the nineteen-Power draft resolution unless the Netherlands Government was unwilling to seek a peaceful solution with the Indonesian Government.

40. The reality confronting the Assembly was that the Netherlands Government did not want a peaceful solution, or even the establishment of an instrument which would lead to such a solution. For four years the Indonesian Government had been attempting to seek the assistance of the United Nations, as the central organ for the peaceful settlement of disputes between Member States, in finding a solution to its dispute with the Netherlands, but had met only with the opposition of the Netherlands. It was not surprising, therefore, that the people of Indonesia were beginning to lose patience with the attempt to solve the issue peacefully through the United Nations. Because of those mounting pressures at home, the position of the Indonesian Government was not an easy one. Moreover, recent developments both in Indonesia and abroad had aggravated the West Irian issue even further. In view of those factors, it was necessary for his delegation to take a determined stand in order to seek the best possible way to solve the dispute.

41. It should be clearly understood that the question of West Irian affected not only Indonesia's relationship with the Netherlands but, in its political and emotional aspects, the relationship between Asia and the West. As had been rightly pointed out, the continuance of the present situation was likely only to increase the dangers inherent in the dispute. The nineteen-Power draft resolution was a reasonable one and represented the least that the United Nations could do in order to avoid a further deterioration of the situation and to provide a peaceful way out of the present deadlock. If it was adopted by the Committee and the General Assembly, Indonesia would co-operate fully in its implementation and was even prepared to discuss other problems of interest to both countries at a conference with the Netherlands on the question of West Irian.

42. But if the Netherlands and its supporters should succeed again in blocking Indonesia's search for a peaceful solution, no nation would have the right to complain about Indonesia's statement that its present attempt to seek a peaceful solution through the United Nations might be its last. Any other stand on Indonesia's part would mean that it was willing to allow the serious dispute over West Irian to remain unsettled, and that was a proposition which neither Indonesia nor the Assembly could accept. Moreover,

the concern over Indonesia's statement expressed by the Australian representative was devoid of logic if that representative had meant that, by not abandoning its attempts to make use of the machinery of the United Nations, Indonesia should give his Government another opportunity to oppose inclusion of the item on the agenda of the General Assembly.

43. It was sad that a neighbour such as Australia should be unable to evaluate properly the forces at work in and around Indonesia which were vital not only to Indonesia's progress but to the peaceful development of the whole area. Fortunately, the official Australian attitude was not shared by the whole Australian people, for constructive appeals, like the recent one by Senator J. H. O'Byrne for a reversal of the Australian Government's policy, were gaining more and more ground in Australia. It was because of such voices that Indonesia had never lost hope of achieving real understanding with the Australian people.

44. It was in the light of the present delicate situation that the pronouncements of the Indonesian representatives should be viewed and evaluated. The leaders of Indonesia threatened no one. Their statements were merely a reflection of the appalling situation created by the intransigent attitude of the Netherlands and Australian Governments. It was the Indonesian people which was feeling the impact of the threat posed by the military and political machinations of the Netherlands Government in and around West Irian. That was a challenge to which the Indonesian Government and people could not fail to respond, and no force in the world could prevent them from seeking all possible measures to defend their rights, security, freedom and peace. If the United Nations was unable to provide assistance in seeking a satisfactory and peaceful solution of the problem the consequences would be very grave.

45. Mr. WALKER (Australia), exercising his right of reply, said that in a country like Australia which enjoyed full freedom of expression it was not surprising to find members of the opposition party in Parliament expressing views that were not exactly in accordance with the Government's position. The quotation given by the Indonesian representative was from a statement by a member of the opposition party in the Australian Senate. It hardly seemed necessary to point out that in the same debate many other members of the Australian Parliament had supported the general position of the Government in the matter.

46. The Australian delegation had tried to avoid giving unnecessary offence and to argue the case strictly on its merits, while at the same time bringing out the full strength of its own position. Its two main statements in the debate (907th and 910th meetings) had presented the Australian views both on the substance of the Indonesian claim to sovereignty over Netherlands New Guinea and on the draft resolution which endeavoured to secure United Nations support for Indonesia in the prosecution of its claim.

47. The representative of Indonesia had just repeated a number of familiar arguments. Mr. Walker wished to reply briefly to only a few points which required attention.

48. In relation to the Indonesian claim that Netherlands New Guinea was already legally part of Indo-

nesia, he noted that there had been no expression of willingness by Indonesia to refer the matter to the International Court of Justice, the body that should deal with any such legal claim.

49. Obviously the question under discussion was sovereignty over a particular territory. The choice was between annexation by Indonesia or self-determination by the people of Western New Guinea. Many speakers had recognized that the effect of Indonesian policy would be to deny the people of West New Guinea any chance of eventual self-determination. On the other hand, the Netherlands-Australian joint statement offered that promise in the clearest terms.

50. He repeated that the only conceivable threat to the peace in the area arose only from statements by Indonesian leaders and that the Assembly must not allow itself to be coerced by such statements.

51. At an early stage in the debate (905th meeting), the Indonesian representative had requested clarification or denial of any military implications of the Netherlands-Australian joint statement. On behalf of the Australian Government, he himself had given (907th meeting) a categorical assurance that the joint statement had no military implications and a similar declaration had been made by the Netherlands representative (905th meeting). He assumed that the Indonesian delegation had noted and accepted those declarations.

52. In view of various statements emanating from Indonesia, however, he had felt obliged to seek an assurance from the Indonesian Government that it was not its intention to use force or punitive measures in Netherlands New Guinea. The Indonesian representative had explained that President Sukarno had not spoken of using force, but only of using strength. His delegation trusted that that meant that forceful means would not be attempted, but it could wish for a more formal assurance in the matter. While a decision by Indonesia not to bring the matter again to the United Nations would not be considered a threat, Indonesia had forecast other measures. His delegation was concerned both over the use of such arguments and over the prospect of any possible action by Indonesia that might be inconsistent with the Charter and might endanger the peaceful development of the area concerned.

53. The matter at hand was not a question of the independence and unity of Indonesia. Australia wished to see a strong and united Indonesia. It did not, however, regard western New Guinea as part of Indonesia and did not see how absorption of that Territory would make Indonesia stronger or more united. A call for negotiation was entirely out of place, since clearly Indonesia was interested only in the outright transfer of territory.

54. Indonesia's request, it was said, was moderate and conciliatory, yet the Indonesian representative had again emphasized that Indonesia maintained its claim to sovereignty over Netherlands New Guinea. He wondered what was left to negotiate about. The Indonesian representative's choice of subjects for negotiation seemed to be based on the premise that sovereignty had already passed to Indonesia.

55. The Australian delegation would therefore vote against the draft resolution and hoped that other delegations would do likewise.

56. Mr. SCHURMANN (Netherlands) said that in exercising the right of reply he would confine himself to answering a few of the points raised by various representatives after two previous Netherlands interventions (905th and 909th meetings).

57. A number of speakers had asserted that the Territory now known as Netherlands New Guinea had from time immemorial formed part of Indonesia. He pointed out that, when the Netherlands had gradually extended its influence over Java, Sumatra and the adjacent island, the population of the region had not formed one nation, but had been divided into a large number of small sultanates living in a state of almost perpetual warfare with each other. Under Netherlands rule peace had been established and the population welded into one nation. The inhabitants of Netherlands New Guinea, however, over whom any kind of effective Netherlands rule could not be exercised until the turn of the twentieth century because of the territory's inaccessibility, had never shared in the life of the Netherlands East Asian empire. Even today, most of them had never seen an Indonesian and would not know the meaning of the term.

58. Other speakers had not ventured so far back in history but had simply contended that, as Netherlands New Guinea was part of the former Netherlands East Indies, it was therefore now legally part of Indonesia. He wondered whether they realized, for example, that Ceylon had also formed part of the Netherlands East Indies until the Treaty of Amiens in 1802. A logical consequence of their argument would be that Ceylon should therefore also be incorporated in Indonesia.

59. Another argument was that it had always been intended that Netherlands New Guinea should be included in the transfer of sovereignty and that its exclusion was only an afterthought. Supporters of that contention were obviously unaware of the long history of negotiations and agreements between the Netherlands and Indonesia preceding the Round Table Conference. For their information, he stated that on 25 March 1947 the Netherlands and Indonesia had signed the so-called Linggadjati Agreement stating that due account was to be taken of the letters exchanged between the parties ten days earlier; those letters contained a reiteration of the statement made by the Netherlands Government on 10 December 1946 to the effect that, in the spirit of certain articles dealing with the right of self-determination, New Guinea should obtain a separate status of its own with regard to the Netherlands and to the United States of Indonesia. The Netherlands Government had therefore made its position clear as early as 1946.

60. That Agreement had subsequently been confirmed in the Renville Agreement of 1948. The oft-quoted statement of Mr. van Royen that "All parties agree that what used to be the Netherlands East Indies should become an independent State"<sup>4/</sup> was followed by the much less publicized but highly significant words: "... we shall stand by the political principles we accepted in the Linggadjati and Renville Agreements and we shall carry them into effect..."<sup>5/</sup> One of those principles was and always had been that New Guinea should obtain a separate status of its own. Consequently, when the Netherlands had continued to support that principle at the Round Table Conference, its stand had been no

new departure, but the upholding of a principle it had consistently defended from the start of negotiations with Indonesia.

61. Other representatives had contended that it was wrong for the Netherlands to argue that, after the period of one year mentioned in article 2 of the Charter of the Transfer of Sovereignty had elapsed, the Netherlands had no further obligation to continue the negotiations. He felt impelled to point out that the Netherlands had never advanced such an argument and that it had shown by its deeds that it did not in fact hold such a view; for, even after that period had elapsed, it had continued to negotiate with Indonesia for another two years. Curiously enough, it was not the Netherlands but Indonesia which had held the view for which the Netherlands was now blamed. On 17 August 1950, President Sukarno of Indonesia had declared: "After this year neither of the parties will be bound by this Round Table Conference provision" (the provision for negotiations). Shortly thereafter the Indonesian Government had stated that article 2 of the Charter of the Transfer of Sovereignty did not provide any grounds for a continuation of the discussion. Despite those assertions, the Netherlands had continued to negotiate. When the second series of negotiations had failed in 1952, because Indonesia would not hear of any solution except unconditional surrender of sovereignty over Netherlands New Guinea to Indonesia, President Sukarno had again announced that he desired no further negotiations.

62. He asked the Committee to judge whether it was the Netherlands or Indonesia that had first refused to continue negotiations.

63. The Netherlands had also been accused of clinging to the outmoded form of colonialism it exercised in Netherlands New Guinea and of intending to keep that country within its grip for several hundred years or more. To those who considered that every form of colonialism, except, of course, that exercised over such countries as Hungary, was an evil, all forms of colonialism but their own were outmoded. Fortunately not all representatives showed such disdain for the provisions of the Charter of the United Nations which inaugurated a new form of colonialism—administration of Non-Self-Governing Territories. That modern form of colonialism, approved by all signatories of the Charter, was conceived not in the interest of the Administering Power, but in that of the inhabitants of the Territory who still needed assistance in order to achieve self-government. In Netherlands New Guinea the Netherlands indeed exercised what might be called "Charter colonialism", which was strictly limited by clearly stated objectives. When those objectives had been achieved, the *raison d'être* for the administration under the terms of Chapter XI of the Charter disappeared and the administration should be terminated. The Netherlands Government had repeatedly stated that it would do everything in its power to hasten the arrival of the time when it could in good conscience consider its task in Netherlands New Guinea accomplished. It estimated the probable duration of the period required not in centuries, but in decades.

64. Great emphasis had been placed by a number of representatives on the fact that the African-Asian Conference, held at Bandung in 1955, had endorsed Indonesia's claim. With all due respect to that im-

<sup>4/</sup> Ibid., Third Year, No. 132, 388th meeting, p. 11.

<sup>5/</sup> Ibid., p. 31.

portant Conference, he noted that the expression of political opinions at Bandung did not give them greater weight than those same opinions had when expressed in the United Nations. All that could be deduced from the declarations made at Bandung was that the twenty-nine African and Asian States there represented had, in the context of their expressed attitude on the abolition of colonialism, supported the position of Indonesia; but they had referred to that position as "based on the relevant agreements between Indonesia and the Netherlands" and they had urged the Netherlands Government "to implement its obligations under the above-mentioned agreements".

65. Exactly one year after the African-Asian Conference, Indonesia had unilaterally repudiated those very agreements. If the terms of the agreements were to be complied with, as in his delegation's view they most certainly were, then such compliance should be demanded not from the Netherlands alone, but also from Indonesia.

66. Referring to the draft resolution, which had been described as a moderate and innocent text, he said that in view of the Italian representative's able analysis of the preamble (909th meeting), he would merely discuss the operative part. Paragraph 2 was, as had been clearly shown, incompatible with the provisions of the United Nations Charter, which did not permit the General Assembly, as distinct from the Security Council, to impose on any party against its will any particular procedural measure such as mediation or, as it was called in the draft resolution before the Committee, assistance. That paragraph of the draft resolution was therefore not only unacceptable to the Netherlands, but was definitely *ultra vires* for the General Assembly.

67. Paragraph 1, however, was even more objectionable. Indonesia and most of the other sponsors had made it abundantly clear that the dispute which was mentioned in the draft resolution and to which they wished the parties to find a solution was not the dispute concerning which negotiations had been provided for in the Charter of the Transfer of Sovereignty—the future status of Netherlands New Guinea—but rather the dispute which had arisen as a result of Indonesia's contention that under the terms of that Charter, sovereignty over Netherlands New Guinea had been transferred to Indonesia. That dispute concerned a purely legal question which must be decided before there could be any question of negotiations. It could be solved only by the International Court of Justice, to which, however, Indonesia refused to submit the question. Moreover, Indonesia and the majority of the sponsors had left no doubt that the only solution they were willing to contemplate was cession of Netherlands New Guinea by the Netherlands to Indonesia.

68. Despite the assertion that the draft resolution was meek and mild, the Indonesian representative had again emphasized that it was obvious that the issue was one of reunification of West New Guinea with the rest of Indonesia. It was still maintained that West New Guinea was part of Indonesia and Indonesia was sovereign over West New Guinea, so that all the negotiations would have to deal with was merely the question of the transfer of the administration. Consequently paragraph 1 of the draft resolution was not, in effect and in the interpretation of its sponsors, what it seemed to mean. It was actually an invitation to the Nether-

lands to transfer its sovereignty over Netherlands New Guinea to Indonesia. Such an invitation was clearly contrary to the principles of the Charter of the United Nations. The Netherlands delegation would therefore vote against the draft resolution and appealed to other members to do likewise.

69. The CHAIRMAN noted that the debate on the question of West Irian was ended and that statements on the draft resolution would now be made.

70. Mr. DE LA COLINA (Mexico) recalled that, in previous debates on the issue, his delegation had expressed doubt whether the General Assembly was in fact the appropriate organ for solving juridical problems. It had therefore counselled prudence in voting on previous draft resolutions, basing its advice on the legal difficulties inherent in the Charter of the Transfer of Sovereignty, the application on the one hand of the principle of *uti possidetis* and on the other of the principle of self-determination, and a number of geopolitical and general arguments. It had held the view that the best course might be to adopt a resolution calling on the parties merely to make the best use of such conciliatory measures as they might decide upon, and to endeavour to solve their dispute in a manner consonant both with the spirit of the Charter of the United Nations and with the advancement of the population of New Guinea, without recommending any one of the several methods of pacific settlement of disputes enumerated in the Charter.

71. His delegation believed that the draft resolution now before the Committee was closer to what it had recommended than the earlier texts had been, and so moderate a draft could certainly not be rejected without the most careful consideration.

72. Nevertheless, he felt that the expression "without further delay" in the third paragraph of the preamble should be made less peremptory, and suggested that operative paragraph 2 should be deleted, on the ground that it placed a heavy burden on the Secretary-General and yet was of slight practical value since the parties' views were diametrically opposed; he requested a separate vote on that paragraph. Nor did he feel that any attempt should be made at the present stage to ensure inclusion of the item in the agenda of the thirteenth session of the General Assembly.

73. He nevertheless hoped that the parties would soon arrive, by methods of conciliation, at a fair solution in keeping with the United Nations Charter.

74. Prince WAN WAITHAYAKON (Thailand) said that his Government adhered to the final communiqué of the African-Asian Conference on the question of West Irian; but it was a fact that there was a dispute as to the interpretation and applicability of the Charter of the Transfer of Sovereignty. Article 2 of that Charter recognized that it had not been possible to reconcile the views of the parties on New Guinea, and referred to important factors which must be taken into account in settling the question of New Guinea; it could accordingly be said that the nature of the dispute was political as well as legal. Another factor of disagreement between the parties had since emerged, the Netherlands invoking the principle of self-determination and Indonesia maintaining that West Irian, if joined to Indonesia, would immediately enjoy full freedom.

75. Since the Charter of the Transfer of Sovereignty



had been concluded under United Nations auspices, the United Nations had an obligation in the settlement of the present controversy. Article 2 (f) of the Charter of the Transfer of Sovereignty referred to the dedication of the parties to the principle of peaceful settlement of disputes, and Article 2, paragraph 3, of the United Nations Charter to the need for settlement of disputes in such a manner that international peace and security, and justice, were not endangered. Consequently, it was reasonable that operative paragraph 1 of the draft resolution should invite the parties to settle their dispute in a manner in conformity with the principles of the United Nations Charter. He also considered that the Secretary-General's objective and impartial assistance should prove most useful. It could not be expected that so complex a problem could be solved by the next session of the General Assembly, but with the Secretary-General's assistance, the parties might well be able to clarify their differences and thus pave the way for a solution. He hoped that the Assembly's exhortation to the parties to continue to work for a peaceful solution would have the effect of relaxing tension in South-East Asia.

76. For those reasons, his delegation would support the draft resolution. He wished to make it clear, however, that references made during the debate to the South-East Asia Treaty Organization (SEATO) were unfounded. As a member of the SEATO Council, he categorically denied that there was any truth in the allegation that West Irian was being developed as a SEATO base.

77. Mr. DRAGO (Argentina) said that his delegation would vote against the draft resolution because it did not provide a constructive solution to the controversy. The discussion had shown that the parties' interpretations of article 2 of the Charter of the Transfer of Sovereignty were irreconcilable. Both parties claimed sovereignty over the Territory in dispute, the Netherlands Government basing itself on juridical considerations, whereas the Indonesian Government regarded the question as primarily a political one. For that reason, the Indonesian Government had refused to submit the issue to the International Court of Justice. Although the dispute arose out of international legal instruments which the Court could be asked to interpret, nothing obliged the Government of Indonesia to accept the Court's jurisdiction, and its attitude did not necessarily detract from the validity of the political motivations or juridical arguments on which it based its claims.

78. Clearly, however, the General Assembly could hardly be asked to take part in a controversy outside its competence simply because the parties thereto had been unable to agree; past experience had shown the futility of such a course.

79. Consequently, the negative vote which his delegation would cast did not imply any judgement on the substance of the matter at issue; indeed, his delegation had the greatest respect for the viewpoints of both parties, and hoped that conciliation would prevail.

80. Mr. SASTROAMIDJOJO (Indonesia), replying to statements by the Australian and Netherlands representatives, maintained that the separation of West Irian from the Indonesian entity, for racial or geographic considerations, had never been the subject of any agreement. The Linggadjati Agreement, which the Netherlands representative had quoted, contained

no such provision. Details of the agreements could be found in the verbatim records of his own delegation's statements to the First Committee on the same item during the ninth session. The statement by the President of Indonesia, to which the Netherlands representative had referred, was not a correct translation and did not reflect what the President had had in mind.

81. He urged the Committee to support the nineteen-Power draft resolution as a step towards the settlement of a serious dispute.

82. Mr. GUNewardene (Ceylon), replying to statements made earlier in the discussion, said that Indonesia's case, plainly stated, was that it was still prepared to negotiate on friendly terms with the Netherlands Government.

83. The sponsors of the draft resolution wished to dissociate themselves from the various references to SEATO, which were irrelevant. They did not expect any aggression from SEATO Powers against Indonesia or any part of Asia. Nor was any discussion of the North Atlantic Treaty Organization relevant to the issue; the only concern of the sponsors of the draft resolution was to appeal to the Western Powers to exercise their judgement in a fair and reasonable manner so that a lasting settlement could be achieved.

84. Colonialism, by whomsoever exercised, was wrong, and the suggestion that Indonesia's claim for restoration of what belonged to it by right was in fact a demand for colonial annexation was a travesty of the truth.

85. The Netherlands authorities had themselves defined Indonesia's boundaries, when they had defined the Netherlands East Indies in the Constitution of 1922; they had not excluded West Irian either in that Constitution or in the 1948 amendments thereto. The Netherlands representative's statement that Ceylon, too, had at one time formed part of the Netherlands East Indies was designed merely to cloud the issue, since it referred to a different period; the fact remained that West Irian had at no time been separated from the Netherlands East Indies.

86. Relations between the two parties had been steadily deteriorating, and the Indonesian Government had come before the Committee with an assertion of its readiness to negotiate on friendly terms with the Netherlands Government; there was no reason why they should not discuss the matter peaceably. He therefore strongly urged support for the draft resolution.

87. The CHAIRMAN invited the Committee to vote on the draft resolution submitted by Afghanistan, Bolivia, Burma, Ceylon, Egypt, Ethiopia, India, Indonesia, Iraq, Jordan, Lebanon, Libya, Morocco, Nepal, Saudi Arabia, Sudan, Syria, Tunisia and Yemen (A/C.1/L.193). A separate vote would be taken on operative paragraph 2 in accordance with a request by the Mexican representative.

The preamble and operative paragraph 1 were adopted by 45 votes to 27, with 9 abstentions.

Operative paragraph 2 was adopted by 42 votes to 28, with 11 abstentions.

88. The CHAIRMAN then put to the vote the draft resolution as a whole.

At the request of the representative of India, a vote was taken by roll-call.

Nicaragua, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Pakistan, Philippines, Poland, Romania, Saudi Arabia, Sudan, Syria, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Afghanistan, Albania, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Costa Rica, Czechoslovakia, Egypt, El Salvador, Ethiopia, Ghana, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Libya, Malaya (Federation of), Morocco, Nepal.

Against: Nicaragua, Norway, Peru, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, France, Honduras, Iceland, Ireland, Israel, Italy, Luxembourg, Netherlands, New Zealand.

Abstaining: Panama, Paraguay, Turkey, United States of America, Uruguay, Venezuela, Cambodia, Ecuador, Finland, Liberia, Mexico.

The draft resolution as a whole was adopted by 42 votes to 28, with 11 abstentions.

89. Mr. STRATOS (Greece) said, in explanation of his vote, that his country was linked by bonds of friendship with the two nations involved in the dispute, and it believed that debate, and the submission of the case to the General Assembly, was the best way to seek a solution.

90. His delegation felt that on any problem negotiation was a way of moving closer to a solution. The draft resolution did not touch upon the substance of the problem, and neither of the States concerned could complain that its adoption implied any pronouncement regarding substance. It merely sought to promote agreement by way of negotiation, and for those reasons his delegation had supported it.

91. Mr. WALDHEIM (Austria) appreciated the difficulty faced by the Committee in dealing with the issue before it, as both parties had presented their case with great conviction.

92. His Government maintained the friendliest relations with both, but had been unable to support the draft resolution because the two sides still could not agree on the subject of future negotiations, and an invitation to them by the General Assembly to find a solution seemed premature. Moreover, the draft resolution did not specifically mention the interests of the inhabitants of the Territory; but their rights should be safeguarded in the expectation that they would one day be able to determine their own future. If they then chose to affiliate themselves with Indonesia, his delegation would support them.

93. He also doubted the utility of operative paragraph 2. Since one of the parties had declared that it could see no reason for further negotiations, the task assigned to the Secretary-General would be very difficult to accomplish.

94. Nevertheless, he hoped that a solution in the interests of the people of West Irian, and in conformity with the principles of the Charter of the United Nations, would yet be found by negotiation.

95. Mr. PELAEZ (Philippines) said that his country maintained friendly relations with both the Netherlands and Indonesia and could therefore have abstained in the vote. It had felt, however, that the United Nations should not close its doors to any Member State which asked for its aid in negotiating a dispute with another Member State. If the substance of the dispute had been deemed to be negotiable in 1948 when the Charter of the Transfer of Sovereignty had been agreed upon, there was no reason to believe that, however much conditions might have changed, it was not amenable to solution by negotiation today.

96. His delegation's support for the draft resolution implied no judgement on the merits of the claims or issues in dispute, which should be the subject of negotiation between the parties.

The meeting rose at 6.50 p.m.